

Deed

New South Wales Banking, Payments and Related Services Agreement

The Treasurer of New South Wales on behalf of the
State of New South Wales (**State**)

and

National Australia Bank Limited (**Service Provider**)

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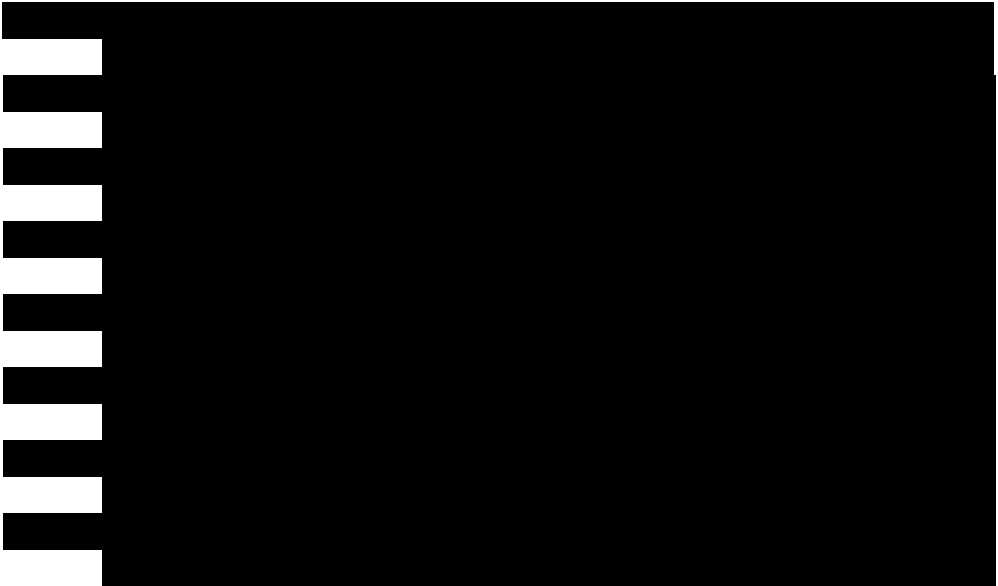
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New South Wales Banking, Payments and Related Services Agreement

Date ►

Between the parties

Michael Coutts-Trotter, Secretary, as delegate of The Treasurer, pursuant to sections 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW) on behalf of the Crown in the Right of the State of New South Wales

(the "**State**")

and

National Australia Bank Limited (ABN 12 004 044 937) of
Level 28, 395 Bourke Street, Melbourne VIC 3000

(the "**Service Provider**").

Recitals

- A. New South Wales Treasury, on behalf of the State issued a Request for Proposal on 20 June 2024 for the provision of banking, payments and related services including the Services.
- B. The Service Provider tendered for and was awarded the contract for the provision of the Services.
- C. The Service Provider has agreed that it will provide the Services in accordance with the terms and conditions of this Agreement.

This deed witnesses as follows:

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this Agreement are set out below.

Term	Meaning
Aboriginal Procurement Policy	the NSW Government's "Aboriginal Procurement Policy" published at https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy (or such other link as notified by the State and / or relevant Agency).
Aboriginal, SME and Local Participation Plan	a plan of that name at Schedule 15 of this Agreement developed pursuant to the Aboriginal Procurement Policy and SME and Regional Procurement Policy, and as updated from time to time in accordance with this Agreement.
Account within a State Set-off Arrangement	an account of the State or a TBS Agency the balance of which (whether in debit or credit) is within a State Set-off Arrangement, in accordance with the specific terms and conditions applicable to that State Set-off Arrangement.
Additional Standard Terms and Conditions	has the meaning given to it in clause 13.
Agency	<p>any of the following:</p> <ol style="list-style-type: none">1 a GSF Agency and any division, unit or other parts of any of them which is specified in Schedule 1 (List of Agencies) or which the State notifies the Service Provider in writing is permitted to be an Agency for the purposes of this Agreement; and2 any entity, which is not a GSF Agency, that the Treasurer has entered into an agreement with pursuant to section 6.14(12) of the GSF Act and which the State notifies the Service Provider in writing is permitted to be an Agency for the purposes of this Agreement, <p>and as otherwise varied from time to time in accordance with clause 5.2.</p>
Agency Term	the duration of a Product Agreement as determined in accordance with that Product Agreement.
Agency Transition-In Plan	the plan developed in accordance with clause 6.1(b) of this Agreement and the relevant Product Agreement for the implementation of the Products and Services with respect to an

Term	Meaning
	Agency including any transition of the Products and Services from an Outgoing Supplier to the Service Provider.
Agency Transition-Out Period	the period referred to in clause 37.1(b).
Agency Transition-Out Plan	the plan developed in accordance with clause 37.2(a) or 37.2(d) of this Agreement and the relevant Product Agreement for the Transition-Out of Products and Services with respect to an Agency.
Agreement	this deed which includes the schedules including Schedule 12 (Service Provider Product Terms and Conditions) and any attachments and documents that are incorporated into this deed by reference, as varied from time to time in accordance with the terms of this deed.
Agreement Contract Change	has the meaning given to it in clause 19.2.
Auditor	<ol style="list-style-type: none"> 1 the Auditor-General; 2 any auditor, inspector or Regulatory Body with competence or audit rights over the State or an Agency; and 3 any representative (with or without audit-style backgrounds or skills) of the State or an Agency or other entity, which the State or an Agency nominates in writing from time to time.
Auditor-General	the New South Wales Auditor-General.
Authorised Representative	<ol style="list-style-type: none"> 1 in relation to the State or an Agency, a person nominated as such and notified to the Service Provider in writing from time to time under clause 18.3 or under a Product Agreement, whose identity has been verified to the satisfaction of the Service Provider (including under anti-money laundering, counter-terrorism financing or know your customer Laws) and in relation to whom the Service Provider has not received written notice from the State or relevant Agency that the appointment has been revoked; and 2 in relation to the Service Provider, a person nominated as such and notified to the State and each Agency in writing from time to time, whose identity has been verified to the satisfaction of the State and each Agency and in relation to whom the State and each Agency has not received written notice from the Service Provider that the appointment has been revoked. The Service Provider may appoint, have verified and/or revoke

Term	Meaning
	<p>Authorised Representatives for only some of the State and the Agencies but in that case only those of the State and the Agencies who have been personally and directly notified of those changes will be bound by them.</p>
Banking Industry Authority	<p>any non-Regulatory Body which is a recognised banking or other financial or related industry association relevant to the provision of the Services or the Service Provider's other obligations under this Agreement or a Product Agreement including to the extent relevant:</p> <ol style="list-style-type: none"> 1 Australian Banking Association Inc.; 2 Australian Payments Network Ltd (AusPayNet); 3 BPay Pty Ltd; 4 NPP Australia Limited; 5 the Society for Worldwide Interbank Financial Telecommunication (SWIFT); 6 Reserve Bank of Australia in its capacity as administrator of the Service Provider's Exchange Settlement Account or its participation in Reserve Bank Information and Transfer System (or any equivalent Real-time Gross Settlement); 7 any payment, clearing or settlement scheme including American Express, UnionPay International, Diners Club International, eftpos, JCB, Mastercard and Visa; and 8 any foreign organisations substantially similar or equivalent to any of the organisations listed above.
Banking Industry Codes	<p>any rules, codes of practice, policies or procedures of a Banking Industry Authority applicable to the Services or a Party, including to the extent relevant:</p> <ol style="list-style-type: none"> 1 ePayments Code; 2 Australian Banking Association Inc. Code of Banking Practice; 3 rules and requirements of the Australian Payments Network Ltd (AusPayNet); 4 BPAY Scheme Rules and Operational Procedures; 5 NPP Rules and NPP Regulations; 6 rules and requirements of the Society for Worldwide Interbank Financial Telecommunication (SWIFT); 7 US National Automated Clearing House Association Rules; 8 rules and requirements of any payment scheme including American Express, UnionPay International, Diners Club International, eftpos, JCB, Mastercard and Visa; and 9 rules and requirements of any foreign organisations substantially similar or equivalent to any of the organisations listed above.

Term	Meaning
Banking Information	has the meaning given to that term in section 6.4 of the GSF Act.
Banking Tax	any tax, duty or government charge, now or in the future, arising directly from the State's and the Agencies' banking transactions generally imposed or levied on the Services, but only to the extent there is no net benefit to the Service Provider from that tax, duty or government charge and to avoid doubt, excludes any tax in the nature of a goods and services tax and any tax on income in any form whatsoever.
Benchmark Rate	a rate expressed in Schedule 10 (Pricing) and which by its nature is a variable rate (e.g. the Reserve Bank of Australia Target Cash Rate, a cash advance rate or an overdraft index rate offered by a Service Provider to all of its customers).
Best Industry Practice	the practices, methods, standards of safety, procurement, performance and acts generally observed or engaged in by the most prudent, expert and experienced suppliers of products and services that are the same as, or equivalent or similar to, the Services.
Business Day	a day that is not a Saturday, Sunday, bank holiday or public holiday in Sydney.
Card	any purchasing card, token or device (tangible or intangible) to be provided by the Service Provider including a credit card or charge card and including virtual cards, tokens and devices.
Cardholder	an officer or employee of an Agency authorised to use a Card, and to the extent authorised by an Agency, an agent or contractor of an Agency authorised to use a Card, which has been issued by the Service Provider pursuant to this Agreement.
Commissioned	the activities to set up the goods for use after delivery including where relevant installation and configuration and checks undertaken to verify that the goods appear to operate in accordance with a Product Agreement.
Confidential Information	<p>any information that is by its nature confidential, is designated as confidential or the recipient knows or ought to know is confidential, or which is not generally available to the public, and which:</p> <p>1 is disclosed by or on behalf of the State and / or an Agency to the Service Provider or its Personnel or which the Service Provider or its Personnel obtain relating to the State and / or an Agency in connection with this Agreement or any Product</p>

Term	Meaning
	<p>Agreement (such information being Confidential Information of the State or relevant Agency); or</p> <p>2 is disclosed by or on behalf of the Service Provider to the State or an Agency or its Personnel relating to the Service Provider in connection with this Agreement or any Product Agreement (such information being Confidential Information of the Service Provider),</p> <p>and includes information:</p> <p>3 comprised in or relating to any Intellectual Property Rights of the State and an Agency as Confidential Information of the State or relevant Agency, or of the Service Provider as Confidential Information of the Service Provider;</p> <p>4 concerning the internal management and structure, personnel, ICT systems, processes and policies, commercial operations, financial arrangements or affairs of the State and an Agency, as Confidential Information of the State or relevant Agency, or of the Service Provider, as Confidential Information of the Service Provider;</p> <p>5 concerning the State's and an Agency's payors and payees, transactions and the State's and an Agency's banking and financial information, as Confidential Information of the State or relevant Agency; and</p> <p>6 relating to the clients or suppliers of the State and an Agency, as Confidential Information of the State or Agency or of the Service Provider, as Confidential Information of the Service Provider,</p> <p>but does not include information which:</p> <p>7 is or becomes public knowledge other than by breach of this Agreement; or</p> <p>8 is in the lawful possession of the other recipient without restriction in relation to disclosure before the date of receipt of the information.</p>
Conflict of Interest	having an interest (whether personal, financial or otherwise) which conflicts or may reasonably be perceived as conflicting with the ability of the Service Provider to perform its obligations under any of this Agreement and the Product Agreements fairly and objectively.
Contract Change	an Agreement Contract Change or a PA Contract Change, or both as the context requires.
Contract Change Management Procedure	has the meaning given to it in clause 19.1(c).

Term	Meaning
Contract Material	State / Agency Material, [REDACTED], Service Provider Material and Service Provider New Material.
Contract Year	the 12 month period from 1 April to 31 March.
Control	<ol style="list-style-type: none"> 1 the ability (directly or indirectly) to control the composition of the board of directors or governing body of the Service Provider; 2 the ability (directly or indirectly) to cast or control the casting of more than fifty percent (50%) of the maximum number of votes that might be cast at any general meeting (or equivalent) of the Service Provider; or 3 the holding (directly or indirectly) of more than fifty percent (50%) of the issued ordinary share capital, the equity, or other ownership interest, in the Service Provider.
Core Modern Slavery Obligations	has the meaning given to it in clause 41.1(b).
Critical Service Level	a Service Level described as a Critical Service Level in Schedule 5 (Service Levels).
Customer	any person or entity which wishes to make or makes a payment to an Agency.
Cut-Over Date	1 April 2025.
Debt Product	financial accommodation provided or to be provided by the Service Provider under this Agreement or any Product Agreement.
Defect	any defect, error, malfunction or other failure.
Deliverable	all items (including documentation, software and goods) supplied by or to be supplied by, or on behalf of, the Service Provider under or in connection with this Agreement.
Disabling Code	any computer virus or other code which is intended to or would have the effect of intercepting, accessing, copying, disrupting, impairing, denying or otherwise adversely affecting security, performance, integrity, reliability, access to or use of any information technology, data or telecommunications system,

Term	Meaning
	equipment or network, including worms, spyware, adware, keyloggers, trojans and any new types of programmed threats that may be classified.
Effective Date	the date of this Agreement.
Engaged Entity	of a Party means any first tier (direct) suppliers, subcontractors, consultants and contractors engaged by that Party (or that Party's directors, officers and employees) in connection with this Agreement or a Product Agreement. For the avoidance of doubt, 'Engaged Entities' includes independent contractors (whether an individual or body corporate), secondees, consultants and any other workers (however described) who may be engaged for the purposes of this Agreement or a Product Agreement but are not employed by the relevant Party.
Enhanced Services	<p>any of the following:</p> <ol style="list-style-type: none"> 1 any new, additional, improved or varied product or service, or package of products or services, not part of the Services which is, or is related to Products and Services under a Module; and 2 any other additions, improvements or variations to the Services including any additional, improved or varied technology, methodology or process, <p>which are not New Services.</p>
Fees and Charges	the fees and charges specified for the Services, as listed in Schedule 10 (Pricing) as varied in accordance with this Agreement from time to time and including interest payable by an Agency to the Service Provider.
First Option	has the meaning given to it in clause 3.2(a).
first Party	has the meaning given to it in clause 42(b).
Force Majeure	<ol style="list-style-type: none"> 1 acts of terrorism; 2 war, rebellion, insurrection, invasion, national or state emergencies; or 3 fire, storm, flood, earthquake or other natural event, <p>which occur in Australia (or, where relevant for a particular Service, another country) but only to the extent the event or its consequences could not have been prevented or mitigated by the exercise of a standard of care and diligence consistent with that of</p>

Term	Meaning
	a prudent person undertaking the obligations under this Agreement and the relevant Product Agreement and in the case of the Service Provider in compliance with its business continuity and disaster recovery obligations.
Framework Transition-In	<p>the implementation of the Products and Services in connection with the commencement of this Agreement and which are purchased by:</p> <ol style="list-style-type: none"> 1 the Agencies listed in Schedule 1 (List of Agencies) during the Framework Transition-In Period; or 2 any other Agency notified by the State to the Service Provider to be under the Framework Transition-In, <p>including any transition of products and services from any Outgoing Supplier to the Service Provider and any implementation of any Transformation Programmes during the Framework Transition-In.</p>
Framework Transition-In Period	the period commencing on the Effective Date to the last Services Commencement Date for the Framework Transition-In specified in the Framework Transition-In Plan or such other period as may be agreed between the Parties.
Framework Transition-In Plan	the plan developed in accordance with clause 7.2 for the implementation of the Products and Services from the Effective Date for the Framework Transition-In.
Framework Transition-Out	the Transition-Out in connection with the expiry or termination of this Agreement or part of this Agreement including the expiry or termination of a Product or Service under this Agreement.
Framework Transition-Out Period	the period referred to in clause 37.1(a) for the Framework Transition-Out.
Framework Transition-Out Plan	the plan developed in accordance with clause 37.2 for the Framework Transition-Out.
GIPA Act	<i>Government Information (Public Access) Act 2009 (NSW).</i>
Government Agency	<p>any of the following:</p> <ol style="list-style-type: none"> 1 an Agency;

Term	Meaning
	<p>2 a government sector agency (within the meaning of the <i>Government Sector Employment Act 2013</i> (NSW));</p> <p>3 a New South Wales Government agency;</p> <p>4 any other public authority that is constituted by or under an Act or that exercises public functions for or on behalf of the State of New South Wales (other than a State owned corporation); or</p> <p>5 any State owned corporation prescribed by regulations under the <i>Public Works and Procurement Act 1912</i> (NSW).</p>
GSF Act	<i>Government Sector Finance Act 2018</i> (NSW).
GSF Agency	has the meaning given in the GSF Act.
GST	has the meaning given to this term in the GST Law.
GST Exclusive Consideration	has the meaning given to it in clause 16.2(b).
GST Law	<i>A New Tax System (Goods & Services Tax) Act 1999</i> (Cth), related legislation and any delegated legislation made pursuant to such legislation.
ICT	information and communications technology including software and hardware.
ICT Deliverable	software, code and any other ICT equipment and materials to be delivered, or made available for delivery, by the Service Provider to the State or an Agency under this Agreement or any Product Agreement, excluding any Service Provider Systems made available remotely for use by the State or an Agency.
ICT Services	ICT Deliverables and Service Provider Systems.
Incoming Supplier	the service provider or supplier or part of the State or Agency nominated by the State or Agency to take over the provision of the Services or part of them, in connection with the expiry or termination of the Products and Services or part of them, including the Service Provider, where the Products and Services are replaced by other Products and Services provided by the Service Provider.

Term	Meaning
Information	has the meaning given to it in clause 29.8(a).
Initial Term	the period from the Effective Date and up to and including 31 st March 2030.
Insolvency Event	<p>any of the following events:</p> <ol style="list-style-type: none"> 1 the Service Provider ceases to, or takes steps to cease to conduct its business in the normal manner; 2 the Service Provider enters into or resolves to enter into any arrangement, composition or compromise with or assignment for the benefit of its creditors or any class of them; 3 the Service Provider is unable to pay its debts when they are due or is deemed under the <i>Corporations Act 2001</i> (Cth) to be insolvent; 4 a liquidator or provisional liquidator is appointed to the Service Provider or a receiver, receiver and manager, official manager, administrator, trustee or similar official is appointed in respect of the Service Provider or over all or substantially all of the assets or undertakings of the Service Provider; 5 an order is made or a resolution is passed for the winding up of the Service Provider which is not discharged within 14 days; or 6 anything analogous or having substantially similar effect to any of the above occurs.
Intellectual Property Rights	<p>all industrial and intellectual property rights throughout the world, including all copyright and analogous rights, all rights in relation to inventions or discoveries (including patent rights), designs, registered and unregistered trade marks (including service marks), trade names, brand names, confidential information (including trade secrets) and circuit layouts. These rights include:</p> <ol style="list-style-type: none"> 1 all rights in all applications to register these rights; and 2 all renewals and extensions of these rights.
Interest Rates	the interest rates set out in Schedule 10 (Pricing) and each such rate may comprise a Benchmark Rate plus or minus a margin.
Instrument of Delegation	an instrument under the GSF Act setting out the delegate(s) who may exercise the powers of the Treasurer under the GSF Act in respect of rights and obligations of the State under this Agreement.
Key Personnel	any Service Provider role specified in the Relationship Management Manual and any Service Provider role or Service

Term	Meaning
	Provider's Personnel identified as a key personnel in any Agency Transition-In Plan, Framework Transition-In Plan, Agency Transition-Out Plan, Framework Transition-Out Plan, Outcomes Based Product Plan and Transformation Plan, or elsewhere under this Agreement or a Product Agreement, as replaced from time to time in accordance with this Agreement or a Product Agreement.
Law	<ol style="list-style-type: none"> 1 any statute, regulation or subordinate legislation of the Commonwealth of Australia, the State of New South Wales or any other government; 2 the common law and the principles of equity as applied from time to time in the State of New South Wales; and 3 requirements, rules and guidelines of a Regulatory Body, as applicable to any of the State, Agencies and the Service Provider and its Related Bodies Corporate and the Services.
Liquidity Services	has the meaning given to it in section 1(a) of Part 1 of Schedule 3 (Service Specification).
Machinery of Government Change	<ol style="list-style-type: none"> 1 a change to the allocation or reallocation of functions between government departments, agencies and Ministers, of the New South Wales Government or one or more individual GSF Agencies as a result of an "Administrative Arrangements Order" made under Part 7 of the <i>Constitution Act 1902</i> (NSW); 2 a transfer of rights, or obligations, or both, by a State Owned Corporation under a vesting order pursuant to legislation; or 3 any other creation, abolition or transfer of responsibility, function, operations, rights, or obligations, in whole or in part, from one Agency or part thereof to another Agency or part thereof, including a vesting order pursuant to legislation.
Material	documents, information, data, know-how, skills, methodologies, tools, equipment, other goods, software and any other materials, excluding State / Agency Data.
Metadata	any system-generated data that is created or generated in connection with the State's or an Agency's use of the Products and Services, including in the use, processing, storing or hosting of any information, material, data, dataset or database in the provision of the Products and Services and includes any descriptive, structural and administrative metadata.

Term	Meaning
Modern Slavery	<ol style="list-style-type: none"> 1 any conduct that constitutes or would constitute any offence listed in Schedule 2 of the <i>Modern Slavery Act 2018</i> (NSW), including an offence of attempting or incitement to commit such an offence; 2 includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and 3 includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (1) or (2).
Modern Slavery Laws	<ol style="list-style-type: none"> 1 the <i>Modern Slavery Act 2018</i> (Cth); 2 the <i>Modern Slavery Act 2018</i> (NSW); 3 Divisions 270 and 271 of the Commonwealth Criminal Code; 4 section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW); 5 section 438ZE of the <i>Local Government Act 1993</i> (NSW); and 6 any other Laws and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the Parties operate, <p>each as amended from time to time.</p>
Modules	<p>the following categories of Products and Services procured under the Request for Proposal (and whether awarded to the Service Provider or any other service provider):</p> <ol style="list-style-type: none"> 1 Module 0 - General Services; 2 Module 1 – Liquidity Management; 3 Module 2 – Transaction Banking; 4 Module 3- Merchant Acquiring Services; 5 Module 4 – FX and Cross Border Payments; 6 Module 5 – Commercial Cards; and 7 Module 6 - Transit Payments, <p>and where the context requires, the relevant Part of Schedule 3 (Service Specification) describing that Module.</p>
Moral Rights	<ol style="list-style-type: none"> 1 any moral rights arising under the <i>Copyright Act 1968</i> (Cth);

Term	Meaning
	<p>2 any rights described in Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as varied or revised from time to time), being 'droit moral'; and</p> <p>3 any other similar rights arising under any other law in Australia or anywhere else in the world at any time.</p>
New Payments Platform or NPP	the payments platform of that name operated by NPP Australia Limited.
New Services	<p>any of the following:</p> <p>1 any new, additional, improved or varied product or service, or package of products or services, not currently within the Services which is, or is related to, Products and Services under a Module; and</p> <p>2 any other additions, improvements or variations to the Services including any additional, improved or varied technology, methodology or process,</p> <p>which is either a new or additional product or service, and therefore has its own terms and conditions or fees or charges, or both, or is an improvement or variation to any Services of such a material nature, that the Service Provider is offering that improvement or variation to its government or corporate customers with revised terms and conditions.</p>
Nominated Account	a bank account of an Agency referred to in clause 15.3(b) as advised by that Agency to the Service Provider, from which the Fees and Charges for Services provided to that Agency are to be debited.
Non-TBS Agency	in connection with any Liquidity Services, an Agency other than a TBS Agency.
Notice	a notice to be served in accordance with clause 42(b).
Objectives	has the meaning given to it in clause 2.1.
Open Source Software	software available under a licence which meets the criteria of the Open Source Definition published by the Open Source Initiative at http://www.opensource.org , and includes the forms of creative commons licences published as the Creative Commons Legal Code for Australia at http://www.creativecommons.org .

Term	Meaning
Operational / Technical Change	has the meaning given to it in clause 19.5(c).
Operational / Technical Change Management Procedure	has the meaning given to it in clause 19.1(c).
Outcomes Based Product Plan	has the meaning given to it in Schedule 7 (Innovation and Continuous Improvement).
Outcomes Based Performance Management Framework	the framework setting out the outcomes to be achieved by the Service Provider; the measurement and reporting of such outcomes; and consequences and procedures if those outcomes are not achieved.
Outgoing Supplier	the supplier or service provider specified by the State or an Agency as the current provider of products and services similar to the Services or any part of them.
Party	in connection with this Agreement, the State or the Service Provider as the context requires and "Parties" means both of them, and in connection with a Product Agreement, the applicable Agency or the Service Provider as the context requires and "Parties" means both of them.
PCI DSS	<p>the security standards set and governed by the PCI SSC (Payment Card Industry Security Standards Council), including:</p> <ol style="list-style-type: none"> 1 Data Security Standard (PCI DSS), which applies to the storage, processing or exchange of cardholder data; 2 Payment Application Data Security Standard (PA-DSS) which apply to software applications that process cardholder data; and 3 PIN Transaction Security (PTS) requirements, which apply to the security of cardholder data at the point of interaction.
Personal Information	information or an opinion about an identified individual (i.e. a natural born person), or an individual who is reasonably identifiable (whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not), tax file numbers (within the meaning of the <i>Income Tax Assessment Act 1936</i> (Cth)) and information within the meaning of any other definition of a type of personal information or health information under Privacy Laws from time to time.

Term	Meaning
Personnel	of a Party (or other person) means the officers, employees, agents and contractors (direct and indirect and their employees) of that Party (or other person) and in the case of the Service Provider as a Party its Related Bodies Corporate and their officers, employees, agents and contractors (direct and indirect and their employees).
Privacy Laws	<ol style="list-style-type: none"> 1 the <i>Privacy and Personal Information Protection Act 1998</i> (NSW); 2 the <i>Health Records and Information Privacy Act 2002</i> (NSW); 3 the <i>Privacy Act 1988</i> (Cth); 4 any other Laws relating to the processing, collection, disclosure and use of Personal Information; and 5 any Laws relating to privacy, health information, credit information, data protection, surveillance, security or direct marketing, in each case as applicable to any of the State, Agencies and the Service Provider and its Related Bodies Corporate and the Services.
Procurement Policy Framework	the "NSW Procurement Policy Framework", published at https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework (or such other link as notified by the State).
Product Agreement	the agreement formed under clause 5.3 between an Agency and the Service Provider for the provision of Services.
Product Agreement Contract Change or PA Contract Change	has the meaning given to it in clause 19.3(b).
Products and Services	the products and services specified in the Requirements / Specifications to be provided by the Service Provider under and in connection with this Agreement or a Product Agreement and any other products, services and other items (tangible or intangible) to be provided by the Service Provider under and in connection with this Agreement or a Product Agreement including the services provided under Schedule 7 (Innovation and Continuous Improvement), but excluding the Transition-In Services and Transition-Out Services.
Protocols and Procedures	the protocols and procedures which are necessary to enable the State and each Agency to receive or access the Services or any part thereof such as secure transaction authorisation and authentication procedures, as agreed to by the State and the

Term	Meaning
	Service Provider, or an Agency and the Service Provider in writing in accordance with clause 19.5.
Public Disclosure Obligations	has the meaning given to it in clause 25.2(a).
quarter	each period of 3 months from January to March (inclusive), April to June (inclusive), July to September (inclusive) and October to December (inclusive).
Regulatory Body	any government, or any governmental or semi-governmental entity, administrative, fiscal or judicial body, authority or agency, body politic (but excluding any political party), government department, local government council or statutory authority and includes the State of New South Wales and the Commonwealth of Australia.
Related Body Corporate	has the meaning given to it in the <i>Corporations Act 2001</i> (Cth).
Relationship Management Manual	the relationship manual referred to in clause 18.1 and Schedule 11 (Relationship Management Manual) as varied from time to time in accordance with this Agreement.
Remediation Plan	has the meaning given to it in clause 41.1(i).
Request for Proposal	the Request for Proposal issued by the State on 20 June 2024 for the NSW Banking, Payments and Related Services including any formal addenda and amendments.
Requirements / Specifications	<ol style="list-style-type: none"> 1 the Service Specification, Supplemental Service Description, and Service Levels; and 2 any other documents specifying the products or services to be provided by the Service Provider forming part of this Agreement or a Product Agreement or incorporated by reference and the Service Provider's standard product or services descriptions or specifications for the product or service including any

Term	Meaning
Service Specification	the specifications for the Services specified in Schedule 3 (Service Specification).
Services	the Products and Services, the Transition-In Services and Transition-Out Services, and any other products or services under and in connection with this Agreement or a Product Agreement.
Services Commencement Date	the date for commencement of the Products and Services or any part of the Products and Services to the State or an Agency.
SIW and Compliance Terms	the terms and conditions in clauses 13(d)(1) and 13(d)(2) and subject to clauses 13(d)(3), 13(d)(4) and 13(d)(5).
Small Business	a direct subcontractor entity which is a "small business" as defined in the <i>Payment Times Reporting Act 2020</i> (Cth).
Small Business Shorter Payment Terms Policy	the NSW Government's Small Business Shorter Payment Terms Policy, published at https://buy.nsw.gov.au/policy-library/policies/small-business-shorter-payment-terms-policy (or such other link as notified by the State), but amended so that any reference to a "small business" in such policy is interpreted in accordance with the definition of Small Business in this Agreement.
SME and Regional Procurement Policy	the NSW Government's Small and Medium Enterprises and Regional Procurement Policy, published at https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy (or such other link as notified by the State).
SME Policies	<ol style="list-style-type: none"> 1 the SME and Regional Procurement Policy; 2 the Small Business Shorter Payment Terms Policy; and 3 such other policies of small or medium enterprises (as defined by the State from time to time) specified in the Procurement Policy Framework.
SP Additional Descriptions	has the meaning given to it in clause 1.7(c).
Standard Industry-Wide Terms	<ol style="list-style-type: none"> 1 in relation to BPAY Services, BPAY Pty Ltd's BPAY documentation;

Term	Meaning
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State Owned Corporation	has the meaning given to this term in the <i>State Owned Corporations Act 1989</i> (NSW).
State Set-off Arrangements	the facility or facilities of the State which consolidate, group and set off credit and debit balances of certain accounts in Part 1 of Schedule 2 (Module specific terms and conditions).
Strategic Committee	has the meaning given to this term in the Relationship Management Manual and includes any replacement committee or working group performing similar functions.
Sub-Contractor	any direct or indirect agent, sub-contractor or supplier of the Service Provider including any Related Body Corporate, in connection with the Services.
Supplemental Service Description	the description of the Services specified in Schedule 4 (Supplemental Service Description), which provides additional detail on the Services and how the Service Provider will satisfy the Service Specification.
Supplied Material	Contract Material or State / Agency Data supplied or developed by or on behalf of the Service Provider.
Supplier	has the meaning given to it in clause 16.2(b).
TBS	the bank account arrangements managed by NSW Treasury known as the Treasury Banking System.

Term	Meaning
TBS Agency	an Agency designated in writing by the State from time to time as an Agency which is mandated or otherwise instructed or permitted to open an Account within a State Set-off Arrangement.
Tender	<ol style="list-style-type: none"> 1 the Request for Proposal for the New South Wales Banking, Payments and Related Services; 2 the Response to the Request for Proposal made by the Service Provider and received by the State on or around 30 July 2024; and 3 any clarifications, amendments and further responses between the State and the Service Provider concerning the New South Wales Banking, Payments and Related Services Request for Proposal and the Service Provider's response.
Term	subject to earlier termination in accordance with this Agreement, the Initial Term and any extensions to this Agreement, together with any Framework Transition-Out Period.
Termination Event	an event specified in clause 34.2 or 35.2, which permits the State to terminate this Agreement or an Agency to terminate a Product Agreement or both.
Third Option	has the meaning given to it in clause 3.2(c).
Third Parties	providers of banking, financial, payments and other products and services other than the Service Provider and its Related Bodies Corporate (including transport ticketing, ICT, data, business process services, knowledge process services, and other consultancy services).
Third Party Off-the-shelf Product	any standard commercially available off-the-shelf software product (including software and firmware embedded in equipment) or data product owned by a third party together with its associated documentation and licensed by a third party on separate terms (together with modifications or enhancements to any of them). For the purposes of this definition a member of the Service Provider Group is not a third party.
those indemnified	has the meaning given to it in clauses 28.4(a) and 32.2(a).
Transaction Agreements	this Agreement, the Product Agreements, any Agreement Contract Change, any PA Contract Change and any other amendment or other agreement under or in connection with this Agreement.

Term	Meaning
Transformation Plan	has the meaning given to it in Schedule 7 (Innovation and Continuous Improvement).
Transformation Programmes	has the meaning given to it in Schedule 7 (Innovation and Continuous Improvement).
Transition-In Services	the services and other supplies to be provided by the Service Provider (including in accordance with the Framework Transition-In Plan and Agency Transition-In Plan, as applicable) for completing an effective and orderly implementation of the Products and Services (or part of them) including any transition of products and services from any Outgoing Supplier to the Service Provider.
Transition-Out	the effective and orderly termination of the Products and Services (or part of them) and where the Products and Services are to be replaced, the effective and orderly transfer of responsibility for the provision of the Products and Services (or part of them) from the Service Provider to the Incoming Supplier and all matters related to or connected with the Incoming Supplier assuming control of the Products and Services (or part of them) to be provided to the State or an Agency.
Transition-Out Services	the services and other supplies to be provided by the Service Provider (including in accordance with the Agency Transition-Out Plan and Framework Transition-Out Plan, as applicable) for completing an effective and orderly termination of the Products and Services (or part of them) and where the Products and Services are to be replaced, the effective and orderly transfer of responsibility for the provision of the Products and Services (or part of them) from the Service Provider to the Incoming Supplier.
Treasurer	the Treasurer of the State of New South Wales.
User	a natural person who is authorised by an Agency to use the Services or part of the Services under a Product Agreement, but only to the extent of their authorisation and including a natural person who is authorised to receive and use a Card.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

1.2 Definitions in Schedules

Additional definitions are set out in Schedule 1 (List of Agencies) to Schedule 11 (Relationship Management Manual) of this Agreement and those definitions shall have the same meaning in clauses 1 to 44 of this Agreement or any other part of this Agreement or a Product Agreement, unless the context requires otherwise.

1.3 Interpretation

In this Agreement and a Product Agreement:

- (a) Headings and bold type are for convenience only and do not affect the interpretation of this Agreement or a Product Agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) Words of any gender include all genders.
- (d) Other parts of speech and grammatical forms of a word or phrase defined in this Agreement and a Product Agreement have a corresponding meaning.
- (e) An expression importing a person or entity includes any company, partnership, joint venture, association, corporation, other body corporate or other entity and any Regulatory Body or Banking Industry Authority as well as an individual.
- (f) A reference to a clause, schedule, annexure, attachment or exhibit is a reference to a clause of, and a schedule, annexure, attachment or exhibit to, this Agreement or a Product Agreement as the context requires.
- (g) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (h) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (i) A reference to a party to a document includes that party's successors and permitted assignees and transferees.
- (j) A reference to an agreement other than this Agreement and a Product Agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (k) A reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (l) No provision of this Agreement or a Product Agreement will be construed adversely to a Party because that Party was responsible for the preparation of this Agreement or a Product Agreement or that provision.
- (m) Without limiting clause 39, a reference to a body, other than a Party to this Agreement or a Product Agreement (including an institute, association or authority), whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

- (n) A reference to A\$ and \$, means the lawful currency of Australia.
- (o) A reference to the State's or an Agency's ICT systems, or any part of them, includes ICT systems or any part of them provided by contractors to the State or the relevant Agency.
- (p) Any reference to the Treasurer is interpreted to include his or her delegate.
- (q) Where the Treasurer executes a Product Agreement as principal for the benefit of an Agency under the GSF Act, a reference to an Agency means the Treasurer as principal for the benefit of that Agency, and where that Agency is a separate legal entity to the Crown in the Right of the State of New South Wales, the Treasurer holds the benefit of rights under the Product Agreement that refers to an Agency on trust for the benefit of that Agency and the Treasurer may vary, amend, enforce, or otherwise act under the Product Agreement that refers to an Agency without seeking the approval of that Agency.

1.4 Interpretation of inclusive expressions

Specifying anything in this Agreement or a Product Agreement after the words 'include' or 'for example' or similar expressions does not limit what else is included.

1.5 Conflict between provisions

- (a) If there is a conflict between any part of the documents listed below in this clause 1.5(a), and whether a conflict within that document or with another document listed below, then the greater or higher requirement, standard, quality, level of service, quantum or scope upon the Service Provider prevails:
 - (1) Schedule 3 (Service Specification);
 - (2) Schedule 4 (Supplemental Service Description);
 - (3) Schedule 5 (Service Levels);
 - (4) Schedule 6 (Security Requirements);
 - (5) Schedule 7 (Innovation and Continuous Improvement);
 - (6) Schedule 9 (Framework Transition-In) and any Framework Transition-In Plan, Agency Transition-In Plan, Framework Transition-Out Plan and Agency Transition-Out Plan;
 - (7) Schedule 12 (Service Provider Product Terms and Conditions) and the Service Provider Product Terms and Conditions; and
 - (8) a document expressly incorporated by reference in any part of this Agreement or a Product Agreement, or within the Requirements / Specifications.
- (b) If there is a conflict between any provisions of this Agreement or between any provisions of a Product Agreement, which is not resolved by clause 1.5(a), then the documents shall be given the following order of priority such that the conflicting provision in the document lower in the order of priority shall be read down or severed to the extent necessary to resolve the conflict:
 - (1) clauses 1 to 44 of this Agreement, Schedule 2 (Module specific terms and conditions) and Schedule 6 (Security Requirements);

- (2) Schedule 3 (Service Specification) and Schedule 10 (Pricing);
 - (3) Schedule 1 (List of Agencies), Schedule 5 (Service Levels), Schedule 7 (Innovation and Continuous Improvement), Schedule 8 (Approved Material Sub-Contractors), Schedule 11 (Relationship Management Manual), Schedule 13 (Template Service Order), Schedule 14 (Template Amending Deed), and any Relationship Management Manual;
 - (4) Schedule 4 (Supplemental Service Description), Schedule 9 (Framework Transition-In) any Framework Transition-In Plan, Agency Transition-In Plan, Framework Transition-Out Plan, Agency Transition-Out Plan and Schedule 15 (Policy Requirements);
 - (5) a document expressly incorporated by reference in:
 - (A) clauses 1 to 44 of this Agreement, Schedule 2 (Module specific terms and conditions) and Schedule 6 (Security Requirements);
 - (B) Schedule 3 (Service Specification) and Schedule 10 (Pricing);
 - (C) the other Schedules other than Schedule 12 (Service Provider Product Terms and Conditions); and
 - (6) Schedule 12 (Service Provider Product Terms and Conditions) and the Service Provider Product Terms and Conditions; and
 - (7) a document expressly incorporated by reference in the Service Provider Product Terms and Conditions.
- (c) The Parties acknowledge and agree that the Service Provider Product Terms and Conditions attached in Schedule 12 (Service Provider Product Terms and Conditions) have not been amended or have not been fully amended to be consistent with other parts of this Agreement which have a higher precedence. Subject to clause 13(d), nothing in the Service Provider Product Terms and Conditions shall be interpreted to read down or limit the parts of this Agreement or a Product Agreement which are higher in the order of precedence.
 - (d) To the extent of any inconsistency, this Agreement prevails over the Service Provider Product Terms and Conditions and clause 13(c) further provides for the Service Provider Product Terms and Conditions to be read down to ensure consistency with other parts of this Agreement and any Product Agreement. Where the inconsistency is between the Service Provider Product Terms and Conditions and other documents specified in clause 1.5(a), the inconsistency shall be resolved in accordance with the precedence specified in clause 1.5(a).

1.6 Conflict between Agreement and Product Agreement

- (a) If the State considers at any time that a proposed Product Agreement or PA Contract Change, or a Product Agreement or PA Contract Change, with an Agency is inconsistent with this Agreement, then the State may direct the Service Provider not to enter into the proposed Product Agreement or PA Contract Change, until it is made consistent, or if the Product Agreement or PA Contract Change has been entered into with an Agency, not to comply with all or part of the Product Agreement which is inconsistent, and the Product Agreement will be deemed to be varied to the extent necessary to ensure it is consistent and the State may require the Service Provider to enter into such documentation it requires to give effect to this clause.

- (b) Subject to clause 6.3(c), the Service Provider must not, whether in connection with a new Product Agreement or a PA Contract Change:
- (1) provide products or services to an Agency under this Agreement or a Product Agreement if those products or services are not within the Services under this Agreement; or
 - (2) incorporate provisions in a Product Agreement which are inconsistent with the provisions of this Agreement including, subject to clause 6.3(c), any variation to the Service Levels and any variation to the Interest Rates, Fees and Charges [REDACTED] set out in this Agreement,
- including where requested by an Agency, and in the case of inconsistency between the provisions of this Agreement incorporated into a Product Agreement, and additional terms of a Product Agreement, the provisions of this Agreement shall prevail.

1.7 Supplemental Service Description and other documents

- (a) Subject to clause 1.7(b), the Parties agree that the Supplemental Service Description contains additional obligations of the Service Provider relating to the Services which are not set out in the Service Specification including:
- (1) obligations concerning the scope or other aspect of a Service specified in the Service Specification, which are additional or supplemental to and not set out in the Service Specification or which provide more detail in relation to a Service that is set out in the Service Specification; and
 - (2) a description of some Services to be provided by the Service Provider, which are not set out in the Service Specification.
- (b) Nothing in the Supplemental Service Description shall be interpreted to read down or limit the Service Specification to the extent the Supplemental Service Description does not satisfy the Service Specification.
- (c) The State and the Service Provider acknowledge that the Supplemental Service Description, Schedule 7 (Innovation and Continuous Improvement), and Schedule 9 (Framework Transition-In) (**SP Additional Descriptions**) may contain:
- (1) subject to clause 1.7(d), product or services for which there are no Service Provider Product Terms and Conditions in Schedule 12 (Service Provider Product Terms and Conditions); and
 - (2) subject to clause 1.7(d), obligations or proposed obligations on the State or an Agency.
- (d) If Schedule 4 (Supplemental Service Description), Schedule 7 (Innovation and Continuous Improvement) or Schedule 9 (Framework Transition-In) include a description of a product or service for which there are no Service Provider Product Terms and Conditions in Schedule 12 (Service Provider Product Terms and Conditions), that product or service shall not be a Product and Service under this Agreement unless it is accepted as a New Service pursuant to clause 6.3(b), except this clause does not apply to:
- (1) consulting or advisory services provided by the Service Provider (including under Schedule 7 (Innovation and Continuous Improvement)); and

- (2) any agreement by the Service Provider to undertake work in connection with a Product and Service which is preliminary or a pre-requisite to it being accepted as a New Service,
as they are Services which do not have and are not intended to have product terms and conditions for attachment in Schedule 12 (Service Provider Product Terms and Conditions).
- (e) Any part of the SP Additional Descriptions which imposes an obligation on the State or an Agency is of no force and effect. The State must expressly agree in writing to the proposed obligation. Mere inclusion in the SP Additional Descriptions is not sufficient to constitute such agreement in writing but any obligation or dependency agreed by the State or an Agency in any Product Agreement, Framework Transition-In Plan, Agency Transition-In Plan, Outcomes Based Product Plan or Transformation Plan would be sufficient to constitute such agreement.

2 Objectives

2.1 Objectives

The objectives of this Agreement and the Product Agreements are as follows:

- (a) to partner with service provider(s) that deliver best practice solutions facilitating the ongoing payment operations of the State and Agencies to support the delivery of services to customers;
- (b) to leverage the experience and expertise of service provider(s) to effectively and efficiently deliver innovation and continuous improvement in banking, payments and related products and services to the State and Agencies;
- (c) to improve the State's, Agencies' and users' experience and outcomes in connection with the Services;
- (d) to leverage the experience and expertise of service provider(s) to optimise liquidity across the State and Agencies and optimise the State's and Agencies' balance sheet;
- (e) to minimise risk to the State and Agencies, through provision of secure and robust solutions that comply with industry standards and regulatory requirements; and
- (f) to ensure the State and Agencies achieve value for money from its Service Provider(s) in the short, medium and long term,

(collectively, the **Objectives**).

2.2 Effect of Objectives

- (a) The Objectives are intended to be a general introduction to, and statement of the spirit of, this Agreement and the Product Agreements. They are not intended to expand or reduce the scope of the Parties' obligations or to alter the plain meaning of this Agreement and the Product Agreements.
- (b) If the terms of this Agreement and the Product Agreements do not address a particular circumstance, are unclear or ambiguous, or require the Parties to discuss, negotiate or agree on a particular matter, then those terms must be

construed in accordance with, and each Party must act to give the fullest possible effect to, the Objectives.

3 Commencement, appointment and Term

3.1 Commencement, appointment and Term of this Agreement

- (a) Subject to clauses 34 to 37 (inclusive), this Agreement commences on the Effective Date and will continue for the Term.
- (b) The State appoints the Service Provider to provide the Services to Agencies during the Term.

3.2 Options to extend

- (a) Subject to clause 17.3, the State may extend the Initial Term for the Services or any part of the Services in its absolute discretion for up to 2 years by giving not less than 6 months' written Notice prior to the then expiry date of the Initial Term (**First Option**).
- (b) Subject to clause 17.3, if the State has exercised the First Option, the State may extend the current Term for the Services or any part of the Services in its absolute discretion for up to a further 2 years by giving not less than 6 months' written Notice prior to the then expiry date of the current Term (**Second Option**).
- (c) Subject to clause 17.3, if the State has exercised the Second Option, the State may extend the current Term for the Services or any part of the Services in its absolute discretion for up to a further 2 years by giving not less than 6 months' written Notice prior to the then expiry date of the current Term (**Third Option**).
- (d) Upon the State's exercise of its option, this Agreement will continue on the terms and conditions in effect for the Service or any part of the Services extended subject to the outcome of the review of the Interest Rates, Fees and Charges [REDACTED] pursuant to clause 17.3. Clause 36.4(b) applies to any part of the Services which are not extended.

3.3 Term of Product Agreement

A Product Agreement entered into under this Agreement ends on a date selected by the Agency during the Framework Transition-Out Period, unless:

- (a) the Product Agreement specifies an earlier expiry date;
- (b) the Product Agreement is terminated earlier in accordance with clause 35 of this Agreement or any other provision of this Agreement or the Product Agreement permitting or providing for termination; or
- (c) otherwise specified by the State in writing, and the Agency and the Service Provider have agreed in writing or agree in writing that the Product Agreement shall continue after the Term.

3.4 No guarantee or exclusivity

- (a) Neither the State nor any Agency makes any representation, warranty, promise, guarantee or other assurance that any particular volume of Services will be purchased by the State or any Agency under this Agreement or any Product Agreement.
- (b) Nothing in this Agreement or any Product Agreement creates an exclusive supply arrangement between the Service Provider and the State and any Agency.
- (c) The State and an Agency may, at any time, select another supplier or service provider to supply products and services that are the same as, or substantially similar to, the Services supplied by the Service Provider.

4 Agreement structure

4.1 Agreement structure

- (a) This Agreement is entered into by the Treasurer on behalf of the State.
- (b) In performing this Agreement, the State will act through delegates of the Treasurer pursuant to the Instrument of Delegation.

4.2 Product Agreement structure

- (a) A Product Agreement may be entered into:
 - (1) by an Agency as principal;
 - (2) by the Treasurer as principal for the benefit of, or on behalf of, the Agency pursuant to section 6.14 of the GSF Act; or
 - (3) by an Agency on behalf of another Agency if the first mentioned Agency is authorised by the second mentioned Agency to act on its behalf.
- (b) The Service Provider:
 - (1) acknowledges that the Treasurer may from time to time issue directions and policies in relation to the provision of the Products and Services to Agencies under sections 3.1 and 6.15 of the GSF Act and agrees to assist Agencies to comply with such directions; and
 - (2) agrees to assist Agencies to comply with the State's policies and guidelines relevant to the Services that are notified by the State to the Service Provider from time to time.

4.3 Provision of Banking Information to the State

Without limiting any other obligations to provide information under this Agreement, the Service Provider agrees to provide and give access to all Banking Information to the State, as requested by the State from time to time and as permitted under the GSF Act.

4.4 Agency rights

- (a) This Agreement is also entered into for the benefit of each Agency.
- (b) The Service Provider agrees, that in addition to the State's right to enforce this Agreement on behalf of any Agency that is the same legal entity as the State, any Agency that is a separate legal entity to the State is entitled to enforce this Agreement where the relevant right in this Agreement refers to an Agency.
- (c) Where an Agency is a separate legal entity to the State, subject to the GSF Act, the State is not liable under this Agreement or a Product Agreement, and the State does not guarantee or indemnify the Service Provider under this Agreement or a Product Agreement for that Agency's obligations, acts or omissions under or in connection with this Agreement or a Product Agreement, except for any guarantee and indemnity agreed to in writing by the State with the Service Provider (if any) to guarantee and indemnify the obligations of that Agency (including any legislative guarantee).

5 Contracting process and Agencies

5.1 Overview of contracting process

As set out further in this clause 5 and clause 6:

- (a) this Agreement is a framework agreement under which Agencies may order Services;
- (b) Agencies are entitled to place Service Orders for the Services as further described in clause 6; and
- (c) a Product Agreement for Services comes into force when a Service Order is signed in accordance with clause 5.3.

5.2 Agencies

- (a) The Service Provider acknowledges that the list of Agencies and the categorisation of an Agency for the purposes of this Agreement by the State may change from time to time. The State may, by notice in writing to the Service Provider:
 - (1) add a new entity as an Agency to Schedule 1 (List of Agencies);
 - (2) remove an Agency from Schedule 1 (List of Agencies); and
 - (3) change the categorisation of an Agency from a TBS Agency to a Non-TBS Agency and vice versa, and any other categorisation or inclusion within any other State Set-off Arrangements,and such addition, removal or other change shall take effect without any requirement to execute an Agreement Contract Change.
- (b) The notification of removal of an Agency from Schedule 1 (List of Agencies) will, subject as set out below, have the effect that this Agreement will no longer operate in respect of that Agency as from the date stated in the notice or such other date as may be agreed between the State and the Service Provider and the Product Agreement between the Service Provider and that Agency will terminate from the date of notification of the removal of that Agency unless

otherwise specified by the State and subject to that Agency's rights to an Agency Transition-Out Period. The removal of an Agency does not affect any outstanding liabilities, Fees and Charges for Services provided by the Service Provider to that Agency prior to the date of its removal from Schedule 1 (List of Agencies).

5.3 Product Agreements

- (a) A Product Agreement comes into force when a Service Order is signed in accordance with clause 6.1 by:
 - (1) the Agency as principal;
 - (2) by the Treasurer as principal for the benefit of, or on behalf of, the Agency pursuant to section 6.14 of the GSF Act; or
 - (3) by the Agency on behalf of another Agency if the first mentioned Agency is authorised by the second mentioned Agency to act on its behalf,and the Service Provider, or the terms and conditions of the Product Agreement are otherwise agreed and a binding Product Agreement is in effect.
- (b) The terms and conditions of the Product Agreement consist of:
 - (1) all of the provisions of this Agreement, which relate to an Agency or a Product Agreement, or both, and all of the Service Provider's representations, warranties, obligations and other commitments under this Agreement, save to the extent that any of them are expressed as a representation, warranty, obligation or other commitment to the State only in its capacity as a Party to this Agreement, or the context requires that they are given to the State only in its capacity as Party to this Agreement; and
 - (2) subject to clause 6.3, any additional provisions or variations to this Agreement agreed between the Agency and the Service Provider in writing in a Service Order or otherwise.

6 Formation of a Product Agreement

6.1 Process with Agency

- (a) If the Service Provider is notified that an Agency wishes to review or acquire all, or any of the Services offered by the Service Provider under this Agreement, or review or vary the Services currently purchased by an Agency under this Agreement, the Service Provider must:
 - (1) promptly provide full details of the Services, Interest Rates, and Fees and Charges [REDACTED] as relevant to the Agency, offered by the Service Provider under this Agreement, except to the extent the State instructs the Service Provider in writing not to disclose certain information to an Agency;
 - (2) promptly provide information and respond to queries as reasonably required by an Agency to understand the Services, Interest Rates, Fees and Charges [REDACTED] as relevant to the Agency, except to

- the extent the State instructs the Service Provider in writing not to disclose certain information to an Agency;
- (3) use its reasonable endeavours to obtain appropriate information on the Agency's requirements for the Services; and
 - (4) advise an Agency of the features, benefits and capabilities of the Services to enable the Agency to evaluate the suitability of the Services or parts of the Services for that Agency.
- (b) If the Service Provider is notified that an Agency wishes to purchase Services from the Service Provider, the Service Provider must:
- (1) promptly prepare a Service Order (unless the Agency wishes to prepare the Service Order); and
 - (2) develop an Agency Transition-In Plan and subject to clause 7.2(b), in any event within 10 Business Days from the Agency notifying the Service Provider that it wishes to purchase Services (or such other time period agreed with the Agency) unless the Service Provider and an Agency agree in writing that an Agency Transition-In Plan is not required.
- (c) A Service Order must be substantially in the form set out in Schedule 13 (Template Service Order) or in such other form as may be agreed between the State and the Service Provider in writing from time to time.
- (d) The Service Provider must comply with the State, the Treasurer's or relevant Agency's reasonable requests in relation to an Agency Transition-In Plan and any other content of a Service Order.
- (e) At the request of an Agency, and subject to credit approval being obtained for a new Debt Product which is included in the Service Order, if applicable, in accordance with Part 2 of Schedule 2 (Module specific terms and conditions) the Service Provider must promptly execute a Service Order with an Agency for Services ordered by the Agency.
- (f) This clause 6.1 and the Service Provider's obligations under it are subject to clauses 6.2 and 6.3 and clauses 6.2 and 6.3 prevail over clause 6.1 in the event of any inconsistency.

6.2 State oversight

- (a) In addition to the Service Provider's reporting obligations to the State pursuant to clauses 20.3 and 20.4, the Service Provider must:
- (1) unless otherwise advised by the State, promptly inform the State when the Service Provider receives a notification from an Agency that it proposes to enter into a Product Agreement with the Service Provider and the Treasurer is not executing the Product Agreement as principal for, or as an agent on behalf of, that Agency;
 - (2) provide the State with a copy of any executed Product Agreement; and
 - (3) provide the State with a copy of any PA Contract Change to a Product Agreement,
- electronically within 5 Business Days of the execution of the agreement together with a statement in writing confirming that the terms of the executed

Product Agreement or PA Contract Change, as applicable, are consistent with this Agreement.

(b) If an Agency enters into a Product Agreement in its own right, and the Treasurer is not executing the Product Agreement as principal for, or as agent on behalf of, that Agency:

- (1) the State has the right to review any Service Order and any draft Service Order, including any Agency Transition-In Plan, and any PA Contract Change and draft PA Contract Change;
- (2) the Service Provider must promptly notify the State if the Service Provider and an Agency cannot agree a Service Order and the Service Provider must comply with the State's reasonable requests to resolve or take steps to conclude the Service Order;
- (3) if the State considers at any time that for any other reason the Service Provider must not enter into a proposed Product Agreement or PA Contract Change with an Agency, then the State may direct the Service Provider not to enter into the proposed Product Agreement or PA Contract Change;
- (4) except to the extent otherwise directed by the State in writing (including where the State elects only to receive part of the information below or only relating to some Agencies), the Service Provider must notify the State in its monthly reports to the State of:
 - (A) Services purchased by Agencies in the previous month including whether under a new Product Agreement or an existing Product Agreement and including on an aggregated basis by Agency; and
 - (B) requests for products or services which are not within the Services or requests in connection with the Services which are materially different from provisions of this Agreement.

(c) Unless otherwise directed by the State or the Treasurer from time to time, the Service Provider must not deal directly with an Agency (other than the State) and must only deal with the State or the Treasurer acting as principal or as agent on behalf of Agencies, in connection with the following:

- (1) agreement of an Agency Transition-In Plan;
- (2) review of Services by an Agency pursuant to clauses 11.2(d) and 11.2(e);
- (3) exercise of an Agency's rights pursuant to clauses 12.2 and 12.3 (correction of non-compliant Services);
- (4) agreement of a PA Contract Change;
- (5) agreement of Protocols and Procedures;
- (6) information and reporting in clause 20.5;
- (7) agreement of an Agency Transition-Out Plan; and
- (8) any other matter which the State notifies the Service Provider in writing under or in connection with a Product Agreement,

and the State may provide detailed written instructions from time to time to the Service Provider relating to the foregoing and the Service Provider must comply with those detailed written instructions.

- (d) In the exercise of any rights of an Agency under this Agreement, a reference to an Agency in this Agreement or a Product Agreement is interpreted to include a reference to the State or the Treasurer acting on behalf of any Agency (where authorised to do so by an Agency or pursuant to any legislative or other power or authority) or any other Agency acting on behalf of that Agency (where authorised to do so by an Agency or pursuant to any legislative or other power or authority).

6.3 Mandatory requirements of a Product Agreement

- (a) Subject to clause 6.3(c), the Service Provider must not, whether in connection with a new Product Agreement or a PA Contract Change:
 - (1) provide products or services to an Agency under this Agreement or a Product Agreement if those products or services are not within the Services under this Agreement; or
 - (2) incorporate provisions in a Product Agreement which are inconsistent with the provisions of this Agreement including, subject to clause 6.3(c), any variation to the Service Levels and any variation to the Interest Rates, Fees and Charges [REDACTED] set out in this Agreement,including where requested by an Agency, and in the case of inconsistency between the provisions of this Agreement incorporated into a Product Agreement, and additional terms of a Product Agreement, the provisions of this Agreement shall prevail.
- (b) Unless otherwise specified by the State from time to time including for probity reasons during a procurement process, the Service Provider is entitled to discuss New Services with Agencies under or in connection with this Agreement, including as part of the Service Provider's obligations pursuant to Schedule 7 (Innovation and Continuous Improvement) prior to proposing an Agreement Contract Change to the State. If the Service Provider wishes to provide New Services, then the Service Provider may propose that those New Services are incorporated into the Services under this Agreement pursuant to an Agreement Contract Change. Save as otherwise agreed by the State in writing, any New Services agreed to by the State will be made available to all Agencies.
- (c) The following provisions, which are agreed to in a Product Agreement shall not be considered inconsistent with the provisions of this Agreement:
 - (1) additional Service Levels agreed between an Agency and the Service Provider, provided such additional Service Levels are agreed to by the State in writing;
 - (2) any improvements to the Service Levels specified in Schedule 5 (Service Levels); and
 - (3) any other provision in a Product Agreement, which is otherwise inconsistent with the provisions of this Agreement, but is agreed to by the Treasurer in writing from time to time pursuant to this clause 6.3(c).

7 Transition-In Services

7.1 Overview of Transition-In documents

As set out further in this clause 7:

- (a) the Service Provider must develop a Framework Transition-In Plan for the purpose of Framework Transition-In; and
- (b) the Service Provider must also develop Agency Transition-In Plans for the purpose of:
 - (1) Framework Transition-In; and
 - (2) Transition-In Services, throughout the Term of the Agreement, which are not part of the Framework Transition-In.

7.2 Framework Transition-In Plan and Agency Transition-In Plan

- (a) The Service Provider must develop a Framework Transition-In Plan and Agency Transition-In Plans for the Framework Transition-In in accordance with the State's and the relevant Agency's reasonable requirements. The Service Provider must prepare a final Framework Transition-In Plan for the State's approval, and must provide Agency Transition-In Plans under the Framework Transition-In for approval, by the State and the relevant Agencies within a reasonable period prior to the relevant Services Commencement Date to enable the Service Provider to perform the Transition-In Services prior to the relevant Services Commencement Date and in any event by any date specified under or agreed in writing under this Agreement or any Product Agreement.
- (b) To the extent any Agencies' requests for timing of Transition-In Services or commencement of Services during the Framework Transition-In Period conflict with each other or with the requirements of the State, the Service Provider must comply with the instruction given by the State to resolve the conflict.
- (c) The Service Provider must develop Agency Transition-In Plans for Transition-In Services which are not part of the Framework Transition-In in accordance with the relevant Agencies' reasonable requirements and must provide a final version for approval by the relevant Agencies promptly and in any event as required under clause 6.1(b).
- (d) The Framework Transition-In Plan and Agency Transition-In Plans must specify:
 - (1) the approach or strategy to be adopted by the Parties, the transition schedule, governance covering each Party's team, their respective roles and responsibilities, the communication plan, escalation process, progress review meetings, status reporting, milestones, risks and mitigation plan;
 - (2) any acceptance testing required by the State or an Agency, or both, to test that the ICT Services comply with this Agreement and the Product Agreement and where contemplated properly and effectively interface with the State's and an Agency's ICT systems;
 - (3) cut-over process for the Services and training on use of the Services; and
 - (4) such other matters as the State and / or an Agency may reasonably require from time to time.

7.4 Existing products and services with Service Provider

If an Agency has an existing agreement with the Service Provider for any product or service outside of this Agreement, which is also a product or service under this Agreement, that existing product or service shall continue on the terms of the existing agreement, until the earliest of:

- (a) the Agency and the Service Provider execute a Product Agreement and the Product and Service under that Product Agreement replacing that existing product or service commences; or
- (b) that existing agreement is otherwise terminated in accordance with its terms.

8 Provision of Services

8.1 Service obligations

- (a) The Service Provider must provide the Services to the State and each Agency in accordance with:
 - (1) the terms of this Agreement; and
 - (2) subject to clauses 1.6(a) and 6.3, the Product Agreement.
- (b) The Service Provider must make available the Products and Services to Agencies from the Cut-Over Date.
- (c) The Service Provider acknowledges that the description of the products, services, activities and other items in this Agreement and a Product Agreement may not be a complete list of products, services, activities or other items required for the Service Provider to properly provide the Services. As part of the Services, the Service Provider must perform all services and responsibilities which are necessary to or incidental to, or customary for, the provision of the Services described in the Requirements / Specifications or are inherent subtasks for the proper performance and delivery of the Services.
- (d) The Service Provider must perform the Services:
 - (1) in accordance with Best Industry Practice;
 - (2) in compliance with the Requirements / Specifications;
 - (3) promptly and accurately; and
 - (4) in accordance with the State's and an Agency's reasonable instructions and requirements from time to time.
- (e) The Service Provider must:
 - (1) provide the Services in a manner that is customer-focussed and efficient;
 - (2) provide customer-focussed support services for the Services, which make use of the Services by the Agencies as user-friendly as practical; and
 - (3) use its best endeavours to establish a strong relationship with the Agencies.

- (f) The Service Provider must provide training services to an Agency on the use of the Services including any ICT Services so that each of the Services can be fully and efficiently used by an Agency. The Service Provider must provide training as part of Transition-In Services and on-going training for Users of the Services from time to time, and on-going training for enhancements or changes to the Services, and as reasonably requested by an Agency from time to time.
- (g) Any State's or Agency's Personnel shall be entitled to use the Services in the performance of their duties, services or supplies to an Agency including any Agency's Personnel which are providers of business process, ICT or payment services to an Agency, to the extent such Personnel are authorised by the State or Agency to use the Services on behalf of the State or Agency.
- (h) Any responsibility or activity under or in connection with this Agreement or a Product Agreement of the State or an Agency to review, comment upon, sign-off, confirm, approve, accept, or perform a similar act in connection with any of the Services does not limit or vary the Service Provider's obligations or absolve the Service Provider from its responsibility for provision of the Services in accordance with this Agreement and the Product Agreements.

8.2 Service Provider Personnel

- (a) The Service Provider must ensure that all persons within the Service Provider's Personnel are, and at all times remain, properly and sufficiently trained, skilled, experienced, qualified and instructed for their respective duties in connection with the Services.
- (b) The Service Provider must:
 - (1) consult with and obtain the prior written approval of the State (approval not to be unreasonably withheld or delayed) for any person to be appointed as Key Personnel from time to time in connection with this Agreement;
 - (2) give the State reasonable prior notice of its intention to replace any Key Personnel and explain reasons for the actions; and
 - (3) use its best endeavours to minimise variation of Key Personnel, unless requested by the State.
- (c) The Service Provider must replace any individual within the Service Provider's Personnel that performs duties in connection with the Services, if the State makes a reasonable request for their replacement including as a result of their poor performance or their engagement in conduct that is, or is likely to be, detrimental to the State or an Agency, in the opinion of the State.

9 Co-operation and operating level agreements

9.1 Co-operation

- (a) The Service Provider acknowledges the State and Agencies may engage Third Parties to provide banking, financial, payments and other products and services (including transport ticketing, ICT, data, business process services, knowledge process services, and other consultancy services) to the State and Agencies.

- (b) The Service Provider must co-operate with, and provide such assistance as is reasonably necessary to, the State and Agencies and any actual or potential Third Parties to enable the State and Agencies to receive banking, financial, payments and other products and services in the manner contemplated by and otherwise enjoy the benefit of this Agreement and any Product Agreement and to enable Third Parties to provide their banking, financial, payments and other products and services to the State and Agencies including:
 - (1) providing such access, as may be reasonably necessary, to the premises, resources and services being provided, managed or operated by the Service Provider in the provision of the Services, subject to the Service Provider's reasonable and standard policies notified to the State and Agencies in advance of such access;
 - (2) providing such access, and copies, as may be necessary of the State / Agency Data in such format as the State and Agencies reasonably require;
 - (3) integrating ICT Services with the ICT systems provided or operated by other Third Parties and providing necessary information, documentation and instructions to enable products or services to interface, or be compatible, with the Services including specifications, requirements, standards, protocols, policies, constraints and parameters for the Services (including those used for quality assurance and development and performance acceptance testing);
 - (4) providing assistance and support services to permit the State and Agencies or Third Parties to acquire the knowledge necessary to efficiently provide, receive or operate products or services in connection with the Services; and
 - (5) providing access to individual Service Provider Personnel upon the giving of reasonable notice by the State or an Agency.
- (c) Nothing in this clause 9.1 operates to:
 - (1) require the Service Provider to provide the Third Parties with access to any commercially sensitive information of the Service Provider; or
 - (2) prevent the Service Provider from imposing reasonable controls and restrictions in relation to access to its Service Provider Material, Confidential Information, Protocols and Procedures and Service Provider Systems.

9.2 Collaboration Agreement and Operating level agreement

The State or an Agency may require that the Service Provider enters into a collaboration or an operating level agreement with any Third Party supplier to the State or an Agency, which describes how they will work together and interface with each other for the benefit of the State or an Agency and for the benefit of the end to end provision of services to the State or an Agency (including any services provided by an entity other than the Service Provider). The Service Provider must promptly enter into such a collaboration agreement or an operating level agreement in the form reasonably requested by the State or an Agency from time to time and must comply with the collaboration agreement or operating level agreement. Nothing in that collaboration agreement or operating level agreement must derogate from this Agreement or any Product Agreement and in the case of conflict, this Agreement and any Product Agreement takes precedence.

10 Service levels and other outcome based performance management

10.1 Service levels

The Service Provider must perform the Services so as to meet or exceed the Service Levels (including the Critical Service Levels).

10.2

[REDACTED]

10.3

[REDACTED]

10.4

[REDACTED]



10.5 Remedies

Without limiting any other right or remedy of the State or an Agency under this Agreement or a Product Agreement, if the Service Provider fails to meet any Service Level, the Service Provider must perform any remedy specified in Schedule 5 (Service Levels) for failure to meet or exceed the Service Level.

10.6 Outcome based performance management

The Service Provider agrees to comply with any Outcomes Based Performance Management Framework as set out in the Relationship Management Manual.

11 Innovation, continuous improvement and service reviews

11.1 Innovation and continuous improvement

The Service Provider acknowledges and agrees that the Service Provider's innovation and continuous improvement obligations are of the utmost importance to the State and the Agencies and the Service Provider must perform its obligations in Schedule 7 (Innovation and Continuous Improvement).

11.2 Service reviews

- (a) The State on behalf of the State and each Agency may review the Services to assess whether they are being performed in accordance with this Agreement and the Product Agreement and whether they continue to meet the Objectives.
- (b) The Service Provider must perform a review of the Services annually or such other frequency requested by the State. The State may also initiate and require a review of the Services or part of them including the Service Levels.
- (c) To the extent relevant to the Services subject to a review pursuant to this clause, and to the extent required or agreed to by the State, the Service Provider must:
 - (1) assess and report on the State's and Agencies' use of the Services including the Services being used by different Agencies;
 - (2) assess and report on the Service Provider's performance of the Services including Service Levels;
 - (3) assess and report on innovation and continuous improvement in accordance with Schedule 7 (Innovation and Continuous Improvement) and on the appropriateness of the Service Levels and potential improvement to the Service Levels, whether such improvements would be a variation to the output required or the level set;
 - (4) assess and report on the Services including Service Levels against similar or alternative services in the market;

- (5) report (to the State only) on [REDACTED] and the Fees and Charges charged to the Agencies, [REDACTED];
 - (6) undertake and report on User satisfaction surveys; and
 - (7) perform other tasks directly connected to the review reasonably required by the State or by an Agency or proposed by the Service Provider and agreed to by the State.
- (d) The State and any of its Auditors and an Agency and any of its Auditors may also undertake a review of the Services or part of them or perform any of the tasks specified in clause 11.2(c) and the Service Provider must co-operate with such a review and comply with clause 24.
- (e) The State and an Agency may exercise its rights under clause 12 if any review of the Services identifies any non-compliant Services.

12 Correction of non-compliant Services

12.1 Service Provider correction

If the Service Provider fails to perform the Services in accordance with the terms of this Agreement or a Product Agreement, including in accordance with any Service Level, the Service Provider must, where possible and unless otherwise agreed by the State or an Agency, correct the failure including where appropriate by re-performing the Services.

12.2 Service Provider initiated notification and correction – level 1

If the Service Provider fails to perform the Services in accordance with this Agreement or a Product Agreement and such failure is not a one-off minor failure which does not adversely impact the State or an Agency or if the Service Provider fails to satisfy any Service Level, the Service Provider must:

- (a) perform a root cause analysis to identify the cause of such failure;
- (b) take all steps necessary to remedy the failure, and to minimise the consequences of such failure, and to prevent it from reoccurring as soon as reasonably practicable;
- (c) provide to the State and each Agency affected by the non-compliance a report as soon as reasonably practicable and in any event within 5 Business Days of the Service Provider identifying the cause of the failure, the consequences of the failure and the Service Provider's corrective action for correcting the cause of the failure and the consequences of such failure and must report on the outcome of the corrective action and when it is completed; and
- (d) comply with the State's and any affected Agency's reasonable instructions and requirements in relation to any corrective action.

12.3 State or Agency initiated notification and correction – level 2

- (a) If in the State's or an Agency's reasonable opinion the Service Provider's performance under this Agreement or a Product Agreement is not in compliance or may become non-compliant with this Agreement or a Product Agreement including the Service Levels, then, the State or an affected Agency may notify

the Service Provider and require the Service Provider to comply with this clause 12.3.

- (b) On receipt of a notification pursuant to clause 12.3(a), the Service Provider must perform the same obligations as those specified in clause 12.2 as they relate to the cause or a potential cause of non-compliance including taking all steps necessary to remedy the failure, and to minimise the consequences of such failure, and to prevent it from reoccurring as soon as reasonably practicable and without waiting for approval by the State or an Agency of a formal action plan under this clause. In addition:
 - (1) the Service Provider must supply a formal action plan for approval by the State or an Agency that made the notification pursuant to clause 12.3(a) as soon as reasonably practicable and in any event within 5 Business Days (or such longer period as is agreed by the State or the Agency) of the State or the Agency's notification;
 - (2) the State or an Agency may at its discretion nominate one or more of its Personnel to have oversight of the corrective action; and
 - (3) in any event, within one month of the approval date of the action plan (or such longer period as is agreed by the State or the Agency), the Service Provider must implement the action plan as approved by the State or an Agency that made the notification pursuant to clause 12.3(a).

12.4 Failure to rectify non-compliant Services – level 3

If the Service Provider has failed to remedy any non-compliance of its performance of the Services in accordance with this Agreement or a Product Agreement to the satisfaction of the State or an affected Agency, pursuant to its obligations under clause 12.2 or clause 12.3, then:

- (a) the State may escalate the non-compliance to the Strategic Committee and require senior representatives of the Service Provider to make a presentation at the Strategic Committee as to the non-compliance and the corrective action to be taken;
- (b) the State or the affected Agency may re-exercise its rights pursuant to clause 12.3;
- (c) the State may re-exercise its rights pursuant to clause 12.3, but with a corrective action project under the direction of the State; and
- (d) the State may by Notice in writing to the Service Provider, do one or more of the following:
 - (1) suspend the Service Provider's right to supply Services to one or more Agencies or under this Agreement as a whole; and
 - (2) limit the Services that an Agency may obtain from the Service Provider to only those services specified in the Notice,until the State is satisfied acting reasonably that the Service Provider has successfully taken corrective action.

12.5 Costs and remedies

- (a) The Service Provider must perform its obligations under this clause 12 at its own cost and expense.

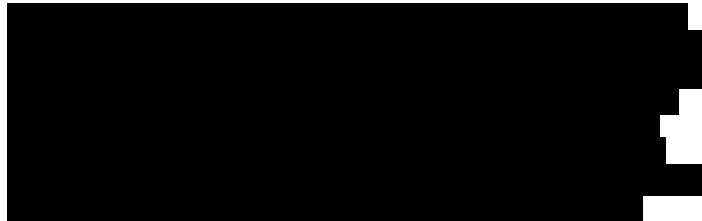
- (b) The State's and Agencies' rights under this clause 12 are without prejudice to the State's and Agencies' other rights and remedies.

13 Service Provider Product Terms and Conditions

- (a) The Parties agree that the only standard terms and conditions of the Service Provider, which are incorporated into this Agreement and the Product Agreements are the Service Provider Product Terms and Conditions attached to Schedule 12 (Service Provider Product Terms and Conditions), as amended from time to time by any Agreement Contract Change. To the extent that any other standard terms and conditions of the Service Provider purport to be or are included or incorporated in any application form, document or agreement completed, signed, agreed to or accepted by the State or Agency or its Personnel in connection with the Services (**Additional Standard Terms and Conditions**) they shall not form part of the agreements between the Service Provider and the State and the Agencies, and shall be of no force and effect, unless they are agreed in writing by the State as an Agreement Contract Change, as an amendment to Schedule 12 (Service Provider Product Terms and Conditions).
- (b) Subject to clause 13(d), any provision in:
- (1) the Service Provider Product Terms and Conditions;
 - (2) any Additional Standard Terms and Conditions (to the extent that notwithstanding clause 13(a), in law they form part of the agreements between the Service Provider and the State and Agencies); or
 - (3) any document which is incorporated by reference into this Agreement or a Product Agreement including in any Service Provider Product Terms and Conditions and including any Protocols and Procedures or documents referred to in item (2) of the definition of Requirements / Specifications,

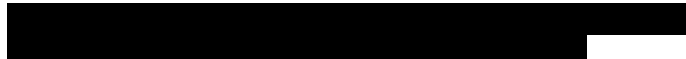
which:

(4)



- (5) provides for the Service Provider's standard or other terms and conditions to apply to the provision of Services (unless they are Service Provider Product Terms and Conditions attached to Schedule 12 (Service Provider Product Terms and Conditions) as amended from time to time by any Agreement Contract Change);

(6)



(7)



(8) provides that notices or other documents must be signed by a director or other specified person, other than an Authorised Representative;

(9) [REDACTED]

(10) [REDACTED]

(11) [REDACTED]

(12) [REDACTED]

(13) is to the effect that a particular document or documents represent the entire contract between the Parties;

(14) provides that the law of any place other than New South Wales is to apply or that the State, an Agency or any other person submits to the jurisdiction of the courts of any jurisdiction other than New South Wales; or

(15) has been crossed out,

shall, other than where required by Law, be of no force and effect for Services provided under this Agreement or a Product Agreement and shall not form part of the agreements between the Service Provider and the State and Agencies.

(c) Subject to clause 13(d), any provision in:

(1) the Service Provider Product Terms and Conditions;

(2) any Additional Standard Terms and Conditions (to the extent that notwithstanding clause 13(a), in law they form part of the agreements between the Service Provider and the State and Agencies); or

(3) any document which is incorporated by reference into this Agreement or a Product Agreement including in any Service Provider Product Terms and Conditions and including any Protocols and Procedures or documents referred to in item (2) of the definition of Requirements / Specifications,

which:

- (4) provides that the Service Provider may nominate how and when particular services may be utilised or are to be made available by the Service Provider (to the extent that such a provision would limit the obligation of the Service Provider to comply with its other obligations under this Agreement and the relevant Product Agreement including the obligation to comply with Service Levels) is amended by, and read down to ensure consistency with its other obligations under this Agreement and the relevant Product Agreement including the obligation to comply with Service Levels;
- (5) [REDACTED]
- (6) is otherwise inconsistent with other parts of this Agreement or a Product Agreement (excluding the Service Provider Product Terms and Conditions, the Additional Standard Terms and Conditions, and any document referred to in clause 13(c)(3)) is amended by, and read down to ensure consistency with, the other parts of this Agreement and any Product Agreement (excluding the Service Provider Product Terms and Conditions, the Additional Standard Terms and Conditions and any document referred to in clause 13(c)(3)).
- (d) Clauses 13(b) and 13(c) shall not apply to the following SIW and Compliance Terms and if there is a conflict between any provisions of the SIW and Compliance Terms and any other provisions of this Agreement or a Product Agreement, the SIW and Compliance Terms must take precedence:
- (1) Standard Industry-Wide Terms, provided that the Standard Industry-Wide Terms are attached to Schedule 12 (Service Provider Product Terms and Conditions) and any changes to the Standard Industry-Wide Terms are incorporated pursuant to an Agreement Contract Change; or
- (2) any other provision in the Service Provider's Product Terms and Conditions attached to Schedule 12 (Service Provider Product Terms and Conditions) or incorporated pursuant to an Agreement Contract Change, to the extent it is required to enable the Service Provider to comply with applicable Laws, but only to the extent required for that compliance;

save that nothing in the Standard Industry-Wide Terms:

- (3) [REDACTED]
- (4) [REDACTED]

- (5) is to the effect that a particular document or documents represent the entire contract between the Parties,

shall be of force and effect for the Services provided under this Agreement or a Product Agreement and shall not form part of the agreements between the Service Provider and the State and the Agencies.

- (e) The Parties acknowledge and agree that:
- (1) the State and the Service Provider have not deleted or amended provisions in the Service Provider Product Terms and Conditions to ensure consistency with clauses 13(b) and 13(c) or Part 3 of Schedule 2 (Module specific terms and conditions); and
 - (2) any failure to delete or amend any of such provisions in the Service Provider Product Terms and Conditions to ensure such consistency, shall not constitute a breach of this Agreement or be interpreted to limit the scope and effect of clauses 13(b) and 13(c) or Part 3 of Schedule 2 (Module specific terms and conditions).

14 Special Conditions for Services

14.1 Service specific terms and conditions

Schedule 2 (Module specific terms and conditions) sets out specific terms and conditions applicable to certain Products and Services under a specific Module provided by the Service Provider.

14.2 No promotional material

- (a) Unless otherwise agreed in writing by the State, the Service Provider must ensure that no promotional material other than in respect of the Services is provided or forwarded to the State's or an Agency's Personnel in any way arising out of the Personnel being or having been Users of the Services.
- (b) The Service Provider must not offer the State's or an Agency's Personnel a credit card or any other products or services (including financial products or services) for their personal use, based on the criterion of, or arising out of the fact that they are, Users of the Services.
- (c) The Service Provider must ensure that no incentives or promotions (for example, frequent flyer points or 'rewards' points) are offered or accrue to the State's or an Agency's Personnel in respect of the Services.
- (d) This clause 14.2 does not prevent the Service Provider providing promotional material or offering products or services, incentives or promotions to persons who are Personnel of the State or an Agency if:
 - (1) it is done in the ordinary course of the Service Provider's business;
 - (2) they receive them because they are members of a wider set of recipients that includes people who are not Personnel of the State or an Agency; and
 - (3) the Service Provider has access to their contact details and consent to receive such offers by means other than in connection with the Services.

14.3 Customer payments

[REDACTED]

15 Interest Rates and Charges and Fees for Services

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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16 Taxes

16.1 Banking Tax

The Fees and Charges are exclusive of any Banking Tax. Except as set out in Schedule 10 (Pricing), no Banking Tax is applicable to the Services as at the date of this Agreement. If there is any change in a Banking Tax (including the introduction or abolition of a Banking Tax):

- (a) the Service Provider must promptly inform the State and each affected Agency of the nature of the change and its impact on the State and each affected Agency (including the date it takes effect, the amount or rate of the Banking Tax, the affected Services and, where applicable and appropriate, a non-binding estimate or calculation of the impact of the Banking Tax based on the State or Agency's historical product use and transaction volumes); and

- (b) the Banking Tax will be payable in full by each affected Agency in respect of its use of the Services affected by the Banking Tax (and where the change is a decrease in or a removal or abolishment of an existing Banking Tax, the affected Agency will be relieved from its obligation to pay commensurately).

16.2 GST

- (a) Any reference in this clause 16.2 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply made by a party (**Supplier**) under or in connection with this Agreement and a Product Agreement does not include an amount on account of GST in respect of the supply (**GST Exclusive Consideration**) except as provided under this clause.
- (c) Any amount referred to in this Agreement or a Product Agreement (other than an amount referred to in paragraph (h) below) which is relevant in determining a payment to be made by one of the Parties to the other is, unless indicated otherwise, a reference to that amount expressed on a GST exclusive basis.
- (d) Unless the supply is expressly stated to include GST, to the extent that GST is payable in respect of any supply made by the Supplier under or in connection with this Agreement or a Product Agreement, the GST Exclusive Consideration to be provided under this Agreement or a Product Agreement for that supply is increased by an amount equal to the GST payable by the Supplier (excluding any Excess GST).
- (e) The recipient must pay the additional amount payable under paragraph (d) above to the Supplier at the same time as the GST Exclusive Consideration is otherwise required to be provided.
- (f) The Supplier must issue a Tax Invoice (or a document satisfying the minimum requirements of the Australian Taxation Office to entitle the recipient to claim an input tax credit without holding a Tax Invoice) to the recipient of the taxable supply at or before the time of payment of the Fees and Charges or other amounts under this Agreement or a Product Agreement, or at such other time as the Parties agree.
- (g) Whenever an adjustment event occurs in relation to any taxable supply made under or in connection with this Agreement or a Product Agreement, the Supplier must determine the net GST in relation to the supply (taking into account any adjustment and excluding any Excess GST) and if the net GST differs from the amount previously paid under paragraph (e) above, the amount of the difference must be paid by, refunded to or credited to the recipient, as applicable.
- (h) If one of the Parties to this Agreement or a Product Agreement is entitled to be reimbursed or indemnified for a loss, cost, expense or outgoing incurred in connection with this Agreement or a Product Agreement, then the amount of the reimbursement or indemnity payment must first be reduced by an amount equal to any input tax credit to which the Party being reimbursed or indemnified (or its representative member) is entitled in relation to that loss, cost, expense or outgoing. If the amount of the payment is consideration or part consideration for a taxable supply, it must be increased on account of GST in accordance with paragraph (d) above.

16.3 Other Taxes

Except as provided in clauses 16.1 and 16.2, all other taxes, duties and government charges imposed or levied on the Service Provider in Australia in connection with the performance of this Agreement and any Product Agreement will be borne by the Service Provider and will not be passed on to the State or the Agencies, whether through fees or otherwise.

17

[REDACTED]

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18 Relationship management and authorised signatories

18.1 Overview

- (a) The Parties will comply with the Relationship Management Manual.
- (b) The Relationship Management Manual must include provisions dealing with the following principles:
 - (1) governance structures;
 - (2) goal setting;
 - (3) reporting;
 - (4) performance reviews;
 - (5) escalation procedure;
 - (6) Outcomes Based Performance Management Framework; and
 - (7) annual review of the Service Provider's performance against the objectives and obligations in the Relationship Management Manual.
- (c) The State and the Service Provider may vary the Relationship Management Manual from time to time by agreement acting reasonably.

18.2 Authorised persons for transactions

- (a) The State and each Agency will provide details to the Service Provider of those Personnel who are natural persons and who are authorised to use the Services from time to time including the scope of their respective authorisations from time to time.
- (b) The State or an Agency may appoint certain State or Agency Personnel, who are natural persons and who have the rights to authorise and change the authorisations of State or Agency Personnel who are authorised to use the Services from time to time.
- (c) The State and each Agency authorises the Service Provider to act in reliance of information given or instructions provided which, prima facie, have been provided by the State or Agency Personnel who is a natural person within the scope of that person's authority in relation to the performance of the Services.

18.3 Authorised Representatives

- (a) Where this Agreement or a Product Agreement contemplates or requires that a document that is intended to be legally binding on a Party be signed or given by that Party, that document only has that effect as against that Party if it has been signed or given by an Authorised Representative of that Party.
- (b) A Party may rely on a document signed or given by an Authorised Representative of another Party as having been duly authorised and duly executed (or duly given, as the case may be) by that Party without making further enquiry, unless the first Party actually knows or has reason to suspect otherwise.
- (c) A Party may decline to accept or act upon any document purportedly provided to it by another Party under or in connection with this Agreement or a Product

Agreement unless and until that Party is satisfied that each person who signed or gave it was duly authorised to do so on that other Party's behalf.

19 Contract Changes and Operational / Technical Changes

19.1 General

- (a) The Service Provider acknowledges its innovation and continuous improvement obligations and the expectation that the Service Provider will provide Enhanced Services and New Services to the State and the Agencies under this Agreement and Product Agreements.
- (b) The Service Provider acknowledges that during the Term and any Agency Term there may be material changes to the functions and operations of the State and Agencies including changes to the structure of the State and the Agencies, changes to the State and Agencies' services, changes to ways of delivering State and Agency services and the sourcing of services from the private sector and not for profit sector. The Service Provider acknowledges and agrees that the Services will be flexible during the Term and any Agency Term so that they develop and adapt to any such changes.
- (c) This clause 19 sets out the change management procedure for an Agreement Contract Change to this Agreement and a PA Contract Change to a Product Agreement (**Contract Change Management Procedure**) and also includes provisions concerning any change management procedure for an Operational / Technical Change (**Operational / Technical Change Management Procedure**).

19.2 Agreement Contract Change

- (a) Either the State or the Service Provider may, from time to time request an amendment to:
 - (1) clauses 1 to 44 of this Agreement;
 - (2) Schedule 1 to Schedule 11 (inclusive) including Annexures and Schedule 13 to Schedule 15 (inclusive); and
 - (3) Schedule 12 (Service Provider Product Terms and Conditions) and the Service Provider Product Terms and Conditions attached to Schedule 12 (Service Provider Product Terms and Conditions),including:
 - (4) to receive or provide New Services;
 - (5) to discontinue Services;
 - (6) to change the Services;
 - (7) to change the Service Levels;
 - (8) to change the Interest Rates, Fees and Charges [REDACTED] and conditions of payment;
 - (9) to change or add to the Service Provider Product Terms and Conditions; and

- (10) to comply with changes in Law, Standard Industry-Wide Terms or Banking Industry Codes,

(Agreement Contract Change).

- (b) A change to add a New Service or to discontinue a Service under this Agreement is an Agreement Contract Change under this clause 19.2 even if it is not an amendment to the clauses and documents referred to in clause 19.2(a)(1) to 19.2(a)(3) (inclusive).
- (c) The Contract Change Management Procedure does not apply where the State or an Agency has a right to order, vary or terminate parts of the Services under other provisions of this Agreement or a Product Agreement or for any Operational / Technical Change. The Change Management Procedure does not apply to the provision of more favourable Fees and Charges and conditions of payment or the abolition of any Fees and Charges pursuant to clause 17.4(c) or 17.5(a), although the Service Provider and the State may agree to document the foregoing in an Agreement Contract Change.
- (d) Subject to clause 19.2(e), an Agreement Contract Change of this Agreement must be substantially in the form set out in Schedule 14 (Template Amending Deed), or in such other form as may be agreed between the State and the Service Provider in writing from time to time, and executed by the Treasurer and the Service Provider to be binding on the State and the Service Provider.
- (e) Save as otherwise specified in the Agreement Contract Change, the Parties agree that an Agreement Contract Change:
- (1) to provide New Services, will from the date specified in the Agreement Contract Change become available for order by all Agencies; and
- (2) to discontinue Services, will not discontinue those Services provided to an Agency under a Product Agreement.
- (f) Save as otherwise specified in the Agreement Contract Change, the Parties agree that any Agreement Contract Change, other than an Agreement Contract Change specified in clause 19.2(e), will apply to all Agencies and all existing and future Product Agreements from the date specified in the Agreement Contract Change, and any existing Product Agreement will be amended accordingly. This includes Agreement Contract Changes to: Services, other than changes specified in clause 19.2(e) (in which case clause 19.2(e) applies); Interest Rates, Fees and Charges [REDACTED] and amendments to the Service Provider Product Terms and Conditions.

19.3 PA Contract Change independent of an Agreement Contract Change

- (a) An Agency (or the State or the Treasurer on behalf of an Agency) may at any time order, increase, decrease and terminate Services from time to time as specified in clause 35.1, subject, where applicable, to credit approval for new Debt Products as specified in Part 2 of Schedule 2 (Module specific terms and conditions). This right is not subject to the Contract Change Management Procedure or Operational / Technical Change Management Procedure.
- (b) Either an Agency (or the State or the Treasurer on behalf of an Agency) or the Service Provider may, from time to time, request an amendment to the provisions of a Product Agreement including:
- (1) to change the Services where the proposed change, is a change to the provisions of a Product Agreement; or

(2) to request additional or improved Service Levels, provided the State has consented to the approved or additional Service Level, independent of an Agreement Contract Change (**Product Agreement Contract Change or PA Contract Change**).

(c) A PA Contract Change must be in the form of an agreement in writing executed by Authorised Representative(s) of the Agency (or the Treasurer on behalf of an Agency) and the Service Provider to be binding on the Agency and the Service Provider.

(d) A PA Contract Change must comply with clauses 6.2 and 6.3.

19.4 Procedure for Agreement Contract Changes and PA Contract Changes

(a) In connection with any proposed Agreement Contract Change or PA Contract Change, the Service Provider must:

- (1) advise the State (and, in the case of a PA Contract Change, the relevant Agency) on the impact and consequences of the proposed Agreement Contract Change or PA Contract Change;
- (2) prepare the documentation for the Contract Change;
- (3) respond promptly and assist and co-operate in the development of the Contract Change; and

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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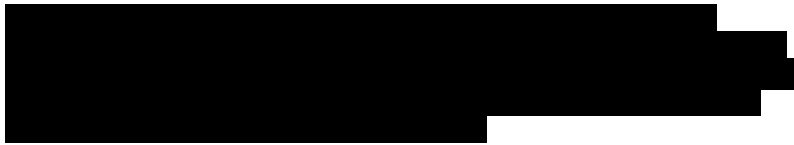
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19.5 Protocols and Procedures and Operational / Technical Change

- (a) The Parties acknowledge that there will be Protocols and Procedures or parts of Protocols and Procedures that will be applicable to all Agencies using a Service, and Protocols and Procedures or parts of Protocols and Procedures that will be specific to one or a number of Agencies. Prior to the commencement of a Service under a Product Agreement, the State or an Agency shall agree the Protocols and Procedures for that Service with the Service Provider. Neither Party shall unreasonably withhold or delay its agreement to the Protocols and Procedures. For the purposes of this clause, it is reasonable for the State or an Agency to withhold its agreement, if the Protocols and Procedures proposed by the Service Provider would require the State or an Agency to incur additional cost or expense or would adversely affect the State's or an Agency's use of the Services.
- (b) The Protocols and Procedures must not incorporate obligations of the State or Agencies which are additional to or vary those set out in the clauses and Schedules of this Agreement and must not conflict with the clauses and Schedules of this Agreement. Any provisions of the Protocols and Procedures which do not comply with this clause 19.5(b) or conflict with the clauses and Schedules of this Agreement shall be of no force and effect.
- (c) To the extent clauses 1 to 44 of this Agreement (other than clause 19), or the provisions in Schedule 1 to Schedule 11 (inclusive) or Schedule 15 (excluding any Annexures and excluding the Service Provider Product Terms and Conditions), do not otherwise include a provision for a change or variation to any of the following documents, the State or an Agency, or both, or the Service Provider may, from time to time, request a change to:
 - (1) any Framework Transition-In Plan, Agency Transition-In Plan, Framework Transition-Out Plan and Agency Transition-Out Plan;
 - (2) any Outcomes Based Performance Management Framework;
 - (3) the Relationship Management Manual;
 - (4) the Protocols and Procedures;
 - (5) Aboriginal, SME and Local Participation Plan;
 - (6) any other documents which are incorporated by reference into this Agreement or a Product Agreement including Requirements / Specifications which are incorporated by reference; and
 - (7) the operations or the ICT systems relating to the Services which is not a change to this Agreement or a Product Agreement, but affects the operations or ICT systems of the other Party,

and such a change when agreed shall be an **Operational / Technical Change** and may be agreed in writing between the State and the Service Provider in connection with this Agreement, and between an Agency and the Service Provider in connection with a Product Agreement in writing.

- (d) The State or an Agency, or both, and the Service Provider may agree to Operational / Technical Change Management Procedures to manage these types of changes.
- (e) Neither Party shall unreasonably withhold or delay its agreement to a request to an Operational / Technical Change. For the purposes of this clause 19.5, it is reasonable for the State or an Agency to withhold its agreement, if the Operational / Technical Change proposed by the Service Provider would require the State or an Agency to incur additional cost or expense or would adversely affect the State's or an Agency's use of the Services.
- (f) Save as otherwise specified in an Operational / Technical Change, an Operational / Technical Change agreed to by the State in connection with this Agreement, will apply to all Agencies and all existing and future Product Agreements from the date specified in the Operational / Technical Change.

20 Notifications, reports & other information to be provided

20.1 Notifications to State and Agencies

Without limiting any other clause in this Agreement, the Service Provider must promptly notify and properly inform the State and each affected Agency as soon as it becomes aware of any event or occurrence, which:

- (a) is any misuse of or unauthorised access to an account, Card or other Service;
- (b) is a breach or suspected breach of any of the Service Provider's obligations relating to confidentiality, privacy, security and fraud control or is any misuse, interference or loss to or unauthorised access, modification or disclosure of the Confidential Information, State / Agency Data or Personal Information;
- (c) is a failure to pay an amount to any employee of an Agency in accordance with an Agency's authorised instructions;
- (d) may materially affect or has materially affected the Service Provider's compliance with this Agreement or a Product Agreement;
- (e) is a breach of Law that is reportable to a Regulatory Body and that is material or a result of a systemic failure or has or may adversely affect all or any of the Service Provider's, the State's and an Agency's reputation; or
- (f) is an event or occurrence the State or an Agency has otherwise informed the Service Provider must be notified to it.

The purpose of this notification includes enabling the State and the affected Agencies to understand the consequences of the event or occurrence to them and to undertake any mitigation which they wish to undertake.

20.2 Monitoring and information provision against Service Levels

- (a) The Service Provider must:
 - (1) implement appropriate measurement, monitoring and management tools and procedures to enable it to measure its performance against the Service Levels; and
 - (2) on request, provide the State and the Agencies with the information and access to the measurement and monitoring tools and procedures

to enable the State and the Agencies to verify that they accurately measure the Service Provider's performance.

- (b) Each report on Service Levels must contain a sufficient level of detail to enable the State and an Agency to verify the Service Provider's compliance with the Service Levels and calculation of any amounts paid or to be paid by the Service Provider.

20.3 Information and reporting to the State

The Service Provider must provide to the State the following information and reports (in such form as may be required by the State):

- (a) within 14 days of the end of each quarter or month if the State requests that this should occur monthly, a report on its performance against the Service Levels to all or any Agencies selected by the State from time to time including:
 - (1) the extent to which the individual Service Levels were met or not met;
 - (2) explanations for any variances from the Service Levels;
 - (3) projections for the Service Provider's ability to meet the Service Levels in the future;
 - (4) steps taken or to be taken to remedy any failure to meet the Service Levels and to prevent future failings; and
 - (5) the remedies provided for breach of the Service Levels including any amounts paid or to be paid to the State or an Agency;
- (b) within 14 days of the end of each month, a report, which lists any notification event specified in clause 20.1 for the previous month, any event specified in clause 34.2 or 34.3 which has occurred in the previous month, and any Notice to remedy or Notice of termination served by an Agency under clause 35.2 or 35.3 in the previous month;
- (c) information in an electronic format through an online portal or such other method as may be agreed between the Parties, as well as reports, within 14 days of the end of each month, with aggregated transaction data by all Agencies and categories of Agencies as selected by the State from time to time;
- (d) the information and reports specified in the Requirements / Specifications or elsewhere in this Agreement to be provided to the State including the innovation and continuous improvement reports specified in Schedule 7 (Innovation and Continuous Improvement) and reports specified in Schedule 5 (Service Levels);
- (e) if requested by the State, the information and reports specified in the Requirements / Specifications or elsewhere in this Agreement or a Product Agreement to be provided to an Agency; and
- (f) other information and reports as reasonably required by the State, or as otherwise agreed between the State and the Service Provider from time to time including relating to an Agency's transactions using the Services, and the Services, and to verify compliance with this Agreement and the Product Agreements, and including the collation of transaction data in connection with any procurement by the State for services similar to the Products and Services or otherwise.

20.4 Information and reporting to State - Procurement Policies

The Service Provider must provide to the State the following information and reports (in such form as may be required by the State) within 14 days of the end of each quarter (or such other frequency requested by the State), a written or electronic report relating to the relevant quarter or other period, reporting on compliance with:

- (a) SME Policies, including (to the extent that the SME Policies apply):
 - (1) the SMEs (as defined in the SME Policies) engaged in the provision of the Services;
 - (2) the amounts paid to such SMEs under this Agreement and the Product Agreements;
 - (3) the Service Provider's compliance with any plans developed or updated in accordance with the SME Policies, and all other requirements pursuant to clause 41.3(a)(1); and
 - (4) other matters as required under the SME Policies;
- (b) Aboriginal Procurement Policy, including identifying (to the extent that the Aboriginal Procurement Policy applies):
 - (1) the Aboriginal-owned businesses engaged in the provision of the Services;
 - (2) the Service Provider's compliance with any plans developed or updated in accordance with the Aboriginal Procurement Policy and all other requirements pursuant to clause 41.3(a)(1);
 - (3) the amounts paid to any Aboriginal-owned businesses under the Agreement and the Product Agreements; and
 - (4) other matters as required under the Aboriginal Procurement Policy; and
- (c) compliance with the Small Business Shorter Payment Terms Policy.

20.5 Information and reporting to an Agency

The Service Provider must provide to an Agency the following information and reports (in such form as may be reasonably required by an Agency):

- (a) within 14 days of the end of each quarter or month if the Agency requests that this should occur monthly, a report on its performance against the Service Levels to that Agency including: the extent to which the individual Service Levels were met or not met; explanations for any variances from the Service Levels; projections for the Service Provider's ability to meet the Service Levels in the future; steps taken or to be taken to remedy any failure to meet the Service Levels and to prevent future failings; and the remedies provided for breach of the Service Levels including any amounts paid or to be paid to the Agency;
- (b) within 14 days of the end of each month or quarter if the Agency requests that this should occur quarterly, a report which lists any notification event specified in clause 20.1 for the previous month relevant to that Agency and any event specified in clause 35.2 or 35.3 which has occurred in the previous month for the Agency;

- (c) the information and reports specified in the Requirements / Specifications or elsewhere in this Agreement or a Product Agreement to be provided to an Agency; and
- (d) other information and reports as reasonably required by an Agency from time to time including relating to transactions using the Products and Services for that Agency and the Services to that Agency and to verify compliance with this Agreement and the Product Agreements with that Agency and including the collation of transaction data in connection with any procurement by an Agency for services similar to the Products and Services.

20.6 Accuracy and manipulation

- (a) The Service Provider warrants that the ICT Services will provide accurate details of all transactions and balances. The Service Provider must ensure that the Service Provider accurately debits, credits, and charges interest and Fees and Charges [REDACTED] and that no statement of an account for any type of financial product or service or other Service and no report in any medium will be false or misleading.
- (b) All reports provided as part of the Services must be complete and accurate and reports containing data must be in an electronic format which can be easily manipulated for analysis by an Agency or the State.

21 Deliverables and goods

21.1 Title and risk in Deliverables

- (a) Except to the extent that the Intellectual Property Rights in Deliverables are assigned or licensed under clause 28.1(c) or 28.2 and except for any Deliverable which is expressly stated in this Agreement or a Product Agreement to remain the property of the Service Provider or another person:
 - (1) title to the Deliverables supplied to the State or an Agency passes to the State or Agency on the earlier of delivery at the premises of the State or an Agency and payment of those Deliverables; and
 - (2) if the Agency rejects the whole or any part of any Deliverables or returns any Deliverables for replacement, title in the Deliverables reverts to the Service Provider on collection by the Service Provider or when the goods are delivered to a carrier for return.
- (b) Risk in a Deliverable supplied to the State or an Agency transfers on delivery at the premises of the State or Agency, and risk in a Deliverable that is collected by the Service Provider from the State or an Agency whether for repair, replacement or otherwise, or returned to the Service Provider for repair, replacement or otherwise, passes to the Service Provider on collection of that Deliverable at the premises of the State or Agency or delivery of the Deliverable to a carrier (as applicable).

21.2

[REDACTED]

[REDACTED]

[REDACTED]

22 ICT Services

22.1 ICT Services

- (a) The Service Provider must provide the State and each Agency with such ICT Services:
 - (1) to the extent applicable, as specified in this Agreement and a Product Agreement; and
 - (2) otherwise, as reasonably required to enable the State and each Agency to receive the Services in the manner specified in this Agreement and a Product Agreement.
- (b) The Service Provider warrants and represents that the ICT Services will:
 - (1) comply with the Requirements / Specifications and other provisions of this Agreement and a Product Agreement;
 - (2) be free from Defects;
 - (3) be fit for the purposes for which the ICT Services are to be used by the State or an Agency; and

- (4) operate so that the State / Agency Data can be migrated in CSV format and other commonly used formats to other replacement systems with minimal data conversion and migration effort, and so that the State or an Agency can transfer to a replacement system and replacement supplies.
- (c) The Service Provider must ensure that the Services and ICT Services are compatible with and operate effectively with the State's and Agencies' ICT systems.
- (d) The Service Provider must provide support and maintenance services for ICT Services. Included within the support and maintenance services, the Service Provider must:
 - (1) provide helpdesk or self-service services for dealing with (and must promptly respond to and resolve) queries, incidents and Defects raised by the State or an Agency;
 - (2) enhance ICT Services including to ensure they remain current and the Service Provider must make available any new release, version or upgrade to the ICT Services and any implementation of any new release, version or upgrade must occur in a planned and timely manner; and
 - (3) remedy incidents and Defects with the ICT Services.
- (e) The Service Provider must not make any enhancements or modifications to any ICT Services which adversely affect the functionality, compatibility, performance, or ease of use of the ICT Services or will require the State or an Agency to make changes to its ICT systems or processes unless the State or the relevant Agency has agreed to that change in writing either as an Agreement Contract Change, PA Contract Change or an Operational / Technical Change.
- (f) The Service Provider must use its best endeavours to prevent any Disabling Code entering into or affecting the ICT Services or the State's or an Agency's ICT systems, must use up to date anti-virus software and ensure that the ICT Services have up to date security-related patches, fixes, versions and releases, and must not intentionally or negligently introduce any Disabling Code.

22.2 Provision of documentation

- (a) The Service Provider must inform each Agency in writing of the Protocols and Procedures as referred to in clause 19.5(a), including secure transaction authorisation and authentication procedures, which are relevant to the delivery of the Services. Subject to clause 19.5(b), the Agency will comply with those Protocols and Procedures.
- (b) Subject to clauses 19.5, the Service Provider must provide the State and each Agency with copies of all manuals and other documentation reasonably required to enable the State and Agencies to understand, use and make proper use of the Services including the ICT Services.
- (c) All documentation provided or to be provided by the Service Provider must be of good quality and accurate and contain the content and address the scope in accordance with this Agreement and any Product Agreement or as otherwise agreed in writing between the Service Provider and the State or an Agency.

22.3 Acceptance testing for ICT Services

- (a) Except as set out below, the implementation of, and any revised configuration, modification, fix, patch or upgrade to, the ICT Services is subject to the passing of the State or an Agency's acceptance tests to confirm whether the ICT Services comply with the provisions of this Agreement and any acceptance criteria (agreed between the Parties (agreement not to be unreasonably withheld or delayed) or to the extent not agreed, as reasonably required by the State or an Agency to verify compliance with this Agreement) and must not be released for use in a production environment for day to day operations of the State or an Agency, unless approved by the State or an Agency in writing. This requirement does not apply to any minor revised configuration, modification, fix, patch or upgrade to, the ICT Services, (including critical and emergency security patches), which does not affect any compatibility with or integration with the State's or an Agency's ICT systems and this requirement does not apply where the State or an Agency agree in writing that such acceptance tests or pre-approval are not required.
- (b) The State or an Agency may request the Service Provider to conduct all or part of the acceptance tests on the State or an Agency's behalf.
- (c) The Service Provider must promptly remedy any Defects in the ICT Services identified during acceptance tests, and submit the revised ICT Services for repeat acceptance tests. If the ICT Services conform with this Agreement and any acceptance criteria, the State or an Agency must accept the ICT Services.
- (d) ICT Services which are comprised of multiple components, will not be finally accepted until acceptance tests for all components of the ICT Services are completed, and the State or an Agency finally accepts the ICT Services. The State or an Agency may reject the ICT Services and any and all component parts of the ICT Services, if the ICT Services as a whole fails to meet the acceptance tests, even if the State or an Agency has previously accepted some or all of the ICT Services. If the ICT Services as a whole passes the acceptance tests, the State or Agency must accept the ICT Services.
- (e) Without limiting any other right or remedy, if the State or an Agency rejects the ICT Services, or a component of the ICT Services, and the Defect is not remedied within [REDACTED] of the State's or Agency's request (or such longer period, if any, agreed to by the State or an Agency in writing) then at the State's or the Agency's election the Service Provider must [REDACTED]
[REDACTED]
[REDACTED]

23 State / Agency Data and State and Agency property

23.1 State / Agency Data

- (a) Nothing in this Agreement or any Product Agreement is intended to give the Service Provider any Intellectual Property Rights in, or other rights in respect of, the State / Agency Data.
- (b) Subject to any obligation under this Agreement or any Product Agreement to destroy any State / Agency Data, the Service Provider must retain State / Agency Data, and the Service Provider must promptly deliver up and provide

access to the State / Agency Data to the relevant owner of the State / Agency Data, whether the State or an Agency, at the request of the relevant owner.

- (c) The Service Provider must:
 - (1) not use any State / Agency Data for any purpose other than for the sole purpose of, and only to the extent required for, performing its obligations under this Agreement or a Product Agreement;
 - (2) not possess or assert any lien or other right against or to the State / Agency Data;
 - (3) not sell, assign, lease or commercially transfer or exploit any State / Agency Data;
 - (4) not perform any data analytics on State / Agency Data, except to the sole extent required to perform the Services or as permitted by clause 23.4;
 - (5) immediately notify the State or Agency, as relevant, where it is or may be required by Law to disclose any State / Agency Data to any third party contrary to the terms of this Agreement;
 - (6) ensure that State / Agency Data is at all times managed in accordance with the *State Records Act 1998* (NSW) (to the extent applicable); and
 - (7) ensure that its Personnel (including Sub-Contractors) comply with this clause 23 and manage and safeguard State / Agency Data in accordance with all other requirements of this Agreement and each Product Agreement.
- (d) Subject to the Service Provider's compliance with Laws and Banking Industry Codes, the Service Provider must comply with the State's and an Agency's information management, data retention and destruction requirements as notified to the Service Provider from time to time. The Service Provider will promptly inform the State or an Agency of any issues the Service Provider has in complying with those requirements and the Parties will meet to resolve in good faith how the Service Provider's issues with those requirements will be addressed. If the Parties are unable to agree on a resolution to resolve the Service Provider's issues within 15 Business Days of the first meeting between the Parties, the matter will be dealt with in accordance with clause 43.
- (e) The Service Provider acknowledges and agrees that financial and other information relating to a State or an Agency's accounts for any type of financial product or service and transactions including, to the extent legally permitted, personal profiles and data relating to usage or spend, is the property of the State, as it relates to the State and otherwise the relevant Agency and will not be confidential to the Service Provider and the relevant owner will have unrestricted access to and the right to obtain and use that data for any purpose.
- (f) If the Service Provider is required to migrate, transfer, separate or copy State / Agency Data, the Service Provider must ensure that the State / Agency Data is migrated, transferred, separated or copied without loss, corruption or any reduction in its accessibility or useability.
- (g) The Service Provider must make, store and test backup copies of all State / Agency Data that is in the possession, custody or control of the Service Provider or its Personnel in accordance with Best Industry Practice.
- (h) Notwithstanding any other rights the State or an Agency may have under this Agreement or a Product Agreement, in the event of any loss, damage,

(i) If the Service Provider deletes or destroys any State / Agency Data in connection with this Agreement or a Product Agreement, the Service Provider must, and must ensure that its Personnel, do so in accordance with Best Industry Practice.

The Service Provider must enable the State or an Agency to access, use, interact with, extract and retrieve and must provide to the State or an Agency, any State / Agency Data, Contract Material owned by the State or an Agency or licensed to the State or an Agency, or any property of the State or an Agency, in the possession, custody or control of the Service Provider or its Personnel, as required by the State or an Agency from time to time and in connection with State / Agency Data, in a human readable, commonly accepted format which does not require the State or an Agency to purchase additional licences it does not already hold, or in the same format as the State / Agency Data was uploaded (for example, a semi-structured format).

As part of the Service Provider's State / Agency Data obligations pursuant to this clause 23 and record retention obligations pursuant to clause 24, the Service Provider must:

- 23.4 [REDACTED]

[REDACTED]



24 Records and audit

24.1 Records

- (a) The Service Provider must maintain complete and accurate records of, and supporting documentation for, Services supplied to the State and the Agencies and otherwise relating to the performance of the Service Provider's obligations under this Agreement or a Product Agreement, including to:
 - (1) provide complete and accurate records of the State's and the Agencies' accounts for any type of financial product or service and transactions and to enable accounts for any type of financial product or service and transactions to be traced, checked and where an error has occurred, to be identified and corrected; and
 - (2) enable the Service Provider, State and the Agencies and their respective Auditors to inspect, review and audit the Services, accounts for any type of financial product or service, transactions, and the Service Provider's compliance with this Agreement and the Product Agreements and ability to comply with this Agreement and the Product Agreements.
- (b) The Service Provider will be responsible for the availability, accuracy, completeness and currency of all account and transaction information.
- (c) The Service Provider must maintain complete and accurate records in accordance with applicable Laws, and to enable the State and the Agencies to comply with applicable Laws, including *State Records Act 1998* (NSW), GSF Act, *State Owned Corporations Act 1989* (NSW) and *Government Sector Audit Act 1983* (NSW).
- (d) Without limiting the generality of the foregoing:
 - (1) the Service Provider must not arrange for, nor effect, a transfer of custody or ownership of any State records under the *State Records Act 1998* (NSW) without the prior written consent of the owner of the State record, whether the State or an Agency;
 - (2) the Service Provider must not remove any such record except in accordance with arrangements agreed to by the owner of the State record, whether the State or an Agency; and
 - (3) the Service Provider must comply with the requirements of the relevant owners, whether the State or an Agency and with the State Records Authority and any other Regulatory Body's requirements in relation to such State records including as to transfer and full and free access to the State Records Authority and any other Regulatory Body's requirements.

24.2 Inspection, reviews and audits

- (a) On notice by the State or an Agency or the Auditor-General, the Service Provider must provide the State or an Agency or the Auditor-General or any

Auditor appointed by or with competence over the State or an Agency, with access to:

- (1) the State / Agency Data, and records relating to the Services and this Agreement and the Product Agreements that are in the possession, custody or control of the Service Provider or its Sub-Contractors, or both; and
- (2) Service Provider's Personnel, premises and operations used by the Service Provider Group or Sub-Contractors, or both, in connection with the supply of the Services,

for the purpose of performing inspections, reviews and audits of the State's or an Agency's accounts for any type of financial product or service and transactions, and of the Services, interest paid, Fees and Charges [REDACTED] paid or credited and the Service Provider's compliance with this Agreement and a Product Agreement and ability to comply with this Agreement and a Product Agreement.

- (b) The Service Provider must permit and co-operate with inspections, reviews and audits in accordance with applicable Laws, and to enable the State and the Agencies to comply with applicable Laws, including by permitting audits by the Auditor-General pursuant to the GSF Act, *State Owned Corporations Act 1989* (NSW) and *Government Sector Audit Act 1983* (NSW).
- (c) The Service Provider must co-operate fully with any inspection, review and audit conducted under this clause and provide the information required by any of the State, Agency, Auditor-General or other Auditor.
- (d) Subject to compliance with clause 24.2(b), any inspection, review and audit shall be subject to the Service Provider's reasonable confidentiality and security requirements as a financial services provider including for the Service Provider's compliance with applicable Laws and Banking Industry Codes.

24.3 General

The Parties' rights and obligations under clauses 23 and 24 shall continue as a minimum under this Agreement and under a Product Agreement until the later of:

- (a) 7 years after the date the Service Provider ceases to provide Services under this Agreement; and
- (b) the date required by any of the Service Provider, State and Agency to comply with applicable Laws and Banking Industry Codes.

25 Confidentiality and Government Information (Public Access)

25.1 Confidentiality

- (a) The Service Provider must not, and must ensure that its Personnel do not, make public or disclose to any person or use the Confidential Information other than in accordance with this clause 25, without the prior written consent of the State or an Agency in relation to its Confidential Information.
- (b) In giving written consent, the State or an Agency may impose such terms and conditions as it sees fit.

- (c) The Service Provider must, and must ensure that its Personnel, only use the Confidential Information for the exercise of its rights or performance of its obligations in connection with this Agreement or any Product Agreement.
- (d) The Service Provider may disclose Confidential Information:
 - (1) to the Service Provider's Related Bodies Corporate, legal advisors, auditors, insurers or accountants for the purpose of facilitating the Service Provider's performance of its obligations under this Agreement or a Product Agreement or for advising or reporting on matters arising from this Agreement or a Product Agreement; and
 - (2) to the Service Provider's Personnel whose use of the Confidential Information is solely for the purpose of facilitating the Service Provider's exercise of its rights or performance of its obligations under this Agreement or a Product Agreement,

provided the persons are subject to equivalent obligations of confidentiality and must ensure that every person to whom disclosure is made pursuant to this clause 25.1(d) does not use or disclose the Confidential Information to any third party other than as permitted under this clause.
- (e) The Service Provider may also disclose:
 - (1) Confidential Information of an Agency to the State, subject to any exceptions to this disclosure required by an Agency or the State or required to comply with any applicable Laws and Banking Industry Codes; and
 - (2) Confidential Information where required to do so by Law or in accordance with the rules of any stock exchange upon which the Service Provider's securities are listed. In these circumstances, the Service Provider must give the State and the relevant Agency prompt advance written notice of the disclosure (where lawful and practical to do so) so that the State or the Agency has sufficient opportunity (where practical) to prevent or control the manner of disclosure by appropriate legal means.
- (f) Before a Sub-Contractor is given access to Confidential Information of the State or an Agency, the Service Provider must arrange for that Sub-Contractor to execute a deed of confidentiality in a form requested by the State or an Agency requiring that Sub-Contractor to comply with equivalent obligations under this clause 25.
- (g) The Service Provider must, in accordance with the written request of the State or an Agency, promptly return Confidential Information to the Party who is the owner of the Confidential Information or destroy the Confidential Information, subject to the Service Provider's record retention duties in accordance with Laws, Banking Industry Codes and its internal audit requirements.

25.2 State may disclose

- (a) Subject to this clause 25.2, the State and Agencies may at any time disclose information of the Service Provider and the contents of any Transaction Agreement:
 - (1) where disclosure is made in the course of the official duties of the State, an Agency or a Minister;
 - (2) to satisfy the requirements of parliamentary accountability;

- (3) to the Auditor-General for the purposes of satisfying their audit and disclosure requirements;
 - (4) pursuant to policies of the State or Agency or both;
 - (5) in annual reports of the State or Agency or both; and
 - (6) pursuant to the GIPA Act or any other Laws,

(being the State's and Agencies' **Public Disclosure Obligations**), and the Service Provider must use all reasonable endeavours to assist the State and Agencies to meet their Public Disclosure Obligations.
- (b) The Service Provider acknowledges that the State and Agencies are subject to the GIPA Act and agrees that the State and Agencies may disclose any part or all of any Transaction Agreements on its nominated website established for GIPA Act disclosures. The Service Provider irrevocably consents to the State or an Agency acting in accordance with this clause, subject to any rights afforded to the Service Provider to object to the disclosure of information in accordance with the GIPA Act. The State will consider any obligations to disclose in accordance with the requirements of the GIPA Act.
- (c) To the extent that section 121 of the GIPA Act applies, the Service Provider must, upon receipt of a written request by State or an Agency, provide the State or the Agency with immediate access to the following information contained in records held by the Service Provider:
 - (1) information that relates directly to the performance of Services by the Service Provider;
 - (2) information collected by the Service Provider from members of the public to whom it provides, or offers to supply, Services; and
 - (3) information received by the Service Provider from the State or an Agency to enable it to provide Services.
- (d) The State agrees that:
 - (1) the Service Provider's Fees and Charges and the other contents of clauses 15 and 17 and Schedule 10 (Pricing); and
 - (2) information that discloses, or would be likely to disclose, the Service Provider's financing arrangements, financial modelling, cost structure or profit margins or the terms and conditions of its insurance policies,

are commercially sensitive.
- (e) The State may disclose any of the Transaction Agreements to any prospective or actual Agency (on a confidential basis).

25.3 Announcements

The Service Provider must not, and must ensure that its Personnel do not, cause or permit any public announcement or media release to be made concerning any matter relating to this Agreement or a Product Agreement or its subject matter unless:

- (a) required by Law; or
- (b) the State has given specific approval in writing, which may be subject to conditions required by the State.

26.1 Privacy and personal information

- (a) If the Service Provider collects or has access to Personal Information in the course of performing its obligations under this Agreement or a Product Agreement, the Service Provider must (and must ensure that its Personnel):
 - (1) collect, use, access, disclose or hold such Personal Information obtained in connection with this Agreement or a Product Agreement only for the purposes of performing its obligations under this Agreement or the relevant Product Agreement;
 - (2) comply with all Privacy Laws, as though it were a person subject to those Privacy Laws;
 - (3) not do any act or engage in any practice that would breach the Privacy Laws, or which if done or engaged in by the State or an Agency, would be a breach of any Privacy Laws;
 - (4) not disclose Personal Information to any other person without the prior written consent of the State (in the case of Personal Information under this Agreement) or the relevant Agency (in the case of Personal Information under a Product Agreement) or as expressly required by Law or to Sub-Contractors which require access to the Personal Information to perform their obligations in connection with this Agreement or a Product Agreement;
 - (5) protect the Personal Information from loss, unauthorised access, use, disclosure, modification and other misuse;
 - (6) if it becomes aware, or has reasonable grounds to suspect, that there has been a Security Incident involving Personal Information:
 - (A) notify the State and any affected Agency in accordance with clause 27.2(a) and otherwise comply with clause 27.2;
 - (B) allow the State, or the affected Agency where the State has not made a determination, to have the final decision in determining whether the Security Incident constitutes a notifiable data breach under the Privacy Laws;
 - (C) if the State forms the view that it, or any Agency, is or may be required to notify affected individuals of the Security Incident under any Privacy Law, promptly provide all information and assistance to enable the State or the relevant Agency(ies) to comply with all such notification requirements in accordance with the applicable Privacy Law;
 - (D) make any notification to any third party relating to that Security Incident that the State directs the Service Provider to make in writing (acting reasonably), in the form and to such persons as the State directs; and
 - (E) comply with any reasonable direction (including as to timeframes) from the State or an affected Agency with respect to that Security Incident;
 - (7) notify any individual that makes a complaint to the Service Provider regarding the Service Provider's acts or practices in relation to such

- individual's Personal Information, that the complaint may be investigated by a Commonwealth or state privacy commissioner;
- (8) comply with all reasonable directions of the State or an Agency in relation to the care and protection of Personal Information held in connection with this Agreement or a Product Agreement or the rights of individuals to access and correct such Personal Information, and take all technical, organisational and other security measures reasonably within the Service Provider's power to protect the Personal Information from misuse, interference and loss and from unauthorised access, modification or disclosure; and
 - (9) at the end of the Term or an Agency Term or on request by the relevant entity, whether the State or an Agency, promptly return to the entity or securely destroy (at the entity's election) all copies or other records containing Personal Information held in connection with the performance of duties under this Agreement or a Product Agreement for the benefit of the entity, save as required to be retained for the Service Provider's compliance with Laws and Banking Industry Codes.
- (b) Nothing in clause 26.1(a)(6) is intended to limit any obligations that the Supplier has at Law with respect to privacy and the protection of Personal Information.
 - (c) The Service Provider must ensure that its Sub-Contractors are subject to equivalent obligations relating to Personal Information and must ensure that they comply with the equivalent obligations.

26.2 Transfer / disclosure of Personal Information outside of New South Wales and Australia

- (a) Subject to clause 40.2 (Transfer / disclosure of State / Agency Data and Personal Information outside of New South Wales and off-shoring), the Service Provider must not transfer or disclose (including permitting access to) Personal Information outside of New South Wales without the prior written consent of the State. In connection with the transfer or disclosure of (including permitting access to) Personal Information outside of New South Wales, the Service Provider must, and must ensure that its Personnel:
 - (1) comply with all Privacy Laws including New South Wales and Australian Privacy Laws, as if it were a person subject to them and must not do any act or fail to do any act which causes the State or an Agency to breach any Privacy Laws;
 - (2) have arrangements for handling and referring privacy complaints, notify the State and any affected Agency of a complaint and allow the independent investigation of complaints;
 - (3) provide appropriate redress to an individual for any breach of Privacy Laws or obligations under this Agreement or a Product Agreement relating to Personal Information;
 - (4) handle Security Incidents involving Personal Information in accordance with clause 26.1(a)(6);
 - (5) provide all information requested by the State or an Agency as required to satisfy itself as to compliance with Privacy Laws; and
 - (6) execute or procure the execution of a transborder data flow privacy deed, at the request of the State or an Agency.

- (b) Subject to clause 40.2 (Transfer / disclosure of State / Agency Data and Personal Information outside of New South Wales and off-shoring), the Service Provider must not, and must ensure that its Personnel do not, without the prior written consent of the State, transfer or disclose (including permit access to) Personal Information outside of Australia except to the extent:
 - (1) necessary to perform the Services, such as to facilitate transactions outside of Australia;
 - (2) required by applicable Laws or Banking Industry Codes; or
 - (3) necessary to perform tasks in connection with the Services for which the State has approved off-shoring in writing (including subject to any conditions forming any approval).

27 Security and fraud management

27.1 Service Provider's security obligations

- (a) The Service Provider must, and must ensure that its Personnel, have in place, operate, comply with (and continuously improve) controls, measures, systems, procedures and safeguards:
 - (1) to protect against and minimise unauthorised use, misuse and fraud in connection with accounts for any type of financial product or service, and other Services;
 - (2) to ensure that State / Agency Data, and the systems that are part of, or are used to supply, the Services, are secure and protected from from loss, unauthorised access, use, disclosure, modification and other misuse; and
 - (3) to identify and prevent Security Incidents,which comply with, and are consistent with:
 - (4) all applicable Laws (including APRA Standard CPS 234), Scheme requirements and Banking Industry Codes, including PCI DSS;
 - (5) Best Industry Practice;
 - (6) the Protocols and Procedures; and
 - (7) the Security Requirements,**(Security Controls).**
- (b) The Service Provider must regularly review and continuously improve the Security Controls to ensure they remain current and up-to-date and continue to satisfy the requirements of this clause 27.1, and comply with such updated Security Controls.
- (c) The Service Provider must, in connection with the Services:
 - (1) comply with (or have valid waivers or exceptions in place in respect of) all Laws, Scheme requirements, Banking Industry Codes and Security Controls, including PCI DSS; and
 - (2) assist the State and any Agency to maintain PCI DSS compliance.

- (d) The Service Provider must comply with the Security Requirements and any other reasonable security requirements of the State or an Agency notified to the Service Provider from time to time.
- (e) An Agency must comply with any reasonable security requirements in the Protocols and Procedures from time to time.

27.2 Actions required in relation to a Security Incident

[illegible]

[illegible]

27.3 Authentication IDs or procedures

- (a) Each Party must ensure the confidentiality and security of the procedures, authentication passwords, user IDs or other identification and authentication procedures in its possession or control to be used to authorise communications and instructions to the Service Provider.
- (b) Each Party must take all necessary and reasonable steps to prevent unauthorised access to, or unauthorised use of, the Services.
- (c) If the Service Provider or an Agency becomes aware of any unauthorised access to, or unauthorised use of, the Services or access or use which is suspicious, it must immediately notify the other and the Service Provider must immediately activate a stop procedure on the account of any type of financial product or service or Service as appropriate to terminate that unauthorised access or use or suspicious access or use.

28 Intellectual Property Rights and Moral Rights

28.1 State / Agency Material and [REDACTED]

- (a) Except as otherwise provided under this Agreement, this Agreement and the Product Agreements do not affect the ownership of and Intellectual Property Rights in the State / Agency Material.
- (b) The State or relevant Agency will own all rights and all Intellectual Property Rights in any [REDACTED] and in any State / Agency Data immediately from creation.
- (c) The Service Provider absolutely and unconditionally assigns, and must procure that its Personnel assign, to each relevant owner, whether the State or an Agency, or both, all rights and all Intellectual Property Rights in the [REDACTED] and State / Agency Data on their creation, free of encumbrances and third party rights.
- (d) To the extent the Service Provider needs to use any State / Agency Material, [REDACTED] and any State / Agency Data of the State or an Agency for the purposes of performing its obligations under this Agreement or a Product Agreement, the relevant owner or owners, whether the State or an Agency, or both, grant to the Service Provider a non-exclusive, non-transferable, licence (including to sub-license to Sub-Contractors) to use the State / Agency Material, [REDACTED] and any State / Agency Data for the sole purposes of performing its obligations under this Agreement or a Product Agreement.
- (e) The State or the relevant Agency may notify the Service Provider of additional terms applicable to the licence in clause 28.1(d) including any terms of any third party licensor.

28.2 Service Provider Material and Service Provider New Material

- (a) This Agreement and the Product Agreements do not affect the ownership of and Intellectual Property Rights in the Service Provider Material.
- (b) The Service Provider will own all rights and all Intellectual Property Rights in any Service Provider New Material immediately from creation.

- (c) The licence in this clause applies to any Service Provider Material and Service Provider New Material incorporated into any State / Agency Material, [REDACTED] and State / Agency Data. [REDACTED]
- (d) The licence in this clause applies to any Service Provider Material and Service Provider New Material which is not within clause 28.2(c) and which is not provided for accessing or using the Service Provider Systems or which is otherwise expressed to be subject to this clause. [REDACTED]
- (e) The licence in this clause applies to any Service Provider Material and Service Provider New Material which is not within clause 28.2(c) or 28.2(d). [REDACTED]
- (f) If the Service Provider provides any Third Party Off-the-shelf Product pursuant to clauses 28.2(d) or 28.2(e), the State or an Agency may be subject to additional terms applicable to the licence in those clauses provided that those terms are set out in the Service Provider Terms and Conditions or otherwise disclosed and agreed to by the State or the Agency, the terms do not restrict use as contemplated by this Agreement or a Product Agreement and comply with clauses 28.2(d) or 28.2(e) except for the following permitted variations:
- (1) the licence in clause 28.2(d) may be revocable, if the State or an Agency commit a material breach of the licence terms and fail to remedy the breach within not less than thirty (30) days' written notice or such other remedy period as may be set out in the Service Provider

Terms and Conditions or otherwise disclosed and agreed to by the State or the Agency, but only if the Third Party Off-the-shelf Product is a standalone Product and Service that is not required to be used for any other Product and Service provided by the Service Provider;

- (2) the licence in clause 28.2(d) may be a term licence for the duration of each relevant Product Agreement rather than a perpetual licence if the software is only licensed on a term basis by the Service Provider rather than a perpetual basis or if the State otherwise agrees in writing that the software is to be licensed on a term basis;
- (3) the licence may include restrictions on modification, adaptation and/or copying to the extent those restrictions are permitted under the *Copyright Act 1968* (Cth), provided that the State and Agencies may make a number of copies as are reasonably required for operational use, backup, archive and security and provided that the terms do not restrict use as contemplated by this Agreement or a Product Agreement; and
- (4) the licence may include restrictions on sub-licensing provided that:
 - (A) the licence as a minimum permits use by the State and other Agencies and permits use by their Personnel in connection with their services and other supplies to the State and other Agencies; and
 - (B) if the purpose of the Third Party Off-the-Shelf Product is to provide an interface for use by persons or entities with which the State or an Agency interact or deal with, such as a customer-facing app or portals for self-service and payment, then the licence must also permit use by such persons and entities with which the State and Agencies interact or deal with.
- (g) Where it develops or enhances any ICT Service using Open Source Software or inserts any Open Source Software into any ICT Service the Service Provider must ensure that the use of that Open Source Software will not result in an obligation to disclose, license or otherwise make available any part of the State or an Agency's ICT systems, State / Agency Data or Confidential Information to any third party or diminish the Service Provider's obligations under this Agreement or a Product Agreement.
- (h) Notwithstanding any provision of this Agreement or a Product Agreement including clause 28.2(f), an Agency is entitled to freely transfer or sub-license use of any Service Provider Material and Service Provider New Material to other Agencies, on the same terms and conditions as a consequence of a Machinery of Government Change.

28.3 Moral Rights

- (a) The Service Provider must ensure it has consents from all persons involved in the development of any [REDACTED] and any Service Provider Material or Service Provider New Material incorporated into any State / Agency Material, [REDACTED] and State / Agency Data to any act or omission which might constitute an infringement of a person's Moral Rights including:

- (1) reproducing, publishing, adapting or communicating such Contract Material to the public without attributing its authorship or otherwise identifying the author of such Contract Material; and
 - (2) subjecting such Contract Material to any alteration or doing anything else to such Contract Material, including adapting, reproducing, publishing, communicating to the public, adding, deleting, editing or modifying the text, format or structure of such Contract Material.
- (b) The Service Provider must ensure that it has consents from all persons required to enable use of any Service Provider Material and Service Provider New Material in accordance with this Agreement or any Product Agreement to the extent that use might constitute an infringement of a person's Moral Rights including the acts or omissions specified in clause 28.3(a)(1) and 28.3(a)(2) in relation to that Contract Material.

28.4 Indemnities for Intellectual Property Rights and Moral Rights

- (a) The Service Provider must indemnify the State and each Agency and their Personnel (**those indemnified**) from and against all actions, claims, demands, losses, damages, costs and expenses (including legal costs and loss resulting from any proceedings brought against any of those indemnified) in relation to the alleged infringement of Intellectual Property Rights or Moral Rights of any person in Supplied Material, which:
 - (1) may be brought against or made upon those indemnified; or
 - (2) those indemnified may incur or sustain,
 arising out of or as a consequence of the exercise of the Service Provider's or the State's or Agencies' rights and obligations granted pursuant to this Agreement and the Product Agreements.
- (b) Where an action, claim or demand (**Claim**) in relation to the alleged infringement of Intellectual Property Rights or Moral Rights in the Supplied Material is made or threatened by a third party against those indemnified, the State or the affected Agency must promptly provide the Service Provider with notice in writing of the details of the Claim. The State or the affected Agency, must (except to the extent there is any government policy that prohibits the Service Provider from handling the process for the defence of the Claim (including settlement of the Claim)) permit the Service Provider, at the Service Provider's expense, to handle the defence process of such Claim (including settlement of the Claim) and, as permitted by law, to control and direct any litigation that may follow such Claim (including selecting legal advisors and counsel), subject to the Service Provider agreeing to comply at all times with the government policy relevant to the conduct of the Claim.
- (c) Except to the extent there is any government policy that prohibits the Service Provider from handling the process for the defence of the Claim (including settlement of the Claim), and unless otherwise agreed between the Parties, the Service Provider must defend the Claim at its own expense. If the State or the affected Agency does not permit the Service Provider to handle the defence of the Claim (including settlement of the Claim) and, as permitted by law, to control and direct any litigation that may follow a Claim or if the Service Provider does not handle the defence of the Claim (including settlement of the Claim), then the State or the affected Agency is entitled to defend the Claim (including settlement of the Claim) at the Service Provider's expense. The Party defending the Claim must:

- (1) as a minimum, keep the other Party informed of significant developments concerning the Claim including by the provision of copies of documents filed by the parties in the courts and provide updates upon reasonable request by the other Party; and
 - (2) not settle the Claim without the written consent of the affected Party to the terms of that settlement, which consent shall not be unreasonably withheld or delayed.
- (d) The affected Parties must execute all documents and do all acts and things reasonably required for the purposes of giving effect to this clause 28.4.
- (e) Failure by the State or an Agency to comply with the indemnification procedures in this clause 28.4 does not relieve the Service Provider of any obligation to indemnify those indemnified under this clause in respect of the subject matter of the relevant Claim, except that the losses, damages, costs and expenses indemnified by the Service Provider shall be reduced proportionally to the extent the relevant amount would have been avoided or mitigated but for the State's or an Agency's failure to comply with the procedure in this clause 28.4.

28.5 Remedial action and further assurance

- (a) If the Service Provider becomes aware that there is, or will be, an infringement or misappropriation of any Intellectual Property Rights or Moral Rights of any person in any Supplied Material arising out of this Agreement or a Product Agreement, the Service Provider must at its expense:
 - (1) obtain for the State and the Agencies the right to continue to retain possession of and use of the Supplied Material; or
 - (2) replace or modify the Supplied Material so that the alleged infringement ceases and the replaced or modified Supplied Material provides the State and the Agencies with equivalent functionality and performance as required by this Agreement or a Product Agreement.
- (b) The Service Provider must perform or procure the performance of, all further acts and things, and must deliver, and procure the execution of further documents, which are reasonably desirable to give effect to this clause 28.

29 Representations and warranties

29.1 Warranties as to authority

The Service Provider represents and warrants, and it is an essential term of this Agreement and the Product Agreements, that:

- (a) the execution and delivery by the Service Provider of each Transaction Agreement is properly authorised;
- (b) it has full corporate power to execute, deliver and perform its obligations under each Transaction Agreement;
- (c) each Transaction Agreement constitutes a legal, valid and binding obligation of the Service Provider enforceable in accordance with its terms by appropriate legal remedy (subject to general principles of equity, stamping and registration and other perfection requirements, statute of limitations and laws affecting creditors' rights generally); and

- (d) each Transaction Agreement does not conflict with, or result in the breach of, or default under, any provision of its constitution, any writ, order or injunction, judgment, or Law to which it is a party or is subject or by which it is bound.

29.2 Service Provider warranties - general

The Service Provider represents and warrants that:

- (a) it will perform the Services in accordance with Best Industry Practice;
- (b) the Services will comply with the Requirement / Specifications and other provisions of this Agreement and be fit for the purposes as set out in the Requirements / Specifications and elsewhere in this Agreement;
- (c) it has, and will at all times have, the skills, qualifications, expertise, capacity, resources and experience necessary to carry out its obligations under this Agreement; and
- (d) it has all rights, title, licences, authorisations, consents and other approvals necessary to provide the Services in accordance with the terms of this Agreement.

29.3 Service Provider warranties – goods

The Service Provider represents and warrants that any Contract Material supplied (whether sold, transferred or leased), which are goods:

- (a) complies with its respective description (including performance criteria);
- (b) corresponds with the sample, where the Service Provider gave the State or an Agency a sample prior to purchase;
- (c) is new and of good and acceptable quality;
- (d) complies with any relevant Australian standard and, to the extent that they are not inconsistent with any relevant Australian standard, and ISO (International Organisation for Standardisation) standard;
- (e) may be used without risk to health or safety;
- (f) has the full benefit of any manufacturer's warranties that may be applicable to it and enforceable for the benefit of the State and Agency; and
- (g) where sold is sold with full legal and beneficial title free of any security interests and encumbrances or where leased the Service Provider has the rights to lease the goods.

29.4 Compliance with law

The Service Provider represents and warrants that:

- (a) it will provide the Services and perform its obligations under this Agreement and the Product Agreements in accordance with, and to enable the State and Agencies to comply with, all applicable Laws and Banking Industry Codes, and it will at all times comply with all applicable Laws and Banking Industry Codes; and
- (b) it has all licences, authorisations, consents, approvals and permits required by all applicable Laws and Banking Industry Authorities in order to provide the Services and perform its obligations under this Agreement and the Product Agreements.

29.5 Service Provider's Tender

The Service Provider represents and warrants that all statements and representations in pre contractual proposals made by the Service Provider to the State or an Agency, and in the Service Provider's responses in the Tender, are true, complete and accurate, except to the extent of any inconsistency with a provision of this Agreement or a Product Agreement, which is higher in the order of precedence.

29.6 Intellectual Property Rights

The Service Provider represents and warrants that:

- (a) it has the right to grant any assignments and licences granted pursuant to this Agreement or a Product Agreement; and
- (b) the provision of the Services, the performance of the Service Provider's obligations under this Agreement and the Product Agreements and the use of the Services and any Supplied Material in accordance with this Agreement or a Product Agreement will not infringe the Intellectual Property Rights or Moral Rights of any person.

29.7 Separate and reliance on representations and warranties

- (a) Each representation and warranty made or referred to in this Agreement or a Product Agreement is to be construed independently of every other representation and warranty made or referred to in this Agreement or a Product Agreement and is not limited by any other representation or warranty.
- (b) The Service Provider acknowledges that the State and each Agency has relied on the representations, warranties and acknowledgements of the Service Provider in clause 29 and elsewhere in this Agreement and a Product Agreement, in entering into this Agreement and the Product Agreement to which the Agency is a party respectively.

29.8 Reliance on information

The Service Provider:

- (a) acknowledges and agrees that any information or material made available by the State or an Agency to the Service Provider for the purposes of the Request for Proposal process or any other part of the procurement process or entering into this Agreement or a Product Agreement (**Information**) may not be accurate or complete and that the Service Provider is responsible for making its own enquiries for those purposes;
- (b) acknowledges and agrees that, in relation to any Information which relates to future matters, the State and an Agency has taken no steps to verify that the Information is based on reasonable grounds, and no representation or warranty, expressed or implied, is made by the State, an Agency or any of their Personnel that the Information in relation to those future matters is accurate or complete;
- (c) warrants that it has not, in deciding whether or not to enter into this Agreement or a Product Agreement, relied on any Information or representation (whether oral or in writing), or any other conduct of the State, an Agency or any of their Personnel, other than as expressly set out in this Agreement or a Product Agreement; and

- (d) waives any right to make any claims in relation to any loss or damage suffered or incurred, whether directly or indirectly, arising out of or in connection with any use of or reliance on the Information.

30 Conflict of interest

- (a) The Service Provider represents and warrants that, except as disclosed in its Tender, as at the Effective Date:
 - (1) no Conflict of Interest exists, or is likely to arise in the performance of this Agreement or any Product Agreement; and
 - (2) so far as it is aware, none of the Sub-Contractors listed in Schedule 8 (Approved Material Sub-Contractors) has a Conflict of Interest in the performance of this Agreement or any Product Agreement.
- (b) If a Conflict of Interest or risk of Conflict of Interest arises during the Term or Agency Term, the Service Provider must immediately notify the State and any affected Agency and:
 - (1) the State may direct the Service Provider as to how to manage the Conflict of Interest and the Service Provider must comply with any reasonable direction so given by the State and where the Conflict of Interest is of relevance to a specific Agency, the Agency's direction, except where it conflicts with the State's direction; and
 - (2) the State may suspend this Agreement, the Services or part of the Services with immediate effect and such suspension will apply to all Product Agreements unless otherwise specified by the State in writing and an Agency affected by the Conflict of Interest may suspend a Product Agreement, the Services or part of the Services.
- (c) If clause 30(b) applies, the Service Provider must notify the State and an affected Agency when the Conflict of Interest or risk of Conflict of Interest is resolved.

31 Commission, incentives and collusion

31.1 Commissions and Incentives

The Service Provider must not, and must ensure that its Personnel do not, give or offer anything to the State or Agency or any Personnel of the State or Agency, or to a parent, spouse, child or associate of Personnel of the State or Agency, including any commission, inducement, gift or reward, which could in any way tend or be perceived as attempting to influence the State or Agency's actions in relation to this Agreement or a Product Agreement.

31.2 Collusion

The Service Provider warrants that:

- (a) except as is expressly disclosed to the State in its Tender, its Tender was not prepared (and any variations to this Agreement and a Product Agreement will

not be prepared) with any consultation, communication, contract, arrangement or understanding with any competitor (including a contractor under a similar agreement with the State or Agency) regarding any of the following:

- (1) prices, methods, factors or formulas used to calculate prices;
 - (2) the intention or decision to submit or not submit an offer (or request a variation) to this Agreement or a Product Agreement;
 - (3) the submission of a bid (or a request for variation) that is non-conforming with the terms of this Agreement or a Product Agreement; or
 - (4) the particulars of the Services to which this Agreement or a Product Agreement relates; the terms of the Tender (or variation) or a competitor's offer (or variation);
- (b) it has not provided any benefit (including money) directly or indirectly to, or entered into any agreement, arrangement or understanding to provide any benefit (including money) directly or indirectly to, any competitor (including any contractor or service provider under a similar agreement with the State or Agency) relating in any way to this Agreement or a Product Agreement;
- (c) it has not received any such benefit directly or indirectly, or entered into any agreement, arrangement or understanding to receive any such benefit directly or indirectly from any competitor (including any contractor or service provider under a similar agreement with the State or Agency) relating in any way to this Agreement or a Product Agreement;
- (d) it will not provide or receive any such benefit;
- (e) it has not consulted, communicated or entered into any agreement, arrangement or understanding to provide any benefit (including money), whether directly or indirectly, to a trade, industry or other association (above the published standard fee) relating in any way to this Agreement and a Product Agreement, nor has it provided, nor will it provide any such benefit;
- (f) except as is expressly disclosed in its Tender, at the time of entering into this Agreement the Service Provider and its directors and senior management, are not and have never been subject to proceedings relating to anti-competitive conduct in Australia or overseas; and
- (g) the Service Provider must notify the State immediately upon becoming aware that the Service Provider or a director or member of senior management becomes subject to an adverse finding, decision or ruling by a court or tribunal relating to anti-competitive conduct in Australia or overseas during the Term by disclosing, at a minimum: the names of the parties to the proceedings; the case number; the general nature of the proceedings; and the outcome or current status of the proceedings.

The Service Provider acknowledges that the State has entered into this Agreement and the Agencies have entered into the Product Agreements in reliance on the warranties in clause 31.2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

32.5 Third parties

- (a) The State declares that it holds the benefit of each indemnity given by the Service Provider in this Agreement and a Product Agreement for itself and on trust for its Ministers and its Personnel and each Agency declares that it holds the benefit of each indemnity given by the Service Provider in this Agreement and a Product Agreement for itself and on trust for its Personnel and the benefit of clause 32.4 for itself and on trust for its Users.
- (b) The Service Provider acknowledges the existence of such trusts and consents to the State and each Agency exercising its rights in relation to, or otherwise enforcing such indemnities on behalf of the Ministers and its Personnel, and in the case of an Agency clause 32.4 on behalf of its Users.
- (c) The Parties agree that notwithstanding this clause 32.5, neither the State nor an Agency requires the consent of any Minister, Personnel or User in his or her capacity as a beneficiary of the trust to amend or waive any provision of this Agreement or a Product Agreement respectively.

32.6 Indemnities additional right and separate right to damages claims

Any indemnity and its associated provisions in this Agreement or a Product Agreement shall not limit any other right or remedy available to those indemnified at law or in equity as a result of the actions or omissions of the Service Provider in connection with this Agreement including the right to bring a damages claim against the Service Provider under or in connection with this Agreement or a Product agreement.

32.7 No obligation to act contrary to Law or Banking Industry Code

Notwithstanding any other provision of this Agreement or a Product Agreement, the Service Provider is not liable to perform any Services, and may refuse to provide any Service in a particular circumstance, if the performance of those Services would

contravene a Law or Banking Industry Code that applies to the Service Provider or one of its Related Body Corporates.

33 Insurance

[REDACTED]

[REDACTED]

34 Termination of Agreement

34.1 Termination for convenience

The State is entitled to terminate this Agreement at any time for convenience on not less than 6 months' prior written Notice.

34.2 Termination for cause

[REDACTED]

[REDACTED]

34.3 Termination for Force Majeure, change in control and other termination rights

- (a) The State may terminate this Agreement in whole or in part by giving Notice to the Service Provider if the Service Provider is subject to a Force Majeure which affects the performance of its obligations under this Agreement or a Product Agreement for 30 days or more.
- (b) The State may terminate this Agreement in whole or in part by giving Notice to the Service Provider if the Service Provider or a Related Body Corporate of the Service Provider is subject to a change in Control, other than a change in Control for which the State has confirmed in writing that it will not exercise its right to terminate under this clause 34.3.
- (c) The State may terminate this Agreement in whole or in part by giving Notice to the Service Provider if the Service Provider rejects any application for, increase to the limits of or the extension of, any Debt Product requested by the State or an Agency and the State disagrees with the Service Provider's rejection, and the State and the Service Provider fail to resolve the dispute within 30 days of the Service Provider's rejection (or such other longer period agreed between the State and the Service Provider to resolve the dispute).
- (d) The State may terminate this Agreement in whole or in part by giving Notice to the Service Provider if the Service Provider exercises its rights pursuant to clause 35.4.

34.4 Service Provider rights of termination – events of default

Save for the Service Provider's termination right in clause 17.3(d), the Service Provider is not entitled to terminate this Agreement other than on prior written Notice to the State if:

[REDACTED]

35.3 Termination for Force Majeure

An Agency may terminate any or all of its Product Agreements in whole or in part including by giving Notice to the Service Provider if the Service Provider is subject to a Force Majeure which affects the performance of its obligations under a Product Agreement for 30 days or more.

35.4 Service Provider rights of termination – events of default

The Service Provider is not entitled to:

- (a) terminate a Product Agreement;
- (b) withdraw, reduce or cancel a Service including any financial accommodation under a Debt Product; or
- (c) declare a default and require an Agency to pay immediately all amounts due under any Product Agreement including the debit balance of any financial accommodation under a Debt Product;

unless the Agency has failed to pay an amount in excess of \$10 million owing to the Service Provider under that Product Agreement within 60 days of the Service Provider's Notice to that Agency to make that payment and referring in that Notice to this clause and its intention to exercise its rights under this clause and the Service Provider must serve a prior written Notice of termination both on the State and the affected Agency to effect such termination.

36 Expiry or termination general and consequences

36.1 Termination Events

- (a) The Service Provider warrants that, and it is an essential term of this Agreement that, no Termination Event specified in clause 34.2(a) occurs.

- (b) The Service Provider warrants that, and it is an essential term of a Product Agreement that, no Termination Event specified in clause 35.2(a) occurs.

36.2 Material breach

- (a) Without limitation to clauses 34.2(a)(4), 34.2(a)(5), 35.2(a)(4) and 35.2(a)(5), any of the following events or the following breaches constitute a material breach of this Agreement or a Product Agreement:
 - (1) any breach or series of breaches which is or are not commercially insignificant or which has or have an adverse consequence which is not minimal or of no consequence; or
 - (2) a breach of clauses 23 (State / Agency Data and State and Agency property), 25 (confidentiality), 26 (privacy), 27 (security), 28.1 (State / Agency Material and [REDACTED]) as it relates to State / Agency Data, 29.4 (compliance with laws), 30 (conflict of interest), 31 (collusion), or 40.2 (Transfer / disclosure of State / Agency Data and Personal Information outside of New South Wales and off-shoring) as it relates to State / Agency Data and 41.1 (Modern Slavery) and any such breach shall be deemed to be a material breach that is not capable of remedy.
- (b) Without limitation to clauses 35.2(a)(4) and 35.2(a)(5), a [REDACTED] constitutes a material breach of a Product Agreement and any such breach shall be deemed to be a material breach that is not capable of remedy.

36.3 Notice periods

Subject to any minimum notice period specified in clause 34 or 35 (if any), the notice period for any notice or Notice of termination may be selected by the Party serving the notice and may be effective immediately.

36.4 Expiry or termination of this Agreement and effect on Product Agreements

- (a) If this Agreement expires or terminates in whole, subject to clause 37, all Product Agreements will automatically expire or terminate on expiry or termination of this Agreement, unless otherwise specified by the State in writing.
- (b) If this Agreement expires or terminates in part including expiry or termination of part of the Services, subject to clause 37, all Product Agreements or parts of a Product Agreement relating to that part of this Agreement, which expires or terminates will automatically expire or terminate on expiry or termination of that part, unless otherwise agreed by the State, the relevant Agency and the Service Provider in writing.
- (c) Any Product Agreement or part of a Product Agreement which does not automatically expire or terminate pursuant to this clause 36.4 will continue in accordance with its terms and conditions, until it expires or terminates in accordance with its terms and conditions.
- (d) The Service Provider must not extend a Product Agreement under this Agreement beyond the end of the Framework Transition-Out Period, without the prior written agreement of the State, which agreement may be subject to conditions with which the Service Provider must comply.

- (e) Nothing in this clause or this Agreement shall prohibit the Service Provider after the end of the Framework Transition-Out Period from entering into a new agreement with any Agency, which wishes to purchase products and services from the Service Provider, previously provided under this Agreement:
- (1) provided that those products or services are not provided or purported to be provided under this Agreement; and
 - (2) subject to any State instruction, policy, requirement or direction on the procurement of such products and services from an approved service provider, to an Agency subject to such instruction, policy, requirement or direction.

[REDACTED]

[REDACTED]

36.6 Other consequences of expiry or termination

- (a) No termination fee or other similar fee is payable by the State or Agency in connection with the expiry or termination of this Agreement or a Product Agreement or any of the Services.
- (b) Any expiry or termination of this Agreement or a Product Agreement is without prejudice to any accrued rights or remedies of either Party. This includes any right of the Service Provider to payment of any Fees and Charges which relate to Services properly performed or provided by the Service Provider up to the date of termination.
- (c) Clauses 13, 14.2, 15.5, 15.6, 23 to 28 (inclusive), 32, 33, 36, 37, 39, 40, 42 to 44 (inclusive) and any other provisions of this Agreement which are expressed to or, by their nature, survive expiry or termination of this Agreement or a Product Agreement, will survive the expiry or termination of this Agreement or a Product Agreement.

36.7 Partial expiry or termination

- (a) A reference to the State or an Agency's right to terminate this Agreement or a Product Agreement in part includes the right to terminate any of the products or services within the Services.
- (b) In the event of a partial expiry or termination of this Agreement or a Product Agreement or the Services, all references in this Agreement or a Product Agreement to the expiry or termination, Transition-Out and Transition-Out Services apply in relation to the expired or terminated part of this Agreement or a Product Agreement or Services.

37 Transition-Out Services

37.1 Transition-Out and Transition-Out Period

- (a) Framework Transition-Out Period means:
 - (1) in connection with the expiry of this Agreement, and in connection with the expiry of Services under this Agreement, the period commencing 6 months prior to the expiry date, and ending 12 months from the date of expiry (or at the State's election in writing, ending on a date specified by the State that is no later than 24 months from the date of expiry) or such longer period as the State notifies the Service Provider that it requires in good faith to replace any of the Products and Services for any Agency and complete a Transition-Out; and
 - (2) in connection with the termination of this Agreement, and in connection with termination of Services as a result of the termination or an Agreement Contract Change, the period commencing from the Notice of termination or date of the Agreement Contract Change and the period 12 months from the date of termination of this Agreement or date of Agreement Contract Change or such longer period as the State notifies the Service Provider that it requires in good faith to replace any of the Products and Services for any Agency and complete a Transition-Out.
- (b) Agency Transition-Out Period means:
 - (1) in connection with the expiry of a Product Agreement, and in connection with the expiry of Services under a Product Agreement, the period commencing 6 months prior to the expiry date, and ending 12 months from the date of expiry or such longer period as an Agency notifies the Service Provider that it requires in good faith to replace any of the Products and Services and complete a Transition-Out; and
 - (2) in connection with the termination of a Product Agreement, and in connection with termination of Services as a result of the termination or an Agreement Contract Change or PA Contract Change, the period commencing from the Notice of termination or date of Contract Change and the period 12 months from the date of termination of the Product Agreement or date of Contract Change or such longer period as an Agency notifies the Service Provider that it requires in good faith to replace any of the Products and Services for any Agency and complete a Transition-Out.
- (c) On expiry or termination of this Agreement or a Product Agreement, the Service Provider must continue to provide the Products and Services for so long as the State requires the Products and Services for Agencies during the Framework Transition-Out Period or an Agency requires the Products and Services during the Agency Transition-Out Period. This Agreement or a Product Agreement, or both as the context requires, will continue in accordance with its terms and conditions notwithstanding the expiry date or date of termination, but for this provision. To avoid doubt, the State's and an Agency's right to a Framework Transition-Out Period and an Agency Transition-Out Period respectively are in addition to the State's rights to a First Option, Second Option and a Third Option specified in clause 3.2.

37.2 Framework Transition-Out Plan and Agency Transition-Out Plan

- (a) The Service Provider must develop a Framework Transition-Out Plan and Agency Transition-Out Plan for the Framework Transition-Out in accordance with the State's and the relevant Agencies' reasonable requirements respectively.
- (b) The Service Provider must prepare a Framework Transition-Out Plan for the State's approval within 30 days of the State's request at any time during the Term and in any event within 30 days from the commencement of the Framework Transition-Out Period and must provide Agency Transition-Out Plans under the Framework Transition-Out for approval by the State and the relevant Agencies in a timely fashion.
- (c) To the extent any Agencies' requests for timing of Transition-Out Services during the Framework Transition-Out Period conflict with each other or with the requirements of the State, the Service Provider must comply with the instruction given by the State to resolve the conflict, and the Agency is subject to that instruction.
- (d) The Service Provider must develop the Agency Transition-Out Plans for Transition-Out Services which are not part of the Framework Transition-Out in accordance with the relevant Agency's reasonable requirements and must provide a final version for approval by the relevant Agency within 30 days of its request at any time during the Term.
- (e) The Framework Transition-Out Plan and Agency Transition-Out Plans must specify:
 - (1) the procedures and tasks for the effective and orderly termination of the Products and Services (or part of them) and where the Products and Services are to be replaced, the effective and orderly transfer of responsibility for the provision of the Products and Services (or part of them) from the Service Provider to the Incoming Supplier and all matters related to or connected with the Incoming Supplier assuming control of the Products and Services (or part of them) to be provided to the State or an Agency; and
 - (2) such other matters as the State and / or an Agency may reasonably require from time to time.
- (f) When the Framework Transition-Out Plan is agreed to in writing by the State and the Service Provider, it is incorporated into, and shall form part of this Agreement and the Product Agreement and when the Agency Transition-Out Plan is agreed to in writing by an Agency and the Service Provider it is incorporated into, and shall form part of the relevant Product Agreement.

37.3 Transition-Out Services

- (a) The Service Provider must provide Transition-Out Services to the State and each Agency for the Transition-Out of any Products and Services. The Service Provider must provide the Transition-Out Services both for:
 - (1) the Framework Transition-Out in connection with the expiry or termination of this Agreement and expiry or termination of Services under this Agreement as a result of the expiry, termination or the Agreement Contract Change, of or to this Agreement; and

- (2) for any other Transition-Out in connection with the expiry or termination of the Services under a Product Agreement not under the Framework Transition-Out.
- (b) As part of the Transition-Out Services, the Service Provider must perform all services and tasks specified in the Framework Transition-Out Plan and Agency Transition-Out Plan as applicable, and all other things necessary, other than those assigned to the State or an Agency or any Incoming Supplier (if applicable) to enable, where applicable a timely and orderly Transition-Out by the applicable Transition-Out date.
- (c) The Service Provider must:
 - (1) continue to provide the Products and Services as specified in clause 37.1(c);
 - (2) perform the Transition-Out Services in accordance with the Framework Transition-Out Plan and Agency Transition-Out Plan, as applicable;
 - (3) co-operate with any Incoming Supplier, including in accordance with the obligations set out in clause 9.1(b) (subject to clause 9.1(c));
 - (4) perform Transition-Out Services so as to avoid or where not reasonably practical to avoid, minimise, disruption to the operations of the State and the Agencies;
 - (5) subject to clause 37.3(f), at the request of the State or an Agency, promptly deliver up, migrate, allow access to or irretrievably, confidentially and securely destroy its State / Agency Data, the Contract Material owned by the State or an Agency or licensed to the State or an Agency after the Term and any of property of the State or an Agency;
 - (6) subject to clause 37.3(f), migrate the State / Agency Data to the State, an Agency or the Incoming Supplier in print or non-print media in such format as the State or an Agency may reasonably request from time to time in relation to its respective State / Agency Data;
 - (7) notify the State if it becomes aware of any problems with the Framework Transition-Out or any potential risk that it may not be able to complete the Transition-Out Services in accordance with the Framework Transition-Out Plan; and
 - (8) notify an Agency if it becomes aware of any problems with the Agency Transition-Out for that Agency or any potential risk that it may not be able to complete the Transition-Out Services in accordance with the Agency Transition-Out Plan.
- (d) The State or Agency must use reasonable endeavours to ensure that the Incoming Supplier co-operates with the Service Provider in connection with the Transition-Out Services.
- (e) [REDACTED] The Agencies must continue to pay the Fees and Charges in respect of Products and Services provided during the Framework Transition-Out Period and the Agency Transition-Out Period.
- (f) The Service Provider is entitled to retain copies of the State / Agency Data to comply with its record retention duties in accordance with Laws, Banking Industry Codes and for its audit requirements and to comply with clauses 23 and 24.

- (g) The Service Provider acknowledges that the nature of the Products and Services means that the Service Provider will be required and must perform some Products and Services and Transition-Out Services to the State and an Agency for a period after the commencement of any services replacing the Products and Services including:
 - (1) the provision of accounts for monies paid by payors to the State or an Agency until the State or an Agency requests a termination of that Product and Service, with the Parties acknowledging that the State's and an Agency's payors will continue to make payments to the Service Provider's accounts; and
 - (2) providing access to State / Agency Data retained by the Service Provider including account of any type of financial product or service and transaction statements and answering queries concerning the accounts, Cards and transactions and resolving queries or errors.

38 Business continuity, disaster recovery and Force Majeure

38.1 Business continuity and disaster recovery

- (a) The Service Provider must operate, maintain and comply with business continuity and disaster recovery arrangements to avoid and mitigate against Security Incidents and other risks to its business which may affect the Services.
- (b) The Service Provider's business continuity and disaster recovery arrangements must be in accordance with Best Industry Practice, Laws and Banking Industry Codes and must comply with all applicable Australian and international standards [REDACTED]
- (c) On request by the State or an Agency, the Service Provider must, within 30 days or as otherwise agreed in writing, prepare a disaster recovery and business continuity plan for the approval of the State.
- (d) The Service Provider must regularly (and no less than once in every year) review and, where appropriate, update its disaster recovery and business continuity plans, and must co-operate with any reviews instigated by State or an Agency. The Service Provider must also review its disaster recovery and business continuity plans if there are any material changes to the Services.
- (e) The Service Provider must test the processes set out in the disaster recovery and business continuity plans regularly (and no less than once in every year). At the request of the State, the Service Provider must provide reasonable details as to the nature and outcome of the testing and must take into account any feedback provided by the State.
- (f) If there is an interruption to the Service Provider's business that is contemplated by the disaster recovery and business continuity plans the Service Provider must perform the obligations in the disaster recovery and business continuity plans.
- (g) The Service Provider must provide reasonable assistance to the State and each Agency with respect to the State or Agency's business continuity and disaster recovery arrangements to avoid and mitigate against risks associated with the State or Agency's use of, interface with or reliance on the Services.

38.2 Force Majeure

- (a) A Party will not be liable or be in breach of this Agreement or any Product Agreement for any failure or delay in the performance of its obligations under this Agreement or a Product Agreement to the extent such failure or delay is caused by a Force Majeure, provided that it must:
 - (1) promptly advise the other Party of the details of the Force Majeure, and its likely effect on that non-performing Party's obligations under this Agreement or a Product Agreement; and
 - (2) take all steps reasonably necessary to recommence performance and minimise the delay caused by the Force Majeure, including by means of alternate sources, workarounds or other means.
- (b) If any Force Majeure has the result that the Service Provider is not able to provide any Service or part of any Service for any period of time, the State or Agency will not be obliged to pay any Fees and Charges in respect of such Service or part Service during such period.

39 Assignment and novation

- (a) The Service Provider must not assign or otherwise transfer any right or obligation under this Agreement or a Product Agreement without the State's prior written consent.
- (b) Notwithstanding any other provision of this Agreement or a Product Agreement, the State and an Agency are entitled, by giving Notice to the Service Provider, to transfer any of their respective rights and obligations under this Agreement and any Product Agreement in whole or part to an Agency, which:
 - (1) in the case of the State as the transferring party, is part of the Crown; and
 - (2) in the case of an Agency part of the Crown as the transferring party, is part of the Crown.
- (c) Subject to clause 39(e), the State must not assign or otherwise transfer any right or obligation under this Agreement to a legal entity, which is not part of the Crown, without the Service Provider's prior written consent.
- (d) Subject to clause 39(f):
 - (1) an Agency which is part of the Crown must not assign or otherwise transfer any right or obligation under this Agreement or a Product Agreement to a legal entity, which is not part of the Crown; and
 - (2) an Agency which is not part of the Crown must not assign or otherwise transfer any right or obligation under this Agreement or a Product Agreement to a legal entity which is not the same legal entity as that Agency,without the Service Provider's prior written consent.
- (e) Without limiting clause 39(b), the State is entitled to transfer its rights and obligations in whole or in part to an Agency that is not part of the same legal entity as the State, but only as a consequence of a Machinery of Government

Change, and if the transfer of rights and obligations has not occurred at Law, by giving a Notice to the Service Provider.

- (f) Without limiting clause 39(b), an Agency is entitled to transfer its rights and obligations in whole or in part to another Agency that is not part of the same legal entity as the Agency, but only as a consequence of a Machinery of Government Change, and if the transfer of rights and obligations has not occurred at Law, by giving a Notice to the Service Provider.
- (g) If clause 39(e) or 39(f) applies, and if the transfer of rights and obligations has not occurred at Law, the Service Provider must promptly execute a deed of novation in a form agreed between the State or the Agency as applicable and the Service Provider (whose agreement is not to be unreasonably withheld or delayed), and return it within 7 days from the receipt of a Notice from the State or Agency advising of the transfer and requiring the Service Provider to execute the deed of novation.
- (h) [REDACTED]
- (i) Nothing in this clause 39, prohibits the State or an Agency, including a State Owned Corporation from transferring its rights and obligations in whole or in part, in accordance with a vesting order pursuant to statute or other statutory mechanism.

40 Sub-contracting and off-shoring

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. **Identify the subject and the main verb.** The subject is "The committee" and the main verb is "has agreed".

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



41 Policy Requirements

41.1 Modern Slavery

- (a) In this clause 41.1, "reasonable steps" means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy Modern Slavery. In assessing whether steps are reasonable, the Parties may refer to the *NSW Anti-slavery Commissioner's Guidance on Reasonable Steps* and related information and resources that are published by the Anti-slavery Commissioner.
- (b) Each Party must:
 - (1) not engage in Modern Slavery;
 - (2) take reasonable steps to ensure that it, its directors, officers, employees, Related Bodies Corporate and Engaged Entities comply with Modern Slavery Laws as applicable;
 - (3) take reasonable steps to ensure that its Engaged Entities include provisions equivalent to the Core Modern Slavery Obligations (including this sub-clause) in their contracts with their suppliers; and
 - (4) take reasonable steps to ensure that its Engaged Entities provide their respective directors, officers, employees and suppliers with at least the minimum level of wages and other entitlements required by law, (collectively the **Core Modern Slavery Obligations**).
- (c) The Service Provider acknowledges and agrees that the Fees and Charges support each Party to comply with its Core Modern Slavery Obligations.
- (d) The Service Provider acknowledges and agrees that it will establish, implement, and maintain for the Term, appropriate systems and policies as required to meet its Core Modern Slavery Obligations.
- (e) Without limiting the Core Modern Slavery Obligations and clause 41.1(d), and to the extent permitted by law, the Service Provider agrees that it will notify the State and any relevant Agency immediately with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the Service Provider becomes aware of any actual or reasonably suspected Modern Slavery engaged in, or any notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws by the Service Provider, its officers, directors, employees, Related Bodies Corporate or by any of its Engaged Entities, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Agreement or a Product Agreement.
- (f) Without limiting the Core Modern Slavery Obligations, clause 41.1(d) and clause 41.1(e), each Party must provide, and use reasonable endeavours to ensure its officers, directors, employees, Related Bodies Corporate and Engaged Entities provide all reasonable assistance to the other Party to enable

the other Party to comply with its obligations under this clause and under applicable Modern Slavery Laws.

- (g) The Service Provider represents and warrants to, and for the benefit of, the State and Agencies that, as at the Effective Date and on a continuing basis for the duration of the Term, the Service Provider has disclosed, in accordance with clause 41.1(e):
 - (1) to the extent the Service Provider is aware, any:
 - (A) actual or reasonably suspected Modern Slavery engaged in; and
 - (B) notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws,

by the Service Provider, the Service Provider's officers, directors, employees, Related Bodies Corporate, or by any of the Engaged Entities while performing any contract with the Service Provider, whether or not the Modern Slavery arises in the performance of the Agreement or a Product Agreement; and
 - (2) all actions taken to remedy the said Modern Slavery or breach of Modern Slavery Laws.
- (h) Without limiting the State's rights under this Agreement or an Agency's rights under a Product Agreement, the Service Provider agrees that:
 - (1) a breach of the Service Provider's obligations under this clause will be taken to be a material breach of this Agreement and Product Agreement, as relevant; and
 - (2) before exercising any termination rights that may arise as a result of this material breach, the State or Agency, as relevant, must consult with relevant stakeholders on whether Modern Slavery may arise from such termination and the reasonable steps to prevent or mitigate such risk of Modern Slavery.
- (i) Where a Party forms the view that there is a material breach that is reasonably capable of being remedied, then the Parties must develop a remediation plan to take reasonable steps to remedy the breach in accordance with this Agreement and a Product Agreement (**Remediation Plan**). Each Party must take reasonable steps proportionate to their contribution to the material breach to implement the Remediation Plan.

41.2 Aboriginal Procurement Policy

The Service Provider:

- (a) must comply with the Aboriginal, SME and Local Participation Plan and all relevant Aboriginal participation and reporting requirements under the Aboriginal Procurement Policy and clause 20.4(b);
- (b) acknowledges and agrees that Training Services NSW has established the Aboriginal participation fund to receive payments when the Service Provider does not meet contracted Aboriginal participation requirements; and
- (c) acknowledges and agrees that where the Service Provider does not meet its Aboriginal participation requirements under this Agreement, the Agency may, in accordance with the Aboriginal Procurement Policy, withhold payments due to

the Service Provider pursuant to a Product Agreement and direct the funds to an account held by Training Services NSW.

41.3 Small and Medium Enterprise and Regional Procurement Policy

- (a) The Service Provider must comply with:
 - (1) all applicable SME Policies and associated requirements; and
 - (2) the Aboriginal, SME and Local Participation Plan and all relevant SME and local participation and reporting requirements under the SME and Regional Procurement Policy and clause 20.4(a).
- (b) In addition to the reporting requirements at clause 20.4(a) the Service Provider must submit a final report confirming compliance with the commitments made in the Aboriginal, SME and Local Participation Plan. If the Service Provider cannot confirm compliance with all measures it has committed to, it must explain why in reasonable detail in the final report.

41.4 Payments to Small Businesses

- (a) The Service Provider must inform any direct subcontractor that it proposes to engage to provide any of the Services of the Small Business Shorter Payment Terms Policy.
- (b) In any subcontract between the Service Provider and a Small Business that is wholly or partly for the provision of the Services (whether or not the subcontract was entered into before or after the Effective Date), the Service Provider must:
 - (1) include in the subcontract a clause which requires the Service Provider to pay the Small Business (for any of the Services) within 20 Business Days following the receipt by the Service Provider of a correctly rendered invoice from the Small Business; and
 - (2) pay the Small Business in accordance with the clause included in the subcontract pursuant to clause 41.4(b)(1).

41.5 ICT Accessibility

- (a) The Service Provider acknowledges that the State and Agencies are committed to:
 - (1) meeting Accessibility Standard AS EN 301 549 (Accessibility Standard); and
 - (2) ensuring that the Services support access to information and communications technology for all users, regardless of disability.
- (b) Without limiting any other obligation under this Agreement or a Product Agreement, the Service Provider must ensure that, to the extent reasonably practicable, all Services:
 - (1) are available to users on a non-discriminatory accessible basis and do not infringe anti-discrimination Laws; and
 - (2) meet the Accessibility Standard and any other accessibility requirements specified in this Agreement.

41.6 Work Health and Safety

- (a) In this clause 41.6, "**WHS Legislation**" means legislation relating to health and safety, including the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW).
- (b) Without limiting the Service Provider's obligations under any other provision of this Agreement or a Product Agreement, the Service Provider must:
 - (1) comply, and must ensure that its Personnel comply, with the WHS Legislation (including any obligation under the WHS Legislation to consult, co-operate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter);
 - (2) if requested by the State or any Agency or required by the WHS Legislation, demonstrate compliance with the WHS Legislation, including providing evidence of any approvals, prescribed qualifications or experience, or any other information relevant to work health and safety matters;
 - (3) notify the State and the relevant Agency promptly (and in any event within 12 hours of such matter arising) of all work health, safety and rehabilitation matters arising out of, or in any way in connection with, the Services;
 - (4) insofar as the Service Provider, in carrying out the Services, is under any duty imposed by the WHS Legislation, do everything necessary to comply with any such duty;
 - (5) ensure that it does not do anything or fail to do anything that would cause the State or any Agency to be in breach of the WHS Legislation; and
 - (6) comply with any additional work health and safety requirements reasonably required by the State or an Agency from time to time.

41.7 Other Policies Codes and Standards

- (a) The Service Provider must comply with:
 - (1) the NSW Procurement Policy Framework published at <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework> in so far that it relates to the Service Provider's activities in relation to the Services; and
 - (2) the Supplier Code of Conduct published at <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>.
- (b) During the Term, the Service Provider may, upon request by the State, provide the following information about its gender equality performance, for the State's data collection purposes:
 - (1) its workplace gender equality practices; and
 - (2) its performance and progress towards achieving gender equality targets for its workforce.

42 Notices

- (a) A notice under or in connection with this Agreement or a Product Agreement, other than a Notice, may be given in any manner provided it is in writing including by hand, post, via facsimile or by email and provided it is sent to the other Party.
- (b) This clause 42(b) only applies to a reference in this Agreement or any Product Agreement to a 'Notice' with a capital 'N'. A Notice given to or served on either Party under the Agreement or a Product Agreement is deemed to have been duly given or served if it is in writing, signed by the Party giving the notice (the **first Party**) and is either delivered by hand, or posted or emailed to the other Party at the address set out below or such other address as is notified in writing to the first Party from time to time.

State:

Title: [REDACTED]
Address: [REDACTED]
Email: [REDACTED]
Attention: [REDACTED]

Agency:

c/- the State (as per the above details)

unless, different notices details are set out in the Product Agreement, in which case in accordance with those notice details.

Service Provider:

Title: [REDACTED]
Address: [REDACTED]
Email: [REDACTED]
Attention: [REDACTED]

- (c) Such Notice is deemed to have been duly received:
 - (1) if delivered by hand – at the time when the first Party holds a receipt for that document signed by a person apparently employed at that address for service;
 - (2) if sent by post – at the time when, in the ordinary course of the post, it would have been delivered at the address to which it is sent; or
 - (3) if sent via email – when the sender's system registers that the email has passed the internet gateway of the sender's system (and no delivery failure or out of office message is received by the sender within 24 hours of sending).
- (d) If delivery or receipt of a Notice occurs on a day other than a Business Day or is later than 5.00 pm local time in New South Wales, it shall be taken to have duly occurred at 9.00 am local time in New South Wales on the next Business Day.

- (e) Notwithstanding any other provision of this Agreement or a Product Agreement, where the Service Provider is a company under the *Corporations Act 2001* (Cth), any Notice served upon the Service Provider's registered office is deemed to have been given or served in accordance with this Agreement and a Product Agreement.

43 Dispute resolution

43.1 Objectives

- (a) Nothing in this clause prevents either Party from exercising its rights under the Agreement or a Product Agreement, or prevents proceedings being issued for urgent injunctive or declaratory relief.
- (b) Subject to clause 43.1(a):
 - (1) the Parties must endeavour to resolve by negotiation any dispute that arises under this Agreement or a Product Agreement in accordance with clauses 43.2 to 43.5 (inclusive); and
 - (2) a Party is not entitled to commence legal proceedings without complying with clauses 43.2 to 43.5 (inclusive).
- (c) Each Party shall bear its own costs in relation to its participation in any dispute resolution process, save to the extent those costs are agreed to be borne by the other Party or a court awards costs to be borne by the other Party.

43.2 Disputes escalation procedure – Agency dispute

- (a) If a dispute arises between an Agency and the Service Provider under or in connection with this Agreement or a Product Agreement, either the Agency or the Service Provider may refer the dispute to the Director, Government, Client Coverage and the Agency's Chief Financial Officer, or other Agency representative, who must meet and endeavour to resolve the dispute within 10 Business Days of referral of the dispute.
- (b) If the dispute remains unresolved within the 10 Business Days period, either the Agency or the Service Provider may refer the dispute to the State dispute resolution procedure in accordance with clause 43.3.

43.3 State dispute or Agency dispute referred to State

- (a) If a dispute arises between the State and the Service Provider under or in connection with this Agreement and the Product Agreements or between an Agency and the Service Provider under or in connection with this Agreement or a Product Agreement, which is either escalated by an Agency or which the Service Provider or the State wishes to escalate for State resolution, this clause 43.3 will apply.
- (b) The Head of Government, Client Coverage and the Treasury Business Partner, Director, Banking & Financial Services Division or their equivalent must meet and endeavour to resolve the dispute within 10 Business Days of referral of the dispute.

- (c) If the dispute remains unresolved within the 10 Business Days period, either the State or the Service Provider may refer the dispute to the Executive, Government, Client Coverage and the Executive Director, Banking & Financial Services Division (or equivalent) who must meet and endeavour to resolve the dispute within 10 Business Days of referral of the dispute.
- (d) If the dispute is not resolved within the 10 Business Days period, either the State or the Service Provider may refer the dispute to a senior executive of the Service Provider and the State who must meet and endeavour to resolve the dispute within 10 Business Days of referral of the dispute.

43.4 Dispute general and resolution flexibility

- (a) If the dispute relates to an issue with the performance of the Services, the Service Provider must respond to the Agency or the State within 2 Business Days of receipt of any correspondence on the matter from the Agency or the State. Any compensation agreed by the Service Provider for an issue relating to the performance of any of the Services may include a refund of Fees and Charges and other interest compensation.
- (b) Notwithstanding the procedures in clauses 43.2 and 43.3, the Parties may agree to vary the period for resolution or otherwise vary the dispute resolution procedure, including by agreeing an alternative or modified dispute resolution process under or in accordance with the Relationship Management Manual from time to time.
- (c) Notwithstanding the procedures in clauses 43.2 and 43.3, the State, an Agency or a Service Provider may:
 - (1) elect to specify a shorter period for resolution of the dispute;
 - (2) elect to escalate the dispute to a more senior level at any time; and
 - (3) appoint a representative other than the persons referred to in clauses 43.2 and 43.3 to represent it, provided that person has the requisite authority to represent the relevant Party for the applicable dispute.
- (d) Notwithstanding the procedures in clauses 43.2 and 43.3, the State may refuse to deal with a dispute between an Agency and the Service Provider referred by an Agency or the Service Provider to the State dispute resolution procedure, if the State considers that dispute should be dealt with between the Agency and the Service Provider.

43.5 Mediation

- (a) Should the Parties fail to resolve a dispute pursuant to clause 43.2 to 43.4, either Party may refer the Dispute to mediation on notice to the other Party. The mediator shall be agreed between the Parties or, failing agreement within 7 days from referral to mediation (or such other period agreed between the Parties in writing), shall be an accredited mediator appointed by the Chair of the New South Wales Chapter (or any other person holding a role as chair, president or equivalent within New South Wales or of the institute more generally) of the Australian Commercial Dispute Centre (or its successor or replacement from time to time).
- (b) The Parties agree to abide by the mediation rules agreed between them, or failing agreement, the mediation rules of the Resolution Institute (or its successor or replacement from time to time), in seeking to resolve the dispute in accordance with this clause 43.5. The period for resolving a Dispute through

mediation is 30 days following appointment of the mediator (or such other period agreed between the Parties in writing).

43.6 Continued Performance

Notwithstanding the existence of a dispute, each Party shall continue to perform its obligations under this Agreement or a Product Agreement, as applicable, wherever practicable.

44 Miscellaneous

44.1 Governing Law and Jurisdiction

- (a) This Agreement and the Product Agreements are governed by the law in force in New South Wales.
- (b) Each Party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement and a Product Agreement. Each Party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

44.2 Invalidity and enforceability

- (a) If any provision of this Agreement or a Product Agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 44.2(a) does not apply where enforcement of the provision of this Agreement or a Product Agreement in accordance with clause 44.2(a) would materially affect the nature or effect of the Parties' obligations under this Agreement or a Product Agreement.

44.3 Waiver

No Party to this Agreement or a Product Agreement may rely on the words or conduct of any other Party as a waiver of any right unless the waiver is in writing and signed by the Party granting the waiver.

44.4 Variation

Clauses 19.2 and 19.3 apply to Agreement Contract Changes and PA Contract Changes.

44.5 Further action to be taken at each Party's own expense

Each Party must, at its own expense, do all things and execute all documents necessary to give full effect to this Agreement, a Product Agreement and the transactions contemplated by them.

44.6 PPS registration

The Service Provider must not register any security interest as defined in the *Personal Properties Securities Act 2009* (Cth) that the Service Provider may have in connection with this Agreement or a Product Agreement.

44.7 Entire Agreement

This Agreement states all the express terms of the agreement between the Parties in respect of its subject matter. It supersedes all prior discussions, negotiations, understandings and agreements in respect of its subject matter.

44.8 No reliance

Neither Party has relied on any statement by the other Party not expressly included in this Agreement or a Product Agreement.

44.9 Counterparts and electronic execution

- (a) This Agreement or a Product Agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A Party may execute this Agreement or a Product Agreement by signing any counterpart.
- (d) A Party may sign any Transaction Agreement by electronic means where permitted by Law. Each Party consents to the other Party signing by electronic means and may not subsequently challenge the validity of any Transaction Agreement on the grounds of consent or the effectiveness of the chosen execution method.

44.10 Relationship

Nothing in this Agreement or a Product Agreement gives the Service Provider authority to bind the State or an Agency in any way and nothing in this Agreement or a Product Agreement gives the State or an Agency authority to bind the Service Provider in any way.

44.11 Exercise of rights

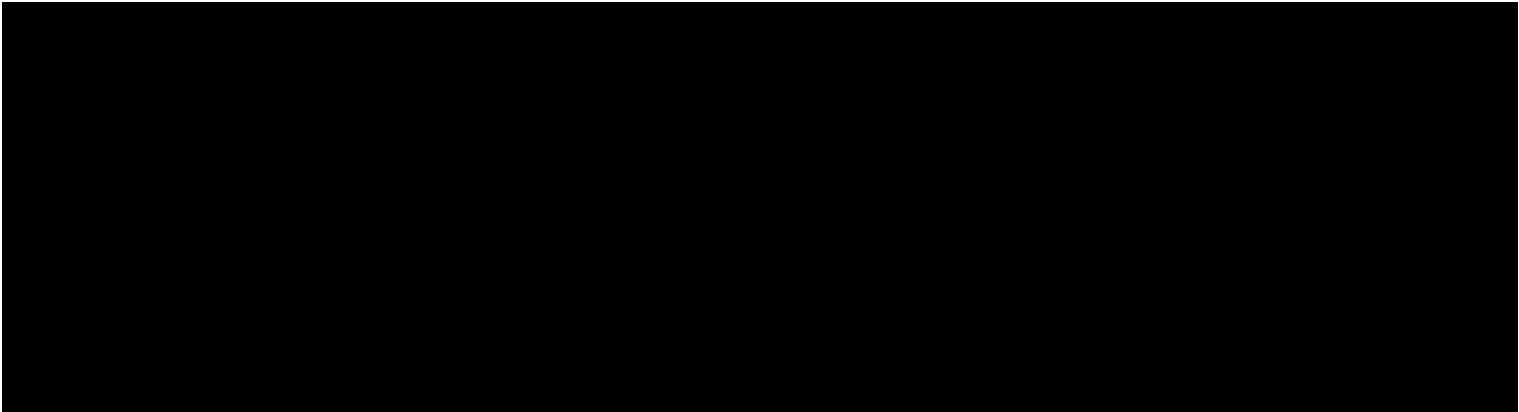
- (a) Unless expressly required by this Agreement or a Product Agreement, a Party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this Agreement or a Product Agreement.
- (b) Except as otherwise provided in this Agreement a Party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this Agreement or a Product Agreement. Any conditions must be complied with by the Party relying on the consent, approval or waiver.

Signing page

Executed as a deed

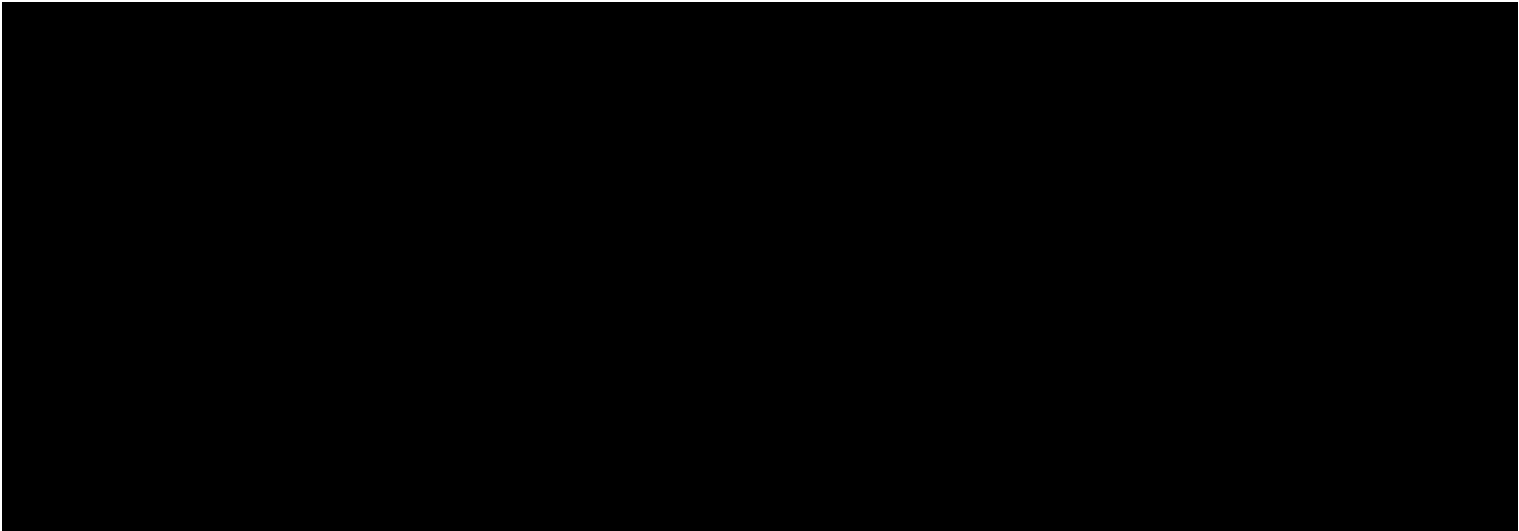
State

Signed, sealed and delivered pursuant to sections 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW) by Michael Coutts-Trotter, Secretary, as delegate of the Treasurer on behalf of the Crown in the Right of the State of New South Wales, but not so as to incur personal liability, in the presence of:



Service Provider

Signed sealed and delivered for
National Australia Bank Limited ABN 12 004 044 937
by its attorney who holds the position of Level 2 Attorney under a power of attorney dated 1 March 2007



Schedule 1

List of Agencies at the Effective Date

1 TBS Agencies

The following are TBS Agencies at the Effective Date:

- 1 Aboriginal and Torres Strait Islander Practice Council
- 2 Aboriginal Housing Office
- 3 Aboriginal Languages Trust
- 4 Advanced Manufacturing Readiness Facility Pty Ltd
- 5 Albury Base Hospital
- 6 Albury Wodonga Health Employment Division
- 7 ALPHA Distribution Ministerial Holding Corporation
- 8 Ambulance Service of NSW
- 9 Anzac Memorial Building Trust
- 10 Art Gallery of New South Wales Trust
- 11 Art Gallery of NSW Trust Staff Agency
- 12 Australian Museum Trust
- 13 Australian Museum Trust Staff Agency
- 14 Biodiversity Conservation Trust of NSW
- 15 Board of Surveying and Spatial Information of NSW
- 16 Border Fence Maintenance Board
- 17 Bradfield Development Authority
- 18 Building Insurers' Guarantee Corporation
- 19 Building Professionals Board
- 20 Bureau of Health Information
- 21 Cancer Institute (NSW)

22	Cancer Institute Division
23	Cemeteries and Crematoria NSW
24	Centennial Park and Moore Park Trust
25	Central Coast Local Health District
26	Clinical Excellence Commission
27	Cobar Water Board
28	Combat Sports Authority of New South Wales
29	Consolidated Fund NSW
30	Corp Sole Environment Planning Assessment Act
31	Corrective Services NSW
32	Create NSW
33	Crown Finance Entity
34	Crown Solicitor's Office
35	Dams Safety Committee
36	Department of Climate Change, Energy, the Environment and Water
37	Department of Communities and Justice
38	Department of Creative Industries, Tourism, Hospitality and Sport
39	Department of Customer Service
40	Department of Education
41	Department of Enterprise, Investment and Trade
42	Department of Planning and Environment
43	Department of Planning, Housing and Infrastructure
44	Department of Primary Industries and Regional Development
45	Department of Regional NSW
46	Department of Transport
47	Destination NSW
48	Destination NSW Staff Agency
49	EHealth NSW

50	Electricity Assets Ministerial Holding Corporation
51	Electricity Retained Interest Corporation (ERIC - Ausgrid)
52	Electricity Retained Interest Corporation (ERIC - Endeavour Energy)
53	Electricity Transmissions Ministerial Holding Corporation
54	Energy Corporation of NSW
55	Enhanced Police Support Scheme
56	Environment Protection Authority
57	Environment Protection Authority Staff Agency
58	Environmental Trust
59	Epsilon Distribution Ministerial Holding Corporation
60	Essential Energy
61	Far West Local Health District
62	Fire and Rescue NSW
63	First Australian Mortgage Acceptance Corporation (FANMAC)
64	Forestry Corporation of NSW
65	Generator Property Management Pty Limited
66	Greater Cities Commission
67	Greater Sydney Parklands Trust
68	H.M Queen Elizabeth II In Right Of The State Of NSW ATF The Graythwaite Trust
69	Health Administration Corporation
70	Health Care Complaints Commission
71	Health Care Complaints Commission Staff Agency
72	Health Education and Training Institute
73	Health Infrastructure
74	Health Professional Councils Authority
75	Health Services Support Group
76	Health System Support Group
77	Healthshare (NSW)

78	Healthshare NSW
79	Heritage Council of NSW
80	Home Purchase Assistance Fund
81	Housing and Productivity Fund (HAP Fund)
82	Hunter and Central Coast Development Corporation
83	Hunter New England Local Health District
84	Hunter Water Corporation
85	Illawarra Shoalhaven Local Health District
86	Independent Commission Against Corruption
87	Independent Liquor and Gaming Authority
88	Independent Liquor and Gaming Authority Staff Agency
89	Independent Pricing and Regulatory Tribunal
90	Independent Pricing and Regulatory Tribunal Staff Agency
91	Industrial Relations Commission of NSW
92	Information and Privacy Commission
93	Infrastructure NSW
94	Infrastructure NSW Staff Agency
95	Institute of Sport Staff Agency
96	Insurance and Care NSW (iCare)
97	Intium Pty Ltd
98	Jenolan Caves Reserve Trust
99	Judicial Commission of New South Wales
100	Justice Health & Forensic Mental Health Network
101	Landcom
102	Lands Administration Ministerial Corporation
103	Legal Aid Commission of New South Wales
104	Legal Aid Commission Staff Agency
105	Legal Aid Commission Temporary Staff Division

106	Legal Profession Admission Board
107	Liability Management Ministerial Corporation
108	Library Council of New South Wales
109	Library Council of New South Wales Staff Agency
110	Lifetime Care and Support Authority New South Wales
111	Local Land Services
112	Local Land Services Staff Agency
113	Long Service Corporation
114	Lord Howe Island Board
115	Luna Park Reserve Trust
116	Metropolitan Memorial Parks Land Manager
117	Mental Health Commission Division
118	Mental Health Commission of New South Wales
119	Mental Health Commission Staff Agency
120	Mid North Coast Local Health District
121	Minister Administering the Environmental Planning and Assessment Act 1979
122	Minister Administering the Heritage Act 1977
123	Ministry of Health
124	Multicultural NSW
125	Multicultural NSW Staff Agency
126	Murrumbidgee Local Health District
127	Museum of Applied Arts and Science
128	Museums of History NSW
129	National Art School
130	National Parks and Wildlife Conservation Trust
131	Natural Resources Access Regulator
132	Natural Resources Commission
133	Natural Resources Commission Staff Agency

134	Nepean Blue Mountains Local Health District
135	New South Wales Crime Commission
136	New South Wales Crime Commission Staff Agency
137	New South Wales Electoral Commission
138	New South Wales Electoral Commission Staff Agency
139	Northern NSW Local Health District
140	Northern Sydney Local Health District
141	NSW Architects Registration Board
142	NSW Childcare and Economic Opportunity Fund
143	NSW Crown Holiday Parks Land Manager
144	NSW Education Standards Authority
145	NSW Education Standards Authority Staff Agency
146	NSW Food Authority
147	NSW Government Telecommunications (TELCO)
148	NSW Health Foundation
149	NSW Health Pathology
150	NSW Health Service – Albury Wodonga Health Division
151	NSW Health Service – Clinical Excellence Commission Division
152	NSW Health Service – Ehealth
153	NSW Health Service – Far West Local Health District
154	NSW Health Service – Health Education and Training Institute
155	NSW Health Service – Health Infrastructure Division
156	NSW Health Service – Health System Support Group
157	NSW Health Service – Hunter New England Local Health District
158	NSW Health Service – Justice Health and Forensic Mental Health Network
159	NSW Health Service – Mid North Coast Local Health District
160	NSW Health Service – Murrumbidgee Local Health District
161	NSW Health Service – Nepean Blue Mountains Local Health District

162	NSW Health Service – Northern NSW Local Health District
163	NSW Health Service – Northern Sydney Local Health District
164	NSW Health Service – NSW Ambulance Service Division
165	NSW Health Service – NSW Health Pathology
166	NSW Health Service – South Eastern Sydney Local Health District
167	NSW Health Service – South Western Sydney Local Health District
168	NSW Health Service – Southern NSW Local Health District
169	NSW Health Service – Sydney Local Health District
170	NSW Health Service – Western Sydney Local Health District.
171	NSW Health Service – Western NSW Local Health District
172	NSW Independent Casino Commission
173	NSW Independent Casino Commission Staff Agency
174	NSW Institute of Psychiatry
175	NSW Institute of Sport
176	NSW Land and Housing Corporation
177	NSW Police Force
178	NSW Reconstruction Authority NSW
179	NSW Rural Assistance Authority
180	NSW Self Insurance Corporation
181	NSW Skills Board
182	NSW Trains
183	NSW Trustee and Guardian
184	Office of Sport
185	Office of Energy and Climate Change
186	Office of the Ageing and Disability Commissioner
187	Office of the Children's Guardian
188	Office of the Director of Public Prosecutions NSW
189	Office of the Greyhound Welfare and Integrity Commission

190	Office of the Independent Planning Commission
191	Office of the Independent Review Officer
192	Office of the Law Enforcement Conduct Commission
193	Office of the NSW Rural Fire Service
194	Office of the NSW State Emergency Service
195	Office of Transport Safety Investigations
196	Ombudsman's Office
197	Parliamentary Counsel's Office
198	Parramatta Park Trust
199	Place Management NSW
200	Planning Ministerial Corporation
201	Port Authority of New South Wales
202	Port Botany Lessor Ministerial Holding Corporation
203	Port Kembla Lessor Ministerial Holding Corporation
204	Port of Newcastle Lessor Ministerial Holding Corporation
205	Ports Assets Ministerial Holding Corporation
206	Premier's Department
207	Professional Standards Council
208	Property and Development NSW
209	Property NSW
210	Public Service Commission
211	Rental Bond Board
212	Resilience NSW
213	Rice Marketing Board of New South Wales
214	Royal Botanic Gardens and Domain Trust
215	SAS Trustee Corporation
216	SAS Trustee Corporation Staff Agency
217	Service NSW

218	South Eastern Sydney Local Health District
219	South Western Sydney Local Health District
220	Southern NSW Local Health District
221	Special Liability Insurance Fund
222	Sporting Injuries Compensation Authority
223	State Archives and Records Authority NSW
224	State Insurance Regulatory Authority
225	State Library of NSW
226	State Library of NSW Foundation
227	State Records Authority NSW
228	State Sporting Venues Authority
229	State Transit Authority of New South Wales
230	Strategic Biodiversity Contributions Fund (SBC Fund)
231	Subsidence Advisory NSW
232	Sydney Ferries
233	Sydney Local Health District
234	Sydney Metro
235	Sydney Olympic Park Authority
236	Sydney Opera House Trust
237	Sydney Opera House Trust Staff Agency
238	Sydney Trains
239	Sydney Water Corporation
240	TAFE Commission (Senior Executives) Staff Agency
241	Taronga Conservation Society Australia/ Zoological Parks Board of NSW
242	Teacher Housing Authority of New South Wales
243	Technical And Further Education Commission
244	Technical Education Trust Fund
245	The Agency for Clinical Innovation

246	The Audit Office of New South Wales
247	The Cabinet Office
248	The Council of The Law Society of New South Wales (also known as The Law Society of New South Wales)
249	The Legal Services Council
250	The Legislature
251	The NSW Health Foundation
252	The Rice Marketing Board for the State of New South Wales
253	The Sydney Children's Hospitals Network (Randwick and Westmead)
254	Incorporating the Royal Alexandra Hospital for Children The Treasury
255	The Trustee for Historic Houses Trust of NSW
256	The Trustee for John Williams Memorial Charitable Trust
257	The Trustee for Parramatta Regional Park Trust
258	The Trustee for The ANZAC Memorial Building Fund
259	The Trustee for the Jenolan Caves Reserve Trust
260	Transport Asset Manager of New South Wales
261	Transport for NSW
262	Trustees of the Museum of Applied Arts and Sciences Staff Agency
263	Venues NSW
264	Veterinary Practitioners Board of NSW
265	Waste Assets Management Corporation
266	Water Administration Ministerial Corporation
267	Water NSW
268	Western NSW Local Health District
269	Western Parkland City Authority
270	Western Parkland City Authority Staff Agency
271	Western Sydney Local Health District
272	Western Sydney Parklands Trust
273	Workers Compensation

- 274 Workers Compensation (Dust Diseases) Board
- 275 Workers Compensation Commission
- 276 Workers Compensation Dust Diseases Authority

2 Non - TBS Agencies

The following are non-TBS Agencies at the Effective Date:

- 1 Ambulance Service of NSW
- 2 Anzac Health and Medical Research Foundation
- 3 Art Gallery of NSW
- 4 Art Gallery of NSW Trust
- 5 Central Coast Local Health District
- 6 Clinical Excellence Commission
- 7 Clinical Support Cluster Northern
- 8 Council of Law Reporting for NSW
- 9 Department Planning and Environment (BIO Banking)
- 10 Eddy Memorial Fund
- 11 ERIC Epsilon REZ HoldCo Pty Ltd as trustee for ERIC Epsilon REZ HoldCo Trust
- 12 Far West Local Health District
- 13 Health Education and Training Institute
- 14 Health Infrastructure
- 15 Health System Support Group
- 16 Healthshare NSW
- 17 Hunter New England Local Health District
- 18 Illawara Shoalhaven Local Health District
- 19 Justice Health and Forensic Mental Health Network
- 20 Legal Aid Commission of NSW
- 21 Mid North Coast Local Health District
- 22 Murrumbidgee Local Health District

23	Nepean Blue Mountains Local Health District
24	New South Wales Treasury Corporation
25	Northern NSW Local Health District
26	Northern Sydney Local Health District
27	NSW Health Foundation
28	NSW Health Pathology
29	NSW Health Service – Central Coast Local Health District
30	NSW Health Service – Illawarra Shoalhaven Local Health District
31	NSW Health Service – Justice Health and Forensic Mental Health Network
32	NSW Health Service – NSW Ambulance Service Division
33	NSW Health Service - The Agency for Clinical Innovation
34	NSW Health Service – The Sydney Children's Hospitals Network (Randwick and Westmead) (Incorporating the Royal Alexandra Hospital for Children)
35	NSW Trustee and Guardian (Trust Funds)
36	RFS Benevolent Fund Limited
37	Royal North Shore Hospital of Sydney
38	South Eastern Sydney Local Health District
39	South Western Sydney Local Health District
40	Southern NSW Local Health District
41	Sydney Local Health District
42	The Agency for Clinical Innovation
43	The Sydney Children's Hospitals Network (Randwick and Westmead) (Incorporating the Royal Alexandra Hospital for Children)
44	The Trustee for Eddy Memorial Trust Fund
45	The Trustee for NSW Rural Fire Service & Brigades Donations Fund
46	The Trustee for T and G Society Scholarship (NSW Railway) Trust Fund
47	Viral Vector Manufacturing Facility Pty Ltd
48	Western NSW Local Health District
49	Western Sydney Local Health District
50	Workers Compensation Nominal Insurer

Schedule 2

Module specific terms and conditions

Part 1 – Additional Terms and Conditions applicable to State Set-off Arrangements

1 Definitions and interpretation

1.1 Definitions

Unless otherwise defined in this Part 1 of Schedule 2 (Module Specific Terms and Conditions), the terms used have the meaning set out below.

Term	Meaning
Actual Credit Balance	for each State Set-off Arrangement, at any time the credit figure (if any) obtained by deducting: <ol style="list-style-type: none">1 the aggregate amount of any debit balances subsisting in the Accounts within a State Set-off Arrangement; from2 the aggregate amount of any credit balances subsisting in the Accounts within a State Set-off Arrangement.
Actual Debit Balance	for each State Set-off Arrangement, at any time the debit figure (if any) obtained by deducting: <ol style="list-style-type: none">1 the aggregate amount of any credit balances subsisting in the Accounts within a State Set-off Arrangement; from2 the aggregate amount of any debit balances subsisting in the Accounts within a State Set-off Arrangement.
Actual Debit Balance Limit	for each State Set-off Arrangement, [REDACTED] in Australian dollars or such other amount as may be agreed by the Treasurer and the Service Provider in writing from time to time.
Charge Account	for each State Set-off Arrangement, the State's account with the Service Provider, nominated in writing by the Treasurer for crediting of interest due on the Actual Credit Balance, or such account as the Treasurer and the Service Provider agree from time to time, but does not include a bank account of an Agency.

Drawing	in relation to an Account within a State Set-off Arrangement, any transaction that results in or, if effected, would result in a debit to that account, regardless of whether the balance is in credit or debit before that transaction. It includes a withdrawal, a payment direction, a direct debit, the payment of a cheque or other payment order, and a repayment, in each case regardless of how requested or directed.
Guaranteed Money	for each State Set-off Arrangement, all money which the State and each TBS Agency with an Account within a State Set-off Arrangement may owe to the Service Provider, now or in the future, for any reason under or in relation to the Accounts within a State Set-off Arrangement or under this Part 1 of Schedule 2 (Module Specific Terms and Conditions).
Nominal Debit Balances	for each State Set-off Arrangement at any time the aggregate amount of any debit balances subsisting in the Accounts within a State Set-off Arrangement.
Nominal Debit Balance Limit	for each State Set-off Arrangement, the amount specified in Schedule 10 (Pricing) (if any) or such other amount as may be agreed by the Treasurer and the Service Provider in writing from time to time.
Primary State Set-off Arrangement	the State Set-off Arrangement in Australian dollars for holding monies of the Consolidated Fund (as defined under the GSF Act).

1.2 Interpretation of this Part 1 of Schedule

References in this Part 1 of Schedule to 'terms and conditions' means this Part 1 of Schedule 2 (Module Specific Terms and Conditions).

Any reference to TBS Agencies means a TBS Agency which is party to a Product Agreement and has an Account within a State Set-off Arrangement.

2 State Set-off Arrangements

- (a) These terms and conditions comprise each of the State Set-off Arrangements.
- (b) The State and the Service Provider agree that the following accounts are within each of the State Set-off Arrangements:
 - (1) any account of a TBS Agency, unless otherwise advised in writing to the Service Provider from time to time by the Treasurer;
 - (2) the Charge Account; and
 - (3) accounts added in accordance with section 3.3,

but not any account subtracted in accordance with section 3.3 and not any account denominated in a currency other than Australian dollars.

- (c) All Parties acknowledge and agree that:
- (1) there may be more than one State Set-off Arrangement; and
 - (2) the terms and conditions in each other section of this Part 1 of Schedule 2 (Module Specific Terms and Conditions) are:
 - (A) read subject to this section; and
 - (B) applied separately to each State Set-off Arrangement.

3 Commitment and Basis of “One Account” for each State Set-off Arrangement

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4 Other Agreements

These terms and conditions only modify the written and implied terms of this Agreement between the State and the Service Provider and any Product Agreement between an Agency and the Service Provider, to the extent necessary to give effect to the express terms of these terms and conditions. So, for example:

- (a) the State and each TBS Agency may operate each account according to its other terms, as if it was not part of the State Set-off Arrangements;
- (b) these terms and conditions do not limit the Service Provider's right to dishonour Drawings to those occasions mentioned in section 3.4; and
- (c) they do not set out all of the fees and charges that the State and each TBS Agency may be obliged to pay in respect of the Accounts within a State Set-off Arrangement and transactions on them.

5 Guarantee

5.1 Guarantee

- (a) Subject to these terms and conditions, including section 5.1(b), the State and each TBS Agency that has an Account within a State Set-off Arrangement jointly and severally and irrevocably guarantees to the Service Provider the due and punctual payment of the Guaranteed Money under or in connection with that State Set-off Arrangement in consideration of the Service Provider, at the request of the State and each TBS Agency, providing or continuing credit to the State and each TBS Agency and not taking immediate action to enforce the State or each TBS Agency's obligations to the Service Provider.
- (b) Notwithstanding any other provision of these terms and conditions:
 - (1) the State and each TBS Agency is only obliged to pay an amount under section 5 of these terms and conditions to the extent that the amounts can be satisfied out of the credit balances in the State's or relevant TBS Agency's Account within a State Set-off Arrangement;
 - (2) without limiting the generality of section 5.1(b)(1) of these terms and conditions, the Service Provider's right to recover from the State and each TBS Agency any amount in respect of the Guaranteed Money is limited to a right to recover an amount not exceeding the amount that can be recovered by exercising the rights set out in section 3.5 of these terms and conditions or by otherwise transferring, combining setting off or applying credit balances in the State's or relevant TBS Agency's Account within a State Set-off Arrangement against amounts owing by the State or relevant TBS Agency under these terms and conditions; and
 - (3) if, after the exercise of the rights referred to in section 5.1(b)(2) of these terms and conditions, any Guaranteed Money remains outstanding, the Service Provider must not take any action, sue or otherwise seek to recover the amount from the State or TBS Agency on any personal covenant.

5.2 Continuing guarantee

The State and each TBS Agency's obligations under this guarantee are continuing and irrevocable. Even though the Service Provider receives payments from or makes arrangements with the State or a TBS Agency, the State and each other TBS Agency is still liable for the Guaranteed Money now and in the future, in accordance with these terms and conditions.

5.3 Unconditional obligation

The State and each TBS Agency's liability under this guarantee is unconditional. It is not affected by anything which might release the State or any TBS Agency from or limit all or part of its obligations, including if:

- (a) the Service Provider does not exercise any of its security or rights against the State or any TBS Agency;
- (b) the Service Provider makes any arrangement, transaction or compromise with the State or any TBS Agency, including one which varies, takes away or limits its security or rights or its freedom to exercise them;

6.3 State Interest Calculation and Distribution

- (a) The State may from time to time provide the Service Provider with a notice in writing specifying which Accounts within a State Set-off Arrangement are to be credited with interest from the Charge Account, or such other account specified by the State from time to time.
- (b) For a State Set-off Arrangement, the rate at which such interest is calculated will be specified by the State by reference to the Reserve Bank of Australia cash rate plus or minus a margin, and may be different for different Accounts within a State Set-off Arrangement.
- (c) The Service Provider must calculate such interest using industry-standard methods based on the end of day ledger balance in the relevant Accounts within a State Set-off Arrangement.
- (d) On the last Business Day of each month, the Service Provider must:
 - (1) facilitate the payment of such interest from the Charge Account, or such other account specified by the State, to the specified Accounts within a State Set-off Arrangement as notified by the State to the Service Provider in accordance with section 6.3(a); and
 - (2) make available to the State, in both PDF and Microsoft Excel formats, a monthly account statement detailing:
 - (A) the date of the statement;
 - (B) the end of day balance (credit or debit) for each Account within a State Set-off Arrangement;
 - (C) the daily interest rate of each Account within a State Set-off Arrangement (credit or debit);
 - (D) the daily interest accrued (credit or debit) on each Account within a State Set-off Arrangement; and
 - (E) the interest paid to each Account within a State Set-off Arrangement pursuant to this section 6.3.
- (e) Promptly following a request from the State, the Service Provider must provide reports, on the same basis as the report described in section 6.3(d)(2), in respect of any previous periods specified by the State.

7 Representations and Warranties

The State represents and warrants to the Service Provider as follows:

- (a) **(status)** all of the TBS Agencies have been lawfully created;
- (b) **(power)** the State has all the necessary power to enter into and perform its obligations under these terms and conditions, to carry out the transactions contemplated by these terms and conditions and to carry on its business as now conducted or contemplated; and
- (c) **(general)** its entry into and performance of its obligations under these terms and conditions does not contravene its enabling legislation or any other law to which it is subject. It has obtained all of the regulatory approvals and

delegations it needs to obtain in order to enter into the arrangement documented in these terms and conditions.

[Contents redacted]

Schedule 3

Service Specification

[Contents redacted]

Schedule 4

Supplemental Service Description

1 General

- (a) The documents (or parts of the documents) set out in section 2 of this Schedule are the Supplemental Service Description for the relevant Module of the Services as specified in section 2 of this Schedule.
- (b) The documents specified below are attached to Attachment A to this Agreement and are extracts from the Service Provider’s Tender that have been modified by agreement between the State and the Service Provider and are incorporated into this Schedule.

2 Supplemental Service Description for Modules

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Schedule 5

Service Levels

[Contents redacted]

Schedule 6

Security Requirements

[Contents redacted]

Schedule 7

Innovation and Continuous Improvement

[Contents redacted]

Schedule 8

Approved Material Sub-Contractors

SUB-CONTRACTOR	SPECIFIC SERVICE IMPACTED	EXTENT OF THE SERVICES IMPACTED
[REDACTED]	[REDACTED]	[REDACTED]
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[REDA		

[REDACTED] [REDACTED] [REDACTED]

Framework Transition-In

1 Methodology

1.1 Framework Transition-In Plan

Unless otherwise agreed in writing by the State, the Framework Transition-In Plan must include:

- (a) identification of the business aspects of the new arrangements including equipment, systems, processes, training and documentation for Agencies and the establishment of the new service delivery structures;
- (b) engagement of stakeholders;
- (c) logical sequencing of tasks and parallel tasking;
- (d) the approach for implementation of the Service Provider Systems and ICT Deliverables;
- (e) training;
- (f) project management disciplines;
- (g) time-line;
- (h) major milestones; and
- (i) governance framework.

1.2 Transition team

- (a) The Service Provider must provide a dedicated implementation manager and team that ensures the quality of the implementation and has the capability to meet the implementation timetable (**Transition Team**).
- (b) The Transition Team must have an appropriate mix of service delivery, technical and project management skill sets.
- (c) Where required by an Agency, the Service Provider must provide assistance, additional resources and support to the Agency for an Agency's transition-in.

Schedule 10

Pricing

[Contents redacted]

Schedule 11

Relationship Management Manual

- (a) The State and the Service Provider must develop and agree the Relationship Management Manual by no later than 30 days prior to the Cut-Over Date (or such later date agreed between the State and the Service Provider in writing). The Service Provider must include content in the Relationship Management Manual reasonably requested by the State and the Service Provider must not unreasonably withhold or delay its agreement to the Relationship Management Manual.
- (b) The Relationship Management Manual shall include provisions relating to the following:
 - (1) partner governance framework;
 - (2) Agency engagement;
 - (3) performance management framework incorporating agreed outcomes and reporting obligations;
 - (4) reporting;
 - (5) account management (including contract management approach, relationship team structure including key Personnel and escalation procedures);
 - (6) innovation approach and support; and
 - (7) risk management plan (including business continuity plan, incident management approach, compliance reporting and regular updates for security and fraud).

Schedule 12

Service Provider Product Terms and Conditions

Part 1 – List of Service Provider Product Terms and Conditions

Name of Service Provider Product Terms and Conditions	Applicable Modules	Description of products and services
NAB Business Payables Service Terms and Conditions	2	NAB Business Payables is the ability to outsource the processing of your accounts payables function to NAB
NAB Business Products Terms and Conditions	0, 1, 2, 3, 4, 5	A range of NAB Business Products, Electronic Banking, NAB Internet Banking and NAB Telephone Banking
NAB Corporate Cheque Account Terms and Conditions	0, 1, 2, 3, 4, 5	The terms governing NAB's Corporate Cheque Account
NAB Professional Funds Account	0, 1, 2, 3, 4, 5	The terms governing NAB's Professional Funds Account
NAB Direct Debit Terms and Conditions	0, 1, 2, 3	Direct Debit where NAB sponsors you as a debit user in BECS
NAB Digital Business Channels Terms and Conditions	0, 1, 2, 3, 4, 5	A range of NAB Digital Business Channels including Payments Services, Account Services, NAB Direct Link and NAB Connect
NAB Foreign Currency Accounts Onshore Terms and Conditions	0, 4	NAB Foreign Currency Accounts allow you to make or receive payments in foreign

Name of Service Provider Product Terms and Conditions	Applicable Modules	Description of products and services
		currency without having to convert to or from AUD first
Notional Pooling Services Terms And Conditions	0, 1	NAB's Notional Pooling Services provides for other set-off arrangements and a pooled account structure without a right of set-off (not applicable to State Set-off Arrangements).
NAB Liquidity Management Service – Services Agreement Part A	0, 1	NAB's Liquidity Management Service provides visibility and control over your cash.
NAB Liquidity Management Service – Services Agreement Part B and C	0, 1	NAB's Liquidity Management Service provides visibility and control over your cash.
NAB Liquidity+ Terms of Service	0, 1	NAB Liquidity+ assists with priorities like cash flow forecasting and liquidity management, along with other cash management needs
NAB Merchant Agreement	0, 3	A range of Merchant Services including EFTPOS terminals, online and app payment solutions, and eCommerce
NAB Transact Terms and Conditions	0, 3	An online and eCommerce payment solution that allows you to process online, phone and mail order payments.
NAB Purchasing and Corporate Card Conditions of Use	0, 5	NAB Purchasing and Corporate Cards are customised credit cards that enable you to control your

Name of Service Provider Product Terms and Conditions	Applicable Modules	Description of products and services
		cashflow and business expenses
NAB Purchasing and Corporate Card Facility Terms and Conditions	0, 5	NAB Purchasing and Corporate Cards are customised credit cards that enable you to control your cashflow and business expenses
NAB Corporate Card Purchasing Electronic Banking Terms and Conditions	0, 5	NAB Purchasing and Corporate Cards are customised credit cards that enable you to control your cashflow and business expenses
NAB FlexiPurchase Terms of Service Agreement	0, 5	An effective and secure online expense management system that integrates with NAB Purchasing and Corporate Cards

For clarity the following products and services referred to in the Service Provider Terms and Conditions and listed below are not Products and Services under this Agreement:

Name of Service Provider Product Terms and Conditions	Applicable Modules	Description of products and services
NAB Business Products Terms and Conditions	0, 1, 2, 3, 4, 5	NAB Community Fee Saver Account; NAB Business Interest Account; NAB GST Business Offset Account (Farmer); or NAB Business Cash Maximiser

Part 2 – Service Provider Product Terms and Conditions, further provisions

- (a) If any of the Service Provider Product Terms and Conditions refer to other product terms and conditions or application forms which are not set out in this Schedule 12 (Service Provider Product Terms and Conditions), in accordance with clause 13 such product terms and conditions and application forms are Additional Standard Terms and Conditions. These Additional Terms and Conditions do not form part of this Agreement or a Product Agreement, unless they are agreed in writing by the State as an Agreement Contract Change, as an amendment to this Schedule 12 (Service Provider Product Terms and Conditions).
- (b) Any account authority forms or identification forms or similar forms referred to in the Service Provider Product Terms and Conditions are those forms as agreed between the State and the Service Provider or the Agency and the Service Provider from time to time (agreement not to be unreasonably withheld or delayed). Such forms are not attached to this Schedule 12 (Service Provider Product Terms and Conditions) and are not Service Provider Product Terms and Conditions (as defined in this Agreement), but are documents incorporated by reference into the Service Provider Product Terms and Conditions.
- (c) Any documents or parts of documents, which are manuals, user instructions or operational documents referred to in any of the Service Provider Product Terms and Conditions are not Service Provider Product Terms and Conditions, but are documents or parts of documents incorporated by reference into the Service Provider Product Terms and Conditions and are subject to the process of agreement applying to Procedures and Protocols and any variations to them are subject to the Operational / Technical Change Management Procedure set out in clause 19.5 of this Agreement.
- (d) Any documents or parts of documents, which are product information documents or documents which describe the Products and Services and are referred to in any of the Service Provider Product Terms and Conditions are not Service Provider Product Terms and Conditions (as defined in this Agreement), but are documents or parts of documents which are incorporated by reference into the Service Provider Product Terms and Conditions and fall within item (2) of the definition of Requirements / Specifications.
- (e) For the avoidance of doubt the Parties acknowledge that some of the Service Provider Product Terms and Conditions may have details to be completed and, subject to compliance with the other provisions of this Agreement, such details will be completed in writing in accordance with the agreement reached between the State or Agency and the Service Provider for the relevant Service Order.

Annexure 1 to Schedule 12

Copies of Service Provider Product Terms and Conditions
applying from the Effective Date

[Contents redaction]

Schedule 13

Template Service Order

Service Order and Product Agreement for New South Wales Banking, Payments and Related Services Agreement

Date ►

Between the parties

[Agency details to be inserted]

of [Address to be inserted]

(the "**Agency**")

and

[Insert Service Provider name] (ABN [x])

of [Service Provider address to be inserted]

(the "**Service Provider**").

- | | |
|----------|--|
| Recitals | <p>A. The Treasurer, on behalf of the Crown in the Right of the State of New South Wales and the Service Provider have entered into the New South Wales Banking, Payments and Related Services Agreement dated [insert] (the Master Agreement).</p> <p>B. Under the Master Agreement, Agencies are entitled to order Products and Services from the Service Provider.</p> <p>C. The Service Provider has agreed that it will provide the Products and Services to the Agency in accordance with the terms and conditions of this agreement (Product Agreement or PA).</p> <p>D. This Product Agreement is entered into by [Option 1: the Agency as principal] [Option 2: by the Treasurer on behalf of the Agency pursuant to sections 6.14, 6.18 and 6.21 of the GSF Act] [Option 3: by [insert name and position of delegate], as delegate of the Treasurer on behalf of the Agency pursuant to sections 6.14, 6.18 and 6.21 of the GSF Act] [Option 4: by [other option to be inserted] [Guidance note: Execution block may be used as appropriate]].</p> |
|----------|--|
-

The parties agree as follows:

1 Product Agreement, Products and Services and Pricing

1.1 Services Orders and Product Agreements

- (a) This document shall be interpreted as a separate Service Order under the Master Agreement for each Product and Service ordered in Schedule 1 until a Product Agreement comes into effect.
- (b) A Product Agreement comes into effect for each Product and Service ordered in Schedule 1, when this document is signed by the Agency and the Service Provider. If more than one Product and Service is ordered in Schedule 1, a number of separate Product Agreements therefore come into effect.
- (c) The terms and conditions of each Product Agreement are as set out in clause 5.3(b) of the Master Agreement.

1.2 Products and Services

Schedule 1 specifies the Products and Services ordered under this document.

1.3 Pricing

Schedule 2 specifies the Fees and Charges for any Products and Services which are "Quoted".

2 Additional documentation

2.1 [Agency Transition-In Plan]

[Schedule 3 attaches any Agency Transition-In Plan, which has been agreed by the Parties at the date of this document.] **[Guidance note: The Parties may attach any Agency Transition-In Plan to Schedule 3. The Parties may also agree Agency Transition In-Plans and not attach them to Schedule 3. If Transition-In Services are important it is recommended that the Agency Transition-In Plan is agreed prior to signing of this document.]**

2.2 [Agency Specific Protocols and Procedures and Requirements/Specifications]

Schedule 3 attaches Protocols and Procedures and Requirements/ Specifications specific to an Agency which have been agreed by the Parties at the date of this document, applicable to certain Products and Services ordered in Schedule 1. **[Guidance note: Under clause 19.5 of the Master Agreement, Protocols and Procedures are to be agreed between the State and the Service Provider. The State may agree these Protocols and Procedures to apply to all or some Agencies for some Products and**

Services. Schedule 3 is intended for attaching Agency specific Protocols and Procedures, agreed by the Parties. Similarly the Master Agreement already incorporates Requirements/ Specifications for the Products and Services. In some instances, however, the Parties will wish to agree additional Requirements/Specifications which could be attached to Schedule 3.]

2.3 [Agency Specific Service Provider Product Terms and Conditions]

Schedule 3 attaches completed forms of the Service Provider Product Terms and Conditions specific to an Agency which have been agreed by the Parties at the date of this document, applicable to certain Products and Services ordered in Schedule 1, as contemplated by paragraph (f) of Part 2 of Schedule 12 (Service Provider Product Terms and Conditions) of the Master Agreement. ***[Guidance note: Under this paragraph, certain Service Provider Product Terms and Conditions are to be agreed between the Agency and the Service Provider.]***

3 Other provisions

[Guidance Note: Insert here any additional provisions required. In accordance with clause 5.3(b)(2), provisions which are inconsistent with the Master Agreement must not be incorporated. In general, it is anticipated that no additional provisions will be required.]

4 Miscellaneous

4.1 Definitions and interpretation

- (a) Unless the context requires otherwise, terms not defined in this document have the meaning given to them in the Master Agreement.
- (b) Any reference to a clause or provision of the Master Agreement includes that clause or provision incorporated into this document.

4.2 Notices

The Agency's address for Notices in accordance with clause 42(b) of the Master Agreement is:

Title:

Address:

Email:

Attention:

4.3 Governing Law and Jurisdiction

- (a) Each Product Agreement is governed by the law in force in New South Wales.

- (b) Each Party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with each Product Agreement. Each Party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

4.4 Counterparts

- (a) This document may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A Party may execute this document by signing any counterpart.
- (d) A Party may sign this document, and any variations to it or any resulting Product Agreement, by electronic means where permitted by Law. Each Party consents to the other Party signing by electronic means and may not subsequently challenge the validity of this document or any resulting Product Agreement on the grounds of consent or the effectiveness of the chosen execution method.

Schedule 1

Products and Services

1 General

- (a) Products and Services ordered under this document are set out below.
- (b) [Each numbered item is a separate Product and Service and is a separate Service Order and is subject to a separate Product Agreement.]
- (c) The Services Commencement Date for each Product and Service is the date set out below, or such other date otherwise agreed in writing between the Parties for that Product and Service.

2 Products and Services ordered

<u>Item</u>	<u>Product and Service</u>	<u>Applicable Product Terms and Conditions</u>	<u>Ordered (Y/N)</u>	<u>Services Commencement Date</u>
	Insert name of service			

Schedule 2

Pricing for ['Quoted'] Fees and Charges

[/To be inserted/]

Schedule 3

Additional documentation

[Guidance Note: Attach any additional documentation as described in clause 3.]

Signing page for Product Agreement

Executed as an agreement

[Guidance Note: Relevant execution block to be used.]

Option 1

Signed on behalf of [Agency] by its authorised representative, but not so as to incur personal liability

sign here ► _____
Signature of [Insert Name / Position]

print name _____

in the presence of

sign here ► _____
Witness

print name _____

Option 2

[Option 1: Signed by the Treasurer on behalf of the Agency pursuant to sections 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW), but not so as to incur personal liability] [Option 2: Signed by [insert name and position of delegate], as delegate of the Treasurer on behalf of the Agency pursuant to sections 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW), but not so as to incur personal liability]

sign here ► _____
Signature of [Option 1: The Hon. Daniel Mookhey
MLC, Treasurer [Option 2: Delegate]

print name _____

in the presence of

sign here ► _____
Witness

Agency - Option 3

[Guidance note: Execution block may be used as appropriate]

Service Provider – Option 1

Signed for
[insert Service Provider]
by its attorney under a power of attorney
dated [insert]

in the presence of

sign here ► _____
Attorney

sign here ► _____
Witness

print name _____

print name _____

Service Provider – Option 2

Signed for
[insert Service Provider]
by its authorised representative

in the presence of

sign here ► _____
Representative

sign here ► _____
Witness

print name _____

print name _____

Schedule 14

Template Amending Deed

Amending Deed

Date ►

Between the parties

[insert name and position of delegate], as delegate of the Treasurer, pursuant to sections 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW), on behalf of the Crown in the Right of the State of New South Wales

(the "**State**")

and

[Insert Service Provider name] (ABN [x])

of [Service Provider address to be inserted]

(the "**Service Provider**").

Recitals

- A. The Treasurer, on behalf of the Crown in the Right of the State of New South Wales and the Service Provider have entered into the "New South Wales Banking, Payments and Related Services Agreement" dated [insert date], [as amended from time to time] (**Master Agreement**).
- B. In accordance with clause 19.2 of the Master Agreement, the parties want to amend the Master Agreement by way of an Agreement Contract Change in the manner set out in this deed.

The deed witnesses as follows:

1 Definitions, interpretation and deed components

1.1 Definitions

In this deed, a word or phrase defined in the Master Agreement has the same meaning as in the Master Agreement.

1.1 Interpretation

Clauses 1.3 and 1.4 of the Master Agreement apply to this deed.

2 Agreement Contract Change

2.1 Amendment to Master Agreement

With effect on and from the date of this deed:

- (a) [insert amendment/s here or refer to and attach Annexure].

2.2 Amendments not to affect validity, rights, obligations

- (a) This deed is intended only to vary the Master Agreement and not to terminate, discharge, rescind or replace it.
- (b) The amendments to the Master Agreement do not affect the validity or enforceability of the Master Agreement.
- (c) Nothing in this deed:
- (1) prejudices or adversely affects any right, power, authority, discretion or remedy which arose under or in connection with the Master Agreement before the date of this deed; or
 - (2) discharges, releases or otherwise affects any liability or obligation which arose under or in connection with the Master Agreement before the date of this deed.

2.3 Confirmation

- (a) On and with effect from the date of this deed, each party is bound by the Master Agreement as amended by this deed.
- (b) All other provisions of the Master Agreement remain in full force and effect between each Party.

2.4 Acknowledgement

Each party acknowledges that this deed is:

- (a) issued in accordance with the Master Agreement; and
- (b) an Agreement Contract Change in accordance with clauses 19.2(d) and 19.2(f) of the Master Agreement.

3 General

3.1 Governing law and dispute resolution

The dispute resolution and governing law provision set forth in clause 43 and 44.1 of the Master Agreement apply to this deed.

3.2 Further action to be taken at each party's own expense

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this deed and the transactions contemplated by it.

3.3 Counterparts and electronic execution

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A Party may execute this deed by signing any counterpart.
- (d) A Party may sign this deed, and any variations to this deed, by electronic means where permitted by Law. Each Party consents to the other Party signing by electronic means and may not subsequently challenge the validity of this deed on the grounds of consent or the effectiveness of the chosen execution method.

3.4 Notices

A Notice given under this deed must be given in accordance with the Master Agreement.

Executed as a deed

Signed sealed and delivered pursuant to section 6.14, 6.18 and 6.21 of the *Government Sector Finance Act 2018* (NSW) by [insert name and position of delegate], as delegate of the Treasurer on behalf of the Crown in the Right of the State of New South Wales but not so as to incur personal liability, in the presence of:

sign here



Signature of [insert name and position of delegate]

*print
name*

in the presence of

sign here



Witness

*print
name*

insert date

Service Provider

Signed sealed and delivered for
[insert Service Provider]
by its attorney under a power of
attorney dated **[insert]** in the presence of

<i>sign here</i> ▶	_____	<i>sign here</i> ▶	_____
	Attorney		Witness
<i>print name</i>		<i>print name</i>	
Signature of attorney who declares that the attorney has been appointed as an attorney under the power of attorney and that the attorney has not received any notice of the revocation of the power of attorney.		_____	

Schedule 15

Policy Requirements

Aboriginal, SME and Local Participation Plan

Aboriginal, SME and Local Participation Plan Template

The Aboriginal Procurement Policy (2021) requires that suppliers submit an Aboriginal Participation Plan for all projects valued at \$7.5m or above with their tender documents.

The SME and Regional Procurement Policy (2021) requires that suppliers submit an SME & Local Participation Plan which references SME and NSW specific content for all goods and services contracts valued at \$3m or above.

This plan is the supplier's commitment to APP, SME and Local content on the project. Plans will be finalised with the agency contract manager upon contract award and suppliers will be required to report progress against the plan quarterly.

NOTE: this is a template only and indicates the required information. Agencies may allow suppliers to use other formats, and may amend as appropriate to meet the objective of the procurement.

This plan is for goods and services contracts over \$7.5 million. An Aboriginal, SME and Local Participation Plan is required (the Aboriginal Procurement Policy and SME and Regional Procurement Policy applies.)

Contracting agency	NSW Treasury Corporation
Project Name & ID	NSW Banking, Payments, and Related Services Tender
Project Location	Sydney, 2000, Australia
Project start date	April 2025
Expected project end date	31 March 2030 (at a minimum, acknowledging the possible extension timeframes).
Supplier name and contact details	National Australia Bank Limited ("NAB")
Supplier ABN	12 004 044 937
Are you an Aboriginal business?	No
Is your business recognised as an Aboriginal business by:	Please tick appropriate response: <input type="checkbox"/> Supply Nation <input type="checkbox"/> NSW Indigenous Chamber of Commerce <input checked="" type="checkbox"/> None of the above

Guidance for agencies:

This template has been provided to meet the requirements of participation plans for the following type of contracts:

- Goods and services contracts between \$3 million and \$7.5 million
- Goods and services contracts over \$7.5 million

- **Commitments in red** will be contractually binding for the chosen supplier(s)

For suppliers:

Commitments in red will be contractually binding should you be chosen as the supplier.

Plans will be finalised with the agency contact upon contract award and suppliers will be required to report progress against the plan quarterly.

1. SME Content Commitments

Please include for Goods and services contracts over \$3 million.

Supplier notes:

Please complete as many fields as possible, including if you are an SME supplier and where there are SME subcontracting opportunities.

Subcontracting opportunities with an SME may also be with an Aboriginal business that is an SME (please note where this occurs).

SME Content Commitments	
SME status	<p>Are you an SME (Australian or New Zealand based enterprises with fewer than 200 full-time equivalent employees)?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>If you are an SME, you are not required to complete or report on the three fields below, however, you can complete as much as possible of the three fields below.</p>
SME Subcontracting (Subcontracting with an Australian or New Zealand based enterprises with fewer than 200 full-time equivalent employees)	<p>List of SME (Australian or New Zealand based enterprises with fewer than 200 full-time equivalent employees) subcontractors (indicating when this is an Aboriginal-owned supplier):</p> <ul style="list-style-type: none"> • Description of good or service to be procured, name of SME subcontractor, ABN, value of good or service, percentage of contract value (E.g. office furniture- desks and chairs, Office Supplies XYZ, 12 345 678 901, \$5000, 2% of contract value) • Description of good or service to be procured, name of SME subcontractor, ABN, value of good or service, percentage of contract value • Description of good or service to be procured, name of SME subcontractor, ABN, value of good or service, percentage of contract value <p>Add or remove bullet points as necessary</p> <p>Number of SME subcontractors: <u> 2 </u></p> <p>NAB is a national enterprise with a strong global footprint. The conduct and performance of our suppliers can have a significant impact on our sustainability as a business, as well as our reputation within the communities we operate in. We're committed to making sure the practices of all the businesses within our Group are fair, responsible, and sensitive to the needs of our stakeholders.</p>
SME participation commitment	<p>Estimated value of products/goods procured from SMEs: <u>\$_0*_</u></p> <p><i>Non labour components of contract</i></p>

	<p>*Estimated value of products/good to be procured from SMEs is estimated based on NAB's current offering regarding the below:</p> <p>Liquidity Management Service Provision of the Liquidity Management Service platform provider for sweeping, pooling and account structure reporting:</p> <table><tr><th>Service</th><th>Price</th><th>Estimated Spend</th></tr><tr><td>Annual Licence</td><td>\$200,000</td><td rowspan="2">\$405,000 per year</td></tr><tr><td>Annual Maintenance contract (resourcing)</td><td>\$205,000</td></tr></table> <p>Merchant Acquiring Please refer to below table proposing tiered estimated spend were NAB successful for terminal procurement using Quest terminals.</p> <table><tr><th>Quantity (Terminals)</th><th>Price</th><th>Estimated Spend*</th></tr><tr><td>300</td><td>\$1000</td><td>\$300,000</td></tr><tr><td>500</td><td>\$1000</td><td>\$500,000</td></tr><tr><td>1000</td><td>\$1000</td><td>\$1,000,000</td></tr><tr><td>3000</td><td>\$1000</td><td>\$3,000,000</td></tr></table> <p>Estimated value of services/labour procured from SMEs: \$ _0*_ <i>All costs related to time spent by an employee or subcontractor in contract delivery</i></p> <p>*Total terminal cost would potentially include labour components.</p>	Service	Price	Estimated Spend	Annual Licence	\$200,000	\$405,000 per year	Annual Maintenance contract (resourcing)	\$205,000	Quantity (Terminals)	Price	Estimated Spend*	300	\$1000	\$300,000	500	\$1000	\$500,000	1000	\$1000	\$1,000,000	3000	\$1000	\$3,000,000
Service	Price	Estimated Spend																						
Annual Licence	\$200,000	\$405,000 per year																						
Annual Maintenance contract (resourcing)	\$205,000																							
Quantity (Terminals)	Price	Estimated Spend*																						
300	\$1000	\$300,000																						
500	\$1000	\$500,000																						
1000	\$1000	\$1,000,000																						
3000	\$1000	\$3,000,000																						
SME participation percentage	Percentage of contract spend estimated to be with SMEs: _5_%																							

2. SUSTAINABILITY COMMITMENTS

a) Sustainability outcomes (Optional)

- Please include for Goods and services contracts over \$3 million

Please fill out as many fields as possible, if there are opportunities for other sustainability commitments in the contract.

Sustainability Commitments (Optional)	
Support of the government's economic, ethical, environment and social priorities	<p>NAB's approach to sustainability focuses on serving our customers well and helping our communities prosper. Sustainability is embedded in the long-term pillar of NAB's strategy in recognition of the impact that successfully managing sustainability matters can have on our business and the environment and communities we operate in.</p> <p>We aim to help solve society's biggest challenges by providing capital and expertise. NAB has prioritised the areas where it can have the biggest positive impact:</p> <ul style="list-style-type: none"> Climate action – transitioning the economy to net zero and helping Australians withstand and recover from natural disasters Affordable and specialist housing Indigenous business <p>NAB Foundation and community grants As part of NAB's commitment to social and ethical responsibility under the banner of sustainability, NAB has set up the NAB Foundation. NAB Foundation uses philanthropy, social investment, and in-kind support to</p>

	<p>fund social and environmental progress in the Australian communities served by the NAB Group. Since 2021, NAB Foundation has awarded grants of up to \$10,000 each to more than 200 local and regional communities across Australia. Community Grants support initiatives that help prepare people, homes, businesses, towns, cities, and our environment for natural disasters, and support long-term recovery and resilience. The NAB Foundation has supported local NSW communities via its community grants including:</p> <ul style="list-style-type: none"> • The NSW Rural Doctors Network, which is a charitable organisation which seeks to improve access to health and social services for remote, rural, regional, and disadvantaged communities. This grant will fund Australian Life Support workshops which provide a set of life-saving protocols and skills for cardiac emergencies to rural GPs in bushfire and flood affected regions, promoting community cohesion and equitable health access in emergency situations for community members with hearing impairments; • Early Links Inclusion Support Services, which assists people with disabilities and developmental delays in the Hunter region by providing immediate support, therapy to clients, inclusive events and programs designed to promote positive mental and physical wellbeing and increase community engagement. This grant will fund a community hub in Muswellbrook an area impacted by bushfires and the 2022 floods, creating a welcoming, inclusive space for families of those with additional needs, to socialise and build connections and receive direct assistance after being impacted by natural disasters; and • Reforest Now, which is a charity based in Brunswick Heads, NSW. Reforest Now focuses on rainforest planting and regeneration. This grant will fund the planting of 1800 disaster-resistant trees along Wilson's River near Lismore, improving the land by increasing both species diversity and resilience. <p>Volunteering and Giving</p> <p>NAB encourages its employees to give back to the community, for more than 20 years, our colleagues have led one of the largest corporate volunteering and giving programs in Australia. NAB colleagues receive 16 hours of general volunteer leave and unlimited skilled volunteer leave each year. In 2023, our colleagues contributed more than 42,000 hours of volunteer work and donated more than \$526,000. Our 30,000 colleagues use NAB Neighbourhood, a technology platform, to create fundraisers, donate to the causes that matter most to them, take part in volunteering opportunities, and organise their own volunteering. In 2023, NAB Neighbourhood has been used to support the Royal Agricultural Society of NSW which helps to build strong, sustainable, and resilient rural and regional communities in NSW, by providing scholarships for education and training, and grants for community development.</p> <p>Climate action</p> <p>NAB's climate ambition is to act as a catalyst for climate action, by supporting emissions reduction and aligning with pathways to net zero by 2050, consistent with a maximum temperature rise of 1.5°C above pre-industrial levels by 2100. This approach is underpinned by core beliefs:</p> <ul style="list-style-type: none"> • climate transition can create growth for the economy
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	<ul style="list-style-type: none"> • management of climate transition is core to the NAB's business, not an adjacency • NAB will be relationship-led, supported by strong enabling capabilities and external targets will be science-based • aligned with a growth strategy <p>Detailed information on NAB's climate action can be found in the 2023 Climate Report.</p> <p>'NAB Ready Together' is NAB's program to bring together philanthropy, volunteering, and investment in nature-based solutions to build resilience. In 2023, NAB and NAB Foundation announced a flagship partnership, providing \$1M in funding to help Disaster Relief Australia (DRA) to bolster its community and corporate volunteer capacity over the next two years. The partnership will assist DRA to recruit and manage more than 3,000 community members on stand-by to volunteer.</p> <p>Affordable and specialist housing</p> <p>Australia is facing a serious shortage of social and affordable housing. As the cost of living continues to increase, the need for affordable housing has come into sharper focus. NAB recognises its responsibility to help Australians into suitable housing and is determined to play a leadership role in providing greater supply of safe and affordable homes. This year NAB has set a new target to lend at least a further \$6B by 2029 to help more Australians access affordable and specialist housing. During 2023, a total of \$2.2B was provided towards this target. Priority areas include specialist disability accommodation, development of social and affordable housing projects, and access to finance for low-income earners and essential workers through Government-supported housing schemes.</p> <p>More information on NAB's commitment to affordable and specialist housing can be found on website https://news.nab.com.au/news/nab-lending-more-to-affordable-and-specialist-housing-solutions/.</p> <p>Indigenous business</p> <p>As Australia's largest business bank, NAB is well placed to drive growth in Indigenous business and employment opportunities that can help Indigenous Australians prosper. In 2023, NAB announced its target to lend \$1B to Indigenous businesses by 2026. NAB also launched its Indigenous business strategy and has invested in a new team of bankers specialising in support for Indigenous businesses in each state. The team support Indigenous businesses by providing industry, government policy, Indigenous culture, and credit opportunity insights to the NAB banking team and connecting NAB's customers to external business advisors and financial capital providers from government and Indigenous NGOs.</p> <p>For NAB, a reconciled Australia is one where all Australians understand and acknowledge shared history, where there is equality and unity, respect and trust and the social and economic gap between Indigenous Australians and other Australians is closed. NAB was the first Australian corporate business to achieve Elevate Reconciliation Action Plan (RAP) status in 2013.</p> <p>We've created an interim plan for 2022-2023 and have recently applied for our next three-year 'Elevate' RAP. We understand that big change requires significant consultation and genuine commitment, planning and resource allocation.</p>
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	<p>In 2022, NAB unveiled the “Walking Together” star to illustrate recognition of Indigenous Australians contribution to culture, and NAB's ambition to support their financial inclusion and economic aspirations. The “Walking Together” star was displayed during the AFL Sir Doug Nicholls round and the ‘Dreamtime’ match in 2023.</p> <p>Sustainability scorecard NAB aims to be respectful, responsive, open, and authentic when engaging with all stakeholders on the topic of sustainability. To maintain transparency, every year in the Annual Report, NAB includes a ‘sustainability scorecard’ which highlights the key targets and key measures to show NAB’s progress in meeting key sustainability goals. Please see page 25 of the 2023 Annual Report for the 2023 sustainability scorecard.</p>
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b) Local Participation

Please include for Goods and services contracts over \$3 million

Please complete as many fields as possible, including if there are opportunities for local content in the contract.

Local Participation Commitments (where possible) Note: For the purpose of the SME and Local Participation Plan, local content is defined as: goods produced, services provided, and labour supplied by the NSW industry	
NSW jobs	<p>Number of FTEs in NSW (where possible): 6,289___</p> <p>As a recognition of NSW’s position as the premier state to do business in, NAB has had a long and large presence in terms of branches, functions, and people in NSW. Apart from our large presence in Sydney CBD and regional branch footprint, acknowledging the fast growing Greater Western Sydney area and wanting to invest in alternatives to CBD, we have in the past few years put in a new building in Parramatta bringing jobs closer to where people live, consistent with NSW Government’s objectives. These growth measures have seen our total employee count in NSW reach 6,289.</p>
NSW content value	<p>Total estimated value of products/goods procured in NSW (where possible): \$</p> <p><i>Non labour components of contract (detailed above)</i></p> <p>Total estimated value of services/labour procured in NSW (where possible): \$</p> <p><i>All costs related to time spent by an employee in contract delivery</i></p> <p>NSW Spend: \$2.5B (excl. property), spent with businesses registered in NSW.</p> <p>NAB is a national enterprise with a strong global footprint. The conduct and performance of our suppliers can have a significant impact on our sustainability as a business, as well as our reputation within the communities we operate in. We’re committed to making sure the practices of all the businesses within our Group are fair, responsible, and sensitive to the needs of our stakeholders.</p>

NSW Capital Expenditure	<p>Estimated value of capital expenditure in NSW (where possible): \$50M</p> <p>As a large business and personal bank, we have had a material presence and commitment to the state of NSW. Our annual capex is up to \$50M on property projects across the state of NSW most of which is improving/ adding to our network in NSW to more effectively serve our NSW based clients. Additionally, we support the NSW economy by way of rent paid to the tune of \$132M per annum.</p> <p><i>This figure is separate from your tender value. It is the total value of capital investment (spend by your business), for example building, leasing or procuring infrastructure that benefit NSW communities. Either purchased in NSW or to be retained in the state and to be used as part of the contract delivery. Previously purchased assets are to be calculated at a depreciated value.</i></p>
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c) Aboriginal Participation Commitments

Please include for the following contracts:

- Goods and services contracts over \$7.5 million

Aboriginal Participation requirements	
Estimated contract value	Based on an incremental panel participation we estimate contract value in the range of \$3M to \$7.5M.
Exclusions	<p>List the exclusion items and approximate value of the exclusion that you will be seeking to negotiate with the contracting agency. For example:</p> <ul style="list-style-type: none"> • Lease of land adjacent to project site: \$80,000 • Hire of construction machinery: \$50,000
Project value	Based on an incremental panel participation we estimate contract value in the range of \$3M to \$7.5M, conditional upon the allocated services provided through the contract, calculated annually in arrears.
Aboriginal participation percentage	Subject to the project value, NAB will endeavour to meet or exceed 1.5% of the project value.
Value of Aboriginal participation	Subject to the project value, NAB will endeavour to meet or exceed a value of \$45,000 to \$112,000.
<p>Plan to meet Aboriginal participation requirements (if you are an Aboriginal business, you do not have to proceed further on this form).</p> <p>Aboriginal participation requirements may be met in the following ways:</p> <ul style="list-style-type: none"> • A minimum 1.5% of project value directed toward Aboriginal businesses through sub-contracting • A minimum 1.5% of the project workforce to be Aboriginal people across the life of the project • A minimum 1.5% of the project value directed toward capability and capacity building of Aboriginal people or businesses • Or, a combination of these options. 	
Subcontracting	NAB's commitment to Indigenous business success and economic development includes a two-pillar approach of providing specialist banking services and procuring the goods and services of Indigenous businesses. We understand the role we must play in both areas to support Indigenous business success.

	<p>In May 2023, NAB signed a Master Services Agreement with the Indigenous Defence Infrastructure Consortium. The Master Services Agreement allows access over 100 First Nations Businesses within the consortium. If successful, we plan to further engage with IDIC to meet our APP requirements.</p>
Employment	<p>Our commitment to fostering an inclusive environment where First Nations employees thrive is ingrained in our corporate ethos. We prioritise supporting the success of First Nations colleagues within our workforce, valuing their contributions, and providing avenues for meaningful career progression in financial services.</p> <p>Since 2016, NAB has demonstrated steadfast dedication through a decade-long partnership with CareerTrackers, a not-for-profit organisation facilitating internship opportunities for First Nations university students.</p> <p>As a proud 10x10 Partner with CareerTrackers, we have committed to annually intake a minimum of 10 First Nations interns for 10 years. To date, we have proudly hosted 127 First Nations internships, underscoring our ongoing commitment to this partnership and the empowerment of First Nations talent.</p> <p>In addition to our collaboration with CareerTrackers, NAB actively engages with partners such as Maxima, MEGT, and Aboriginal Employment Strategy (AES) to provide School-Based and Adult Traineeships.</p> <div>    </div> <p>These programs serve as invaluable platforms for building practical workplace skills within the banking and finance sector while obtaining nationally accredited qualifications. Since our inaugural partnership over 20 years ago, we have facilitated over 120 traineeships, further solidifying our dedication to fostering diverse talent pipelines.</p> <p>NAB remains steadfast in our commitment to advancing diversity, equity, and inclusion within our workforce, and we look forward to continuing to cultivate partnerships and initiatives that empower First Nations colleagues to thrive within the financial services industry.</p>
Education, training or capability building for Aboriginal staff or businesses	<p>NAB is committed to creating an environment that creates lifelong learning. If successful, we will work with both our First Nations colleagues and businesses to identify suitable opportunities for education, training, and professional development.</p>
Past Aboriginal participation compliance history	
Please indicate whether your business is currently, or has previously been, subject to Aboriginal participation requirements on a NSW Government project and if so, please indicate how it has performed against its commitments.	<p>Please refer to NAB's Annual Report and future reporting will be provided annually in a manner consistent to our Annual Reporting suite.</p>

Attachment A

Selected Tender documents

1 General

This Attachment A attaches documents from the Service Provider's Tender. The documents (or parts of the document) are only incorporated into this Agreement, to the extent expressly provided for in Schedule 4 (Supplemental Service Description) or Annexure 1 (Innovation and Transformation Commitments) to Schedule 7 (Innovation and Continuous Improvement).

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[Contents redacted]