



# **Power and Water Corporation Goods and Services - Simplified Terms**

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## TERMS AND CONDITIONS

### 1. FORMATION OF CONTRACT

- (a) A binding contract is formed when Power and Water Corporation (ABN 15 947 352 360) (**PWC**) issues a purchase order or 'notice of acceptance' (**Order**) to the person or entity referenced in the Order (**Supplier**) in connection with the Supplier's response to the relevant request documentation issued by PWC for the: (a) Goods; (b) Services; or (c) Goods and Services (**Goods and/or Services**).
- (b) The contract referred to in clause 1(a) (**Contract**) will be between PWC and the Supplier, and will be comprised of:
  - (i) the Order (which may be comprised of one or more documents);
  - (ii) the relevant request documentation issued by PWC (including, without limitation, all documents setting out the scope of, and PWC's requirements for, the Goods and/or Services issued by PWC prior to the issue of the Order);
  - (iii) the relevant parts of the Supplier's response to that request documentation specifying the Goods and/or Services and charges; and
  - (iv) these terms and conditions.
- (c) The terms and conditions of this Contract, being those contained in the documents described in clause 1(b), will apply to the exclusion of any other terms and conditions not contained within the documents described in clause 1(b), including any such terms and conditions that are or may be:
  - (i) contained in, or endorsed upon:
    - (A) the other parts of the Supplier's response to the request documentation issued by PWC not covered by clause 1(b), being those parts that do not specify the Goods and/or Services and charges; and
    - (B) any correspondence, invoices or documents issued by the Supplier in connection with this Contract; or
  - (ii) otherwise stated by the Supplier.
- (d) Nothing in this Contract prohibits PWC from acquiring goods or services that are the same as or similar to the Goods and/or Services at any time from any other person.

### 2. TERM

Unless otherwise specified in the Order, this Contract continues until the completion of the Supplier's obligations under this Contract.

### 3. SUPPLY OF GOODS AND PROVISION OF SERVICES

#### *Supply of Goods and Provision of Services*

- (a) On and from the issue of the Order, PWC appoints the Supplier, and the Supplier agrees, to:
  - (i) deliver the goods required by PWC (if any) as specified in this Contract (**Goods**); and
  - (ii) provide:
    - (A) the services required by PWC (if any) as specified in this Contract;

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- (B) any incidental or related services not specifically described in this Contract that are reasonably required for the proper provision of the services specified in this Contract; and
- (C) any outputs of the services specified in clauses 3(a)(ii)(A) and 3(a)(ii)(B) (**Deliverables**),
- (subclauses (A), (B) and (C) together the **Services**).
- (b) The Supplier must provide the Goods and/or Services:
- (i) in a timely, efficient, diligent and proper manner using reasonable care, skill and diligence;
  - (ii) to the location specified in this Contract (or, where applicable, the relevant Order) or as otherwise reasonably necessary and directed in writing by PWC before the relevant time for provision of the Goods and/or Services;
  - (iii) in accordance with the timetable specified in this Contract or, if no timetable is specified, in accordance with the reasonable timeframes specified by PWC;
  - (iv) to meet or exceed any key performance indicators specified in this Contract;
  - (v) using any particular resources or Personnel of the Supplier expressly set out in this Contract (for example, a particular named person);
  - (vi) in accordance with all applicable laws and regulations, best industry practice and the reasonable direction of PWC; and
  - (vii) otherwise in accordance with this Contract.
- (c) The Goods and/or Services must comply with the standards, specifications and requirements specified in this Contract.
- (d) The Goods must be appropriately packaged prior to delivery and all relevant markings and labels shown on or attached to all packages. The Supplier must not charge PWC for any packaging or shipping costs (save to the extent expressly set out in this Contract) and PWC is under no obligation to return any packaging (including any crates or pallets) to the Supplier.

*Supplier's Response*

- (e) If directed by PWC, the Supplier must comply with the Supplier's response to the relevant request documentation issued by PWC to the extent that any matter or thing addressed in that response is not provided for in this Contract.

*Resources*

- (f) The Supplier must use a sufficient number of suitably trained, qualified, skilled and experienced Personnel to provide the Goods and/or Services.
- (g) Except to the extent expressly specified otherwise in this Contract, the Supplier must provide all equipment, facilities and other incidental items and materials necessary to provide the Goods and/or Services.

*Location*

- (h) The Supplier must ensure that the Goods and/or Services are only provided from sites from within Australia except where and to the extent PWC, acting reasonably, otherwise authorises particular Goods and/or Services to be provided from sites outside of Australia.

*Variation*

- (i) PWC may, acting reasonably, direct the Supplier in writing to vary the Goods and/or Services, or some aspect of them. PWC must provide the Supplier reasonable notice of any variation to the Goods and/or Services. The charges must be adjusted as contemplated in the Order or otherwise:
  - (i) by reference to the value of the variation and the current charges (for example, if PWC increases or decreases the number of Goods, the charges will be adjusted on a pro rata basis);
  - (ii) in accordance with any updated cost estimate provided by the Supplier and approved by PWC, acting reasonably, in writing; or
  - (iii) in such other manner as the parties may agree at that time in writing.

*Title and Risk to the Goods*

- (j) Without limiting any rights of rejection that PWC may have under this Contract, legal and beneficial title to (and property in) the Goods passes to PWC on the earlier of:
  - (i) delivery of such Goods to PWC; or
  - (ii) payment by PWC for such Goods.
- (k) The Supplier bears the risk of and must indemnify PWC and PWC Personnel against any loss (including loss of use) of, or damage to, the Goods before delivery.

*Title and Risk to the Deliverables*

- (l) Without limiting any rights of rejection that PWC may have under this Contract, legal and beneficial title to (and property in) the Deliverables passes to PWC on the earlier of:
  - (i) delivery of such Deliverables to PWC; or
  - (ii) payment by PWC for such Deliverables.
- (m) The Supplier bears the risk of and must indemnify PWC and PWC Personnel against any loss (including loss of use) of, or damage to, the Deliverables before delivery.

**4. LOCAL CONTENT***Local Benefit Commitments*

- (a) The Supplier acknowledges PWC's commitment to the development of business and industry in the Northern Territory.
- (b) In the Supplier's response to the relevant request documentation issued by PWC, the Supplier made certain promises and commitments with regard to the development of business and industry in the Northern Territory, to be achieved by the Supplier as part of this Contract. These promises and commitments form part of this Contract (and are referred to in this clause 4 as the **Local Benefit Commitment**).
- (c) The Supplier must fulfil all aspects of the Local Benefit Commitment.

*Use of Local Contractors and Suppliers*

- (d) Subject to the *Competition and Consumer Act 2010* (Cth), and unless the Supplier demonstrates to PWC that, for commercial, technical or other reasons, it is impractical to do so, in carrying out the Supplier's obligations under this Contract, the Supplier must use:
  - (i) labour available within the Northern Territory;

- (ii) subcontractors established in the Northern Territory; and
- (iii) the services located, and obtain supplies and materials supplied by businesses established, in the Northern Territory.

*Reporting and Review*

- (e) The Supplier must, on written request by PWC, provide a written report in relation to its compliance with clauses 4(c) and 4(d) within the timeframe specified in PWC's written request.
- (f) The Supplier acknowledges and agrees that it must comply with the Northern Territory Government's (**NTG**) standards and requirements, as published from time to time, in respect of promoting local procurement in the Northern Territory (the **Buy Local Plan**) and that the person appointed by the NTG to provide an independent advocacy function on behalf of local industry, investigate complaints directly from local industry and act on their own initiative to audit contractors (the **Buy Local Industry Advocate**) may conduct audits of such compliance.
- (g) The Supplier agrees to grant access rights to the Buy Local Industry Advocate to ensure the Supplier (and the Goods and Services) satisfy the Buy Local Plan.
- (h) Audits will be conducted no more than once in any 12 month period unless a second or subsequent audit during that period is required to be conducted:
  - (i) to investigate specific concerns of PWC or the Buy Local Industry Advocate in connection with the Supplier's compliance under the Buy Local Plan;
  - (ii) for compliance with Law;
  - (iii) for the purpose of verifying the accuracy of any report provided by the Supplier in relation to a significant failure, or recurring failures, in relation to its compliance under the Buy Local Plan;
  - (iv) for the purpose of verifying that the Supplier has undertaken any actions required as a result of a previous audit, provided that the Buy Local Industry Advocate cannot reasonably achieve that purpose without conducting an audit; or
  - (v) at the request of the Buy Local Industry Advocate.
- (i) In order for the Buy Local Industry Advocate to exercise any of the Buy Local Industry Advocate's audit rights under this clause, the Supplier must give the Buyer Local Industry Advocate, through PWC where necessary, full access at all reasonable times and on reasonable notice to (without limitation):
  - (i) all information in relation to Subcontractors and Supplier's Personnel; and
  - (ii) all relevant software, data, records, accounts, documents, reports, records and systems (whether prepared by the Supplier or not) relating to the Supplier's obligations under this Contract.
- (j) The Supplier must do all things necessary to comply with the requirements of the Buy Local Industry Advocate in relation to this clause 4.
- (k) The Supplier is liable for its own costs of any audit or inspection conducted pursuant to this clause 4.
- (l) The Supplier must meet with PWC to discuss in good faith any recommendations made by the Buy Local Industry Advocate following the completion of an audit. The Supplier will act upon and immediately implement any recommendations that are necessary to ensure full compliance with the Buy Local Plan as directed by PWC or the Buy Local

Industry Advocate. The cost of implementing those recommendations will be borne by the Supplier.

- (m) The Supplier must ensure that any subcontract entered into for the purpose of this Contract contains an equivalent clause acknowledging and granting the Buy Local Industry Advocate the same rights as specified in this clause 4.

*Performance to be reported in Supplier's Performance Reports*

- (n) The Supplier's compliance or non-compliance with this clause 4 will be recorded in the Supplier's Performance Report to be prepared by PWC in accordance with clause 28.

## **5. PWC ENTITY BENEFICIARIES OF THE GOODS AND/OR SERVICES**

- (a) PWC may, at its discretion:
  - (i) allow any PWC Entity to receive and enjoy the benefit of the Goods and/or Services; and
  - (ii) instruct the Supplier to provide some or all of the Goods and/or Services directly to any PWC Entity.
- (b) The Supplier acknowledges and agrees that PWC, in entering into and obtaining the benefits, rights and remedies under this Contract (including the benefit of the Supplier's obligations and the indemnities given by the Supplier), acts on its own behalf and as trustee for each relevant PWC Entity and, accordingly:
  - (i) PWC is able to recover from the Supplier all losses sustained, incurred or suffered by every PWC Entity, as if those losses were sustained, incurred or suffered by PWC itself; and
  - (ii) each PWC Entity is entitled to separately and directly enforce against the Supplier the benefits, rights and remedies conferred on PWC by this Contract.
- (c) In this Contract, **PWC Entity** means:
  - (i) every past, present and future "subsidiary" (as that term is defined in the *Government Owned Corporations Act (NT)*) of PWC; and
  - (ii) where any part of PWC's operations or businesses that receives the benefit of the Goods and/or Services under this Contract becomes or is transferred to a separate entity, that separate entity.

## **6. SUB-CONTRACTING AND ASSIGN ETC.**

- (a) The Supplier must not subcontract, assign, novate, transfer or otherwise dispose of any of its rights and/or obligations under this Contract without the prior written consent of PWC (such consent not to be unreasonably withheld).
- (b) If the Supplier enters into a subcontract with any third party for the performance of any of its obligations under this Contract, such subcontract does not excuse the Supplier from performing its obligations under this Contract. The Supplier must ensure that any subcontractors comply with the Supplier's obligations under this Contract. The Supplier is liable for the acts and omissions of any subcontractors, as if such acts and omissions were those of the Supplier itself.

## 7. CONTRACT MANAGEMENT

### *Meetings*

- (a) The parties will hold meetings (including meetings relating to planning, review and issue resolution) as necessary to ensure that PWC is fully informed in relation to all aspects of the provision of the Goods and/or Services under this Contract and the Supplier's performance of the Supplier's obligations under this Contract.

### *Reporting*

- (b) The Supplier must provide regular reports, as requested by PWC from time to time, acting reasonably, outlining the status of the provision of the Goods and/or Services and the performance of the Supplier's obligations under this Contract.

## 8. TESTING AND ACCEPTANCE

### *Testing*

- (a) The Supplier must carry out the testing specified in this Contract (if any), or as reasonably directed by PWC, to validate that the Goods and/or Services comply with the requirements of this Contract. The Supplier must promptly rectify any defects identified in the Goods and/or Services (at its own cost) before repeating the testing. For clarity, PWC may undertake its own testing, verification or other enquiries as it sees fit.

### *Acceptance*

- (b) PWC will accept the Goods and/or Services or any parts of them by giving notice to the Supplier when PWC is satisfied that such Goods and/or Services conform with the standards, specifications and requirements of this Contract.
- (c) Without limiting any other right or remedy available to PWC, if PWC is not satisfied that any parts of the Goods and/or Services comply with the requirements of this Contract after the passing of the relevant dates or timeframes for provision under the Contract, PWC may by written notice to the Supplier in respect of such parts of the Goods and/or Services:
  - (i) waive the relevant requirement of this Contract, and the charges payable under this Contract will be equitably reduced by an amount determined by PWC acting reasonably to reflect the reduction in the value of such Goods and/or Services to PWC;
  - (ii) conditionally accept the Goods and/or Services subject to the Supplier agreeing, at the Supplier's own expense, to promptly correct the Goods and/or Services so that the Goods and/or Services meet the requirements of this Contract;
  - (iii) reject such parts of the Goods and/or Services, and:
    - (A) remove such parts of the Goods and/or Services from the scope of this Contract and the charges payable under this Contract will be equitably reduced by an amount determined by PWC acting reasonably; or
    - (B) terminate this Contract and require the Supplier, at the Supplier's cost, to promptly collect the Goods and/or Services (where applicable);



- (iv) require the Supplier, at the Supplier's cost, to promptly correct the Goods and/or Services so that the Goods and/or Services meet the requirements of this Contract; or
  - (v) correct, or have a third party correct, the Goods and/or Services and the Supplier must reimburse PWC for all costs or losses sustained, incurred or suffered by PWC in connection with the correction of the Goods and/or Services.
- (d) For the purposes of clause 8(c), PWC must:
- (i) act reasonably when determining whether Goods and/or Services comply with the requirements of this Contract; and
  - (ii) when exercising any rights in respect of the Goods and/or Services that do not comply with the Contract, ensure that the consequences of exercising such rights for the Supplier are proportionate to the nature of the non-compliance.
- (e) Acceptance of any Goods and/or Services under this clause 8 will not, in itself, constitute evidence that such Goods and/or Services comply with the relevant requirements of this Contract, and this clause 8 does not limit the Supplier's obligations or PWC's rights and remedies.

## 9. CHARGES AND PAYMENT TERMS

### *Invoicing*

- (a) Except to the extent expressly specified otherwise in this Contract, the Supplier may invoice PWC the charges following provision of the Goods and/or Services in accordance with this Contract.
- (b) Each tax invoice issued in connection with this Contract must (at a minimum):
- (i) show the amount of the charges claimed in respect of the Goods and/or Services performed;
  - (ii) contain sufficient evidence to allow PWC to verify to its reasonable satisfaction that the Supplier has provided the Goods and/or Services in accordance with this Contract;
  - (iii) show the amount of applicable GST and PWC's purchase order number;
  - (iv) include the Supplier's bank account details to enable EFT payment transmission; and
  - (v) be sent electronically to [accounts.pwc@powerwater.com.au](mailto:accounts.pwc@powerwater.com.au).

### *Charges inclusive*

- (c) Unless otherwise expressly stated in this Contract or agreed in writing between the parties, the charges payable under this Contract for the Goods and/or Services are fixed and inclusive of all taxes (including GST), duties, levies and 'out-of-pocket' costs and expenses.

### *Payment of invoices*

- (d) Subject to:
- (i) the Supplier's compliance with this Contract;
  - (ii) any set-off, withholding or deduction of any amounts owing to PWC from the Supplier; and

(iii) receipt of a GST compliant tax invoice,

PWC will pay the Supplier's properly rendered tax invoices within 30 days of receipt by PWC.

- (e) If PWC disputes the correctness of any tax invoice (or disagrees with any amount invoiced for any reason), then PWC may withhold payment of the disputed amount until the dispute is resolved. PWC will pay any newly issued invoices from the Supplier for the undisputed amount.

#### *Overpayments*

- (f) If either party becomes aware that PWC has overpaid or has been overcharged (including due to an incorrect invoice, incorrectly rendered invoice or an advance payment exceeding the amount ultimately payable), then, without limiting any other obligation of the Supplier or right or remedy of PWC:
- (i) that party will notify the other party promptly after becoming aware;
  - (ii) PWC may elect to have the overpayment set off against any amount due or subsequently due from PWC to the Supplier; and
  - (iii) if PWC does not exercise PWC's rights under clause 9(f)(ii), the Supplier will, within 15 Business Days of the notice under clause 9(f)(i), reimburse PWC the amount overpaid or overcharged (including any overcharged GST).
- (g) In this Contract, **Business Days** means any day which is not a Saturday, Sunday or a public holiday in the Northern Territory.

## **10. GST**

- (a) Unless otherwise indicated, the consideration expressed to be payable under this Contract for any Supply made under or in connection with this Contract is inclusive of GST, where GST is calculated using the GST Rate at the date of the Order.
- (b) The party making a Supply must provide the Recipient with a tax invoice and/or adjustment note in relation to the Supply prior to an amount being paid by the Recipient under this Contract and must do all things reasonably necessary to enable and assist the Recipient to claim and obtain any Input Tax Credit available to it in respect of a Supply.
- (c) Where the GST Rate is changed after the date of the Order, then any amount of consideration expressed to be payable under this Contract for any Supply made under or in connection with this Contract which:
- (i) was specified in this Contract before the change to the GST Rate was announced; and
  - (ii) has not been invoiced at the time such change takes effect,
- will be increased or decreased so that the consideration remains inclusive of GST, with GST calculated using the new GST Rate from the date of the change of the GST Rate.
- (d) In this Contract:
- (i) **GST** has the meaning assigned to that term in the GST Act.
  - (ii) **GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
  - (iii) **GST Rate** means the percentage amount of GST payable determined under section 9-70 of the GST Act as amended from time to time.

- (iv) **Input Tax Credit** has the meaning assigned to that term in the GST Act.
- (v) **Recipient** has the meaning assigned to that term in the GST Act.
- (vi) **Supply** has the meaning assigned to that term in the GST Act.

## 11. PERSONNEL

- (a) The Supplier must ensure that its Personnel:
  - (i) comply with all applicable rules, regulations and safety and security policies in respect of access to the relevant site(s);
  - (ii) have the qualifications, skills and experience necessary to provide the Goods and/or Services;
  - (iii) do not access or attempt to access PWC's systems without PWC's prior written consent;
  - (iv) do not disclose any of PWC's passwords or other access mechanisms to any third party; and
  - (v) are aware of and comply with the Supplier's obligations under this Contract including the Supplier's obligations in respect of confidential information and personal information.
- (b) The Supplier will be liable for the acts and omissions of its Personnel as if they were the acts or omissions of the Supplier.
- (c) The Supplier must not transfer, reassign, reduce or change the involvement in the performance of the Supplier's obligations under this Contract or otherwise redeploy any key personnel stated in this Contract (**Key Personnel**) without PWC's prior written consent, which consent will not be unreasonably withheld, except where the employment of any Key Personnel is terminated.
- (d) If PWC requests, the Supplier must at its own cost ensure that each of its Personnel involved in the performance of this Contract:
  - (i) enter into a written, legally binding confidentiality agreement in favour of PWC and in a form acceptable to PWC; and
  - (ii) undergo any necessary background verification, criminal history and security checks specified in writing by PWC from time to time.
- (e) In this Contract, **Personnel** includes, in relation to a party: (a) that party's directors, officers, employees and agents; (b) that party's affiliates, advisers, consultants and subcontractors (and their respective officers, employees and agents); and (c) any other persons under that party's direction or control.

## 12. COMPLIANCE WITH PWC POLICIES

- (a) The Supplier must comply at all times, including while on-site at any of PWC's sites, with any PWC policies stated in this Contract and any additional or new policies notified to the Supplier during the term of this Contract (**PWC Policies**). PWC will provide the Supplier with reasonable prior notice of any changes to any such PWC Policies.
- (b) The Supplier may request that PWC direct a variation in accordance with clause 3(i) if:
  - (i) after the commencement of this Contract, PWC notifies the Supplier under clause 12(a) of new or amended PWC Policies; and

- (ii) the Supplier incurs additional costs in performing its obligations under this Contract as a result of the obligation to comply with any such new or amended PWC Policies.

### 13. KEEPING OF RECORDS AND AUDIT RIGHTS

- (a) The Supplier must provide PWC with such written reports, evidence or information concerning the Goods and/or Services as may be requested by PWC from time to time.
- (b) The Supplier must make and keep, and must ensure all subcontractors make and keep, accurate records of the performance of the Supplier's obligations under this Contract. PWC will have the right at no cost to PWC to inspect and copy any record relating to this Contract at any time.
- (c) PWC or its nominated representative has the right at no cost to PWC at all reasonable times and on reasonable notice to visit the Supplier's and its Personnel's premises and audit and inspect all records, procedures and systems of the Supplier and its Personnel which relate to the provision of the Goods and/or Services. The Supplier must (and must ensure that its Personnel) fully co-operate with PWC in relation to any such audit or inspection.

### 14. ACCESS TO PWC SITES

- (a) The Supplier must:
  - (i) obtain permission from PWC prior to accessing any of PWC's sites; and
  - (ii) only access any of PWC's sites during PWC's business hours as notified to the Supplier from time to time and as otherwise reasonably necessary to perform its obligations under the Contract, subject to obtaining PWC's prior written consent.
- (b) The Supplier must ensure that all of the Supplier's Personnel requiring access to any of PWC's sites:
  - (i) have completed the necessary site induction;
  - (ii) have complied with all of PWC's requirements for access to such sites before accessing them; and
  - (iii) follow such directions concerning safety as PWC may issue.

### 15. WORK HEALTH AND SAFETY

The Supplier must comply with, and must ensure that the Supplier's Personnel comply with, the *Work Health and Safety (National Uniform Legislation) Act (NT)*, the *Work Health and Safety (National Uniform Legislation) Regulations (NT)* and all other applicable laws relating to work health and safety (**WHS Laws**). The Supplier must conduct risk assessments as necessary and put in place measures to eliminate or reduce risks to health and safety arising from the provision of the Goods and/or Services. In respect of any risks arising from the provision of the Goods and/or Services, the Supplier must provide information to PWC about any joint duties owed under the WHS Laws and must consult and cooperate with PWC about these risks.

### 16. SUSTAINABLE SUPPLY CHAIN MANAGEMENT

All of PWC's suppliers play a vital part in PWC's sustainability performance. As such, the Supplier must comply with all environmental, human rights, labour, social, governance and other sustainability standards of conduct set by applicable laws and key international standards which are applicable in those jurisdictions where the Supplier sources, produces or provides the Goods and/or Services or any part of them. If PWC develops a responsible

sourcing code or similar, the Supplier will cooperate with PWC in relation to such code, including responding fully and accurately to any relevant questionnaire and using reasonable efforts to improve any aspects of non-compliance with such code.

## 17. PRIVACY

- (a) If, as a result of this Contract, the Supplier is able to access any Personal Information that is collected, handled or held by or on behalf of PWC, the Supplier must:
- (i) comply with:
    - (A) the Privacy Act 1988 (Cth);
    - (B) the Information Privacy Principles under the *Information Act* (NT);
    - (C) all other applicable laws relating to privacy that may be applicable during the term of this Contract;
    - (D) any privacy code or policy which has been adopted by PWC, provided that a copy of the adopted privacy code or policy is provided a reasonable period in advance of the Supplier being required to start complying with that privacy code or policy;
    - (E) any code of practice or authorisation issued under any of the above; and
    - (F) such other laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information,to the extent bound by the above and, if not bound by any of the above, as if the Supplier were bound in the same way and to the same extent as PWC is bound in respect of such Personal Information;
  - (ii) comply with any directions of PWC from time to time relating to privacy that are consistent with the laws, codes and policies referred to in clause 17(a)(i);
  - (iii) not use any such Personal Information for any purpose, except where and to the extent expressly authorised by PWC in writing, in which case the Supplier must use such Personal Information in accordance with this Contract;
  - (iv) restrict access to any such Personal Information to any of the Supplier's Personnel and any subcontractors who need to access the Personal Information to fulfil the Supplier's obligations under this Contract, and then only to the extent expressly authorised by PWC in writing;
  - (v) promptly notify PWC in writing of any request made for access to any such Personal Information by an individual to whom that information relates;
  - (vi) co-operate with PWC in the resolution of any complaint under, or relating to, any of the laws, codes or policies referred to in clause 17(a)(i); and
  - (vii) regularly check for and monitor potential Eligible Data Breaches and, if the Supplier becomes aware of an event that could amount to an Eligible Data Breach:
    - (A) the Supplier must, as soon as possible, and in any event within 24 hours, of becoming so aware notify PWC of the event and provide PWC with all information and cooperation that PWC requests in relation to the event; and
    - (B) PWC will determine whether an Eligible Data Breach has occurred and, if so, whether PWC or the Supplier will notify the Australian

Information Commissioner and the individuals who are at risk from the Eligible Data Breach and the Supplier will provide all cooperation to PWC in relation to such notifications as PWC reasonably requests.

- (b) In this Contract:
  - (i) **Personal Information** has the meaning given to it in the *Information Act* (NT), except where the term is used in relation to the *Privacy Act 1988* (Cth) (in which case it has the meaning given to it in that Act); and
  - (ii) **Eligible Data Breach** has the meaning given to it in the *Privacy Act 1988* (Cth).

## 18. SECURITY REQUIREMENTS

*The Supplier must:*

- (a) comply with all rules, policies, guidelines, processes and procedures of PWC as reasonably required by PWC in relation to security notified in writing by PWC;
- (b) establish, maintain and apply security procedures which ensure that the Supplier's Personnel are appropriately vetted and meet the requirements of clause 18(a); and
- (c) comply with any specific security requirements in the performance of the Supplier's obligations under this Contract as provided for in this Contract.

## 19. CONFIDENTIALITY

- (a) All Confidential Information of the other party obtained or received by a party in connection with this Contract must be kept strictly confidential by the receiving party and must be used only by the receiving party as contemplated by this Contract.
- (b) Confidential Information must not be published, used or otherwise disclosed to any person without the prior written consent of the disclosing party other than:
  - (i) to that party's Personnel and professional advisers on a strict "need-to-know" basis;
  - (ii) by PWC to:
    - (A) the Northern Territory of Australia;
    - (B) a Minister, Cabinet or the Legislative Assembly, of the Northern Territory of Australia; or
    - (C) a committee of the Legislative Assembly of the Northern Territory of Australia;
    - (D) to any public-sector agency (whether of the Northern Territory of Australia, a State, other Territory or the Commonwealth) where required to meet any reporting obligations on PWC or for any other government business or initiative relating to or in connection with the business or operations of PWC, provided that as far as reasonably practicable information that is identifiable as related to this Contract or the Supplier will not be made public by PWC; or
  - (iii) as may be required by applicable law.
- (c) Each party must maintain adequate security for the Confidential Information of the other party while in its possession or control, including protecting the same against any use, disclosure, access, damage or destruction which is inconsistent with the terms and conditions of this Contract.

- (d) A party must promptly give notice in writing to the other party if it becomes aware of any unauthorised or suspected unauthorised disclosure to any third party of any of the Confidential Information of the other party and provide the other party with all information and assistance reasonably required by the other party in respect of such unauthorised disclosure.
- (e) In this Contract, **Confidential Information** means information that:
  - (i) is by its nature confidential;
  - (ii) is communicated by the disclosing party to the confidant as confidential;
  - (iii) the confidant knows or ought to know is confidential; or
  - (iv) relates to:
    - (A) the financial, corporate or commercial information of any party; or
    - (B) the strategies, practices and procedures of a party.

## 20. INTELLECTUAL PROPERTY

### *Contract Material*

- (a) Unless otherwise specified in this Contract, Intellectual Property Rights in all materials created by the Supplier or on the Supplier's behalf in the course of, or as a consequence of, performing the Supplier's obligations under this Contract (**Contract Material**) will be licenced to PWC (and owned by the Supplier) and all Intellectual Property Rights in the Contract Material that are created by the Supplier will remain vested in the Supplier.
- (b) On expiry or termination of the Contract or otherwise on request, the Supplier must promptly provide PWC with a complete copy of the Contract Material.

### *Existing Material*

- (c) This clause 20 does not affect the ownership of any Intellectual Property Rights in material made available by PWC or the Supplier in connection with this Contract that:
  - (i) exists prior to the issue of the Order;
  - (ii) is licensed from any third party during the term of this Contract; and/or
  - (iii) is obtained (whether created, purchased or licensed) by PWC or the Supplier during the term of this Contract but separately from and otherwise than in connection with this Contract,
 or any modification of any such material.

### *Licences*

- (d) The Supplier grants to, or must obtain for, PWC a non-exclusive, perpetual, irrevocable, world-wide, royalty-free licence (including the right to sub-licence) to use, copy, modify, reproduce, publish, adapt, distribute, communicate, and create derivative works from, the Intellectual Property Rights in the Contract Material and in any material of the kind referred to in clause 20(c) made available by the Supplier to the extent required for PWC to receive the full benefit of the Goods and/or Services.

### *Third Party Material and Moral Rights*

- (e) Before using any material in respect of which the Supplier does not own the Intellectual Property Rights to perform its obligations under this Contract, the Supplier must obtain all necessary copyright and other Intellectual Property Right permissions

required for the use of such material and the granting of any licences under this Contract.

- (f) To the extent permitted by applicable law, the Supplier must ensure that any individual that contributed to the Goods and/or Services:
- (i) unconditionally and irrevocably consents to any act or omission that would otherwise infringe any Moral Rights in relation to the Goods and/or Services, whether occurring before or after a consent is given; and
  - (ii) unconditionally and irrevocably waives all Moral Rights in relation to the Goods and/or Services,

for the benefit of PWC and PWC Personnel, customers and other suppliers.

- (g) In this Contract:
- (i) **Intellectual Property Rights** means: (a) patents, trade marks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights; inventions, know-how, secret formulae and processes, lists of customers and suppliers and other proprietary knowledge and information; (b) internet domain names; rights protecting goodwill and reputation; (c) database rights; and (d) all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world and all rights under licences and consents in respect of any of the rights and forms of protection mentioned in this definition; and
  - (ii) **Moral Rights** means rights conferred under Part IX of the *Copyright Act 1968* (Cth) and any similar or analogous rights which exist or come to exist anywhere in the world.

## 21. PUBLICITY

- (a) The Supplier must not:
- (i) make any public statements, including issuing any media releases, in connection with this Contract without the prior written consent of PWC;
  - (ii) do or omit to do anything which may damage, bring into disrepute or ridicule PWC's name or reputation or attract public or media attention which may be prejudicial or otherwise detrimental to PWC's brand, reputation or interests; and
  - (iii) use PWC's name in any of the Supplier's advertising, marketing, promotional or other similar material without the prior written consent of PWC.

## 22. INSURANCE

- (a) The Supplier must effect and maintain during the term of this Contract the following insurances:
- (i) workers compensation insurance, as required by applicable law;
  - (ii) public liability insurance with a minimum cover of \$20,000,000 for each and every claim and for an unlimited number of claims;
  - (iii) product liability insurance with a minimum cover of \$20,000,000 for each and every claim and in the aggregate;



- (iv) subject to clause 22(b), professional indemnity insurance with a minimum limit of indemnity of \$2,000,000 for each and every claim (or as otherwise specified in this Contract) and for an unlimited number of claims; and
  - (v) any other specific insurances set out in this Contract for the period set out in this Contract.
- (b) PWC acknowledges that the Supplier is only required to maintain professional indemnity insurance in instances where the Supplier provides a Service.
- (c) If requested in writing by PWC, the Supplier must, within 7 days of such request, provide copies of the certificates of currency or the schedules of insurance and policy documents issued by the Supplier's insurers or some other evidence satisfactory to PWC confirming that all the insurance policies required by this Contract are current and that the insurance has the required and appropriate scope and limits of cover.
- (d) If the Supplier fails to:
- (i) effect the insurances in accordance with clause 22(a); or
  - (ii) provide copies of the certificates of currency, schedules of insurance and policy documents or some other evidence satisfactory to PWC in accordance with clause 22(b) upon request,
- then the Supplier must not commence or must cease supply of the Goods and/or the provision of the Services under this Contract.
- (e) If the Supplier does not remedy a breach of clause 22(d) within 5 Business Days of a notice in writing from PWC requiring it to do so, PWC may, without limiting any other rights it may have:
- (i) effect the insurances and the cost will be a debt due from the Supplier to PWC; or
  - (ii) terminate this Contract.

### **23. WARRANTIES**

- (a) The Supplier represents, warrants and undertakes to PWC that:
- (i) all information which it provides to PWC, whether prior to, on or after the date of this Contract, is true and correct in every respect and is not misleading or deceptive;
  - (ii) it has examined the terms of this Contract and has satisfied itself of its capacity to provide the Goods and/or Services in accordance with its terms and that, in entering into this Contract, it has not relied upon any representation, warranty or inducement from PWC;
  - (iii) the Goods and/or Services, and their use, possession or receipt by PWC, will not infringe the intellectual property rights or other rights of any third party;
  - (iv) it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Contract;
  - (v) the Goods and any Deliverables will:
    - (A) provide the functions and meet the standards, specifications and requirements set out in this Contract (and where not fully detailed, the functional and performance specifications set out or referred to in the Supplier's (or the original manufacturer's) standard documentation for such Goods and any Deliverables);

- (B) be fit for the purpose for which they are provided;
- (C) be free from defects in materials, workmanship and installation (where applicable); and
- (D) be new and unused by any person and of merchantable and satisfactory quality (where applicable);
- (vi) any Goods, Deliverables, materials or other items supplied by the Supplier to PWC are and will remain free from all encumbrances, including any security interest registered in accordance with the *Personal Property Securities Act 2009* (Cth) (**PPSA**), and the Supplier has full title to the Goods, Deliverables, materials or other items supplied by the Supplier to PWC; and
- (vii) to the extent the PPSA applies to any Goods, Deliverables, materials or other items supplied by the Supplier to PWC:
  - (A) the supply of Goods, Deliverables, materials or other items to PWC does not breach any security agreement the Supplier has with any third party; and
  - (B) the supply of goods, deliverables, materials or other items to PWC is within the ordinary course of the Supplier's business.
- (b) The Supplier must take all reasonable steps (including as may be requested in writing by PWC) to ensure that PWC obtains the full benefit of any additional warranties that may be provided by the manufacturer or supplier of any Goods provided by the Supplier under this Contract. The Supplier will not do, or omit to do, anything that will or might jeopardise or affect PWC's entitlements under any such warranties.

## 24. INDEMNITIES

- (a) The Supplier must indemnify and keep indemnified PWC and PWC Personnel against all losses, liabilities and costs (including legal expenses on a solicitor client basis) sustained, incurred or suffered by PWC or PWC Personnel arising from or in connection with any:
  - (i) claim, action or proceeding that the use, possession or receipt by PWC of the Goods and/or Services (including any Deliverables) infringes the intellectual property rights or other rights of any third party;
  - (ii) negligence or wilful misconduct by the Supplier or its Personnel;
  - (iii) death, personal injury or property damage caused by the Supplier or its Personnel; or
  - (iv) claim, action or proceeding by any person against PWC arising from or in connection with the Goods and/or Services or any negligent, wilful or wrongful act or omission of the Supplier or its Personnel,

provided that such liability will be reduced to the extent that any unlawful or negligent act or omission of PWC caused or contributed to the losses, liabilities or costs.
- (b) Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination of this Contract.
- (c) To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to all and any rights, obligations and liabilities under this Contract.

## 25. TERMINATION AND SUSPENSION

- (a) PWC may, in circumstances where PWC reasonably considers this Contract would otherwise fetter the NTG's discretion to exercise any executive or statutory right, duty or function, terminate this Contract for convenience by giving at least 30 days' prior written notice to the Supplier. If PWC issues such a notice, the Supplier must:
  - (i) cease all work in accordance with the notice; and
  - (ii) comply with any directions given by PWC.
- (b) PWC may:
  - (i) in the interests of safety, or in the event of an emergency, direct the Supplier to immediately suspend this Contract (in whole or in part); or
  - (ii) for any other reasonable purposes, suspend this Contract (in whole or in part), or require the Supplier to redirect the Supplier's resources at any time by giving at least 5 days' written notice to the Supplier, such notice to include the reasons for and extent of suspension.
- (c) Where this Contract is terminated under clause 25(a) or suspended under clause 25(b), PWC will pay the outstanding proportion of the charges (if any) which relates to any relevant Goods and/or Services provided prior to the written notice (but excluding costs incurred in relation to any Services which had already been invoiced). All other costs, damages and expenses of the Supplier arising from or in connection with the suspension or termination will be borne by the Supplier in full.
- (d) PWC may also immediately suspend or terminate this Contract, in whole or in part, by written notice if the Supplier:
  - (i) suffers an Insolvency Event;
  - (ii) breaches this Contract and fails to remedy it within 20 Business Days of a written demand to do so; or
  - (iii) commits a breach of this Contract which, in the opinion of PWC, is incapable of remedy.
- (e) If PWC suspends or terminates this Contract under clause 25(d) then, without limiting any other rights it may have, PWC will not be obliged to make any further payments to the Supplier (in the event of any suspension or termination in part, to the extent of such suspension or termination) and all other costs, damages and expenses of the Supplier arising from or in connection with the suspension or termination will be borne by the Supplier in full.
- (f) To the extent this Contract is suspended by PWC under clause 25(d), the Supplier must immediately recommence the performance of its relevant obligations under this Contract as directed by PWC.
- (g) Termination or expiration of this Contract for whatever reason does not affect the rights and obligations of the Parties which have accrued prior to the date of termination or expiration, including any right to claim damages as a result of a breach of this Contract.
- (h) In this Contract, **Insolvency Event** means any of the following events:
  - (i) in the case of a corporation:
    - (A) an application is made to a court for an order or an order is made that the corporation be wound up;

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- (B) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of that corporation or one of them is appointed, whether or not under an order;
  - (C) a meeting is convened or a resolution is passed to appoint an administrator in respect of that corporation;
  - (D) except to reconstruct or amalgamate while solvent, the corporation enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration or arrangement involving any of them;
  - (E) the corporation proposes or enters into a deed of company arrangement with or for the benefit of all or any class of its creditors;
  - (F) a resolution is passed to wind up or dissolve that corporation;
  - (G) the corporation is dissolved;
  - (H) the corporation is or becomes or states that it is insolvent or any of the events mentioned in subsection 459C(2) (a) to (f) inclusive of Part 5.4 of the *Corporations Act 2001* (Cth) occurs in respect of the corporation;
  - (I) the appointment of an administrator in respect of the corporation or a receiver or manager or receiver and manager of the whole or part of the assets and undertaking of the corporation;
  - (J) as a result of the operation of Part 5.4 of the *Corporations Act 2001* (Cth) the corporation is taken to have failed to comply with a statutory demand;
  - (K) the corporation is, or makes a statement from which it may be reasonably deduced that the corporation is the subject of an event described in s459C(2)(b) or s585 of the *Corporations Act 2001* (Cth); or
  - (L) anything analogous or having a substantially similar effect to any of the events specified in clauses 25(h)(i)(A) to 25(h)(i)(J) (inclusive) has occurred under the law of any applicable jurisdiction or PWC reasonably believes any of the above has or will occur in the next 6 months;
- (ii) in the case of an individual or partnership:
- (A) the individual or any partner in the partnership proposes or enters into a deed of arrangement, composition with or deed of assignment or an assignment for the benefit of all or any of that individual's or that partner's creditors or any class of them;
  - (B) the individual or any partner in the partnership commits an act of bankruptcy;
  - (C) in relation to a partnership, the partnership is dissolved or has an administrator appointed under relevant law; or
  - (D) anything analogous or having a substantially similar effect to any of the events specified in clauses 25(h)(ii)(A) to 25(h)(ii)(C) (inclusive)

above has occurred under the law of any applicable jurisdiction or PWC reasonably believes any of the above has or will occur in the next 6 months.

## **26. EXIT ASSISTANCE**

- (a) From the date commencing on the expiry or termination of this Contract (or such earlier date as notified to the Supplier in writing), the Supplier must provide all reasonable assistance and cooperation to PWC and/or any new supplier appointed by PWC to provide the Goods and/or Services to ensure the orderly transfer of responsibility as required by PWC, which may include:
  - (i) affording all reasonable assistance necessary for the timely and efficient transition of the provision of the Goods and/or Services to PWC and/or any new supplier;
  - (ii) responding to all requests for information, advice and assistance by PWC and providing the information, advice and assistance to PWC within 5 Business Days of receiving a request from PWC; and
  - (iii) permitting PWC to assign PWC Personnel and/or any Personnel of the new supplier to work with the Supplier's Personnel to facilitate the transfer of any information and materials that PWC believes is required.
- (b) To the extent that the Supplier's compliance with clause 26(a) requires the Supplier to deploy additional resources which results in the Supplier incurring additional costs, the Supplier will be entitled to charge PWC for such additional costs, on a time and materials basis, by reference to the rates specified in this Contract, or if no rates are specified, by reference to reasonable and industry competitive daily rates. No additional amounts are payable if additional resources are not utilised.
- (c) PWC may terminate any or all services required to be provided under clause 26(a) at any time by providing written notice to the Supplier. Where PWC issues a notice under this clause 26(c), the notice must specify the date on which the transition out services will end. No additional amounts will be payable by PWC to the Supplier in relation to any transition out services provided after that date.

## **27. RETURN OF CONFIDENTIAL INFORMATION AND PROPERTY**

On termination or expiration of this Contract (in whole or in part), the Supplier must upon PWC's request promptly provide or return to PWC (or at the request or with the consent of PWC, destroy) (in whatever form, including in electronic format) of or belonging to PWC which are in its possession or control:

- (a) all relevant Deliverables arising out of the Services, whether complete or partially complete;
- (b) all relevant Confidential Information (including copies, summaries and excerpts);
- (c) all relevant documentation, books, documents, papers, materials, equipment, customer lists, technical information, data and reports; and
- (d) any other relevant property,

(in whatever form, including in electronic format) of or belonging to PWC which are in the Supplier's possession or control, provided that the Supplier:

- (e) is not required to return or destroy any record or document where it is not reasonably practicable for the Supplier to do so and PWC agrees (acting reasonably) that it is not reasonably practicable for the Supplier to do so (e.g. where held on backup

systems/media/email and the record or document cannot be returned or destroyed without significant effort, time and expense); and

- (f) may retain one copy of any record or document returned or destroyed under this clause 27 on a confidential basis as required by any applicable law or in accordance with the Supplier's reasonable internal record-keeping policies.

## 28. SUPPLIER'S PERFORMANCE REPORT

- (a) The Supplier agrees that following delivery of the Goods and/or the performance of the Services or the termination of this Contract:
  - (i) PWC may prepare a report on the Supplier's performance under this Contract (**Supplier's Performance Report**);
  - (ii) PWC will liaise with the Supplier in completing the Supplier's Performance Report although PWC reserves the right to complete the Supplier's Performance Report (other than the Supplier's comments); and
  - (iii) PWC may use and/or release the Supplier's Performance Report to any other agency of the Commonwealth or of any State or Territory (**Recipient Agency**) in relation to the evaluation of the Supplier's performance in the assessment of future tenders.
- (b) The Supplier agrees that:
  - (i) neither the Supplier nor any other person will have any Claim against PWC or any Recipient Agency or any of their respective Personnel under any circumstances as a result of the preparation or use of the Supplier's Performance Report; and
  - (ii) the Supplier's Performance Report will not, in itself, constitute evidence that the Goods and/or Services comply with the relevant requirements of this Contract, or otherwise limit the Supplier's obligations or PWC's rights and remedies.

## 29. COMPLIANCE WITH RING-FENCING GUIDELINE

- (a) This clause applies notwithstanding any other clause in this Contract.
- (b) In this clause:
  - (i) **National Electricity Rules** means the 'National Electricity Rules' as defined in the National Electricity Law set out in the schedule to the National Electricity (South Australia) Act 1996 (SA), having force as a law of the Northern Territory under section 6 of the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (NT); and
  - (ii) **Ring-Fencing Guideline** means the Australian Energy Regulator's Electricity Distribution Ring-Fencing Guideline made under clause 6.17.2 of the National Electricity Rules, as that guideline applies in the Northern Territory from time to time.
- (c) The Supplier acknowledges that PWC must comply with the Ring-Fencing Guideline.
- (d) The Supplier must, and must ensure that its Personnel:
  - (i) take all necessary steps to understand PWC's obligations under the Ring-Fencing Guideline as they apply to the provision of Goods and/or Services under this Contract, including attending training from time to time as reasonably required by PWC;

- (ii) provide the Goods and/or Services and otherwise conduct themselves in a manner that strictly complies with the obligations (including the non-discrimination and confidentiality obligations) set out in the Ring-Fencing Guideline as if the Supplier was acting as PWC; and
  - (iii) not engage in any conduct that, if engaged in by PWC, would breach or be contrary to PWC's obligations under the Ring-Fencing Guideline (including, in particular, the obligations under clause 4 of the Ring-Fencing Guideline).
- (e) The Supplier acknowledges that:
- (i) the application of the Ring-Fencing Guideline to PWC may change overtime (including, for example, where obligations under the Ring-Fencing Guideline which do not currently apply to PWC commence to apply to PWC); and
  - (ii) the operation of this clause will change accordingly.
- (f) The Supplier must notify PWC in writing as soon as reasonable possible after becoming aware of the occurrence, or the suspected or potential occurrence, of a material breach of the Supplier's obligations under this clause.
- (g) The Supplier must cooperate with PWC, and promptly comply with all reasonable directions given by PWC, to ensure that the Goods and/or Services are provided by the Supplier in a manner that is consistent with the requirements of this clause.
- (h) The Supplier must cooperate with, and promptly provide assistance to, PWC, to the extent reasonably required by PWC to comply with PWC's obligations under the Ring-Fencing Guideline, including any obligation to report or provide information to a regulatory authority, or otherwise cooperate with any investigation conducted by a regulatory authority.
- (i) The Supplier must provide PWC with such written reports, evidence or other information concerning the Supplier's compliance with this clause as may be requested by PWC from time to time.
- (j) The Supplier must make and keep, and must ensure that all Personnel make and keep, accurate records of the performance of the Supplier's obligations under this clause. PWC will have the right, at no cost to PWC, to inspect and copy any record relating to this clause at any time.
- (k) PWC or its nominated representative has the right (at no cost to PWC) at all reasonable times and on reasonable notice to visit the Supplier's and its Personnel's premises and audit and inspect all records, procedures and systems of the Supplier and its Personnel which relate to the Supplier's compliance with this clause. The Supplier must (and must ensure that its Personnel fully co-operate with PWC in relation to any such audit or inspection.

### **30. GENERAL**

- (a) This Contract is governed by, and must be construed in accordance with, the laws of the Northern Territory of Australia and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of that Territory.
- (b) Unless expressly stated otherwise, the Supplier must:
- (i) pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Contract; and
  - (ii) comply with all of its obligations under this Contract at its own cost.

- (c) Subject to any express provisions to the contrary, no variation of this Contract is effective unless made in writing and signed by both parties. None of the applicable terms can be varied, waived or released at law or in equity unless both parties agree in writing.
- (d) This Contract (including any orders and any documents incorporated by reference, as amended from time to time) constitutes the entire agreement between the parties in respect of its subject matter.
- (e) Nothing in this Contract constitutes, or may be deemed to constitute, a partnership, agency, employment or joint venture relationship between the parties. The Supplier acknowledges that it is an independent subcontractor and its Personnel are not employees of PWC.
- (f) The rights, powers, privileges and remedies provided under any provision of this Contract are cumulative and are not exclusive of any rights, powers, privileges or remedies provided under any other provision of this Contract or by applicable law or otherwise.
- (g) If there is any ambiguity, conflict or inconsistency between the documents comprising this Contract then, except to the extent expressly specified otherwise in this Contract, the following order of precedence will apply:
  - (i) the Order;
  - (ii) the relevant request documentation issued by PWC;
  - (iii) these terms and conditions;
  - (iv) the relevant parts of the Supplier's response to that request documentation specifying the Goods and/or Services and charges; and
  - (v) any other document incorporated by reference.