Services Module - Mini-ICTA

for the Professional Services Purchasing Arrangement

|  |  |
| --- | --- |
| Information | **Guidance note**: This Services Module may be used for the provision of low risk and low value (under $1 million ex GST) ICT Services and associated Deliverables under the MICTA for the Department of Customer Services’ Professional Services Purchasing Arrangement. |

**BACKGROUND**

1. This Module forms part of the Agreement.
2. The purpose of this Module is to set out the specific terms and conditions which apply to the provision of Services and associated Deliverables under the Mini-ICTA and related or ancillary goods and services.
3. The specific Services and Deliverables that the Supplier will provide under the Agreement are described in the Order Form.

PART A: PRELIMINARIES

# General

## Scope

The Supplier must provide the Services and associated Deliverables described in the Order Form on the terms of this Module and the other terms of the Agreement.

## Acknowledgements

The parties acknowledge and agree that the:

### obligations in this Module supplement, and are in addition to, the parties' other rights and obligations under the Agreement. Except to the extent expressly provided in the Agreement, nothing in this Module is intended to limit or restrict any other provision under the Agreement; and

### Customer is relying on the Supplier's and its Personnel’s expertise in providing the Services and associated Deliverables under this Module.

## Services Period

### Except for any Secondee Services, all Services under this Module must be provided for the Term or for such other period specified in the Order Form (**Services Period**).

### Where the Supplier is providing the Services at the Site, the Services will be provided during the hours of 9:00am to 5:00pm on Business Days or at such other times as specified in the Statement of Work or agreed by the Customer in writing.

## General requirements

The Supplier must provide all Services and associated Deliverables:

### to meet the performance and other requirements specified in the Core Terms, as well as all other standards and requirements for the Services as specified in the Order Documents;

### by the dates for delivery under the Agreement; and

### to meet the outcomes and objectives specified in the Statement of Work.

PART B: SPECIFIC TYPES OF SERVICES

# Development Services

## Application

This clause 2 applies where it is specified in the Order Form that the Supplier will supply Development Services.

## Performance requirements

### The Supplier must carry out the Development Services specified in the Order Form.

### The Supplier must carry out the Development Services:

#### in accordance with the Specifications, including any Customer approved design Specifications developed by the Supplier pursuant to the Order Documents;

#### to ensure that the Software Solution is compatible with the Customer Environment and complies with the requirements specified in the Order Documents;

#### to ensure minimal disruption to the Customer and Customer Users; and

#### in a controlled and traceable manner to maintain the integrity and traceability of all changes to the Software at all stages of development.

### The Supplier must ensure that any changes to the Software are developed and documented in a way which would enable future modification or development to the Software Solution without further reference to the Supplier.

### The Supplier must continually monitor and assess the quality of all Development Services against the Specifications, any applicable Service Levels and any other requirements set out in the Order Documents.

## Project delivery methodology

The parties may, in the Statement of Work, specify a project design and development methodology for the Development Services. If so, that project methodology will apply to the performance of the Development Services.

# Systems Integration Services

## Application

This clause 3 applies where it is specified in the Order Form that the Supplier will provide Systems Integration Services.

## Provision of Systems Integration Services

### The Supplier must carry out the Systems Integration Services specified in the Order Form.

### Except where otherwise specified in the Statement of Work, the Supplier will assume primary project management and control in relation to all Systems Integration Services, including:

#### coordinating the Supplier's Activities with the Customer and Other Suppliers (where applicable); and

#### managing project risks and discharging responsibilities which are identified as the Supplier's responsibility in the Order Documents.

## SI Plan and SI Specifications

### If specified in the Statement of Work, the Supplier must, prior to performing the Systems Integration Services, prepare and deliver to the Customer for its approval:

#### a systems integration implementation plan for carrying out the Systems Integration Services which defines the Customer Environment and relevant interfaces and includes the details specified in the Statement of Work (**SI Plan**); and

#### detailed technical and functional specifications for the System in accordance with the Statement of Work (**SI Specifications**).

### For clarity, the SI Plan and SI Specifications are Document Deliverables. Clause 4 (Document Deliverables) of the Agreement therefore applies to the SI Plan and SI Specifications, including any updates to them.

## Warranties in relation to Systems Integration Services

The Supplier warrants and will ensure that:

### all components of the System will properly combine and interact with each other in accordance with the SI Specifications and other applicable requirements of the Agreement; and

### the System will be properly installed in accordance with any approved SI Plan.

# Data Services

## Application

This clause 4 applies where it is specified in the Order Form that the Supplier will provide Data Services.

## Customer Provided Data

### The Supplier must carry out the Data Services specified in the Statement of Work.

### The Customer acknowledges and agrees that the Supplier's ability to carry out the Data Services may depend in whole or in part on the completeness and quality of the Customer Provided Data.

### If the Supplier identifies any errors or issues in relation to the Customer Provided Data (including due to data transmission issues), the Supplier must:

#### advise the Customer's Representative as soon as the Supplier becomes aware of the issue;

#### co-operate with the Customer to resolve the issue; and

#### not commence the Data Services until the issue has been resolved to the Customer's reasonable satisfaction.

## Backups

### Unless otherwise specified in the Order Documents, the Customer must:

#### take a complete backup of the Customer Provided Data; and

#### test and retain the backup referred to in clause 4.3(a)(i),

before giving a copy of the Customer Provided Data to the Supplier.

### Once Customer Provided Data is supplied to the Supplier or (where applicable) extracted by the Supplier, the Supplier:

#### is solely responsible for taking and backing up the Customer Provided Data; and

#### must ensure that all backups of Customer Provided Data:

##### occur securely and in accordance with the Agreement, including any requirements specified in the Statement of Work;

##### occur regularly and at the intervals or timeframes specified in the Order Documents; and

##### are undertaken in a manner which enables the Customer Provided Data to be accurately and completely restored, in the event of any damage to, or loss of, that Customer Provided Data.

## Data analysis, cleansing and migration

### If the Order Form states that the Supplier is to provide data analytics, data cleansing or data migration Services with respect to the Customer Provided Data, the Supplier must complete those Services at the times, and in accordance with the requirements, specified in the Order Form.

### Where the Supplier is required to carry out data migration Services, it must, unless otherwise directed by the Customer, prepare a Data Migration Plan for the Customer's approval within 20 Business Days following the Commencement Date (or within such other time as agreed by the parties). The Data Migration Plan must set out how the Supplier will effectively, securely and efficiently carry out any data migration activities in accordance with the requirements of the Agreement.

### The Supplier must comply with any agreed Data Migration Plan.

### For clarity, the Data Migration Plan is a Document Deliverable. Clause 4 (Document Deliverables) of the Agreement therefore applies to the Data Migration Plan, including any updates to it.

# SECONDEE SERVICES

## General

### Clause 5 applies where it is specified in the Order Form that the Supplier will provide Secondee Services.

### Secondee Services are provided to meet the Customer’s needs, including to strengthen the Customer’s teams and to perform specialist roles for the Secondee Services Period.

### The Supplier’s Secondees must:

#### perform the role(s) and meet the capabilities specified in the Order Form and in any applicable MICTA; and

#### work at the direction of the Customer, unless otherwise set out in the Order Documents.

### The parties acknowledge and agree that the Secondee Services form part of the Supplier’s Activities. The Supplier remains responsible for ensuring that Secondee Services are carried out in accordance with the Agreement.

## Secondee Services

### Any persons nominated by the Supplier to provide, or who carry out, Secondee Services, must:

#### be permanent employees of the Supplier;

#### perform the Secondee Services at the premises or such other locations specified in the Order Form;

#### be high quality workers that are suitable and experienced for the role(s) and capabilities specified in the Order Form and any MICTA, and hold all necessary skills, licences, qualifications and accreditations that are necessary to perform such role(s) and to meet such capabilities (**Qualifications**); and

#### be lawfully entitled to provide the Secondee Services.

### The Supplier must:

#### promptly on the Customer’s request, submit to the Customer a current resume (including references) for any proposed Secondee, as well as such other additional information about the Secondee’s or proposed Secondee’s experience and capabilities as reasonably required by the Customer; and

#### if required by the Customer, permit the Customer to interview proposed Secondees to enable the Customer to form a view as to the person’s suitability.

### The Supplier must not engage any of its Personnel to provide Secondee Services until the person has been approved by the Customer in writing to be a Secondee. Secondees approved as at the Commencement Date are specified in the Order Form.

### The Supplier must:

#### for the Secondee Services Period, act as the liaison between Secondees and the Customer, including to arrange meetings and other communications; and

#### if required by the Customer, promptly meet with the Customer to discuss any performance issues related to its Secondees or the Secondee Services.

### The Supplier must require that all Secondees supplied to perform the Secondee Services:

#### comply with all applicable confidentiality, security and other requirements under the Agreement;

#### use the Secondee’s best efforts to promote the interests and welfare of the Customer;

#### comply with all applicable Policies, Codes and Standards and any directions of the Customer as to the nature and scope of the Secondee Services;

#### are, and remain, suitably trained and participate in any induction or on-boarding programs directed by the Customer;

#### execute, if required by the Customer, a deed of confidentiality and/or privacy in the form required by the Customer and consistent with the confidentiality and privacy obligations under the Agreement;

#### comply with the Customer’s off-boarding procedures; and

#### on the expiry or termination of their engagement:

##### stop work (subject to any handover or off-boarding obligations);

##### securely and safely return all security passes, Customer Data and any Customer equipment (including laptops) that was provided for the Secondee’s use as part of the Secondee Services; and

##### participate in any handover or off-boarding activities as reasonably required by the Customer.

### The parties acknowledge and agree that:

#### Secondees are not employees, officers or agents of the Customer. The Supplier must ensure that neither it or its Personnel represents any Secondees as such; and

#### in accordance with clause 7 of the Agreement, the Supplier must comply with all employment-related Laws. The Supplier is solely responsible for all workers’ compensation and employment-related obligations relating to its Secondees.

### It is agreed between the parties that Customer approved Secondees are Nominated Personnel and must not be replaced other than in accordance with the Agreement.

### Where a Secondee is replaced in accordance with the Agreement, the Supplier must, at its sole cost, ensure a seamless and timely replacement with another member of the Supplier’s Personnel with equivalent skills and experience and that meets the requirements of the Agreement.

## Secondee Services Period

### Subject to clauses 5.3(b) and 5.3(c), Secondee Services must be provided for the Secondee Services Period and on the days and during the hours specified in the Order Form or as otherwise agreed between the parties in writing.

### Notwithstanding any other provision under the Agreement, the Customer may, at its sole discretion and for any reason, with 2 Business Days’ prior notice to the Supplier (or such other notice period as agreed between the parties) do any of the following:

#### increase or change the days or hours that the Supplier’s Personnel perform the Secondee Services up to the maximum number of hours per week (if any) specified in the Order Form; or

#### reduce the Secondee Services Period, the days or hours of the Secondee Services or terminate their supply in full,

#### subject to any limitations specified in the Order Form.

### The Customer may with written notice to the Supplier terminate the Secondee Services with immediate effect where:

#### the Secondee engages in any corrupt, fraudulent or unlawful activities;

#### the Customer determines that the Secondee does not meet the requirements of the Agreement or any MICTA; or

#### the Supplier or its Secondees breaches the requirements of this clause 5.

### Unless otherwise agreed between the parties in writing, any reduction or termination under clauses 5.3(b)(ii) or 5.3(c) will not affect any other Supplier’s Activities being provided under the Agreement.

### The Customer’s sole liability under clauses 5.3(b)(ii) and 5.3(c) will be to pay for Secondee Services that have been provided in accordance with the Agreement.

## Reporting

### The Supplier must, within 10 Business Days of a request by the Customer, prepare and provide a written or electronic report to the Customer that lists all active and prior Secondees engaged pursuant to this Agreement and the duration of their engagement.

### The report must include the following details:

#### each Secondee’s name, role, daily or other rates and start and end dates;

#### the cumulative spend for each Secondee; and

#### such other information as reasonably requested by the Customer from time to time.

### The Customer may share such reports with the Contract Authority.

## Price and invoicing

### Unless otherwise specified in the Order Documents, the Secondee Services may only be provided on a time and materials basis at the daily rates for the relevant role as specified in the Order Documents.

### Daily rates will be capped at 8 hours per day, regardless of any hours worked by Secondees in excess of these hours. The Supplier will have no entitlement to be paid for hours worked by Secondees in excess of this cap. Where daily rates apply and any Secondee works less than 8 hours per day, the Supplier must apply a pro rata adjustment to the next invoice in order to reflect the hours actually worked by the Secondee.

### Unless otherwise agreed by the Customer in writing, the Customer will have no liability for any other costs or expenses relating to the Secondee Services or incurred by Secondees other than as specified in clause 5.5(a).

### Without limiting the other invoicing requirements under the Agreement, all invoices for Secondee Services must (unless otherwise required by the Customer) include a breakdown of the hours and days that the Supplier’s Personnel have worked during the period to which the invoice relates, and if required by the Customer, must include such other information and supporting documentation relating to the Secondee Services (including, for example, the tasks Secondees worked on).

## Secondee warranties

In nominating or providing a Secondee, the Supplier represents and warrants that:

### it has undertaken all necessary background and reference checks of the Secondee (including as specified in the Order Form);

### it is the Supplier’s informed view (including having regard to the background checks) that the Secondee is a fit and proper person to provide the Secondee Services and will meet the requirements of the Agreement;

### the Secondee has the necessary experience to provide the Secondee Services and holds the Qualifications and capabilities to the requisite levels and requirements as defined in the Agreement and in any applicable MICTA; and

### it is not aware of any matter or circumstance relating to the Secondee, which may adversely impact the Secondee Services or bring the Customer into disrepute.

## Privacy consents

### The Supplier is solely responsible for obtaining all necessary consents, in accordance with the Privacy Laws, in connection with the reporting, sharing and use of its Secondees’ Personal Information as contemplated under the Agreement, including clause 5. In supplying Personal Information to the Customer, the Supplier warrants and represents that it has all necessary consents to do so.

## Indemnity

In addition to the other obligations under the Agreement, the Supplier indemnifies the Indemnified Entities against any Losses arising out of, or in connection with any:

### breach by the Supplier or its Personnel of this clause 5; and

### false or misleading warranties or representations made or communicated by the Supplier in relation to its Secondees.

PART C: GENERAL

# Training

### This clause 6 only applies where it is specified in the Order Form that the Supplier will provide training Services or Deliverables.

### Unless otherwise specified in the Order Documents, the Supplier must:

#### provide training Services and any training materials at the times and in accordance with the requirements specified in the Order Documents; and

#### prepare and submit to the Customer's Representative for approval, by the date specified in the Order Documents, a training Plan for carrying out the training Services. The training Plan must include any content specified in the Statement of Work or other Order Documents.

### For clarity, the training Plan is a Document Deliverable. Clause 4 (Document Deliverables) of the Agreement therefore applies to the training Plan, including any updates to it.

### Training will occur at the location(s) specified in the Order Documents or such other location(s) agreed by the Customer in writing.

# Additional and ancillary Deliverables and Services

## Provision of additional and ancillary Deliverables and Services

The Supplier must supply:

### any additional or related Deliverables or Services specified in the Order Documents; and

### all other goods and services that are incidental or ancillary to the provision of the Services under this Module and that are required to ensure that the Services comply with the Specifications and other requirements of the Agreement.

## Requirements

The Supplier must provide all additional, related, incidental and/or ancillary Deliverables and Services specified in clause 7.1 in accordance with all applicable requirements and timeframes under the Agreement.

# Records

### The Supplier must create and maintain full and accurate records of all Services provided under this Module in accordance with the Agreement and this clause 8.

### Unless otherwise specified in the Order Form, the records in relation to the Services must include the following details:

#### any issues in relation to the Services that have arisen or been reported by the Customer;

#### a record of any Deliverables provided as part of the Services, including the date(s) provided;

#### any remedial action taken by the Supplier or its Personnel in relation to any Deliverables (or parts or components) that have been supplied as part of the Services;

#### any Delays associated with the provision of the Services and the reason for those Delays;

#### any actions that the parties need to take, or decisions that need to be made, to ensure the provision of the Services in accordance with the requirements of the Agreement;

#### written reports in relation to the provision of any training Services (if applicable), including:

##### the status of the training;

##### any issues that the Supplier has encountered in delivering the training; and

##### any "lessons learnt" or areas for future improvement; and

#### such other records in relation to the Services that are specified in the Order Form.

### The Supplier must provide the above reports to the Customer in accordance with the timeframes specified in the Order Form or within seven days of the Customer's request.

1. - Definitions and interpretation
	1. DEFINITIONS AND INTERPRETATION
		1. Definitions

Terms used in this Module have the meaning set out in Schedule 1 (Definitions and interpretation) of the Agreement, unless otherwise defined below:

1. **Agreement** has the meaning given to it in the Mini-ICT Agreement, of which this Module forms a part.
2. **Customer Provided Data** means the Customer Data provided by the Customer to the Supplier (or extracted by the Supplier as part of providing the Supplier's Activities) and in respect of which the Supplier is to provide the Data Services. Customer Provided Data includes any data derived or generated from the Customer Provided Data as a result of the provision of the Supplier's Activities.
3. **Data Migration Plan** means a Plan with respect to how the Supplier will carry out the data migration Services.
4. **Data Services** means any data Services specified in the Order Form to be provided by the Supplier in respect of the Customer Provided Data.
5. **Development Services** means the Software development Services as described in the Order Form.
6. **Module** means this document (including Annexure A), which is the “Services Module” under the Agreement.
7. **Qualifications** has the meaning given to this term in clause 5.2(a)(iii) and includes any other licences, qualifications or accreditations for specific Secondee roles as specified in the Order Form and any MICTA.
8. **Secondee** means a member or members of the Supplier’s Personnel that may be seconded to the Customer pursuant to these Module Terms. A Secondee must be a permanent employee of the Supplier.
9. **Secondee Services** means Services and roles that are supplied to the Customer by the Supplier and performed by Secondees, as specified in the Order Form.
10. **Secondee Services Period** means the period for the provision of the Secondee Services as specified in the Order Form, or if nothing is specified in the Order Form, 12 months from the Commencement Date.
11. **Services Period** has the meaning given to this term in clause 1.3.
12. **SI Plan** has the meaning given to this term in clause 3.3(a)(i).
13. **SI Specifications** has the meaning given to this term in clause 3.3(a)(ii).
14. **Software** means, in relation to this Module, the software specified in the Order Form that is subject to the Development Services, and where applicable, includes the Software Solution.
15. **Software Solution** means the Software to be implemented, developed or created by the Supplier for the Customer as stated in the Order Form.
16. **System** means the system specified in the Order Form (or as otherwise agreed by the parties in the SI Plan). The System comprises the software, hardware and other ICT infrastructure to be integrated with the Customer Environment.
17. **Systems Integration Services** means the Services for Systems integration specified in the Order Form and which is to be provided by the Supplier.
	* 1. Interpretation

Unless as otherwise expressly specified, in this Module:

* + - 1. the rules of interpretation set out in Schedule 1 (Definitions and interpretation) of the Agreement will apply to this Module; and
			2. a reference to a clause or part is a reference to a clause or part in this Module.