The National Disability Insurance Agency

(‘buyer’)

and

The University of Melbourne

(‘seller’)

for the provision of a Participant Needs Assessment Tool

Contract number: M000002243

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Contract Terms

Date

buyer

Name: National Disability Insurance Agency

ABN: 25 617 475 104

Address: 13 – 19 Malop Street, Geelong, VIC, 3220

Short form name: ***buyer***

seller

Name: The University of Melbourne (a body corporate established under the *University of Melbourne Act 2009* (Vic))

ABN: 84 002 705 224

Address: Grattan Street, The University of Melbourne, Victoria, 3052

Short form name: ***seller***

buyer and ***seller*** agree as follows.

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Contract Framework and Governance

1. Purpose, interpretation and technical contract issues

1.1 Purpose

1.1.1 The key purpose of this contract is to procure the ***I-CAN v6 tool***, training modules and associated materials for ***use***, adaptation and modification by ***buyer***, along with operational support from the ***seller*** to support and facilitate these purposes.

1.1.2 A key part of the requirement is that the ***I-CAN v6 tool*** (under a different name) and subsequent modifications will be published in whole on the publicly accessible Federal Register of Legislation (www.legislation.gov.au) or other Australian government websites in accordance with the ***buyer's*** legal and other obligations, including for the purposes of ensuring compliance with the ***NDIS Act***.

1.2 Defined terms

1.2.1 Words in ***bold italics*** have the meaning given in Schedule A or as defined in this contract.

1.3 Interpretation

1.3.1 In this contract, unless otherwise required by the context:

(a) words importing any gender include other genders;

(b) words in the singular include the plural and vice versa;

(c) where a word or phrase is given a particular meaning in Schedule A, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;

(d) a reference to a clause or a schedule is to a clause of, or schedule to, this contract;

(e) a reference to this contract includes all schedules and is to this contract as amended from time to time;

(f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(g) if this contract requires an obligation to be performed on a day that is not a ***business day***, it may be performed on the next day that is a ***business day***;

(h) notes in this contract form part of this contract;

(i) "person" includes an individual, agency, a company, a partnership and an unincorporated organisation;

(j) "and/or" means either or both;

(k) "relating to" and "relates to" are intended to have a broad meaning and include "in connection with" and "arising out of";

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(l) "document" includes an electronic document; and

(m) "$" means Australian dollars.

1.3.2 If there is any inconsistency between the documents forming this contract, a clause or schedule higher in the following list prevails over a clause or schedule lower in the list to the extent of the inconsistency:

(a) Schedule B;

(b) clauses 1 to 17;

(c) Schedule A;

(d) Schedule C;

(e) Schedule D;

(f) Schedule F; then

(g) any other schedules in the order in which they appear.

1.4 Cooperation and collaboration

1.4.1 When performing their respective obligations under this contract, the ***parties*** must act collaboratively and cooperatively with each other and the ***buyer's personnel*** to achieve ***buyer***'s objectives and endeavour to solve any issues or problems as quickly and as cost effectively as possible, including in a manner which is:

(a) open, transparent and accountable;

(b) professional, responsive and fair; and

(c) effective and efficient.

1.4.2 Without limiting this clause 1.4, ***seller*** must ensure that all ***subcontractors***:

(a) act collaboratively and cooperatively with the ***buyer, buyer's personnel***, and the ***seller*** to achieve ***buyer***'s objectives and endeavour to solve any issues or problems as quickly and as cost effectively as possible, including in a manner which is:

(i) open, transparent and accountable;

(ii) professional, responsive and fair; and

(iii) effective and efficient;

(b) liaise with;

(c) provide information to; and

(d) comply with directions from,

the ***buyer representative***, as reasonably required by the ***buyer*** from time to time.

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1.4.3 When exercising any discretion or power under this contract, a ***party*** must act honestly, reasonably and in good faith. The obligation to act in good faith does not prevent a ***party*** from acting to further its legitimate commercial or governmental interests.

1.4.4 ***seller*** must work collaboratively and cooperatively with other organisations providing products or services to ***buyer***, including by sharing any relevant information that is not ***confidential information***.

1.5 Execution and performance warranty

1.5.1 ***seller*** warrants that:

(a) it has the power, authority, capacity, and that any necessary contractual arrangements are in place, to execute this contract and to lawfully perform and comply with it;

(b) all actions necessary for the authorisation, execution and performance of this contract have been taken;

(c) it has and will be deemed to have done everything possible to inform itself completely about the requirements of this contract; and

(d) it enters into this contract based on its own investigations, interpretations, deductions, information and determinations and does rely on any representation, warranty, condition or other conduct, information, statement or document other than those contained in this contract.

1.6 Additional warranty if seller is a trustee

1.6.1 This clause 1.6 only applies if Item 2 of Schedule B states that ***seller*** is entering into this contract as the trustee of a trust.

1.6.2 ***seller*** enters into this contract both in its personal capacity and as trustee of the trust named at Item 2 of Schedule B and must not resign as trustee during the term.

1.6.3 ***seller*** warrants to ***buyer*** that:

(a) ***seller*** is the sole trustee of the trust named at Item 2 of Schedule B and is authorised under the trust deed to enter into and perform this contract;

(b) ***seller*** entering into and performing this contract is not inconsistent with the trust deed or any principle of equity; and

(c) ***seller*** has a full right of indemnity from trust assets in relation to any liability relating to this contract.

1.7 No agency

1.7.1 Other than as expressly provided in this contract, ***seller*** is not the agent of ***buyer*** and must not represent itself as such.

1.7.2 Item 3 of Schedule B may authorise ***seller*** to purchase products or services on behalf of ***buyer***. If the Item includes such an authorisation, ***seller*** must comply with any conditions set out in Item 3 and as ***notified*** by ***buyer*** from time to time.

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1.8 Assignment and novation

1.8.1 ***seller*** may not assign the benefit of this contract, or take any action to novate this contract or assign its obligations under it, without the prior ***approval*** of ***buyer***. ***buyer*** must not unreasonably withhold its consent to a proposed assignment by ***seller*** of the benefits of this contract.

1.9 Rights are Cumulative

1.9.1 The rights, powers and remedies provided in this contract are cumulative and are not exclusive of the rights, powers or remedies provided by ***law*** independently of this contract.

1.10 No merger

1.10.1 The rights and obligations of the ***parties*** under this contract do not merge on completion of any transaction contemplated by this contract.

1.11 Severability

1.11.1 If a provision of this contract is unenforceable for any reason, the provision may be severed from this contract and the remainder of this contract remains enforceable.

1.12 Entire agreement

1.12.1 This contract documents the entire agreement between the ***parties*** in relation to the subject matter and supersedes any previous proposals, representations or discussions.

1.13 Waiver

1.13.1 A delay by a ***party*** in exercising a right under this contract does not operate as a waiver of that right or any other right under this contract (unless otherwise expressly provided in this contract).

1.14 Acceptance, approvals and consents

1.14.1 Except where this contract states otherwise, ***buyer*** may, in its discretion, give conditionally or unconditionally or withhold any ***approval*** or consent under this contract.

1.14.2 s47G - business information

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1.15 Further action

1.15.1 Each ***party*** must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this contract and any transaction contemplated by this contract.

1.16 Export and import

1.16.1 The ***seller*** must obtain and maintain in full force all export approvals required to provide the ***deliverables***. The ***seller*** must give, on request by the ***buyer***, a copy of any necessary export approval, or proof that such export approval has been obtained.

1.16.2 The ***seller*** must ***notify*** the ***buyer*** in writing within 10 ***business days*** after the occurrence of any of the following events:

(a) the application for any required export approval;

(b) the ***seller*** becoming aware of the grant, refusal, revocation or qualification of, or a new requirement for, an export approval; or

(c) the ***seller*** becoming aware of any potential or actual breach of any ***laws*** relating to exports.

1.17 Governing law and jurisdiction

1.17.1 This contract is governed by the laws of Victoria and the ***parties*** irrevocably submit to the non-exclusive jurisdiction of the courts of that State for any matters relating to this contract.

1.18 Counterparts

1.18.1 This contract may be executed in any number of counterparts. All counterparts constitute the same contract.

1.19 Electronic Execution

1.19.1 Unless otherwise prohibited by ***law***, this contract may be executed electronically.

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2. Contract term

2.1.1 s47G - business information

2.1.2

2.1.3

2.1.4

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2.1.5 s47G - business information

3. Contract governance

3.1 Contract representatives

3.1.1 The ***contract representative*** for each ***party*** has authority to represent the ***party*** for all matters relating to this contract, including:

(a) sending and receiving ***notices*** and day-to-day communications; and

(b) exercising a ***party's*** rights under this contract.

3.1.2 A ***party*** may change its ***contract representative*** and the contact details for its ***contract representative*** by ***notice***, without the need for a variation under clause 17.1.

3.1.3 The ***parties*** must comply with the governance arrangements set out in Schedule C, s47G - business information

3.1.4 The parties acknowledge that each party:

(a) may require internal approvals prior to any ***contract representative*** exercising any rights under this contract and that each party will ensure that such approvals are obtained as necessary; and

(b) acknowledge that other individuals may also have authority to exercise a party's rights in relation to this contract (such as agreement to variations to this contract).

3.2 Notices

3.2.1 A communication from one ***party*** to the other ***party*** relating to this contract must be:

(a) in writing, in hard-copy or by email;

(b) (in the case of a hard-copy communication) signed by, or sent by (in the case of an email communication), the sending ***party***'s ***contract representative***;

(c) addressed to the other ***party***'s contract representative;

(d) in the case of a hard-copy communication, sent by express mail or courier or hand-delivered to the receiving ***party***'s ***contract representative*** address in Item 7 of Schedule B (or, if the address has been changed under clause 3.1.2, that changed address); and

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(e) in the case of an email communication, sent by email to the receiving ***party***'s ***contract representative*** address in Item 7 of Schedule B (or, if the email address has been changed under clause 3.1.2, that changed email address).

3.2.2 A ***notice*** given in hard-copy is taken to be received when it is delivered by hand or courier or, if it is posted, 3 ***business days*** after the date of posting (if posted in Australia) or 10 ***business days*** after the date of posting (if posted outside Australia).

3.2.3 A ***notice*** given by email is taken to be received when it reaches the receiving ***party's*** email server, unless the sending ***party*** receives an error message indicating that the receiving ***party's contract representative*** has not received the message.

3.3 Reporting by seller

3.3.1 ***seller*** must ***notify buyer*** within 3 ***business days*** if any of the following occur:

(a) ***seller*** or any ***subcontractor*** is unable to pay all its debts when they become due;

(b) if ***seller*** or any ***subcontractor*** is a company, ***seller*** or that ***subcontractor*** is under any form of external administration under the *Corporations Act 2001* (Cth) or an equivalent appointment is made under other legislation;

(c) if ***seller*** or any ***subcontractor*** is a partnership, the partnership is dissolved;

(d) there is a material change to ***seller's*** or any ***subcontractor's*** business or organisational structure (including as a result of a restructure, divestiture of business, sale of shares, or material changes in any governing legislation) that adversely affects the capacity of ***seller*** to perform its obligations under this contract; or

(e) ***seller*** or any of ***seller's personnel*** is charged with or convicted of a criminal offence, investigated by a government agency for alleged fraudulent behaviour, is subject to any claim or suit for alleged fraudulent behaviour or makes an admission of fraudulent behaviour (whether or not the fraudulent behaviour relates to this contract).

3.3.2 s47G - business information

3.4 Risk management

3.4.1 ***seller*** must identify and manage any risks and issues associated with the performance of its obligations under this contract, including in relation to the introduction of ***harmful code*** into ***buyer's systems***, the risk of loss or corruption of ***buyer's data*** and of delay.

3.5 Announcements

3.5.1 Subject to clause 3.5.2 and 3.5.3, except as required by ***law*** or the rules of a securities exchange, or with the consent of ***buyer*** in a ***notice***, ***seller*** and ***seller's personnel*** must not:

(a) make any public announcement about the award, performance or termination of this contract; or

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(b) publish or disclose any material or comments in relation to this contract (including any research or findings in respect of the performance of this contract, including the provision of any ***deliverables***, or any information obtained in the performance of this contract).

3.5.2 If ***buyer***, or another ***agency*** makes a public announcement relating to this contract, ***seller*** may subsequently make a public announcement on the same subject matter in a similar level of detail.

3.5.3 Unless Item 8 of **Schedule B** provides otherwise, ***seller*** may include ***buyer's*** name and a short factual description of this contract in a list of reference projects, proposals to ***third parties*** and its annual report.

3.5.4 For the purposes of seeking ***buyer*** consent under clause 3.5.1, ***seller*** agrees that:

(a) it must provide ***buyer*** with information about the proposed announcement, publication, or disclosure, including any information reasonably requested by ***buyer*** within the timeframes reasonably requested by ***buyer***;

(b) ***buyer*** may provide feedback or input for ***seller's*** consideration for inclusion prior to any announcement, publication, submission for publication or disclosure, and ***seller*** must have regard to and implement that feedback (noting that such feedback is ***confidential information*** for the purposes of this contract);

(c) ***seller*** must comply with any conditions imposed by ***buyer*** in providing its consent including in respect of:

(i) any attributions required by ***buyer***; and

(ii) protecting any ***personal information***, ***confidential information***, ***intellectual property rights***, or other information; and

(d) without limiting ***buyer's*** discretion in providing any consent, ***buyer*** may refuse any request for consent if, in ***buyer's*** reasonable opinion, the publication is likely to jeopardise:

(i) the protection of ***buyer's intellectual property rights*** or ***buyer's confidential information***; or

(ii) ***buyer's*** reputation, or that of its responsible minister or the Government; or

(iii) compliance with laws, including the ***Privacy Act*** or ***NDIS Act***.

3.5.5 For clarity, nothing in this clause 3.5 limits any other obligation of the ***seller*** under this contract, including with respect to compliance with its ***intellectual property rights***, confidentiality and privacy obligations and all applicable ***laws***.

3.6 Access and audit (including auditing against standards)

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3.7 Freedom of Information

3.7.1 This clause 3.7 applies if ***seller*** provides services under this contract to a person who is not an ***agency***.

3.7.2 If ***buyer*** receives a request for a document under the *Freedom of Information Act 1982* (Cth) and:

(a) the document was created by or is in the possession of ***seller*** (including ***seller's personnel***); and

(b) the document relates to, or was created in, the performance of this contract (other than the entry into this contract),

then, if requested to do so by ***buyer*** in a ***notice***, ***seller*** must provide a copy of the document to ***buyer*** at no additional cost to ***buyer***.

3.8 Conflicts of interest

3.8.1 ***seller*** warrants to ***buyer*** on the commencement of this contract and continuously during the ***term*** that neither it nor any ***seller's personnel*** have a ***conflict of interest*** in relation to any aspect of the performance of this contract that has not been disclosed to ***buyer*** in a ***notice***.

3.8.2 If ***seller notifies buyer*** of a ***conflict of interest*** in relation to the performance of this contract, ***seller*** must comply with any reasonable direction given by ***buyer*** in a ***notice*** to manage or mitigate that ***conflict of interest*** at no additional cost to ***buyer***.

3.9 Problem resolution

3.9.1 If a ***party*** considers that an ***issue*** has arisen, it must ***notify*** the other ***party*** within 5 ***business days*** describing the ***issue*** and explaining its position in relation to the ***issue***.

3.9.2 If a ***party*** receives a ***notice*** under clause 3.9.1, within 5 ***business days*** the ***party*** must ***notify*** the other ***party*** explaining its position in relation to the ***issue***.

3.9.3 If a ***notice*** has been given under clause 3.9.2 and a ***party*** considers that the ***issue*** remains unresolved, within 5 ***business days*** that ***party*** must ***notify*** the other ***party*** that a meeting is required to discuss and attempt to resolve the ***issue***.

3.9.4 If a ***notice*** is given under clause 3.9.3 in relation to an ***issue***, both ***parties*** must ensure that their ***contract representatives*** meet to discuss and genuinely attempt to resolve the ***issue*** within 5 ***business days***. The time and location of such meeting is to be agreed between the ***contract representatives*** but, failing agreement, the

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meeting will be at 11.00am on the fifth ***business day*** after the ***notice*** is given under clause 3.9.3, at ***buyer's address***.

3.9.5 If either ***party*** considers that an ***issue*** discussed at a meeting held under clause 3.9.4 remains unresolved after the meeting, that ***party*** may give a ***notice*** to the other ***party*** requiring the ***issue*** to be discussed by the senior executives of the ***parties***.

3.9.6 If a ***notice*** is given under clause 3.9.5, each ***party*** must ensure that one or more of its senior executives who have responsibilities in relation to this contract meet with senior executives of the other ***party*** who have responsibilities in relation to this contract within 15 ***business days*** of the ***notice*** (either as part of a scheduled governance meeting or at a specially convened meeting) to discuss and genuinely attempt to resolve the ***issue***. The time and location of such meeting is to be agreed between the senior executives of the ***parties*** but, failing agreement, the meeting will be at 11.00am on the fifteenth ***business day*** after the ***notice*** is given under clause 3.9.5, at ***buyer's address***.

3.9.7 If either ***party*** considers that an ***issue*** discussed at a meeting held under clause 3.9.6 remains unresolved after that meeting, or that the other ***party*** has not complied with the process in clauses 3.9.1 to clause 3.9.6 in relation to an ***issue***, that ***party*** may ***notify*** the other ***party*** that the ***issue*** has become a ***dispute***.

3.9.8 If Item 9 of Schedule B provides for any ***dispute*** to be referred to mediation, if a ***party*** gives a ***notice*** under clause 3.9.7 in relation to a ***dispute***, the ***parties*** must refer the ***dispute*** to mediation in accordance with the process set out in the Item.

3.9.9 If Item 10 of Schedule B provides for a category of ***disputes*** to be referred to expert determination, if a ***party*** gives a ***notice*** under clause 3.9.7 in relation to a ***dispute*** within that category, the ***parties*** must refer the ***dispute*** to expert determination in accordance with the process set out in the Item.

3.9.10 If both clause 3.9.8 and clause 3.9.9 apply to a ***dispute***, the ***dispute*** must be referred to mediation before the ***dispute*** is referred to expert determination.

3.9.11 If neither clause 3.9.8 nor clause 3.9.9 applies to a ***dispute***, the ***parties*** must give genuine good faith consideration to whether mediation, expert determination, or another form of alternative dispute resolution would be a suitable mechanism to attempt to resolve the ***dispute***. If both ***parties*** agree to use mediation, expert determination, or another form of alternative dispute resolution in relation to a ***dispute***, the ***parties*** must agree a suitable process and then follow that process in relation to the ***dispute***.

3.9.12 Neither ***party*** may commence legal proceedings in relation to an ***issue*** or a ***dispute*** until all applicable requirements in clause 3.9.1 to clause 3.9.11 have been complied with in relation to the ***issue*** or ***dispute***. However, this clause 3.9.12 does not prevent a ***party*** seeking urgent interlocutory relief.

3.9.13 The ***parties*** must continue to perform this contract (including, in the case of ***buyer***, paying any undisputed ***charges*** that are due under this contract) while the ***parties*** are complying with the requirements in clause 3.9.1 to clause 3.9.11.

3.9.14 The ***parties*** must meet their own costs of complying with the requirements in clause 3.9.1 to clause 3.9.11.

3.9.15 If required by ***buyer***, ***seller*** must ensure that relevant ***seller personnel*** attend any meetings required by ***buyer*** to assist in resolving any ***issue*** or ***dispute*** (at no cost to ***buyer***).

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3.10 Compliance with laws

3.10.1 ***seller*** must comply, and must use reasonable endeavours to ensure that ***seller personnel*** comply, with all ***laws*** when performing its obligations under this contract.

3.11 Notification of Significant Events

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3.12 Disability inclusion

3.12.1 For the purposes of this clause 3.12:

Relevant Disability Laws means all laws, regulations, rules, charters, and standards related to the involvement or engagement of persons with disabilities in an employment context including the following, as originally made or enacted and as amended from time to time, including:

(a) NDIS Act and related legislation;

(b) *Disability Discrimination Act 1992* (Cth) and related legislation;

(c) *Disability Services Act 1986* (Cth) and related legislation;

(d) equal employment opportunity legislation, including the *Workplace Gender Equality Act 2012* (Cth);

(e) *Workplace Health and Safety Act 2011* (Cth);

(f) *Fair Work Act 2009* (Cth);

(g) other applicable State and Territory legislation, including the *Human Rights Act 2004* (ACT) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic); and

(h) *Public Service Act 1999* (Cth) and related legislation.

3.12.2 ***seller*** acknowledges, and must ensure that the ***seller's personnel*** acknowledge, that:

(a) ***buyer*** is committed to ensuring that the principles in the United Nations Convention on the Rights of Persons with Disabilities are implemented and that ***buyer*** is acting in compliance with the obligations in the ***Relevant Disability Laws***; and

(b) one of the key principles of the National Disability Insurance Scheme (**NDIS**) is that people with disabilities should be supported in all their dealings and communications with ***buyer*** so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs (see sections 4(9) and 17A(2) of the *NDIS Act*).

3.12.3 To assist ***buyer*** comply with its obligations under ***Relevant Disability Laws***, ***seller*** must do, and must ensure that the ***seller's personnel*** do, the following in connection with this contract:

(a) to the extent they apply to ***seller***, comply with all ***Relevant Disability Laws***;

(b) provide all ***deliverables*** under this contract in a format that is compliant with the Web Content Accessibility Guidelines available at: https://www.w3.org/WAI/intro/wcag, as amended from time to time; and

(c) use its best endeavours to:

(i) create a welcoming workplace and foster an inclusive culture, where people with a disability feel valued and encouraged to participate; and

(ii) attract, appoint, retain and develop employees with a disability.

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3.13 Fraud

3.13.1 For the purposes of this clause 3.13:

fraud means dishonestly obtaining a benefit from any person (including ***buyer***) or causing a loss to any person (including ***buyer***) by deception or other means and includes alleged, attempted, suspected or detected fraud.

3.13.2 ***seller*** must take all reasonable steps to prevent and detect ***fraud*** in relation to the performance of this contract. ***Seller*** acknowledges the occurrence of ***fraud*** will constitute a breach of this contract.

3.13.3 ***buyer*** may, at its discretion, investigate any ***fraud*** in relation to this contract. ***Seller*** must co-operate with, and provide all reasonable assistance to, any such investigation at its own cost.

3.13.4 ***seller*** must provide ***buyer*** relevant information (including personal information) relating to ***seller*** and ***seller's personnel*** for the purposes of preventing, detecting, investigating, or dealing with any ***fraud*** or ***security incident*** relating to this contract. When providing personal information of a natural person under this clause, ***seller*** warrants it will have obtained the consent of, or provided reasonable notification to, the person in accordance with the Privacy Act. Nothing in this clause limits or derogates from ***seller***'s obligations under the Privacy Act.

3.13.5 The ***seller*** must not provide gifts, payments or other inducements and undertakes that it has not in the previous six months prior to the ***commencement date*** provided, gifts, payments or other inducements to or for the personal benefit of any officer, employee, contractor or agent of the ***buyer***.

3.13.6 This clause 3.13 survives expiry or termination of this contract.

3.14 Anti-corruption

3.14.1 ***seller*** acknowledges that in performing the contract, it is a contracted service provider for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (**NACC Act**).

3.14.2 ***seller*** must comply with any reasonable request, policy, or direction issued by ***buyer*** and otherwise cooperate with ***buyer*** in relation to any action taken by ***buyer*** required or authorised by the NACC Act.

3.14.3 This clause 3.14 survives expiry or termination of this contract.

3.15 Public Interest Disclosure

3.15.1 ***seller*** must familiarise itself with the *Public Interest Disclosure Act 2013* (Cth) (***PID Act***) and acknowledges that public officials, including ***seller*** and ***seller's personnel***, who suspect wrongdoing within the Commonwealth public sector may raise their concerns under the PID Act. Information for disclosers is available at: https://www.ombudsman.gov.au/Ourresponsibilities/making-a-disclosure

3.16 Commonwealth Supplier Code of Conduct

3.16.1 The Commonwealth expects its suppliers to conduct themselves with high standards of ethics such that they consistently act with integrity and accountability. The Commonwealth Supplier Code of Conduct (**Code**) outlines the Commonwealth's minimum expectations of suppliers and their subcontractors while under contract with the Commonwealth.

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3.16.2 ***seller*** must comply with, and ensure that ***seller's personnel*** and ***subcontractors*** comply with, the Code in connection with the performance of this contract.

3.16.3 s47G - business information

3.16.4

3.16.5

3.16.6 Notwithstanding clause 3.16.5, ***buyer*** may notify ***seller*** in writing that it considers that ***seller*** has breached this clause 3.16, in which case ***seller*** must issue a ***notice*** under clause 3.16.5 and otherwise comply with its obligations under this clause 3.16.

3.16.7 A failure by ***seller*** to comply with its obligations under any part of this clause will be a material breach of this contract.

3.16.8 Nothing in this clause or the Code limits, reduces or derogates from the ***seller's*** other obligations under this contract. ***Buyer's*** rights under this clause are in addition to and do not otherwise limit any other rights ***buyer*** may have under this contract.

3.16.9 s47G - business information

3.16.10

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4.7 Specified personnel

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4.8 Work health and safety

4.8.1 When delivering ***products*** and ***services*** under this contract (including if any ***seller personnel*** are attending or working on the ***buyer's*** premises), ***seller*** must:

(a) ensure that the delivery is done in a manner that does not pose any avoidable health or safety risk to ***seller's personnel***, ***buyer's personnel*** or any other person;

(b) identify all reasonably foreseeable hazards that could give rise to a risk to health or safety;

(c) ensure that risk assessments are conducted for risks to the health and safety to ***seller's personnel***, ***buyer's personnel*** and any other person;

(d) ensure that control measures are in place to mitigate identified risks to health or safety;

(e) consult, cooperate and coordinate activities in relation to health and safety matters with other persons who have a health and safety duty in relation to the activities; and

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(f) ***notify buyer*** (providing full details) and the relevant regulator if a "notifiable event" (within the meaning of that term in the *Work Health and Safety Act 2011* (Cth) or a corresponding State or Territory law) occurs.

4.9 Workplace gender equity

4.9.1 This clause 4.9 applies if ***seller*** is or becomes a "relevant employer" within the meaning of that term in WGEA.

4.9.2 ***seller*** must comply with its obligations under WGEA.

4.9.3 If ***seller*** becomes non-compliant with ***WGEA***, it must:

(a) immediately ***notify buyer*** of the non-compliance with ***WGEA***;

(b) become compliant with ***WGEA*** within 40 ***business days*** from the date of non-compliance; and

(c) ***notify buyer*** when it becomes compliant with ***WGEA***.

4.9.4 On each anniversary of the ***commencement date*** during the ***term***, ***seller*** must provide a ***notice*** to ***buyer*** that includes a letter from the Workplace Gender Equality Agency confirming that ***seller*** is currently compliant with ***WGEA***.

4.10 Indigenous procurement policy

4.10.1 ***seller*** notes that it is Australian Government policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy.

4.10.2 When delivering ***products*** and ***services*** under this contract, ***seller*** must use reasonable endeavours to increase its purchasing from ***Indigenous enterprises*** (including by entering into subcontracts with ***Indigenous enterprises*** and using ***Indigenous enterprises*** in ***seller's*** supply chain) and its employment of Indigenous Australians.

4.10.3 If requested by ***buyer*** in a ***notice***, ***seller*** must provide a written report (including appropriate evidence) to ***buyer*** demonstrating ***seller's*** compliance with this clause 4.10 at no additional cost to ***buyer***.

4.11 Modern slavery

4.11.1 For the purposes of this clause 4.11:

(a) ***Grievance Mechanism*** means a process for handling a complaint or grievance about ***Modern Slavery*** practices that is consistent with the criteria set out in the ***Guiding Principles on Business and Human Rights***;

(b) ***Guiding Principles on Business and Human Rights*** means the United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf; and

(c) ***Modern Slavery*** has the meaning given in the *Modern Slavery Act 2018* (Cth).

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4.11.2 ***seller*** must take reasonable steps to identify, assess and address risks of ***Modern Slavery*** practices in the operations and supply chains used in the performance of the contract.

4.11.3 ***seller*** will ensure ***seller's personnel*** responsible for managing the operations and supply chains used in the performance of the contract have undertaken suitable training to be able to identify and report ***Modern Slavery***.

4.11.4 If at any time ***seller*** becomes aware of ***Modern Slavery*** practices in the operations and supply chains used in the performance of the contract, then ***seller*** must, as soon as reasonably practicable, take all reasonable action to:

(a) address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains; and

(b) remediate any adverse impacts caused or contributed to by ***seller*** from these practices in accordance with the ***Guiding Principles on Business and Human Rights***.

4.11.5 Without limiting clause 4.11.4, in performing this contract, the ***seller*** must:

(a) not require ***personnel*** to pay fees, charges, expenses or financial obligations incurred in order for the ***personnel*** to secure their employment or placement (recruitment fees), regardless of the manner, timing or location of the imposition or collection of these recruitment fees; and

(b) not destroy or exclusively possess, whether permanently or otherwise, the travel or identity documents of ***personnel***; and

4.11.6 ensure ***personnel*** can access a ***Grievance Mechanism*** to safely report any instances of ***Modern Slavery*** in the operations and supply chains used by the ***seller*** in its performance of this contract.

4.12 Shadow Economy

Shadow Economy Procurement Connected Policy	means the *Shadow economy – increasing the integrity of government procurement*: *Procurement connected policy guidelines October 2024* available at https://treasury.gov.au/publication/p2019-t369466.
Satisfactory	means meets the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy or, if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8.b of the Shadow Economy Procurement Connected Policy.
Statement of Tax Record	means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR.
Valid	means valid in accordance with Part 7.e of the Shadow Economy Procurement Connected Policy.

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4.12.1 ***seller*** warrants in relation to any first tier ***subcontractor*** that delivers goods and/or services as part of this contract that the ***seller*** either:

(a) at the time of responding to the approach to market that resulted in the entry of this contract, obtained all Valid and Satisfactory Statements of Tax Record required for subcontractor's entity type under Part 10 of the Shadow Economy Procurement Connected Policy; or

(b) obtained at the time of entry into the subcontract, all Valid and Satisfactory Statements of Tax Record required for ***subcontractor's*** entity type under Part 10 of the Shadow Economy Procurement Connected Policy.

4.12.2 ***seller*** must, on request by ***buyer***, provide to ***buyer***, a copy of any such Statement of Tax Record.

4.12.3 If ***seller*** is a partnership, ***seller*** will ensure that if a new partner joins the partnership that a Valid and Satisfactory Statement of Tax Record for the partner is provided to ***buyer***, as soon as possible after they become a partner to the partnership.

4.12.4 ***seller*** warrants that at the ***commencement date*** it holds all Valid and Satisfactory Statements of Tax Record required for its entity type under Part 10 of the Shadow Economy Procurement Connected Policy.

4.12.5 ***seller*** must hold all Valid and Satisfactory Statements of Tax Record required for its entity type under Part 10 of the Shadow Economy Procurement Connected Policy at all times during this contract term (including any extension) and, on request by ***buyer***, provide to ***buyer*** a copy of any such Statement of Tax Record.

4.12.6 Without limiting its other rights under this contract or at ***law***, any failure by ***seller*** to comply with the requirements outlined in clauses 4.12.4 and 4.12.5 will be a breach of this contract.

4.13 National Principles for Child Safe Organisations and other action for the safety of Children

For the purposes of this clause 4.13:

Child-Related Personnel	means officers, employees, contractors, agents, and volunteers of the ***seller*** involved with the ***deliverables*** who as part of that involvement may interact with children.
National Principles for Child Safe Organisations	means the National Principles for Child Safe Organisations, endorsed by the Council of Australian Governments as published by the Commonwealth Government (available at: National Principles for Child Safe Organisations (1902KB) (external).
Working With Children Check or ***WWCC***	means the process in place pursuant to any State, Territory or Commonwealth Law to screen an individual for fitness to work with children.

4.13.1 ***seller*** agrees in relation to the ***deliverables*** to:

(a) implement the National Principles for Child Safe Organisations;

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(b) ensure that all Child-Related Personnel implement the National Principles for Child Safe Organisations;

(c) complete and update, at least annually, a risk assessment to identify the level of responsibility for children and the level of risk of harm or abuse to Children;

(d) put into place and update, at least annually, an appropriate risk management strategy to manage risks identified through the risk assessment required by this clause 4.13; and

(e) provide training and establish a compliance regime to ensure that all Child-Related Personnel are aware of, and comply with:

(i) the National Principles for Child Safe Organisations;

(ii) the ***seller***'s risk management strategy required by this clause 4.13;

(iii) all applicable ***laws*** in force in any jurisdiction where any part of the ***deliverables*** may be carried out relating to requirements for working with children, including Working With Children Checks; and

(iv) all ***laws*** relating to mandatory reporting of suspected child abuse or neglect, however described.

4.13.2 With reasonable notice to ***seller***, ***buyer*** may conduct a review of ***seller***'s compliance with this clause 4.13.

4.13.3 ***seller*** agrees to:

(a) notify ***buyer*** of any failure to comply with this clause 4.13;

(b) co-operate with ***buyer*** in any review conducted by the ***buyer*** of the ***seller's*** implementation of the National Principles for Child Safe Organisations or compliance with this clause 4.13; and

(c) promptly, and at ***seller***'s cost, take such action as is necessary to rectify, to ***buyer***'s satisfaction, any failure to implement the National Principles for Child Safe Organisations or any other failure to comply with this clause 4.13.

5. Delivery of products

5.1 Software supply

5.1.1 No ***software*** is required to be provided under this contract.

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6.9 Specific warranties

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6.10 Third party warranties

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6.11 Harmful code

6.11.1 ***seller*** must:

(a) ensure that it does not, and ***seller's personnel*** do not; and

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(b) ensure it does not, and ***seller's personnel*** do not, negligently or deliberately,

introduce any ***harmful code*** into ***buyer's*** systems or include any ***harmful code*** into ***buyer's systems*** or any ***deliverable***.

6.11.2 If ***seller*** becomes aware that ***harmful code*** has been, or is likely to have been, introduced into ***buyer's systems*** (including by ***buyer*** or ***buyer's personnel*** or any ***third party***) or included in a ***deliverable***, ***seller*** must:

(a) immediately ***notify buyer***;

(b) take all necessary steps to eliminate the ***harmful code*** in a ***deliverable*** subject to any directions given by ***buyer***;

(c) if ***seller*** is in breach of clause 6.11.1, take all necessary steps (at no additional cost to ***buyer***) to eliminate the ***harmful code*** in ***buyer's systems*** and repair any damage caused by the ***harmful code*** to ***buyer's systems***, subject to any directions given by ***buyer***; and

(d) if ***seller*** is not in breach of clause 6.11.1, if directed by ***buyer*** in a ***notice*** and in accordance with such direction, at ***buyer's*** cost, eliminate the ***harmful code*** in ***buyer's systems*** and repair any damage caused by the ***harmful code*** to ***buyer's systems*** subject to any costs being agreed in writing by the ***parties***.

6.12 Escrow

6.12.1 If specified in Schedule C, within 20 ***business days*** of the ***commencement date***, ***seller*** must enter into an escrow arrangement in relation to the source code of the ***software*** in accordance with this clause 6.12.

6.12.2 An escrow agreement under this clause 6.12 must:

(a) be an enforceable agreement between ***buyer***, ***seller*** and a reputable escrow agent approved by ***buyer*** (acting reasonably);

(b) provide for ***seller*** to pay the fees of the escrow agent;

(c) require ***seller*** to deposit one copy of all ***escrow material*** (with the escrow agent within 5 ***business days*** of the commencement of the escrow agreement (at no additional cost to ***buyer***), in a format that could be accessed by ***buyer*** without the use of any keys or codes that have not been provided to ***buyer***;

(d) require ***seller*** to provide updated ***escrow material*** (including the most up-to-date source code) to the escrow agent (at no additional cost to ***buyer***) no less frequently than every 90 ***business days*** during the ***term***;

(e) require the escrow agent to hold the ***escrow material*** on behalf of ***buyer*** and ***seller*** and to keep the ***escrow material*** secure, for a period at least 20 ***business days*** after the end of the ***term***;

(f) enable ***buyer*** (under the supervision of ***seller***) to verify that the ***escrow material*** is complete and up-to-date; and

(g) require the escrow agent to release the ***escrow material*** to ***buyer*** on written demand (without reference to ***seller***) if the demand complies with the requirements of this clause 6.12.

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6.12.3 ***buyer*** may demand that the escrow agent releases the ***escrow material*** to ***buyer*** if:

(a) ***seller*** becomes insolvent or ceases to carry on business;

(b) ***seller*** is in material breach of its obligations under this contract relating to the support of the ***software*** and ***seller*** has not cured the breach within 10 ***business days*** of being required to do so in a ***notice*** from ***buyer*** to ***seller***; or

(c) ***buyer*** has terminated this contract under clause 17.6,

and ***buyer*** informs ***seller*** in a ***notice*** of its intention to demand the release of the ***escrow material*** from the escrow agent at least 10 ***business days*** before the demand on the escrow agent is made.

6.13 Artificial Intelligence

6.13.1 For the purpose of this clause 6.13:

Artificial Intelligence* or *AI	means a machine-based system (including ***software*** or ***services***) that can: (a) for a given set of human-defined objectives; and (b) utilising methodologies drawn from techniques including machine learning, data science, and/or statistics, make predictions, recommendations or decisions that may influence real or virtual environments, and otherwise carry out tasks or behaviour that would require a degree of human intelligence as if such actions were performed by a human. For clarity, and the purposes of this contract, 'Artificial Intelligence' includes generative artificial intelligence and machine learning.
AI Capability	means a product, service, function or component of the ***deliverables*** which uses or relies on Artificial Intelligence (but excludes the ***seller's*** backend operational systems).

6.13.2 ***seller*** must not use ***AI Capabilities*** or deploy ***AI Capabilities*** into ***deliverables*** unless:

(a) the use or deployment of the ***AI Capability*** is expressly authorised in this contract; or

(b) ***seller*** has obtained written ***approval*** from ***buyer*** and the ***parties*** have agreed to a variation to this contract, if required.

6.13.3 If ***seller*** proposes to seek ***approval*** to use or deploy any ***AI Capability***, ***seller*** must:

(a) advise ***buyer***, in writing; and

(b) provide any information requested by ***buyer*** in respect of the proposed ***AI Capability***.

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6.13.4 ***buyer*** may ***approve*** or not ***approve*** a request under clause 6.13.2 in its absolute discretion. If ***approval*** is given, it may be subject to conditions and ***seller*** must comply with those conditions, including agreement to varying this contract, if required.

6.13.5 ***seller*** acknowledges that it remains fully responsible for its obligations under this contract, including for ensuring:

(a) the ***deliverables*** meet the ***specifications*** and requirements in Schedule C including with any ***AI components***; and

(b) any outputs generated by the ***AI Capability*** are accurate, complete and fit for purpose, for example ensuring:

(i) any datasets relied on by the ***AI Capability*** are accurately and comprehensively reviewed;

(ii) any research outputs accurately reflect the sources researched; and

(iii) any analysis is an accurate reflection of the source data, notwithstanding any ***approval*** by ***buyer*** of the ***use*** or deployment of the ***AI Capability***.

6.13.6 Without limiting any other clause under this contract, ***seller*** must:

(a) comply with all applicable Commonwealth policies, guidance and best practices in connection with the ***AI Capability***, including but not limited to:

(i) the National Framework for the Assurance of Artificial Intelligence in Government as amended from time to time available at: https://www.finance.gov.au/government/public-data/data-and-digital-ministers-meeting/national-framework-assurance-artificial-intelligence-government;

(ii) ISO/IEC 42001; and

(iii) any other policies, guidance or best practices notified to ***seller*** from time to time; and

(b) ensure that any ***AI Capability*** is used on an ethically sound basis in accordance with 'Australia's Artificial Intelligence Ethics Framework', as amended from time to time, available at: https://www.industry.gov.au/publications/australias-artificial-intelligence-ethics-framework.

6.13.7 Notwithstanding any other provision under this contract, ***seller*** must ensure that:

(a) ***buyer data*** and ***buyer material*** may only be used to train any ***AI Capability*** if ***buyer*** has expressly ***approved***, in writing, that such training can occur in respect of that ***buyer data*** or ***buyer material*** (a general approval, such as in ***documentation*** even if that ***documentation*** attached to this contract is not sufficient);

(b) ***buyer data*** or ***buyer material*** used to train and/or develop ***AI*** Capability (including as altered, restructured or reconfigured by the ***AI Capability***) is only used by ***seller*** for the purpose of providing the ***services*** to ***buyer***; and

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(c) the outcome of any training and/or development of the ***AI Capability***, required for the purpose of providing cloud services, is not used by ***seller***, its ***subcontractors*** or any ***third party*** to sell as a product or to develop a product for its or those party's customers.

6.13.8 For the purposes of clause 6.13, no ***AI Capability*** is approved by ***buyer*** as at the ***commencement date***.

7. Performance Guarantee

7.1.1 If specified in Item 34 of Schedule B – Contract Details, ***seller*** must provide ***buyer*** with a performance guarantee, in a form acceptable to ***buyer***, which guarantees the performance of ***seller's*** obligations under this contract, by no later than the ***commencement date*** (or such other date specified in Item 4 of Schedule B – Contract Details) and properly executed by the entity specified in Item 2 of Schedule B – Contract Details.

8. Solution requirements

8.1 Total responsibility

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11.2 No representations and warranties

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11.3 Use of buyer facilities

11.3.1 ***buyer*** must make the facilities specified in Item 16 of Schedule B reasonably available to ***seller*** and ***seller personnel*** as required for its use in performing this contract.

11.3.2 ***buyer*** will use reasonable endeavours to ensure that:

(a) such facilities (including any equipment or ***software***) will comply with the requirements specified in Item 16 of Schedule B;

(b) such facilities will be maintained by ***buyer*** in accordance with the requirements (if any) in Item 16 of Schedule B; and

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(c) should a facility fail at any time to meet the requirements in Item 16 of Schedule B, without limiting any other rights of ***seller***, ***buyer*** will take steps to ensure the facility meets the requirement as soon as practicable.

11.4 Access to buyer facilities

11.4.1 ***buyer*** must provide ***seller*** and ***seller personnel*** as required access to ***buyer's facilities*** specified in Item 17 of Schedule B to enable ***seller*** to fulfil its obligations under this contract.

11.4.2 ***buyer*** may temporarily deny ***seller*** and ***seller personnel*** access to ***buyer's facilities***, at its sole discretion.

11.4.3 The ***seller*** and ***seller personnel*** must, if using or accessing the ***buyer's facilities***, comply with all directions, policies, and procedures, including documented procedures and policies relating to work health and safety and security in effect, in respect of those ***buyer's facilities*** which:

(a) the ***seller*** or ***seller personnel*** are (or ought to be) aware of; or

(b) are ***notified*** to the ***seller*** or ***seller personnel*** by the ***buyer*** from time to time.

11.4.4 In addition to the requirements of clause 11.4, the ***seller*** agrees that and must ensure that ***seller personnel*** agreed that, when accessing the ***buyer's facilities***, it and ***seller personnel*** will comply with all applicable policies, ***laws***, regulations and procedures relating to security and work health and safety.

11.4.5 Access to the ***buyer's facilities*** may be temporarily denied or suspended by the ***buyer***, at its sole discretion.

11.5 Site specification and preparation

11.5.1 Item 18 of Schedule B specifies the details (if any) of the implementation and environmental requirements of a ***deliverable*** (site specifications) to allow ***buyer*** to prepare the site to meet those requirements.

11.5.2 Unless specified otherwise in Item 18 of Schedule B, ***buyer*** is responsible for preparing the site to meet the site specifications.

12. Charges and payment

12.1 Charges

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12.9 Additional Services

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Contract Management and Performance

13. Information management

13.1 Privacy

General

13.1.1 ***seller*** must, in relation to the performance of this contract:

(a) not do any act, omit to do any act or engage in any practice;

(b) ensure that ***seller's personnel*** do not do any act, omit to do any act or engage in any practice; and

(c) ensure that every ***subcontract*** makes it a breach of the ***subcontract*** by the ***subcontractor*** if the ***subcontractor*** does any act, omits to do any act or engages in any practice,

that:

(d) if done or omitted by ***buyer***, would be a breach of an Australian Privacy Principle under the Privacy Act; and/or

(e) would be an interference with the privacy of an individual, within the meaning of that expression in the Privacy Act.

13.1.2 ***seller*** and ***seller's personnel*** must not access, use, handle or disclose any ***personal information*** obtained, accessible or generated in connection with this contract without the written authority of the ***buyer*** and only to the extent such access, use, handling, or disclosure is reasonably necessary to enable ***seller*** or ***seller's personnel*** to provide the ***services*** under this contract.

13.1.3 ***seller*** must comply with, and ensure that ***seller's personnel*** comply with, any privacy policy or guidelines specified at Item 20 of Schedule B.

13.1.4 ***seller*** must ensure that all of ***seller's personnel*** who access ***personal information*** in relation to this contract are informed about ***seller's*** obligations under this clause 13.1.

13.1.5 ***seller*** must immediately ***notify buyer*** if any of the following occur:

(a) ***seller*** receives a complaint from a ***third party*** about the handling of any ***personal information*** held or accessed by ***seller*** in relation to this contract;

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(b) the Australian Information Commissioner or Privacy Commissioner in any Australian jurisdiction requests information about or commences an investigation in relation to this contract;

(c) if ***seller*** becomes aware that it may be required to disclose personal information by ***law*** or to the Australian Information Commissioner or Privacy Commissioner in any Australian jurisdiction; or

(d) ***seller*** breaches its obligations under this clause 13.1 or becomes aware of circumstances that may reasonably suggest that it could have breached its obligations under this clause.

13.1.6 If ***seller*** becomes aware that there are reasonable grounds to suspect that ***seller's personnel*** or ***subcontractors*** have breached an Australian Privacy Principle in relation to any ***personal information*** held by ***seller*** as a result of this contract or the ***seller's*** performance of the contract, ***seller*** agrees to:

(a) notify ***buyer*** in writing as soon as possible, which must be no later than within 48 hours; and

(b) take any other action as reasonably directed by ***buyer***.

13.1.7 If ***seller*** becomes aware that there are reasonable grounds to suspect that there may have been an Eligible Data Breach as defined in the Privacy Act in relation to any ***personal information*** held by ***seller*** as a result of or performance of this contract, ***seller*** agrees to:

(a) notify ***buyer*** in writing as soon as possible, which must be no later than within 48 hours; and

(b) unless otherwise directed by ***buyer***, carry out an assessment in accordance with the requirements of the Privacy Act.

Eligible Data Breaches

13.1.8 If ***seller*** is aware that there are reasonable grounds to believe there has been, or where ***buyer*** notifies ***seller*** that there has been, an Eligible Data Breach in relation to any ***personal information*** held by ***seller*** as a result of this contract or the ***seller***'s performance of this contract, ***seller*** will:

(a) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom it relates;

(b) unless otherwise directed by ***buyer***, take all other action necessary to comply with the requirements of the Privacy Act;

(c) take all reasonable action to notify each affected individual of the Eligible Data Breach to the individuals to whom it relates; and

(d) take any other action as reasonably directed by ***buyer***.

13.1.9 ***seller*** must ensure that any ***subcontract*** entered into by ***seller*** for the purposes of fulfilling ***seller***'s obligations under this contract imposes on the ***subcontractor*** the same obligations regarding privacy and Eligible Data Breaches that ***seller*** has under this contract. Each ***subcontract*** must also require the same obligations (where relevant) to be included by the ***subcontractor*** in any secondary ***subcontracts***.

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13.1.10 ***seller*** will notify ***buyer*** as soon as reasonably practicable if it becomes aware of a breach or possible breach of the obligations contained in this clause.

Transfer of Personal Information

s47G - business information

Privacy Impact Assessments

13.1.12 The ***buyer*** may, at any time either before or during the ***contract term***, undertake or commission a privacy impact assessment (**PIA**) in respect of the ***seller's*** approach to delivering the ***deliverables***. Upon request, the ***seller*** must, at no cost, promptly provide information and documentation to the ***buyer*** that describe how the ***deliverables*** operate (including relevant data flows) and how ***personal information*** is handled as part of the delivery of the ***deliverables***. The ***seller*** must also, at no cost, work with the ***buyer*** to ensure that any recommendations arising out of the PIA are promptly implemented.

13.1.13 The ***buyer*** may undertake or commission further privacy processes (including a privacy threshold assessment, PIA, or privacy advice) in respect of the ***deliverables*** if, during the ***term***, there are:

(a) any proposed changes to the ***seller's*** provision of the ***deliverables*** or changes to the ***deliverables***;

(b) any reforms to the Privacy Act; or

(c) new or changed other legislation that applies to the ***deliverables***,

and upon request the ***seller*** must, at no cost:

(d) provide all necessary information and documentation to the ***buyer*** to support the conduct of those privacy processes; and

(e) work with the ***buyer*** to ensure that any recommendations arising out of those privacy processes are appropriately implemented.

13.2 Confidentiality

13.2.1 Subject to clause 13.2.2, ***seller*** must:

(a) keep ***buyer's confidential information*** confidential (this includes any information relevant to the ***solution*** or data loaded or created using the ***solution***);

(b) only use ***buyer's confidential information*** for the purpose of performing this contract; and

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(c) not disclose ***buyer's confidential information*** to any third party except as expressly authorised by this contract or in a notice from ***buyer*** to ***seller***.

13.2.2 Unless prevented by ***law***, ***seller*** may disclose ***buyer's confidential information*** as required by ***law*** or the rules of a securities exchange. However, any such disclosure must be the minimum disclosure required by ***law*** and provided that:

(a) ***seller*** immediately ***notify*** the ***buyer*** so the ***buyer*** can determine and take whatever action it considers necessary to protect the ***buyer's*** interests;

(b) take reasonable steps to lawfully resist or narrow the requirement to disclose the ***buyer material*** (including any ***buyer data***), ***confidential information***, or ***personal information***; and

(c) provide reasonable assistance and fully co-operate with the ***buyer*** to allow the ***seller*** to take such steps as it considers necessary with respect to that ***buyer material*** (including any ***buyer data***), ***confidential information***, or ***personal information***.

13.2.3 Unless prevented by ***law***, ***seller*** must inform ***buyer*** in a ***notice*** about any proposed disclosure of ***buyer's confidential information*** under clause 13.2.2.

13.2.4 Clause 13.2.1 does not prevent ***seller*** providing access to ***buyer's confidential information*** to ***seller's personnel***, auditors and advisers on a confidential basis to the extent necessary to provide the ***deliverables*** under this contract provided that any information that relates to an ***authorised user***, (including information or documents which are inputted into the ***solution*** by any ***authorised user***), and ***protected agency information*** must only be accessed by ***seller's personnel***, auditors and advisers with the prior written ***approval*** of the ***buyer*** and subject to any conditions imposed by ***buyer***.

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s47G - business information

13.3 Operation and effect of the NDIS Act

13.3.1 ***seller*** must not, and must ensure that ***seller personnel*** do not, do any act or engage in any practice in relation to ***protected agency information*** that is a breach of, or an offence under, the ***NDIS Act***. ***seller*** acknowledges that any unauthorised recording, use or disclosure of ***protected agency information***, and any offer to supply ***protected agency information***, is a criminal offence under the ***NDIS Act***.

13.3.2 ***seller*** must not, and must ensure that ***seller personnel*** do not, obtain, record, disclose, supply, use, or otherwise deal with ***protected agency information*** in any way, except:

(a) for the purposes of performing obligations under this contract; and

(b) to the extent permitted by the ***NDIS Act***.

13.3.3 ***seller*** must comply, and must ensure that ***seller personnel*** comply, with ***buyer's*** record management policy and operational guidelines with respect to any ***protected agency information*** that comes into their possession or control in connection with this contract.

13.3.4 ***seller*** must implement, and must ensure that ***seller's personnel*** implement and comply with, all reasonable measures to ensure the requirements of this clause 13.3 are met.

13.3.5 ***seller*** must notify, and must ensure that ***seller's personnel*** notify, ***buyer*** if either ***seller*** or ***seller's personnel*** become aware that a disclosure of ***protected agency information*** may be required by ***law***. ***seller*** must only disclose, and must ensure that ***seller's personnel*** only disclose, such information to the extent permitted by the ***NDIS Act***, including section 67G of the ***NDIS Act***.

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13.3.6 ***seller*** must take, and must ensure that ***seller's personnel*** take, all reasonable measures to ensure that:

(a) only authorised ***seller's personnel*** have access to ***protected agency information*** and have a need to access that ***protected agency information***; and

(b) ***protected agency information*** is protected against misuse, interference, loss, unauthorised access, modification, and disclosure.

13.3.7 ***seller*** must immediately notify in writing, and must ensure that ***seller's personnel*** immediately ***notify*** in writing, ***buyer*** of any loss or misuse, interference, loss, unauthorised access, modification, or disclosure of ***protected agency information***, as soon as ***seller*** or ***seller's personnel*** become aware of a breach of any obligation concerning such information.

13.3.8 ***seller*** must notify in writing, and must ensure that ***seller's personnel notify*** in writing, ***buyer*** of any investigation into a breach of, or an offence under, the NDIS Act in relation to ***protected agency information***.

13.3.9 Upon written ***notice*** from ***buyer***, ***seller*** must destroy or permanently de-identify, and must ensure that ***seller personnel*** destroy or permanently de-identify, any ***protected agency information*** as soon as practicable after it is no longer required for the purpose for which it was originally collected.

s47G - business information

13.3.11 ***seller*** must ensure that ***seller's personnel*** are fully aware of, and abide by, the ***NDIS Act*** and this clause 13.3 as it relates to this contract.

13.3.12 This clause 13.3 survives expiry or termination of this contract.

13.4 Buyer's data

s47E(d) - certain operations of agencies, s47G - business information

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s47E(d) - certain operations of agencies, s47G - business information

13.5 Records

13.5.1 ***seller*** must maintain sufficient, accurate and up-to-date business and accounting records (including supporting documentation) of all transactions or events in relation to this contract (including records of all ***deliverables*** provided under this contract, and substantiation for all amounts claimed in any invoice issued under this contract) until the latter of 2 years after the termination or expiry of this contract and two years after the transaction or event.

13.5.2 Subject to this contract, or any ***laws***, ***seller*** must ensure that the records maintained under clause 13.5.1:

(a) are kept securely and not deleted or otherwise disposed of without ***buyer's*** prior written authorisation to ***seller*** in a ***notice***;

(b) are kept in a manner that enables them to be conveniently audited; and

(c) comply with any applicable accounting standards.

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13.6 Archives Act

13.6.1 ***seller*** must not destroy or arrange for, nor effect a transfer of custody or ownership of, any ***Commonwealth record*** without the prior written ***approval*** of ***buyer*** and the National Archives of Australia.

13.6.2 If ***buyer*** and the National Archives of Australia authorise the destruction or transfer of custody of a ***Commonwealth record*** by or to ***seller***, ***seller*** must comply in every respect with the requirements of the *Archives Act 1983* (Cth) or guidelines issued by the National Archives of Australia.

13.6.3 ***seller*** must comply with any direction given by ***buyer*** for the purpose of transferring ***Commonwealth records*** to the National Archives of Australia or providing the National Archives of Australia with full and free access to ***Commonwealth records***.

13.6.4 This clause 13.6 survives expiry or termination of this contract.

14. Security

14.1 General requirements

s47E(d) - certain operations of agencies, s47G - business information

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Executed by the parties as an agreement

Executed for and on behalf of the **National Disability Insurance Agency**

ABN 25 617 475 104:

s47F - personal privacy

Authorised Representative (*signature*)

s47F - personal privacy

Witness (*signature*)

s47F - personal privacy

Name of Authorised Representative (*print*)

s47F - personal privacy

Name of Witness (*print*)

s47F - personal privacy

Position

Date of execution: 27 / 08 / 2025

Executed for and behalf of The University of Melbourne ABN 84 002 705 224 by its duly authorised representative in accordance with s 31A of the *Instruments Act 1958* (Vic)

s47F - personal privacy

Authorised Representative (*signature*)

s47F - personal privacy

Name of Authorised Representative (*print*)

s47F - personal privacy

Position

Date of execution: / / 2025

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FOI 25/26-1368
OFFICIAL

Schedule A – Glossary

Terms defined in the contract are set out below. Readers should also refer to the glossary in the Schedule C for definitions of terms used in the Requirements.

Term	Meaning
s47G - business information	
accountability body	the Commonwealth Parliament (including Committees); a Commonwealth Minister; the Auditor-General (including the Australian National Audit Office); the Australian Privacy Commissioner; the Commonwealth Ombudsman; and any person (including a commission or inquiry) whose functions include reviewing, inquiring into, auditing or investigating ***buyer***

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Term	Meaning
accountability obligation	includes: (a) any obligation under a ***law***, requirement under Commonwealth policy or request by an ***accountability body*** for ***buyer*** to provide information relating to this contract; (b) any disclosure in order for the ***buyer*** to comply with obligations, or to exercise rights, under this contract or to enable the effective management or auditing of this contract or related activities; (c) any disclosure by the ***buyer*** within its organisation or with another ***agency***, if this serves the ***buyer's*** legitimate interests; (d) any disclosure by the ***buyer*** to a Commonwealth Minister or their advisors; (e) any disclosure by the ***buyer*** to its third party service providers for the purposes of this contract; and (f) any disclosure by the ***buyer*** to the extent required in connection with legal proceedings
s47G - business information	
agency	a corporate Commonwealth entity or a non-corporate Commonwealth entity (within the meaning of ***PGPA***)
approval	a confirmation by ***buyer*** given in a ***notice*** to ***seller*** that a ***deliverable*** or action appears to meet the requirements of this contract but does not: (a) limit ***seller's*** responsibility to ensure the document or action meets the requirements of the contract; or (b) waive any right ***buyer*** has under this contract if the document or action does not meet such requirements
audit	includes investigate and/or review
authorised user	means any user authorised by the ***buyer*** to use or access any ***contract material*** and the ***solution***, including: (a) any individual who is an employee, contractor or agent of the ***buyer*** who the ***buyer*** has permitted to use the ***contract material*** or ***solution***; (b) any entity that is a contractor or agent of the ***buyer*** and any officers, employees or contractors of that entity; and (c) any individual, including members of the public, which are receiving services or may be entitled to receive services

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Term	Meaning
	from the ***buyer*** (including any individual for which eligibility to receive services from the ***buyer*** is to be determined)
business day	any day other than a Saturday, a Sunday or a public holiday in the Australian Capital Territory
buyer	the ***agency*** named as buyer on the first page of this contract or, if other ***agency*** commences performing the functions to which this contract relates because of a machinery of government change, that ***agency***
buyer's address	the address of ***buyer*** noted on the first page of this contract
buyer's confidential information	information in one or more of the following categories: (a) information described in Item 21 of Schedule B; (b) information of ***buyer*** held, processed, analysed, or accessed by ***seller*** that is any one or more of the following: ***personal information***, security classified information (including with delimiting markers), information protected by statutory confidentiality or secrecy provisions including ***protected agency information***, information marked "confidential" (or marked in some other way that indicates it is confidential) and information that relates to ***buyer's*** customers, ***authorised users***, commercial dealings, technology systems, finances, compliance programs, and security systems and procedures; (c) any information which is inputted into or which is otherwise provided for use in relation to the ***solution*** by any ***authorised user*** including any ***personal information***, information protected by statutory confidentiality or secrecy provisions including ***protected agency information***; and (d) information developed by ***seller*** using information in one of the above categories, but does not include information in either of the following categories: (e) information in the public domain (otherwise than as a consequence of a breach of this contract); or (f) information independently held or developed by ***seller*** without reference or reliance on any information of ***buyer*** held or accessed by ***seller***
buyer's data	any one or more of the following held, processed, or accessed by ***seller*** in relation to this contract: (a) ***buyer's confidential information***;

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Term	Meaning
	(b) any other information or document provided by ***buyer*** or on ***buyer's*** behalf to ***seller*** (including information or documents which are inputted into or which is otherwise provided for use in relation to the ***solution*** by any ***authorised user***); (c) information developed by ***seller*** that incorporates, modifies or supplements ***buyer's confidential information*** or other information or document provided by ***buyer*** to ***seller***; and (d) any information or data that is produced by the ***solution*** or as a result of the application of the ***solution*** (including and information generated for an ***authorised user*** and any information or data is generated by any ***AI Capabilities***)
buyer's facilities	the facilities (including ***buyer's premises***, ***buyer's systems*** and equipment) as specified in Item 17 of Schedule B
buyer's representative	the person named as ***buyer's*** representative in Item 7 of **Schedule B,** as updated in accordance with clause 3.1.2
buyer's personnel	employees, agents, contractors, customers and visitors of ***buyer*** and other persons providing services to ***buyer***
buyer's premises	any business or office premises occupied by ***buyer*** to carry out its functions
buyer's systems	any computer system used by ***buyer*** (including cloud systems) to carry out its functions
s47G - business information	
commencement date or ***contract start date***	the date in Item 4 of **Schedule B**; or if no date is specified, the date this contract is signed by both ***parties***
s47G - business information	
Commonwealth record	has the meaning given in the *Archives Act 1983* (Cth)
confidential information	***buyer's confidential information*** or ***seller's confidential information*** as applicable

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Term	Meaning
conflict of interest	any circumstance where ***seller*** or one or more ***seller's personnel***: (a) currently has; (b) is likely in the future to have; or (c) is likely to be perceived by a reasonable fair-minded third party to have now or in the future, a personal interest or a duty to a third party that conflicts with the diligent and proper performance of this contract for ***buyer's*** benefit
s47G - business information	
contract representative	***buyer's representative*** and ***seller's representative***
s47G - business information	

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Term	Meaning
cyber attack	any action taken through the use of computer networks or any unauthorised access to or use of a computer system that is intended to have, is likely to have or does have an adverse effect on the security or reliability of data on the system or the accessibility of the system, and includes denial of service attacks
critical milestone	means a ***milestone*** that is identified as a critical milestone in this contract
defect	a ***deliverable***, or any part of a ***deliverable***, where one or more of the following apply: (a) it does not conform to ***specifications***; (b) it has an error; (c) it is damaged or lost; (d) it is not fit for ***buyer's*** purposes, as described in this contract; (e) it adversely affects ***buyer's systems*** or ***buyer's data***; or (f) it otherwise does not comply with the requirements of this contract
deliverable	any ***product***, ***service*** or other goods, services or ***material*** required to be provided by ***seller*** under this contract, including the ***solution***
s47G - business information	

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Term	Meaning
dispute	an ***issue*** that has been the subject of a ***notice*** under clause 3.9.7
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end date	the date in Item 5 of **Schedule B** or if no date is specified, but a time period is specified, the date that is the last day of that time period, commencing on the ***commencement date***
environmental management system	has the meaning given to the term in the ***ICT sustainability plan***
escrow material	the source code of the ***software*** and all relevant documentation, notes and other materials required to support the ***software***
existing material	any ***material***, other than ***new material***, in which a ***party*** or a ***third party*** holds ***intellectual property rights***, and which is made available by a ***party*** for the purpose of this contract ***existing material*** includes any modifications to ***existing material*** made by the owner of the ***intellectual property rights*** in that ***existing material,*** except modifications made to meet obligations in this contract. ***existing material*** includes the ***I-CAN v6 tool*** (including any ***updates*** or ***new releases*** to the ***I-CAN v6 tool***) and associated e-learning and other documentation to be provided under this contract. ***existing material*** of the ***buyer*** includes any ***material*** which is developed by or on behalf of the ***buyer*** (other than by ***seller***) in relation to or independently of this contract.
general interest charge rate	the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day the payment is due, expressed as a decimal rate per day
government purposes	any purpose for which the Commonwealth of Australia (including corporate Commonwealth entities) may make laws or take executive action, including the provision of ***shared services***, but does not include ***commercial exploitation*** ***government purposes*** includes: (a) ***buyer*** providing services to its clients in the performance of its statutory powers, functions and duties pursuant to the NDIS Act and related legislation; (b) ***buyer*** permitting use of the ***solution*** and documentation by any users authorised by ***buyer*** or a ***third party***; and

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Term	Meaning
	(c) any purpose necessary for, or incidental to, ***buyer*** complying with any ***laws***, including any legislative requirements which require the publication or other treatment of any ***contract material*** – including without limitation, publication, and disclosure of the ***solution*** (or any component of the ***solution***)
GST Act	the *A New Tax System (Goods and Services Tax Act) 1999* (Cth)
harmful code	any virus, denial of service, disabling or malicious device or code, 'worm', 'trojan', 'time bomb', or other harmful or destructive code, but does not include any 'software lock' or other technical mechanism that is included to manage the proper use of any software
I-CAN	means Instrument for the Classification and Assessment of Support Needs
I-CAN tool	means the holistic support needs assessment tool developed by the Centre for Disability Studies – the version of the ***I-CAN*** tool to be provided by ***seller*** as at the ***commencement date*** is the ***I-CAN tool*** version 6 (also referred to as ***I-CAN v6 tool***). References to the I-CAN tool include references to the I-CAN tool as updated, adapted, and modified from time to time, as the context requires.
ICT	information and communications technology
ICT sustainability plan	the Australian Government's ICT sustainability plan 2010-2015 or any successor plan
Indigenous enterprise	an organisation that is 50 per cent or more Indigenous owned that is operating a business
individual contractor	(a) an individual engaged by ***seller*** who is managed and performs duties in a similar way to ***seller's*** employees (b) an individual engaged by a ***seller group company*** who is managed and performs duties in a similar way to ***seller group company's*** employees

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Term	Meaning
intellectual property rights	all intellectual property rights, whether or not such rights are registered or capable of being registered, including but not limited to, the following: (a) patents, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks), and domain names; (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere
invoice address	the address for invoices specified in Item 19 of **Schedule B,** or any substitute address notified by ***buyer*** to ***seller*** at any time
issue	(a) a disagreement between the ***parties*** about the correct interpretation of this contract; and/or (b) a failure by a ***party*** to comply with its obligations under this contract; and/or (c) a breach of a warranty given by a ***party*** under this contract
law	any applicable statute, regulation, by-law, ordinance or subordinate legislation, any other instrument of a legislative character and court rules in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law and rules of equity as applicable from time to time
legal services directions	the Legal Services Directions made under section 55ZF of the *Judiciary Act 1903* (Cth)
licence	a world-wide, royalty free, irrevocable, non-exclusive licence including the right to ***sub-license***
material	includes any software (including ***software***), firmware, data, documented methodology or process, tools, object libraries, ***documentation*** or other material in whatever form, including without limitation any reports, ***specifications***, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any ***intellectual property rights***

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Term	Meaning
milestone	means any fixed date to be met by ***seller*** in performing any of its obligations under this contract, as specified in the statement of requirements
moral rights	(a) a right of attribution of authorship; (b) a right not to have authorship falsely attributed; and (c) a right of integrity of authorship
NDIS Act	means: (a) the *National Disability Insurance Scheme Act 2013* (Cth); (b) the National Disability Insurance Scheme Rules made under the *National Disability Insurance Scheme Act 2013 (Cth)*; (c) the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No.1) Act 2024* (Cth); (d) rules, including transitional rules, made under the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No.1) Act 2024* (Cth); and (e) any other rules or other legislative instruments made under or in connection with the legislation specified in paragraphs (a) to (d) above, including where made on a transitional basis

s47G - business information

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Term	Meaning
notice	a communication that meets the requirements of clause 3.2.1
notify	to send a ***notice***
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 Australns.org
option period	the period (if any) specified in Item 6 of **Schedule B**
party	***buyer*** or ***seller***
s47G - business information	
personal information	the same meaning as in the Privacy Act
s47G - business information	
Privacy Act	*Privacy Act 1988* (Cth)
protected agency information	has the meaning given in section 9 of the ***NDIS Act***
PGPA Act	*Public Governance, Performance and Accountability Act 2013* (Cth)
product	a ***software*** product to be licensed by ***seller*** to ***buyer*** under this contract, as specified **Schedule C**
s47G - business information	

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Term	Meaning
s47G - business information	
seller	the person named as seller on the first page of this contract
seller group company	a "related body corporate" of ***seller*** (within the meaning of that term in the *Corporations Act 2001* (Cth))
s47G - business information	
seller's personnel	all officers, employees, contractors (including ***subcontractors*** and ***individual contractors*** of ***seller***, a ***seller group company*** and ***subcontractors***) who: (a) are involved in the delivery of ***services*** under this contract and/or the performance of ***seller's*** obligations under this contract; and/or (b) have access to ***buyer's premises***, ***buyer's systems*** or ***buyer's data*** in relation to the performance of this contract
seller's premises	any premises of ***seller*** (including the premises of ***seller's personnel***) where ***buyer's data*** is stored, processed, or otherwise handled or where components of ***seller's systems*** are located
seller's records	any records that ***seller*** is required to maintain under this contract

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Term	Meaning
seller's representative	the person named as seller's representative in Item 7 of **Schedule B,** as updated in accordance with clause 3.1.2
seller's systems	any system of ***seller*** (including the systems of ***seller's personnel***) that accesses, transmits or stores ***buyer's data***
service	any service required to be provided by ***seller*** to ***buyer*** under this contract, as specified in **Schedule C** and includes any ***software as a service*** and the ***solution*** (as applicable)
s47G - business information	
shared services	the provision of products and/or services by an ***agency*** to another ***agency*** (whether or not a payment is made in relation to the provision of the products and/or services)
software	software (including relevant ***material*** to support that software and includes commercial-off-the-shelf (COTS) software) that is owned by ***seller*** or a ***third party*** (including ***open source software***)
s47G - business information	
start date	the date for commencement of a particular ***service***, as specified in **Schedule C**
statute law	any applicable statute, regulation, by-law, ordinance or subordinate legislation, any other instrument of a legislative character and court rules in force from time to time in Australia,

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Term	Meaning
	whether made by a State, Territory, the Commonwealth, or a local government
subcontract	a contract or arrangement between ***seller*** and a ***third party*** for the delivery of ***products*** or ***services*** to ***buyer*** under this contract, but does not include a contract or arrangement between ***seller*** and a ***seller group company*** or between ***seller*** and an ***individual contractor***
subcontractor	a party to a ***subcontract***, other than ***seller***
s47G - business information	
supply chain	any ***subcontractor***, agent, contractor, or entity in a direct or indirect business relationship (whether within Australia or internationally) with the ***seller*** or which contributes directly or indirectly to the supply of the ***deliverables***, including entities in the network of business entities or individuals performing, providing, producing, handling, storing, transmitting and/or distributing the any equipment, software or other components of the ***deliverables***
taxes	all taxes, duties and government charges
term	defined in clause 2.1.1; subject to modification in accordance with clause 2.1.3
third party	any person other than ***buyer*** or ***seller***
s47G - business information	

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use	in relation to ***existing material***, includes: (a) using, reproducing, adapting, modifying, disclosing, and communicating that ***existing material*** including: (i) by ***buyer***; (ii) any ***authorised user***; and (iii) any use necessary or incidental to the ***buyer*** complying with any ***laws***, including any legislative requirements which require the publication or other treatment of any ***contract material*** – including without limitation, publication, and disclosure of the ***solution*** (or any component of the ***solution***); (b) without limiting the above, digitisation; (c) the ***buyer*** or a third party (including an **authorised user**) integrating, loading, installing, compiling, configuring or running ***existing material*** on any ICT system (including on the ***buyer's*** ICT system and any third party's ICT system) including to host the ***existing material*** in the cloud; (d) use and access of the ***existing material***: (i) by and from the ***buyer's*** environment and information communication and technology systems; and (ii) by and from any ***authorised user's*** environment and ICT systems; (e) testing, evaluating and confirming the suitability, compliance and operation of the ***existing material***; (f) using, copying, amending or adapting the ***existing material*** to the extent necessary to enable it to be used on the ***buyer's*** or an ***authorised user's*** ICT system or any third party's ICT systems; (g) using, adapting, modifying, distributing, and communicating the ***existing material***, in either hardcopy or softcopy (including online); (h) integrating, configuring, operating, and supporting the ***solution*** and ***associated documentation*** (whether by the ***buyer*** or any third party); (i) making backups of the ***existing material***; (j) using, copying, amending and adapting any associated ***documentation*** relating to the ***solution***; (k) using, copying, amending and adapting any other outputs of the ***solution*** (including those generated by ***authorised users***) for any purpose, including: (i) ***government purposes***; and (ii) purposes associated with the receipt, or potential or past receipt, of any services by an individual which are, may be, or were provided by the ***buyer*** to that individual)

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Term	Meaning
s47G - business information	
WGEA	*Workplace Gender Equality Act 2012* (Cth)
s47G - business information	

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Schedule B – Contract Details

For clarity, any references to 'not applicable' mean that the position identified in this contract applies unamended, unless the context otherwise requires.

Item Number	Related clause	Subject	Description
Purpose, interpretation and technical contract issues			
1	Not used	***agency*** access	No ***agency*** access, clause 1.4 does not apply.
2	1.6	***seller*** as trustee	Not applicable
3	1.7.2	***seller*** to purchase products and services on behalf of ***buyer***	Not applicable
Contract term			
4	2.1.1	***commencement date***	The date that this contract is signed by both parties
5	2.1.1	***end date***	5 years from the ***commencement date***
6	2.1.4	***option period***	Any one or more periods of up to a total of 5 years (in aggregate)
Contract governance			
7	3.2.1	***contract representatives***	s47F - personal privacy

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Item Number	Related clause	Subject	Description
8	3.5.3	prohibition on ***seller*** referencing contract	Not applicable
9	3.9.8	mediation	Not applicable
10	3.9.9	expert determination	Not applicable

Personnel

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Item Number	Related clause	Subject	Description
s47G - business information			
12	4.4.1	security clearances and other clearances	***seller*** must complete the NDIA Pre-Engagement Check and any other clearances as required and ***notified*** by ***buyer*** from time to time.
Acceptance			
13	9.2	***acceptance test plan***	Not used.
Intellectual property and moral rights			
14	10.2.3	IP ownership model for ***new material***	Model A (***buyer*** ownership) ☒ ~~Model B (***seller*** ownership)~~ ☐
Buyer assistance to seller			
15	11.1.1	Access to ***buyer material***	As specified in Schedule C.
16	11.3.1	Use of ***buyer facilities***	As reasonably determined by ***buyer*** from time to time.
17	11.4.1	Access to ***buyer facilities***	As reasonably determined by ***buyer*** from time to time.
18	11.5	***buyer*** site preparation	None specified.
Charges and payment			

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Item Number	Related clause	Subject	Description
s47G - business information			
Information management			
20	13.1.2	privacy policies and guidelines	As specified in Schedule C.
21	13.2 and Glossary	***buyer's confidential information***	In accordance with definition of ***buyer's confidential information***
s47G - business information			
24	13.4.8	deletion of ***buyer's data***	Not applicable
25	14.5	accessing ***buyer's confidential information*** outside Australia	Not applicable

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Item Number	Related clause	Subject	Description
s47G - business information			
29	15.5.1.	public liability insurance	$20 million per event
30	15.5.1.15.5.1(c)	professional indemnity insurance	$20 million per event
31	15.5.1	product liability insurance	$10 million per event
32	15.5.1.	other insurance	workers compensation as required by law; cyber security insurance $10 million per event
33	15.5.3	period of insurance	2 years after the expiry or termination of this contract
34	7	performance guarantee	***seller*** is not required to provide ***buyer*** with a performance guarantee.

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Schedule C – Statement of Requirements

See separate document incorporated below.

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Schedule D – Form of Acceptance Test Plan

Part A – General

Scope of plan	[describe what ***deliverables*** or ***delivery milestones*** are covered by this plan]
Testing methodology	
***seller* tests**	
Test environment – *seller* tests	
Test data for *seller* tests	
***buyer's* right to observe and receive test reports for *seller* tests**	[if ***buyer*** has the right to observe and review test reports for ***seller's*** tests, specify those rights here]
***seller's* obligation to give *buyer* notice of *seller* tests**	[insert period of notice that ***seller*** has to provide to ***buyer*** before ***seller*** conducts ***acceptance testing***]
Timetable for *seller* tests	
***buyer* tests**	
Test environment – *buyer* tests	
Test data for *buyer* tests	
Timetable for *buyer* tests	
Resources required for *buyer* tests	[specify if a particular minimum number of ***buyer*** resources or particular skillsets are required for ***buyer*** tests]
Minimum time required in schedule for *buyer* tests	[if ***buyer*** requires a minimum period for testing, specify that period here]
Periods when *buyer* testing cannot be undertaken	
documentation* requirements for testing and logging requirements for *defects	

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Part B – Deliverables/Delivery Milestones

*[complete a table in the form below for each **deliverable** or **delivery milestone**]*

deliverable/delivery milestone **name and identification number**	
acceptance criteria	
specifications	
Prerequisites for *seller* testing	[this could include the submission of documentation by ***buyer*** to ***seller***]
Prerequisites for *buyer* user *acceptance testing*	[this would normally include the successful completion of ***buyer*** testing, the resolution of ***defects*** and the provision of ***seller's*** test reports to ***buyer***]
Prerequisites for acceptance into production	
Post production validation testing	[specify whether this is required and ***seller's*** obligations if this testing identifies ***defects***]

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Schedule E – Form of Acceptance Certificate

Acceptance Certificate

This is an ***acceptance certificate*** for the ***deliverable(s)/delivery milestone(s)*** identified below. The certificate is issued under this contract between [name of ***buyer***] ABN [ABN of ***buyer***] (***buyer***) and [name of ***seller***] ABN [ABN of ***seller***] (***seller***) dated [date of contract] reference [insert ***buyer's*** reference number for contract] (***contract***).

In this certificate, terms in ***bold italic*** have the same meaning as in the ***contract***, unless otherwise defined in this certificate.

Deliverable/delivery milestone

deliverable/delivery milestone	**description**	**reference number**

seller certification

certification	**signed on behalf of *buyer***	**date**
seller certifies that, having conducted appropriate testing, the ***deliverable(s)/delivery milestone(s)*** identified above meet the requirements of this contract	[*signature, name and position*]	

buyer acceptance

acceptance	**signed on behalf of *seller***	**date**
buyer accepts the ***deliverable(s)/delivery milestone(s)*** identified above	[*signature, name and position*]	

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Schedule F – Charges

See separate document incorporated below.

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Schedule G – Form of Change Order

This is a change order to this contract between [name of ***buyer***] ABN [ABN of ***buyer***] and [name of ***seller***] ABN [ABN of ***seller***] dated [date of contract] reference [insert ***buyer's*** reference number for contract] (***contract***).

In this change order, terms in ***bold italic*** have the same meaning as in the ***contract***, unless otherwise defined in this change order.

Part A

[to be completed by ***party*** proposing change]

Change order number	[insert reference number]
Date proposed	
Description of proposed change	
Reason for proposed change	
Effect on *delivery times*, risk, implementation, *documentation* and users of the system	
Effect on *charges*	
Changes to *buyer dependencies*	
Effect on *service levels*	

Part B

Contract clauses affected	
Marked up clauses showing proposed changes	
Date of effect of changes	

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Agreed by the parties

Signed on behalf of ***buyer***	Signed on behalf of ***seller***
(Signature)	(Signature)
(Name and position)	(Name and position)
Date:	Date:

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Schedule H – Not Used

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Schedule I – Form of Deed of Confidentiality

THIS DEED POLL is made on [date]

for the benefit of the **Commonwealth of Australia** represented by [name of ***buyer***] ABN [***buyer's*** ABN], of [***buyer's*** address] (***buyer***)

by

[name of person signing deed] of [address of person signing deed] (***confidant***)

as an employee of

[name of ***seller***] ABN [***seller's*** ABN] **(*seller*)**

Background

A ***seller*** is providing products and/or services to ***buyer*** under a contract dated [date of contract] relating to [subject of contract] reference number [add ***buyer's*** reference number for contract] (***principal contract***).

B ***seller*** has confidentiality obligations under the principal contract in relation to ***buyer's confidential information***.

C As an employee of ***seller*** involved in the performance of the principal contract, ***confidant*** may become aware of ***buyer's confidential information***.

D To ensure ***buyer's confidential information*** remains confidential, ***confidant*** has agreed to sign this deed poll for the benefit of ***buyer***.

Operative part

Definitions

3.1 In this deed poll, terms in ***bold italics*** not otherwise defined have the following meanings:

(a) ***buyer's confidential information*** means information:

i. of ***buyer*** that is personal information, security classified information (including with delimiting markers), information protected by statutory confidentiality provisions, information marked "confidential" (or marked in some other way that indicates it is confidential) and/or information that relates to ***buyer's*** customers, commercial dealings, technology systems, finances, compliance programs and/or security systems and/or procedures; and

ii. within the definition of the term "***buyer confidential information***" in the ***principal contract***,

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that is or was held or accessed by ***confidant***, but does not include information:

i. in the public domain (otherwise than as a breach of this deed poll or the ***principal contract***); or

ii. independently held or developed by ***confidant*** without reference or reliance on any information of ***buyer***.

(b) ***personal information*** has the same meaning as in the *Privacy Act 1988* (Cth).

Confidant obligations

3.2 Unless otherwise required by law, ***confidant*** must:

(a) keep ***buyer's confidential information*** confidential;

(b) not use or disclose ***buyer's confidential information*** for any purpose other than the performance of the ***principal contract***;

(c) not publicly disclose ***buyer's confidential information*** except with the express written consent of ***buyer***; and

(d) if requested by ***buyer***, immediately return all ***buyer's confidential information*** in ***confidant's*** possession to ***buyer*** or destroy or delete such ***buyer's confidential information*** (and provide a statutory declaration to ***buyer*** that this has been done).

3.3 confidant must keep ***buyer's confidential information*** secure.

3.4 ***confidant*** must notify ***buyer*** in writing immediately if he or she is required by law to disclose any of ***buyer's confidential information*** or if ***buyer's confidential information*** is lost, stolen or accessed by an unauthorised person.

3.5 ***confidant*** acknowledges that damages may not be an adequate remedy for a breach of this deed poll and that ***buyer*** may be entitled to injunctive relief.

Conflict of interest

3.6 ***confidant*** warrants that he or she has no conflict of interest in relation to the performance of the ***principal contract***, other than as notified in writing to ***buyer***.

Governing law

3.7 This deed poll is governed by the law of the Australian Capital Territory and ***confidant*** agrees to submit to the non-exclusive jurisdiction of the Courts of the Australian Capital Territory in respect of all matters relating to this deed poll.

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Executed as a Deed Poll

Signed, Sealed and Delivered by

[name of ***confidant***] in the presence of:

Signature of witness
Name of witness
Signature of ***confidant***

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