

Founded in 1967 the Australian Procurement and Construction Council Inc (APCC) is the peak council of departments responsible for procurement, construction and asset management policy for the Australian, State and Territory governments. New Zealand is an associate member. The APCC reports to the Australian Procurement and Construction Ministerial Council (APCMC), comprising Ministers with direct responsibilities for procurement and construction matters.

The APCC has established itself as a national reference point for both government and industry on best practices, principles and emerging issues in procurement, construction and asset management disciplines.

The Council provides leadership in these disciplines to improve and implement new and evolving procurement practices in ways that will deliver service benefits to the Australian community.

The APCC forum is a catalyst for knowledge sharing, intelligence gathering and has the information networks to draw on for formulating solutions. The APCC collective continues to strengthen relationships with government partners and other stakeholders to promote a consistent and coordinated national approach to government procurement.

APCC MEMBER AUTHORITIES (AS AT AUGUST 2007)

New South Wales	Department of Commerce New South Wales Treasury
Victoria	Building Commission Department of Treasury and Finance
Queensland	Department of Public Works
South Australia	Department for Transport, Energy and Infrastructure Department of Treasury and Finance
Western Australia	Department of Housing and Works Department of Treasury and Finance State Supply Commission
Northern Territory	Department of Corporate and Information Services Department of Planning and Infrastructure
Australian Government	Department of Finance and Administration
Australian Capital Territory	Department of Treasury
New Zealand	Ministry of Economic Development

To be recognised by stakeholders as adding value and promoting excellence in the way governments deliver their services to the community.

APCC'S MISSION

To advise governments and provide leadership to industry on procurement and asset management by:

- Adding value to the way governments work with the private sector to deliver services to the community;
- providing a forum for suppliers and government buyers to interchange ideas and knowledge;
- initiating policy developments to promote excellence in procurement and construction; and
- participating in the development and promotion of electronic procurement.

AUSTRALIAN PROCUREMENT AND CONSTRUCTION COUNCIL

National ICT Contractual Framework

CHARTER

Australian Procurement and Construction Council
National ICT Contractual Framework—Charter, August 2007

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1. Introduction

All Australian government jurisdictions and the information and communications technology (ICT) industry can benefit from a nationally consistent contractual framework for the procurement of ICT products and services.

The views and interests of government and industry stakeholders are well aligned in many areas, providing a solid basis for the development of a nationally consistent ICT contractual framework.

Australian government jurisdictions and the ICT industry have created the National ICT Contractual Framework (Framework) that;

- Can be implemented progressively within existing procurement policy frameworks;
- Increases the level of contractual alignment between jurisdictions; and
- Establishes a cooperative governance framework to identify and implement further consistencies over time.

2. Expected Benefits

The Framework together with a high level of collaborative governance is expected to provide significant benefits to both the public sector and the ICT industry.

The key benefits expected to be generated from the implementation of the Framework include a;

- Higher degree of consistency in ICT contracts across Australian governments;
- More cost effective and time efficient ICT procurement for both government and the ICT industry;
- Reduction in the need for ICT suppliers to familiarise themselves with different contractual frameworks in each government jurisdiction;
- Reduction in the risk associated with ICT procurements;
- Better ICT purchasing outcomes;
- Increased scope for government jurisdictions to adopt similar approaches to particular contractual issues; and
- Increased scope for government jurisdictions to share contract clauses and guidance materials.

3. Background

In early 2006 the Australian Procurement and Construction Council (APCC) analysed government ICT procurement and contracting arrangements in each jurisdiction. It concluded that while it would be difficult to achieve a national common ICT contract in the short term, it was possible to develop a nationally consistent ICT contractual framework.

At the Australian Procurement and Construction Ministerial Council (APCMC) meeting held on 2 August 2006, Ministers proposed a national framework to initially take the form of an agreed nationally consistent format including title headings and addendum structures.

The national framework would bring consistency to standard contractual matters and their location in the contract without affecting jurisdictional procurement strategies or specific clause drafting.

The APCMC recommended that the APCC work cooperatively with the ICT industry to develop a nationally consistent ICT contractual framework.

In September 2006 the APCC and representatives of the ICT industry began working on the National ICT Contractual Framework (the Framework).

4. Objectives and Aspirations

The key objectives and aspirations of the Framework are to:

- Establish common structural features that can be applied to the various ICT contract models currently used by Australian governments, including:
 - establishing a uniform set of top-level headings under which all conceivable clauses in an ICT contract can be inserted;
 - establishing a standard sequence in which those top-level headings should appear; and
 - adoption of common terminology for use in ICT contracts.
- Encourage and support implementation of the Framework by all Australian governments;
- Continue ongoing development of the Framework including working towards an increasing level of contractual consistency which may lead to the development of standard clauses; and
- Capture and share the learning and knowledge.

5. Guiding Principles

The following principles underpin the Framework And will guide its future development.

Principle 1

The Framework will promote and facilitate ongoing, increased consistency in the contractual approach of participating jurisdictions to the procurement of ICT products and services.

Principle 2

The Framework will accommodate the policies of participating jurisdictions.

Principle 3

The Framework will enhance the efficiency and effectiveness of ICT contracts and contracting processes.

Principle 4

The Framework will be relevant and able to adapt to new policies, technologies, procurement models and business models.

Principle 5

The Framework will be applicable to the full range of ICT products and services.

6. Implementation

The primary target for implementation of the Framework is the standard contracts used in each participating jurisdiction for the procurement of ICT products and services. (These contracts may also be known as template, pro forma, model or precedent contracts.)

As most concluded contracts are based on standard contracts, targeting them will facilitate implementation of the Framework on the broadest scale.

Targeting standard ICT contracts to implement the Framework is also the most pragmatic approach. It accommodates the realities of contracting that may result in a concluded contract deviating from the Framework. Such realities include:

- deviations in a concluded contract that are necessary to address the peculiarities of a particular procurement;
- deviations in a concluded contract that derive from contract negotiations; and
- the existence in some participating jurisdictions of devolved authority for procurement.

By providing practical information and guidance, participating jurisdictions and ICT industry bodies can help achieve optimal compliance with the Framework.

7. Governance – Steering Group

7.1 Composition

The participating jurisdictions are the members of the Australian Procurement and Construction Council (APCC).

The Steering Group will comprise the following:

- one representative from each participating jurisdiction and the APCC Executive Director;
- two representatives appointed by the ICT industry.

7.2 Role

The Steering Group will lead the development and implementation of the Framework in accordance with the Guiding Principles.

In this role, the Steering Group will:

- report to the APCC and make recommendations for APCC approval;
- receive and consider any submissions relating to the Framework;
- plan the future development of the Framework;
- coordinate guidance material and make it available to participating jurisdictions;
- oversee education, communication and other support activities relating to the Framework; and
- promote and monitor implementation of the Framework within participating jurisdictions.

The APCC is the custodian of the Framework on behalf of the participating jurisdictions. The APCC has the authority to approve changes to the Framework, upon recommendation from the Steering Group.



OVERVIEW

1. Introduction

At the Australian Procurement and Construction Ministerial Council (APCMC) meeting held on 2 August 2006, Ministers agreed to the APCC working cooperatively with the ICT industry to develop a nationally consistent ICT contractual framework to be adopted by all Australian government jurisdictions.

At that meeting, the APCMC also accepted a recommendation that the framework initially take the form of an agreed, nationally consistent format, including title headings and addendum structures. The National ICT Contractual Framework (the Framework) is intended to deliver on that recommendation.

2. The Framework

The Framework currently comprises the following documents:

- the Charter
- the Contract Structure and Agreed Terminology
- this Overview document.

The Charter contains the guiding principles for the Framework. It also includes the background to, governance for, and expected benefits of the Framework.

The first features of the Framework to be implemented in standard jurisdictional ICT contracts¹ are the Contract Structure and the Agreed Terminology.

This Overview provides initial guidance on the implementation of the Contract Structure and Agreed Terminology.

¹ These contracts may also be known as template, pro forma, model or precedent contracts.

3. Agreed Terminology

The Agreed Terminology component of the Framework prescribes a set of common terms (the Agreed Terms) to be adopted in ICT contracts.

The Agreed Terminology component deliberately does not prescribe a precise definition for each Agreed Term. Rather, it provides a description of the intended scope of each Agreed Term and indicates the relationship between those Agreed Terms that are related.

The purpose of this approach is to accommodate different drafting styles and language to the fullest extent without affecting the uniformity sought by the Agreed Terms. For implementation purposes this approach also enables the preservation of existing definitions that already conform to the description and relationships.

4. Contract Structure

4.1 General

The Contract Structure comprises two parts, namely:

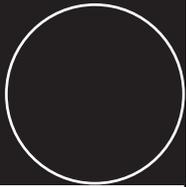
- General Contract Structure
- Deliverable Specific Clause Structure.

The Contract Structure establishes:

- a set of uniform top-level headings under which all conceivable clauses in an ICT contract can be inserted;
- a standard sequence in which those top-level headings must appear.

The Contract Structure does not require the insertion of specific clauses into ICT contracts or the development of new clauses. Nor does it prescribe clause content. The Contract Structure only requires existing clauses in ICT contracts to be ordered under the headings prescribed.

The purpose of the Contract Structure is to facilitate consistency in the location of clauses in different ICT contracts.



4.2 Using the Contract Structure

The two parts of the Contract Structure (i.e. the General Contract Structure and the Deliverable Specific Clause Structure) are intended to be applicable to any ICT contract regardless of the procurement or transactional arrangement. One of the ways this has been achieved is by not imposing a numbering system on the Contract Structure. (The numbering that does appear in the Contract Structure is for reference purposes only.)

Accordingly, the Contract Structure can be applied to both consolidated ICT contracts (i.e. where all clauses are contained in the one contract) or multi-tiered ICT contracts (i.e. where there is separation of the contractual obligations between different parties such as a central management group and agencies). The latter is often characterised by a head agreement linked to multiple customer level contracts.

The General Contract Structure provides some guidance to assist with implementing multi-tiered contracts by indicating which content may appear in a head agreement. Some of the descriptive text also refers to the possible separation of clauses. This guidance does not restrict the ability of a jurisdiction to structure the obligations within their contracts to best meet the business outcomes sought.

4.3 Headings

The headings must appear in the order/sequence set out.

The headings are required for alignment with the Framework and must appear in the standard or template contracts to which the Contract Structure is applied. Sub-headings are optional, and alternative or additional sub-headings may be used so long as they come within the scope of the relevant (required) heading.

In applying the Contract Structure, some jurisdictions may find that they do not have existing clauses in their standard contracts for all of the headings in the Contract Structure. To enable alignment with the Framework, headings without clauses should still appear in the standard contract as 'place holders' for the future insertion of new clauses².

Where a heading has been broken down into sub-headings, all of those sub-heading descriptions form part of the overall description for the heading. However, in many cases a heading will provide sufficient description of the nature of the clauses to be inserted under it.

² The headings should be removed prior to a contract being signed if no clauses are needed for that specific commercial outcome.

The headings, as well as any optional sub-headings appearing under them, and their corresponding descriptions should not be interpreted restrictively.

Where a particular clause potentially fits under more than one heading, a choice will need to be made as to the most appropriate placement of the clause. Guidance materials to be developed by jurisdictions as the Framework grows will assist in making such choices and communicating them to all organisations using the Contract Structure.

4.4 Deliverable Specific Clause Structure

The Deliverable Specific Clause Structure comprises nine clusters of clauses based on the type of the Deliverables to which they apply (e.g. Hardware Acquisition Clause Cluster, Managed Services Clause Cluster etc.).

One or more of these clusters can be used with conforming contracts. When used, they are to be included within the General Contract Structure under heading G6, Deliverable Specific Issues. If the contract to which the Framework is applied contains clauses that fit under a heading in a particular cluster, then all the headings for that cluster must be used in the same way as for the General Contract Structure.

Special clauses may be required to deal with the provision of Deliverables through a reseller model. No specific headings have been provided for such clauses because the headings already provided cover the subjects to which they are likely to relate.

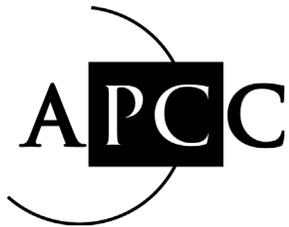
5. Implementation

As stated in the Charter, the primary target for implementation of the Framework is the standard³ contracts used in each participating jurisdiction for ICT procurement.

As most contracts in use are based on standard contracts, targeting those contracts will facilitate implementation of the Framework on the broadest scale.

Accordingly, participating jurisdictions are expected to modify and/or develop their standard ICT contracts to implement the Contract Structure and the Agreed Terminology.

³ These contracts may also be known as template, pro forma, model or precedent contracts.



AGREED TERMINOLOGY

AGREED TERMINOLOGY

The purpose of the Agreed Terminology is to achieve uniformity in the naming and usage of the most commonly used defined terms in ICT agreements. An effort has been made to ensure that the Agreed Terms are sufficiently descriptive without losing clarity.

The column headed 'Description' is not intended to provide definitions for the Agreed Terms. Rather, the purpose of the 'Description' column is to provide guidance to the basic elements that should be included in an appropriate definition.

The second column (Relationship to other Agreed Terms) sets out the relationship between Agreed Terms. In implementing the Agreed Terms, care must be taken to ensure that their corresponding definitions reflect these relationships.

Agreed Terms (Required)	Relationship to other Agreed Terms (Required)	Scope of Definition	
		Description <i>(This is not the definition itself but guidance as to what the term should cover. This column should be read in conjunction with the second column setting out the relationship between Agreed Terms.)</i>	Other commonly used terms <i>(Where they have the same definition as a Proposed Term, these terms are to be superseded by the Agreed Terms.)</i>
Annexure	Subset of Head Agreement	A component of a Head Agreement (where used) containing details (e.g. specific prices or dates) or pro forma documents (e.g. change order).	Appendix, Attachment, Addendum, Schedule
Business Day	Includes Business Hours	A day that is a normal working day for the purposes the Customer Contract . Usually a day that is not a Saturday, Sunday or public holiday.	Normal Working Day
Business Hours	Subset of Business Day	The normal operational hours of a Business Day . These operational hours can be specified in the relevant contractual document (e.g. Head Agreement, Customer Contract etc.) on a case-by-case basis, where appropriate.	Normal Working Hours, Trading Hours

Agreed Terms (Required)	Relationship to other Agreed Terms (Required)	Scope of Definition	
		Description	Other commonly used terms
Contractor	Excludes Contractor Personnel.	The other party to a contract. Excludes employees and sub-contractors	Supplier, Vendor, Service Provider
Contractor Personnel	Includes Sub-contractors.	A catch-all provision for all persons who act on behalf of the Contractor, including officers, directors, employees, sub-contractors and (other) agents.	Contractor's Staff
Customer	Excludes Customer Personnel.	The government party to a Customer Contract. Excludes employees and sub-contractors.	Department, Purchaser, Agency
Customer Contract	Includes a Schedule.	An agreement entered into by the Customer and the Contractor for the supply of Deliverable(s) . This can include agreements in electronic form. If a Head Agreement is used, the Customer Contract and any other subsidiary agreements sit under it.	Purchase Order Contract or Agreement, Project Contract or Agreement, Contract or Agreement
Customer Personnel		A catch-all provision for all persons who act on behalf of the Customer , including officers, employees and agents.	
Deliverable	Includes Software and Hardware	A catch-all term for any and all products, services, etc. that are provided to the Customer under the relevant contractual document (e.g. Customer Contract).	Product, Material, Items, Equipment, Service
Developed Software	Subset of Software	Software developed by the Contractor under the Customer Contract , excluding any underlying Licensed Software .	

Agreed Terms (Required)	Relationship to other Agreed Terms (Required)	Scope of Definition	
		Description	Other commonly used terms
Existing Material	Subset of Material	Material created outside the relevant contractual document (e.g. Customer Contract or Head Agreement).	Pre-existing Material, Pre-existing IP, Background Material IP, Existing Contract Material
Hardware	Subset of Deliverable	Equipment supplied to the Customer under the relevant contractual document (e.g. Customer Contract).	Major Office Machines
Hardware Maintenance	Subset of Deliverable	A catch-all term that includes all services to maintain and support the operation of Hardware , including remedial (i.e. repairs) and preventative maintenance. Extended warranty services should be addressed separately.	
Head Agreement		Where used, an agreement setting out overarching terms and conditions on which a Deliverable will be supplied if and when they are requested. Typically, standing offers, panel arrangements, centralised purchasing arrangements etc. are set out in a Head Agreement .	Standing Offer Agreement or Deed, Panel Contract or Agreement
Initial Term	Subset of Term .	The period at the end of which the Head Agreement or Customer Contract will expire unless any available options to extend are exercised.	

Agreed Terms (Required)	Relationship to other Agreed Terms (Required)	Scope of Definition	
		Description	Other commonly used terms
Intellectual Property Rights (IPR)	Excludes Moral Rights	The set of legal rights (as opposed to the actual material to which the rights attach) collectively referred to as Intellectual Property Rights (IPR). Excludes Moral Rights . Does not include confidential information. Does not include business, company or domain names.	Intellectual Property
Licensed Software	Subset of Software	Software licensed to the Customer . Excludes Software owned by the Customer . Licensed Software is provided by the Contractor and may be owned by the Contractor OR a third party.	Existing Software, COTS Software
Material	Includes Existing Material and New Material	A catch-all term that includes all tangible things in which Intellectual Property Rights can subsist.	Intellectual Property
Moral Rights	Not a subset of Intellectual Property Rights	Moral Rights as defined in the <i>Copyright Act 1968</i> (Cwlth)	
New Material	Subset of Material	Material created under the relevant contractual document (e.g. Customer Contract).	Developed Material, Foreground Material/ IP, New Contract Material
Price		A catch-all term that covers any amount payable for a Deliverable including GST or other tax.	Fee, Charge, Cost, Rate

Agreed Terms (Required)	Relationship to other Agreed Terms (Required)	Scope of Definition	
		Description	Other commonly used terms
Schedule	Subset of Customer Contract .	A component of the Customer Contract containing details (e.g. specific prices or dates) or pro forma documents (e.g. change order).	Appendix, Attachment, Addendum
Software	Subset of Deliverable	Whatever is capable of falling within the definition of 'computer program' under the <i>Copyright Act 1968</i> (Cwlth); namely, 'a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result'. Does not need to be an entire application. Can be some basic code.	
Software Support	Subset of Deliverable	A catch-all term that includes all services to maintain and support the operation of Software .	Software Maintenance, Defect Rectification, Resolution, Help Desk Support
Term	Includes Initial Term	The total period or duration of the relevant contractual document (e.g. Head Agreement or Customer Contract). That is, Initial Term plus any extension periods.	Duration, Contract Period, Commencement Date & Completion Date

CONTRACT STRUCTURE

PART I—GENERAL CONTRACT STRUCTURE



PART II—DELIVERABLE SPECIFIC CLAUSE STRUCTURE

Part I—General Contract Structure

PLEASE NOTE:

- This contract structure does not dictate the content or types of clauses used.
- The purpose of this contract structure is to provide direction as to how clauses are to be sorted under the required headings.
- Every heading is required for alignment with the Framework and must appear in the templates and standard contracts to which this contract structure is applied, even if there are no clauses to be inserted under it. Headings that have no content (i.e. clauses) beneath them may be deleted prior to finalisation and execution of specific contracts.
- The headings must appear in the order/sequence set out.
- Sub-headings are entirely optional. Different sub-headings may be used so long as they come within the scope of the relevant heading.
- Where a heading has been broken down into possible sub-headings, all the sub-heading descriptions form part of the overall description for the heading.
- The headings (including the optional sub-headings) and their corresponding descriptions should not be interpreted restrictively.
- In many cases a heading will provide sufficient description of the nature of the clauses to be inserted under it.
- Where a particular clause may potentially fit under more than one heading, a choice will need to be made as to the most appropriate location of the clause.
- Capitalised terms appearing in the heading, sub-heading and description columns are agreed terms that are listed and described in the Agreed Terminology.
- Where a jurisdictional purchasing model requires multiple levels of contract (e.g. Head Agreements and Customer Contracts) the first column provides guidance on those headings that may also be used in the Head Agreement, where relevant.

Reference Number & Head Agreement Guidance	Heading (required) <i>(The headings below are required. All clauses in a contract must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (clauses relating to) <i>(Where a heading has been broken down into possible sub-headings, all of sub-heading descriptions together constitute the overall description for the heading.)</i>
G1 (H)	Recitals		The recitals are a set of statements that appear before the operative clauses of the contract. The recitals set out the background and context of the contract.
G 2(H)	Definitions & Interpretation	Definitions	All defined terms and their definitions appear under this sub-heading.
		Interpretation	Includes clauses that deal with the interpretation of the contract. Also includes clauses that deal with the issues of priority of documents and any inconsistency among clauses or parts (schedules, annexures, exhibits) of the contract.
G 3(H)	Scope of Contract	Products and Services	Includes clauses identifying the nature of arrangement (e.g. sole supplier, panel, central contracting authority). Also contains clauses describing the Deliverables to be offered by the Contractor to Customers and the context in which the Customer will use the Deliverables. If a panel/master purchasing arrangement is used, also includes clauses that describe the entities that may access the arrangement, any exclusive arrangement or minimum/maximum purchasing obligations.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Pricing	Includes clauses that reference and establish the pricing model for Deliverables (e.g. price lists if applicable). The price model may reference matters such as GST, exchange rates, price reviews, pricing rules (e.g. best/most favoured price, maximum price, formulas/circumstances for variation of the base price).
		Term	Includes clauses that set up and establish the period (i.e. duration) of the arrangement, including right of extension and procedure for obtaining extensions.
		Standards and Codes	Includes clauses that establish and describe the parties' obligations to meet specified standards and codes applicable to the Deliverables available.
		Duration of the Supply	Includes clauses that address any set/minimum duration of the supply of a specific service offered under the contract. If a panel/master purchasing arrangement is used, includes clauses establishing an appropriate process that provides for the period of the specific service. Also includes clauses addressing any process to extend the duration of a specific service and clauses addressing the consequences of early termination of period-specific services.
		Quotations	Includes clauses establishing and describing the process and method for quotations. Also includes clauses establishing any parties' Intellectual Property Rights in relation to quotation documents.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G 4(H)	Formation of Contract	Formation	Includes clauses describing the status of the relationship between Customers and eligible entities entitled to access arrangements under the contract. Also sets out the process for establishing subsidiary contracts, orders and related documents (if any). In addition, where applicable, includes clauses describing the contractual relationship and interaction between any Head Agreement, Customer Contracts and orders (including document precedence).
G5(H)	Relationship		Includes clauses that address the relationship between parties (e.g. no agency, joint venture, employment, fiduciary, reasonable actions, good faith, prompt decisions, co-operation with other parties).
G6	Deliverable Specific Issues		Includes any clauses that are specific to a particular Deliverable. Depending on the format of the contract, this may be a simple cross-reference to relevant schedules/modules.
		Delivery	Includes clauses addressing the Contractor's primary obligation to provide the Deliverables in accordance with the contract.
		Documentation	Includes clauses addressing any general requirement for the parties to provide documentation, including manner and form (e.g. language, currency/version, definition of relevant terms, words and symbols). Requirements that are particular to specific Deliverables are addressed under the Deliverable-specific headings.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G7	Delivery Management	Project Management	This sub-heading may be used where the Contractor undertakes a 'project management' type activity as part of the supply of the Deliverables. Includes clauses addressing procedural matters, including project management, governance and reporting. Also includes any clauses addressing ongoing project risk.
		Project Schedule	Includes clauses addressing the process for establishing, agreeing and varying milestones. Also includes clauses reinforcing each party's obligations to comply with project schedules (including addressing any failure to comply).
		Staged Implementation	This sub-heading may be used where the supply of Deliverables occurs in stages. It may include clauses describing the nature of the defined stages, including transition from one stage to the next. Also can include any clauses addressing the rights and obligations of the parties to terminate the staged project.
		Extension of Time	Includes clauses providing for any agreed extension of time in the supply of a Deliverable, including the circumstances and procedure for obtaining an extension.
		Liquidated Damages	Includes clauses that address liquidated damages suffered by a party as the result of delay by the other party.
		Time is of the Essence	Includes clauses that address 'time is of the essence' obligations.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Customer Supplied Items (CSI)	Includes clauses addressing the Customer's obligations to provide CSI for use by the Contractor in respect to any Deliverable.
		Customer Assistance	Includes clauses that address any requirement for the Customer to provide support to the Contractor (e.g. operating a first line service desk). Also includes any central Customer responsibilities.
		Acquiring as Customer's Agent	Includes clauses that establish any process or arrangement for the Contractor to acquire third-party items on behalf of the Customer. Also includes clauses that establish any agent relationship between the Customer and Contractor for the acquisition and management of third-party items. Matters specifically relating to the Contractor acting as a reseller are NOT included under this sub-heading.
G8	Access	Access to Customer's Site	Includes clauses that address site access matters, including the Contractor's obligations to comply with the Customer's site policies and procedures (e.g. security, OHS &W, following Customer's directions etc.).
		Access to Contractor's Site	Includes clauses addressing site access matters, including the Customer's obligations to comply with the Contractor's site policies and procedures (e.g. security, OHS &W, following Contractor's directions, etc.).
		Access to Customer's Systems	Addresses system access matters including the Contractor's obligations to comply with the Customer's system access policies and procedures (security, data etc.).

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Access to Contractor's Systems	Includes clauses addressing system access matters, including the Customer's obligations to comply with the Contractor's system access policies and procedures (security, data etc.).
		Technology Threats	Includes clauses establishing parties' obligations to install, operate and maintain appropriate anti-virus software and firewalls. Also includes clauses dealing with specific warranties regarding introduction of computer viruses to other parties' systems and the requirement of the parties to back-up systems.
G9	Personnel	Personnel General	Includes clauses addressing each party's personnel, such as site access, security checks, removal from site or project, and anti-poaching.
		Key Personnel	Includes clauses establishing each party's obligation to make available prescribed individuals and any process for replacement/substitution.
		Agents and Sub-contractors	Includes clauses addressing each party's agent and sub-contractor relationships. May include clauses providing for a process for parties to approve/recognise agents and sub-contractors. Also includes clauses addressing parties' agent/sub-contractor liability and may include parties' warranties in respect to agents/sub-contractors.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G10	General Warranties	Contractor Warranties	Includes general clauses dealing with the Contractor's warranties that do not fit under any subject-specific headings. Examples include authority to contract; requisite licences and approvals; compliance with applicable laws; appropriately qualified, experienced and skilled personnel; and warranties for Deliverables supplied by third parties.
		Customer Warranties	Includes general clauses dealing with any Customer warranties, including warranties relating to Customer supplied items and warranties for Deliverables supplied by third parties.
G11	Acceptance		Includes clauses addressing the default position (if any) for acceptance of Deliverables provided under a contract. Specific acceptance requirements (including acceptance testing) are NOT included under this heading but may be included under the heading G6 'Deliverable-Specific Issues'.
G12	Payment and Invoicing	Payment	Includes clauses establishing the Customer's obligation to pay for the Deliverables. May include clauses that reference and establish a pricing model (price lists) for Deliverables.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
			The price model may reference matters such as GST, exchange rate, price reviews, and pricing rules (e.g. best, maximum). Includes such matters as time for payment, default payment clauses, any government policy linked to payment (e.g. expenses/credit cards), and the parties' right to set-off.
		Invoicing	Includes clauses describing the requirements for an 'acceptable' invoice and any documents required to accompany/support an invoice. May include invoice format, invoice detail and invoice addressee information.
G13	Taxes		Includes clauses establishing the financial basis of the pricing (e.g. inclusive/exclusive of taxes), including GST, withholding tax etc.
G14	Intellectual Property Rights	Ownership	Includes clauses providing for ownership and licensing arrangements for Materials and licensing of third-party, open source, tools and methodologies.
		Licensing	Includes clauses addressing specific rights related to the granting of a licence by one party to the other to allow a party to use, copy or reproduce Materials where Intellectual Property Rights (IPR) subsist.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Other Intellectual Property Right Issues	Includes clauses addressing other rights and obligations related to intellectual property, including the parties' obligations not to remove, deface or obscure any of the other parties' copyright or proprietary right notices; acknowledgment of ownership; and an obligation not to do anything that would prejudice the other party's (or third party's) IPR. Provides for a warranty regarding not breaching a third party's IPR.
		Moral Rights	Includes clauses specifying the parties' rights and obligations to address Moral Rights issues, including such matters as consent, attribution of authorship, integrity, reasonable defence etc.
G15(H)	Confidentiality		Includes clauses specifying the parties' obligations and rights in dealing with each other's confidential information, including any requirements and processes addressing the obligations to obtain confidentiality undertakings from third parties and any obligations limiting public announcements and contract disclosure.
G16(H)	Privacy		Includes clauses that specify the parties' privacy obligations and handling of personal information (including any procedural matters), including any warranties and indemnities related to dealings with personal information and compliance.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G17(H)	Insurance		Includes clauses addressing general and specific obligations to maintain insurances, including types, levels and periods of cover. Includes clauses establishing a means of evidencing cover (e.g. certificates, policies). Also includes clauses to address self-insurance, global insurance arrangements and remedies for failure to insure.
G18(H)	Guarantees	Performance Guarantees	Includes clauses that address obligations to procure a performance guarantee and/or indemnity, describe the scope of a guarantor's obligations and establish responsibilities for costs. Also includes clauses describing the manner and process for executing claims, realising security, and release.
		Financial Security	Includes clauses addressing obligations to procure financial undertakings, the nature/scope of the financial security, and responsibilities for costs. Also includes clauses describing the manner and process for executing claims, realising security, and release.
G19(H)	Liability		Includes clauses that provide the basis for establishing parties' liability, including any exclusions or caps. Also includes clauses that address mitigation and rights of proportionality.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G20(H)	Indemnity	Contractor Third-party Indemnity	Includes clauses that describe each party's indemnity position, including any exclusion or caps, and establish parties' duty to mitigate loss and rights of proportionality. Also includes clauses establishing the basis of claims and the process for managing claims (i.e. enforcing the indemnity) and/or litigation.
		Contractor's Intellectual Property Right Indemnity	Includes clauses describing the Contractor's indemnity position in respect to IPR and Moral Rights, including any exclusion or caps. Also includes clauses establishing the parties' duty to mitigate loss, rights of proportionality, the basis of claims and the process for managing claims and/or litigation.
		Customer Third-party Indemnity	Includes clauses describing the Customer's indemnity position, including any exclusions or caps. Also includes clauses establishing the parties' duty to mitigate loss and rights of proportionality, the basis of claims and the process for managing claims and/or litigation.
G21(H)	Conflict of Interest		Includes clauses establishing the parties' 'conflict of interest' obligations. Also includes clauses describing the process for disclosing potential conflict of interest, and the process for managing resolution of any conflict of interest.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
G22(H)	Performance Management	Reporting	Includes clauses establishing the obligations of parties to provide reports, and describing the nature, format, timing etc. of reports. Clauses may reference schedules/pro forma reports.
		Review	Includes clauses that establish the rights and process to review parties' performance. Also includes clauses describing processes to alter the nature, format or timing of a party's performance.
		Exchange of Information	Includes clauses establishing the parties' rights and limitations to share performance information.
G23(H)	Government Policy	Policy	Includes clauses establishing the Contractor's obligations to comply with government policies. Also includes clauses setting out and describing any jurisdictional-specific policy issues applicable to the arrangement.
G24(H)	Contract Administration	Representatives	Includes clauses providing for the appointment of each party's principal contract representative, and detailing the identity, functions, authority and role of each party's representative. Also includes clauses describing the process for replacement and/or substitution of representatives, and establishing any right to delegate authority.
		Notice of Change of Control	Includes clauses providing for a corporate Contractor to notify the Customer if there is a 'change of control'.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		E-commerce	Includes clauses establishing any obligations on the parties relating to future use of electronic commerce as part of the arrangement.
		Record Keeping	Includes clauses establishing the parties' obligations to keep proper records and the audit rights applicable to those records.
		Supporting Documentation	Includes clauses establishing the parties' obligations to execute all requisite documents to enable the parties' performance under the contract (e.g. copyright assignments, deed of confidentiality etc.). Clauses relating to other documentation not dealt with elsewhere could be included here.
		Notices	Includes clauses providing for the service of notices under the contract, including any deeming clauses.
G25(H)	Dispute Resolution		Includes clauses establishing a dispute resolution process and any circumstances that exempt the parties from this process. Also includes clauses allowing for urgent equitable relief.
G26(H)	Termination	Suspension for Cause by the Customer.	Includes clauses setting out the Customer's right to suspend the contract, including for breach (if not remedied).
		Termination for Cause by the Customer	Includes clauses setting out the Customer's right to terminate the contract, including for breach (if not remedied).

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Termination for Convenience by the Customer	Includes clauses establishing the Customer's right to terminate the contract for convenience. Clauses also may include any necessary process (e.g. the serving of notices) and the associated consequences when exercising this right.
		Termination for Cause by the Contractor	Includes clauses setting out the Contractor's right to terminate or suspend the contract, including for breach (if not remedied).
		Consequences of Termination	Includes clauses addressing the consequences of contract termination, including each party's obligations to return each other's property and confidential information and any affect on current or outstanding orders placed under it.
G27(H)	General	Variation	Includes clauses establishing and describing the process to amend the contract, including the scope/extent of variation permitted and variation on scope of offerings.
		Assignment and Novation	Includes clauses addressing each party's right to assign and novate the contract.
		Waiver	Includes clauses establishing the parties' rights in relation to waiver.
		Unforeseen events	Includes clauses providing for unforeseen events (formerly 'force majeure'), including obligations on the parties to provide notice, to mitigate loss, and rights to terminate.
		Material Adverse Events	Includes clauses establishing the obligations of parties to disclose any event affecting the parties' ability to perform, and defines the process for the management of those events.

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
		Severability	Includes clauses providing for the application of 'severability' of document clauses.
		Entire agreement	Includes clauses describing the nature and application of the agreement in its entirety, including exclusion, implied terms etc.
		Rights are Cumulative	Includes clauses specifying whether rights are 'cumulative'.
		Survival	Includes clauses specifying the establishment of whether any clauses survive termination, and identifies surviving clauses.
		Counterparts	Includes clauses providing for execution of the contract or any related documents in counterpart, and confirms their enforceability.
		Applicable Law	Includes clauses expressing jurisdiction and governing law for the contract.
G28(H)	Execution Block		

Ref. No. & Head Agreement Guidance	Heading (required)	Sub-heading (optional)	Description (clauses relating to)
	Annexures or Schedules		
A/S1(H)		Contract Details	Includes clauses providing for the insertion of variable details, including, name of parties, terms of agreement, insurance requirements, security requirements, standards and codes, products and service descriptions, approved agents, pricing, delivery detail etc.
A/S2		Deliverables List (if master agreement or panel arrangement)	
A/S3		Acceptance tests (pro forma)	
A/S4(H)		Performance Guarantee (pro forma)	
A/S5(H)		Financial Security (pro forma)	
A/S6		Deed of Confidentiality and Privacy (pro forma)	
A/S7		Escrow Agreement (pro forma)	
A/S8(+)		Untitled Annexure (s) or Schedule(s)	Includes clauses related to additional Annexure (s) or Schedule(s) as necessary.

Part II—Deliverable Specific Clause Structure

PLEASE NOTE:

- This contract structure does not dictate the content or types of clauses used.
- The purpose of this contract structure is to provide direction as to how clauses are to be sorted under the required headings.
- If the contract contains clauses that fit under a heading in a particular clause cluster (e.g. Hardware Acquisition Clauses Cluster, Managed Services Clauses Cluster etc.) then the headings for that cluster must be used unaltered.
- These headings will be merged into the General Contract Structure under the G6 Deliverable Specific Issues heading.
- The headings must appear in the sequence set out.
- Sub-headings are entirely optional. Different sub-headings may be used so long as they come within the scope of the relevant (required) heading.
- Where a heading has been broken down into sub-headings, all of the sub-heading descriptions form part of the overall description for the heading.
- The headings (including the optional sub-headings) and their corresponding descriptions should not be interpreted restrictively.
- In many cases, a heading will provide sufficient description of the nature of the clauses to be inserted under it.
- Where a particular clause may potentially fit under more than one heading, a choice will need to be made as to the most appropriate location for the clause.
- Capitalised terms appearing in the heading, sub-heading and description columns are agreed terms that are listed and described in the Agreed Terminology.
- Special clauses may be required to deal with the provision of Deliverables through a reseller model. No special headings have been provided for such clauses.

Consultancy and Contracting Services Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to consultancy services must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all of the sub-heading descriptions together constitute the overall description for the heading.)</i>
C1	Scope of Services		Clauses that relate to services that are not covered under any of the other groups of clauses (e.g. preparing a report on a particular ICT-related issue, recruitment/sourcing services etc.) will appear under this heading. Given the broad and varied potential scope of such services, it is likely that the clauses under this heading will serve only to cross-reference a Schedule where the specific Deliverables for a given transaction are described. Care will need to be exercised to ensure the Deliverables described under this heading do not cut across services described elsewhere in the contract.
C2	Acceptance Criteria		Given the potential breadth and variability of the services and the Deliverables produced through them, the clauses appearing under this heading are likely to cross-reference a Schedule where the acceptance criteria for the specific Deliverables will be set out.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
C3	Specific Warranties	Scope	Includes clauses relating to specific warranties additional to the general warranties given by the Contractor under the contract.
		Exclusions	Includes any clauses that specify circumstances in which particular specific warranties will not apply, or will cease to apply, will appear under this sub-heading.

Hardware Acquisition Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to Hardware acquisition must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all of the sub-heading descriptions together constitute the overall description for the heading.)</i>
HW1	Supply of Hardware	Delivery	Includes clauses relating to the physical delivery of hardware, peripherals and consumables.
		Title	Includes clauses relating to the passing of legal title in the hardware.
		Software	Includes any clauses relating to software that is already installed on (or, in the case of firmware, forms part of) the Hardware. Pre-installed Licensed Software is provided for under the Licensed Software clauses. Accordingly, the clauses under this sub-heading should cross-reference the Licensed Software Clauses.
		Consumables	Includes clauses relating to consumables (e.g. ink cartridges/toner, paper, etc.).
		Documentation	Includes clauses relating to the documentation that is to be provided with the Hardware. These clauses will cover such issues as the quantity and type of the documentation.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Ancillary Services	Includes clauses relating to services that are ancillary to the provision of the Hardware. This includes clauses relating to installation, training, disposal of old equipment, and degaussing data from old hardware.
		Acquisition through a Reseller	Where acquisition through a reseller necessitates a different approach to the one set out in the clauses appearing in the preceding sub-headings, clauses setting out those differences can be collected under this sub-heading.
HW2	Availability of Hardware and Spares		Includes clauses relating to the availability of additional items of Hardware, substitute Hardware products and spares for the Hardware. This includes clauses relating to the Contractor's obligations to make additional items of Hardware, substitute Hardware products and spares available for a specified period of time, and to provide advanced notice if the Contractor intends to discontinue their availability.
HW3	Acceptance Tests		Includes all clauses relating to the acceptance testing and other acceptance requirements and procedures for the Hardware. Clauses under this heading may point to a Schedule where detailed and specific tests, criteria, procedures etc. are set out. Clauses appearing under this heading will either supplement or substitute for the general clauses relating to Acceptance that appear in the Customer Contract. The relationship between these specific clauses and the general clauses needs to be made clear under this heading.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
HW4	Specific Warranties	Scope	Includes clauses relating to the standard warranty applying to the Hardware and any peripherals supplied with the Hardware. Also the location for any specific warranties by the Contractor that the Hardware and/or peripherals are free from defects, comply with the specifications, and are not subject to any encumbrances.
		Extended Warranty	Includes clauses relating to extended warranty for the Hardware and any peripherals supplied with the Hardware. Care should be taken to establish the link between obligations under an extended warranty and those relating to Hardware Maintenance.
		Exclusions	Includes any clauses that specify circumstances in which particular warranties will be cease to apply.

Hardware Maintenance Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to Hardware Maintenance must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all of the sub-heading descriptions together constitute the overall description for the heading.)</i>
HM1	Maintenance Period		Includes clauses relating to the period for which Hardware Maintenance services will be provided. This includes clauses setting out the start and end dates and renewal requirements. Also includes clauses addressing the relationship with any warranty period applying to the Hardware.
HM2	Scope of Hardware Maintenance	Preventative Maintenance	Includes clauses relating to the provision of preventative maintenance, including how frequently it is carried out and what it entails.
		Remedial Maintenance	Includes clauses relating to the provision of remedial maintenance. This includes clauses relating to response times, service levels, onsite attendance, swap in/out, remote access, and diagnostic software.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Help Desk	Includes clauses relating to the operation of a help desk (if any) for hardware maintenance. This includes hours of operation, the relationship with other help desks, and persons authorised to access the help desk.
		Mandatory Engineering Changes	Includes clauses relating to any engineering changes mandated by the manufacturer of the Hardware.
		Moves, Adds, Changes and Substitution	Includes any clauses addressing any rights and obligations of the parties, procedures etc. relating to moving, adding, changing and/or substituting Hardware.
		Ancillary Services	Includes clauses relating to services that are ancillary to the provision of Hardware Maintenance. This includes clauses relating to disposal of old equipment and degaussing data from Hardware, and the cost for such ancillary services.
		Other	Includes clauses relating to remote access arrangements, how replaced parts are to be removed and disposed of, the continued availability of consumables, and how any software that is installed on the hardware (e.g. operating system) is to be supported.
		Reseller Provision of Maintenance Services	Where provision of Hardware Maintenance services through a reseller necessitates a different approach to the one set out in the clauses appearing in the preceding sub-headings, clauses setting out those differences can be included under this sub-heading.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
HM3	Specific Warranties	Scope	Includes clauses relating to the specific warranties given by the Contractor providing Hardware Maintenance services. These specific warranties are in addition to the general warranties given by the Contractor under the contract and include warranties for preventative maintenance, remedial maintenance, helpdesk, moves, adds and changes, spare parts and ancillary services.
		Exclusions	Includes any clauses that specify circumstances in which particular warranties will be cease to apply.

Managed Services Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses in relating to managed services must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all of sub-heading descriptions together constitute the overall description for the heading.)</i>
MS1	Scope of Services	Details	Includes clauses identifying the scope of the Contractors' responsibilities and the Hardware, Software, facilities, system etc. to which they apply. It is likely that these clauses will refer to a Schedule that contains the specific details.
		Services Change	Includes clauses identifying the process for changing the Hardware, Software, systems, facilities etc. to which the managed services apply or increasing/decreasing the volume of the managed services. These clauses may refer to a change request pro forma contained in a Schedule.
		System Security	Includes clauses addressing specific system security issues and standards.
MS2	Service Levels		Includes clauses relating to the service levels to be applied to the managed services as well as the consequences for failure to achieve them. Also includes clauses relating to the measurement and reporting of service levels.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
MS3	Specific Warranties	Scope	Includes clauses relating to specific warranties additional to the general warranties given by the Contractor under the contract.
		Exclusions	Includes any clauses specifying circumstances in which particular specific warranties will not apply or will cease to apply.
MS4	Disaster Recovery and Business Continuity		Includes clauses relating to disaster recovery and business continuity obligations and processes. This includes clauses providing for the preparation and approval of a disaster recovery plan or compliance with an existing plan.
MS5		Transition In	Includes clauses addressing the parties' obligations to facilitate transitioning from incumbent providers to the Contractor. This includes clauses addressing issues such as the preparation of an operations manual, novation of relevant contracts to the Contractor, interactions with the incumbent providers etc.
		Transition Out	Includes clauses addressing the parties' obligations to facilitate transitioning from the Contractor to the Customer or other providers, as required. Includes clauses addressing issues such as novation of relevant contracts to the Customer or new provider, interactions with the new providers, return or destruction of confidential information, and handover of data.

Software Development Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to Software development must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all the sub-heading descriptions together constitute the overall description for the heading.)</i>
SD1	Design	Scoping	Includes clauses relating to any scoping exercise that is to be undertaken before the Developed Software is designed, or before its specifications are created or confirmed.
		Design Process	Includes clauses relating to the process to be followed by the parties in arriving at an agreed design specification. These clauses will address such issues as the preparation, submission, approval and amendment of the design specification for the Developed Software.
SD2	Development	Underlying Software	Where the Developed Software is in the form of enhancements, modifications etc. to existing, underlying software, clauses that relate to that underlying software will appear under this sub-heading.
			This includes the details of that underlying software, including which party will provide it, when it will be provided, whether it is to be acceptance tested, how it will be supported during the development process, and which party will pay for the underlying software and any such support.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Development Process	Includes clauses relating to the development process and the parties' respective responsibilities.
SD3	Acceptance Tests		<p>Includes all clauses relating to acceptance testing and other acceptance requirements and procedures for the Developed Software.</p> <p>The clauses under this heading may point to a Schedule where detailed and specific tests, criteria, procedures etc. are set out.</p> <p>The clauses appearing under this heading will either supplement or substitute for the general clauses relating to acceptance that appear in the contract.</p> <p>The relationship between these specific clauses and the general clauses needs to be made clear under this heading.</p>
SD4	Specific Warranties	Scope	<p>Includes clauses relating to the specific warranties applying to the Software Development. Such clauses include those that relate to the Developed Software being free from defects and viruses and complying with the specifications.</p> <p>The specific warranties under this sub-heading are in addition to the general warranties given by the Contractor under the contract.</p>
		Exclusions	Includes any clauses that specify circumstances in which particular specific warranties will not apply or will cease to apply.
SD5	Ancillary Services	Data Migration	Includes clauses relating to migration of data (from legacy or other software).
		Installation	Includes clauses relating to installation of the Developed Software.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Training	Includes clauses relating to training in relation to the Developed Software.
		Future Development Services	Includes clauses relating to arrangements for future development services (e.g. enhancements and modifications to the Developed Software).
		Other Services	A generic catch-all clause will appear under this sub-heading, perhaps with a cross-reference to a Schedule where specific ancillary services are described.

Software Licensing Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to Software licensing must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all the sub-heading descriptions together constitute the overall description for the heading.)</i>
SL1	Licence Terms	Period of Licence	Includes clauses setting out the period of the licence, including where the licence is perpetual and irrevocable.
		Class of Licence	Includes clauses relating to the class of the licence or the basis on which the Software is licensed (e.g. number of concurrent end-users, specific users, enterprise-based, site based).
		Licence Rights	Includes clauses relating to any permitted copying of the Licensed Software for back-up etc. Also Includes clauses relating to obligations not to reverse engineer, decompile etc. Includes clauses relating to shrinkwrap or clickwrap licence terms and how they integrate with the terms of the contract.
		Substitution, Change and Transfer	Includes clauses relating to the parties' rights and obligations for changes to the hardware platform and/or operating system on which the Licensed Software runs. Also includes clauses relating to transfer of the Licensed Software arising from, for instance, 'machinery of government' changes.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Substitution, Change and Transfer	Includes clauses relating to the parties' rights and obligations for changes to the hardware platform and/or operating system on which the Licensed Software runs. Also includes clauses relating to transfer of the Licensed Software arising from, for instance, 'machinery of government' changes.
		Obligations upon Termination	Includes clauses relating to the parties duties if and when the licence expires or is earlier terminated. Also includes clauses relating to the destruction of copies of the Licensed Software.
SL2	Supply of Licensed Software	Media	Includes clauses relating to the media through which the Licensed Software will be provided, the number of copies to be provided, and the process for obtaining software licence keys.
		Installation	Includes clauses relating to the installation of the Licensed Software on the Customer's operating environment.
		Documentation	Includes clauses relating to the documentation for the Licensed Software, including number of copies, format etc.
SL3	Acceptance Tests		Includes all clauses relating to the acceptance testing and other acceptance requirements and procedures for the Licensed Software. The clauses under this heading may point to a Schedule where detailed and specific tests, criteria, procedures etc. are set out.
			Clauses appearing under this heading will either supplement or substitute for the general clauses relating to acceptance that appear in the contract. The relationship between these specific clauses and those general clauses needs to be made clear under this heading.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
SL4	Ancillary Services	Training	Includes clauses relating to training in relation to the Licensed Software.
		Data Migration	Includes clauses relating to migration of data (from legacy or other software).
		Other Services	A generic catch-all clause will appear under this sub-heading, perhaps with a cross-reference to a Schedule where the specific ancillary services are described.
		Reseller Provision of Licensed Software	Where provision of Licensed Software through a reseller necessitates a different approach to the one set out in the clauses appearing in the preceding sub-headings, clauses setting out those differences can be located under this sub-heading.
SL5	Specific Warranties	Scope	Includes clauses relating to the specific warranties applying to the Licensed Software. Such clauses include those that relate to the Licensed Software: being free from defects and viruses; and complying with the specifications.
			The specific warranties under this heading are in addition to the general warranties given by the Contractor under the contract.
		Exclusions	Includes any clauses that specify circumstances in which particular specific warranties will not apply, or will cease to apply.
SL6	Audit	Records	Clauses relating to the parties' rights and obligations in relation to keeping records of the number of copies of the Licensed Software, their location, number of users etc. will appear under this sub-heading.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Audit and Verification	Includes clauses relating to the parties' rights and obligations in relation to the conduct of audits and the verification of records.

Software Support Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses in relating to Software Support must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all of sub-heading descriptions together constitute the overall description for the heading.)</i>
SS1	Support Period		Includes clauses relating to the period for which Software Support will be provided, including clauses setting out the start and end dates and renewal requirements. Also includes clauses addressing the relationship with any warranty period applying to the software.
SS2	Scope of Support Services	Supported Software	Includes clauses identifying each software product that is to be supported, including its type (e.g. Licensed Software, Developed Software or open source software) and the nature of the Software Support services that apply to each such software product.
		Help Desk	Includes clauses relating to the operation of help desk services, including clauses relating to hours of operation, the process for logging calls, response times, relationship with other help desks etc.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Updates and New Releases	Includes clauses relating to the provision of software patches, updates and new releases. Clauses will cover issues such as the provision of updated documentation; the availability of support for superseded versions; whether acceptance tests apply to new releases; who is responsible for implementation of patches, updates and new releases; the licence rights for any updates or new releases; how those updates and new releases will be provided; and the impact of updates and new releases on functionality.
		Open Source	Includes any clauses relating to the provision of support for open source software that cannot be located under any other heading or sub-heading.
SS3	Ancillary Services		A generic catch-all clause will appear under this heading, perhaps with a cross-reference to a Schedule where the specific ancillary services are described.
SS4	Specific Warranties	Scope	Includes clauses relating to the specific warranties applying to the Software Support. The specific warranties under this sub-heading are in addition to the general warranties given by the Contractor under the contract.
		Exclusions	Includes any clauses that specify circumstances in which particular specific warranties will not apply or will cease to apply.

Systems Integration Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to systems integration must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all the sub-heading descriptions together constitute the overall description for the heading.)</i>
SI1	System Components	Components not supplied by Contractor	Some of the hardware, software or other components of the system(s) to be integrated by the Contractor may be supplied by the Customer or by another Contractor (under a different contract). Clauses relating to the parties' respective rights and obligations in relation to such components will appear under this sub-heading. The components themselves may be listed in a Schedule referred to by the clauses under this sub-heading.
		Components supplied by the Contractor	Where the Contractor is supplying any Hardware or Software under the contract, the 'Hardware Acquisition Cluster' clauses, 'Licensed Software Cluster' clauses and 'Software Development Cluster' clauses will apply, and this should be reflected in the clauses under this sub-heading. The clauses under this sub-heading should include a cross-reference to the clauses or Schedule(s) that identify the specific components.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
SI2	Scope of Integration Services	Scoping	Includes clauses relating to any scoping exercise that is to be undertaken before the systems integration Deliverable is designed, or before its specifications are created or confirmed.
		Design Specification	Includes clauses relating to the process to be followed by the parties in arriving at an agreed specification for the systems integration Deliverable. Clauses will address such issues as the preparation, submission, approval and amendment of the specification.
		Implementation	Includes clauses relating to the implementation process and the parties' respective responsibilities. Clauses relating to the ongoing operation of a system once integrated should appear under the 'Managed Services Cluster' clauses.
SI3	Acceptance Tests		The clauses appearing under this heading will either supplement or substitute for: (a) the general clauses relating to acceptance that appear in the contract, and (b) the 'Acceptance Tests' clauses of the 'Hardware Acquisition Cluster' clauses, the 'Licensed Software Cluster' clauses and the 'Software Development Cluster' clauses. The relationship between the clauses under this heading and those clauses needs to be made clear under this heading.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
SI4	Specific Warranties	Scope	<p>Includes clauses relating to the specific warranties applying to the systems integration Deliverable. Such clauses include those that relate to the systems as integrated, being free from defects and viruses, and complying with the specifications.</p> <p>The specific warranties under this sub-heading are in addition to the general warranties given by the Contractor under the contract.</p> <p>Further, the specific warranties under this heading will be in addition to the specific warranties under the 'Hardware Acquisition Cluster' clauses, the 'Licensed Software Cluster' clauses and the 'Software Development Cluster' clauses.</p>
		Exclusions	Includes any clauses that specify circumstances in which particular specific warranties will not apply or will cease to apply.
SI5	Ancillary Services	Support and Maintenance	<p>Includes clauses relating to the support and maintenance of the system(s) as integrated.</p> <p>The 'Hardware Maintenance Cluster' clauses and 'Software Support Cluster' clauses will apply for Hardware supplied by the Contractor and Licensed Software and/or Developed Software supplied by the Contractor.</p> <p>Any clauses that relate to support and maintenance (of the integrated system(s)) that are not otherwise covered by those other sets of clauses will appear under this sub-heading.</p>
		Data Migration	Includes clauses relating to migration of data (from legacy or other software) to the newly integrated system(s).

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
		Other Services	A generic catch-all clause will appear under this sub-heading, perhaps with a cross-reference to a Schedule where the specific ancillary services are described.

Telecommunications Services Clause Cluster

Reference Number	Heading (required) <i>(The headings below are required. All clauses relating to telecommunications services must be arranged under these headings. Also, the headings must appear in this order/sequence.)</i>	Sub-heading (optional) <i>(The sub-headings below are possible, optional groupings of clauses under each heading.)</i>	Description (guidance) <i>(Where a heading has been broken down into possible sub-headings, all the sub-heading descriptions together constitute the overall description for the heading.)</i>
T1	Regulator-Approved Terms		Includes clauses incorporating any regulator-approved terms that will apply to the provision of the services.
T2	Scope of Services		Includes clauses setting out the scope of the Contractors' responsibilities in providing the services, including supply and installation of any telecommunications network infrastructure. Also includes clauses identifying a process for relevant moves, adds or changes, and clauses setting (minimum) technical and service specifications.
T3	Service Levels		Includes clauses relating to the service levels applying to the telecommunication services as well as the consequences for failure to achieve them. Also includes clauses relating to the measurement and reporting of service levels.
T4	Network Security		Includes clauses addressing specific network security issues and standards.

Reference Number	Heading (required)	Sub-heading (optional)	Description (guidance)
T4	Network Security		Includes clauses addressing specific network security issues and standards.
T5	Disaster Recovery and Business Continuity		Includes clauses relating to disaster recovery and business continuity obligations and processes. This includes clauses providing for the preparation and approval of a disaster recovery plan or compliance with an existing plan.
T6	Transition	Transition In	Includes clauses addressing the parties' obligations to facilitate transitioning from the Customer or incumbent providers to the Contractor. This includes clauses addressing issues such as churn of services, number portability, etc.
		Transition Out	Includes clauses addressing the parties' obligations to facilitate transitioning from the Contractor to the Customer or other providers, as required. This includes clauses addressing issues such as assignment/novation of relevant contracts to the Customer or new provider, interactions with the new providers, return or destruction of confidential information, handover of data, and disengagement services.
T7	Specific Warranties	Scope	The specific warranties under this heading are in addition to the general warranties given by the Contractor under the contract.
		Exclusions	This sub-heading includes any clauses that specify circumstances in which particular specific warranties will not apply or will cease to apply.

