Government of **Western Australia**
Department of **Housing and Works**

Request for Offers (RFO)

Request Title:

Standing Offer Arrangement for the Supply of Non-Residential Engineering and Building Related Services

Request Number:

WCS2024NR1

Closing Time:

2:30PM, Tuesday 18 March 2025, Western Australia

Issued By:

State of Western Australia acting through the Department of Housing and Works

AMENDMENTS LOG

THIS PAGE IS FOR INFORMATION PURPOSES ONLY

NO.	SECTION		AMENDMENT	EFFECTIVE DATE
1.1	All Sections		Amendments have been made to address: ▪ The WA Government Public Sector Reform 2025; and ▪ The transition to a Cooperative Procurement Arrangement framework.	30 March 2026
1.2	D.8 H.5 – 22 Annexure B – Clause 51	Application of Privacy Laws and PRIS Act	**New clause added**: Reference to the Privacy and Responsible Information Sharing Act 2024 (WA) (PRIS Act) to address privacy obligations and responsible information-sharing requirements applicable from 1 July 2026.	28 October 2026

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Part A – Overview

A.1 BACKGROUND INFORMATION

The Western Australian Government has a requirement to establish a contracting framework for the provision of works consultancy services to support delivery of a range of public infrastructure and maintenance projects.

This framework, the WCS2024 Works Consultancy Service Framework (the Framework) will consist of a number of standing offers to assist Eligible Customers to procure a range of consultancy services to support the delivery, management and maintenance of critical public infrastructure projects including schools, hospitals, stadiums and other public amenities.

This Request will establish a Works Consultancy Services Panel (WCS2024NR1) for Non-Residential Engineering and Building Related Services.

The initial term of WCS2024NR1 will be four (4) years with three (3) options to extend, each of two (2) years' duration.

WCS2024NR1 replaces the current Engineering and Building Specialists Panel (2014) which was created as a Department of Finance-only (Finance) Panel and is administered by Finance. As they come up to their expiry dates, other Finance-only works panels will be redeveloped and added under this framework, effectively opening them to other State Agencies, and collectively they will form the Framework.

The total contract value on the current Engineering and Building Specialists Panel (2014) is approximately $8.9 million per annum. This figure represents Finance's expenditure only.

The Estimated Contract Value (ECV) of works consultancy services under WCS2024NR1 is $100 million over ten (10) years. The ECV will vary with demand for services from other agencies and that future demand cannot be accurately quantified.

A.2 STANDING OFFER - WCS2024NR1

A.2.1 Procuring from WCS2024NR1

Eligible Customers may procure from WCS2024NR1, but it is not mandatory to do so. If an Eligible Customer chooses to procure from WCS2024NR1, in summary and without limiting the Standing Offer Conditions:

(a) The Eligible Customer may issue a Standing Offer Request for Supply to one or more Suppliers (this may be in the form of Schedule 1 to this Request or using any other documentation or form), and may attach:

  (i) Australian Standard General Conditions of Contract for Consultants AS 4122 - 2010, Annexure Part A;

  (ii) a scope of work;

(iii) any business requirements including but not limited to technical specifications, deliverables, key performance indicators, time frames and insurances and technical outlines relevant to scope from the Practice Brief for Non-Residential Engineering and Building Requirements (Annexure C);

(iv) a request for a reverse scope;

(v) any documentation the Eligible Customer deems necessary to effect an accurate Reply.

(b) The Supplier must prepare and submit a Reply to the Eligible Customer either:

(i) in the form of the example Reply Form in Schedule 2; or

(ii) in any other form agreed by the Supplier with the Eligible Customer prior to submission of the Reply.

The Price submitted by a Supplier in its Reply must not exceed the maximum rates included in the Standing Offer.

(c) The Eligible Customer may accept the Reply by issuing a Standing Offer Order (this may be in the form of Schedule 3 or using any other form).

More information on the buying rules relating to WCS2024NR1 is provided for information only in Annexure A – Standing Offer Buying Rules.

Part B – DOCUMENTS AND INFORMATION

B.1 DOCUMENTS

Part B.1 of this document describes the Request for Offers and Response Form (together, the Request Documents), and the associated terms and conditions.

B.1.1 RFO Parts

This document contains the following Parts:

- Part A: Overview
- Part B: Documents and Information
- Part C: Offer Requirements
- Part D: Government Policy Framework
- Part E: Assessment of Offers
- Part F: Specification
- Part G: Pricing Requirements
- Part H: Standing Offer Details
- Part I: Contract Details
- Schedule 1: Example Standing Offer Request for Supply
  - Attachment 1 to the Standing Offer Request For Supply: Australian Standard General Conditions of Contract for Consultants AS 4122 - 2010, Annexure Part A
  - Attachment 2 to the Standing Offer Request For Supply: Scope / Contract particulars
  - Attachment 3 to the Standing Offer Request For Supply: Reply Form
- Schedule 2: Example Reply which includes:
  - Attachment A – Price Preferences
  - Attachment B – Qualitative Requirements
- Schedule 3: Example Standing Offer Order
- Schedule 4: WCS2024NR1 Customer Satisfaction Survey
- Annexure A: Standing Offer Buying Rules
- Annexure B: AS4122-2010 Annexure Part B
- Annexure C: Practice Brief

B.1.2 Response Forms

Respondents must complete the Response Forms, outlined in Part C.2, below, and submit Offers in accordance with Part C.

B.1.3 Terms and Conditions

The documents listed below contain the terms and conditions applicable to this Request.

B.1.3.1 Request Conditions

Conditions governing the Request process and the submission of Offers are contained in the TRP Request Conditions (January 2025 version) which are available from WA.gov.au

B.1.3.2 Standing Offer Conditions

The TRP Standing Offer Conditions (January 2025 version), available from WA.gov.au, apply to a Standing Offer (if any) resulting from the Request.

B.1.3.3 Contract Conditions

The Contract Conditions applicable to a Contract (if any) resulting from a Standing Offer Order will be AS4122-2010 General Conditions of Contract for Consultants (incorporating Amendment No. 1) as amended by Annexure B to this Request (being Annexure Part B to the General Conditions of Contract for Consultants).

A copy of AS 4122–2010 General Conditions of Contract for Consultants (incorporating Amendment No.1) is available for purchase from SAI Global.

Annexure Part B to the AS4122-2010 General Conditions of Contract for Consultants is contained in Annexure B to this Request.

NOTICE TO RESPONDENTS
WA GOVERNMENT AMENDMENTS TO AS 4122–2010

This Request incorporates the terms of the AS 4122–2010 General Conditions of Contract for Consultants **WHICH HAVE BEEN AMENDED** by Annexure B of this Request. The Contract Conditions in this Request and any contract awarded will differ from the corresponding clauses in AS 4122–2010 as published by Standards Australia.

Respondents are referred to Part I (Contract Details) which describes the Contract Conditions, including all documents which will form part of a Contract, in more detail.

B.2 TENDER BRIEFINGS

B.2.1 Briefing Details

The Requesting Agency will conduct a non-mandatory tender briefing to Respondents. The briefing will be conducted at:

Date: **Tuesday, 11 February 2025**

Time: **10:00AM AWST**

Location: **The briefing will be held via Microsoft Teams.**

Please register your attendance by clicking this link before COB Monday, 10 February 2025. Clicking the link will take potential Respondents to a registration page where they can provide contact details and manage their registration.

B.3 Contact Persons

Enquiries in connection with the Request should be directed to the most appropriate contact person listed below.

The Respondent must not contact any other person within Government or any consultant to Government (other than those listed below, if any) engaged in relation to the Request to discuss the Request or any document or matter in connection with the Request.

B.3.1 Contractual and Routine Enquiries

Name: Natalie Rose

Title: Senior Procurement Manager

Phone: 08 6551 1582

Email: pfdevelopment.mailbox@finance.wa.gov.au

B.3.2 Tenders WA Enquires

Name: Procurement Systems Support (Department of Finance)

Phone: (08) 6551 2020

Part C – OFFER REQUIREMENTS

C.1 REQUEST CONDITIONS AND OFFER VALIDITY PERIOD

C.1.1 Acceptance of Request Conditions

The Request Conditions contain important provisions regarding the Request process and the consequences of the Respondent submitting an Offer.

The Respondent is deemed to have read and agreed to the Request Conditions prior to submitting an Offer.

C.1.2 Closing Time

Offers must be submitted in accordance with the Request Conditions and this document, and be received in full by the Closing Time, which is specified on the front page of this document.

C.1.3 Offer Validity Period

The Offer Validity Period for the Request is a period of nine (9) months commencing from the Closing Time.

The Offer Validity Period may be extended in accordance with condition 6.2(c) of the Request Conditions.

C.2 OFFER DOCUMENTS

C.2.1 Response Documents

If the Respondent elects to submit an Offer, they must complete and submit the Electronic Response Form in the manner described below.

C.2.1.1 ELECTRONIC RESPONSE FORM

The Electronic Response Form is released with this Request and includes the following MS Excel workbooks:

- *WCS2024NR1 – Electronic Response Form*
- *WCS2024NR1 – Pricing Form*

C.2.1.2 RESPONSE NAMING CONVENTIONS

When submitting its Offer, Respondents must submit the completed Electronic Response Forms using the following file names:

- *WCS2024NR1 – Electronic Response Form – [Respondent legal entity name, e.g. ABC Pty Ltd].*
- *WCS2024NR1 – Pricing Form – [Respondent legal entity name, e.g. ABC Pty Ltd].*

C.2.1.3 Response Form Attachments

Some sections of the Electronic Response Form will specify whether the Requesting Agency:

(a) requires the Respondent to submit evidence in support of a statement made in the completed Electronic Response Form as an attachment; or

(b) gives the Respondent the option to provide additional information as an attachment.

If the Requesting Agency requires or permits the Respondent to submit information as an attachment in response to a question in the Electronic Response Form, the Respondent must submit the attachment(s) as electronic file(s). Each attachment must be named using the following format:

- *WCS2024NR1 – Attachment [Response Form Section no.] – [Respondent legal entity name, e.g. ABC Pty Ltd]*

C.3 ALTERNATIVE PROPOSALS

The Requesting Agency will not accept alternative proposals submitted in response to the Request.

C.4 SUBMISSION OF OFFER

C.4.1 Electronic Lodgement

If the Respondent elects to submit an Offer, they must do so in accordance with Part **C.4.1.1** and **C.4.1.2** below.

C.4.1.1 File Upload Requirements

Uploading file(s) to Tenders WA at www.tenders.wa.gov.au, the Respondent must be registered on Tenders WA and ensure the Offer lodgement is made in accordance with the Tenders WA Terms of Use.[1]

The file(s) must conform to the requirements specified in Part C.2 (Offer Documents) of this document and must:

(a) be saved in an Approved File Format specified in Part C.4.1.2 below;

(b) have a file name no more than 125 characters in length – refer C.4.1.2 for file naming conventions; and

(c) be lodged against the Request Number listed on the front page of this document.

Each file upload request must be equal to or less than 100MB per upload request.

[1] https://www.tenders.wa.gov.au/watenders/terms-and-conditions.vm?CSRFNONCE=26D6C3747B28549F25B322736583C338

C.4.1.2 Approved File Formats

The Offer file(s) must be uploaded in one of the following file formats (each an Approved File Format):

Approved File Formats			
Adobe Reader File #	.pdf	Microsoft Excel File *	.xls
Image File	.jpeg	Microsoft Excel File *	.xlsx
Image File	.jpg	Microsoft Excel File *	.csv
Image File	.png	Microsoft PowerPoint File *	.ppt
Media File	.mp4	Microsoft PowerPoint File *	.pptx
Media File	.mpp	Microsoft Publisher File *	.pub
Rich Text Format File	.rtf	Microsoft Word File *	.doc
Text File	.txt	Microsoft Word File *	.docx
		Microsoft Word File *	.docm
Approved File Formats – Compression Formats			
ZIP File	.zip	Unix File	.z
gzip File	.gz	7-zip File	.7z
RAR File	.rar		

*# PDF files must be Adobe compatible. * Microsoft files must be PC / Windows compatible. Requesting Agency File Format Discretion*

Notwithstanding Part C.4.1.2 above, if the Respondent uploads file(s) to Tenders WA:

(a) in a file format that is not listed in the table above; or

(b) in one of the compression file formats listed above, and the underlying compressed file(s) is saved in a format not listed in the table above,

the Requesting Agency may exclude the content of that file(s) from their consideration of the Respondent's Offer at their discretion.

C.4.1.3 Tenders WA Help Guides

The Tenders WA Terms of Use can be viewed at www.tenders.wa.gov.au.

Guidelines to assist Respondents with registering on Tenders WA and lodging an Offer electronically can be downloaded from Tenders WA by following the links to:

Help ➢Help Guides ➢Business Help Guides ➢Tenders WA File Formats

Queries in relation to Tenders WA, including Approved File Formats, should be directed to the Tenders WA enquiries contact listed in Part B.3.2 (Tenders WA Enquiries) of this document.

Part D – GOVERNMENT POLICY FRAMEWORK

This Part provides information on the application of certain government policies, strategies and regulatory schemes to the Request, any Standing Offer and any Contract that may result from the Request.

Respondents must familiarise themselves with this Part and incorporate the policy requirements, to the extent necessary, into their Offer as this may be taken into account in the assessment of Offers.

D.1 WESTERN AUSTRALIAN PROCUREMENT RULES

The Western Australian Procurement Rules (General Procurement Direction 2025/07) set out the policy requirements that State Agencies must follow when procuring goods, services and works.

The Procurement Rules are available from WA.gov.au[2]

D.2 BUY LOCAL POLICY 2022

The Western Australian Buy Local Policy 2022 (Buy Local Policy) reflects the State Government's intention to maximise opportunities for regional Western Australia by supporting small and medium sized enterprises to successfully bid for government contracts, where the contract Point of Delivery is in Regional Western Australia, with the intention that increasing government contracts in the regions will positively drive Regional jobs and growth.

The Buy Local Policy provides Regional Price Preferences to local Western Australian businesses when they compete for regionally based government contracts and, subject to any Free Trade Agreements, may apply an Imported Content Impost on Imported Content.

The Buy Local Policy is available for download from WA.gov.au[3]

The Department of Energy and Economic Diversification (DEED)is the policy owner and administrator. Respondents should direct any Buy Local Policy enquiries to DEED.

DEED's contact details are:

Phone: (08) 6277 2999

Email: industrylink@deed.wa.gov.au

[2] https://www.wa.gov.au/government/multi-step-guides/western-australian-procurement-rules
[3] https://www.wa.gov.au/government/document-collections/western-australian-buy-local-policy-2022

D.3 DEBARMENT REGIME

The Western Australian supplier debarment regime is a regulatory scheme established under Part 7 of the *Procurement Act 2020* (WA) and the *Procurement (Debarment of Suppliers) Regulations 2021* (WA).

The scheme establishes grounds and processes through which a supplier can be excluded (by suspension or debarment) from supplying goods, services or works to State Agencies. Further information about the regulatory scheme is available from WA.gov.au[4] and Tenders WA.[5]

Unless operation of the *Procurement (Debarment of Suppliers) Regulations 2021* (WA) has been excluded, the Requesting Agency must exclude from consideration any Offer received from a Respondent who is suspended or debarred, and any Offer which includes a subcontracting arrangement with a suspended or debarred subcontractor.

D.4 FREE TRADE AGREEMENTS

The Covered Procurement rules within the Western Australian Procurement Rules incorporate measures implemented by the State Government in respect of the Government Procurement Chapters of relevant international trade treaties (Free Trade Agreements or FTAs) entered into by the Australian Government. The Covered Procurement rules apply to the Request.

Information about Australia's current FTAs and those currently under negotiation is available from the Australian Government's Department of Foreign Affairs and Trade.[6]

D.5 GENDER EQUALITY IN PROCUREMENT

The State Government is committed to advancing gender equality in Western Australia as demonstrated by *Stronger Together: WA's Plan for Gender Equality* (**Stronger Together Plan**).

Information about the Stronger Together Plan and how to advance gender equality in your business or organisation is available from WA.gov.au.[7]

On 1 July 2024 the Department of Finance issued General Procurement Direction 2024/02 (*Gender Equality in Procurement – Disclosure Clause*) which mandates the use of a gender equality disclosure clause in procurement documents.

General Procurement Direction 2024/02 is available from WA.gov.au.[8]

Information about the disclosure clause mandated by General Procurement Direction 2024/02 is available in the Gender Equality in Procurement Guideline.

[4] https://www.wa.gov.au/organisation/department-of-finance/debarment-regime
[5] https://www.tenders.wa.gov.au/watenders/index.do
[6] https://www.dfat.gov.au/trade/agreements/trade-agreements
[7] https://www.wa.gov.au/government/document-collections/gender-equality-procurement#resources-for-suppliers
[8] https://www.wa.gov.au/government/document-collections/general-procurement-directions

D.6 WESTERN AUSTRALIAN INDUSTRY PARTICIPATION STRATEGY

The State Government's Western Australian Industry Participation Strategy (WAIPS) under the Western Australian Jobs Act 2017 (WA) applies to the Request, any resulting Standing Offer and any Contracts under the Standing Offer.

The Department of Energy and Economic Diversification (DEED) is the policy owner and administrator of WAIPS. DEED manages the WAIPS Portal and the Participation Plan form which is made available to Respondents via the portal.

Respondents should direct any WAIPS enquiries to DEED.

DEED's contact details are:

Phone: (08) 6277 2999

Email: industrylink@deed.wa.gov.au

D.7 WESTERN AUSTRALIAN SOCIAL PROCUREMENT FRAMEWORK

The Western Australian Social Procurement Framework brings together relevant State Government social procurement policies that apply to State Agencies.

The Social Procurement Framework is available from WA.gov.au.[9]

D.8 PRIVACY STATEMENT AND PRIS

The Department of Housing and Works may collect Personal Information to assess Respondents' suitability in the evaluation of Responses and to administer and manage contractual arrangements with the successful Respondent. Personal Information may be used by authorised officers, evaluation panel members, disclosed to third-party service providers and other government agencies where required or permitted by law.

Information is managed in accordance with the Privacy and Responsible Information Sharing Act 2024 (WA).

For more information, please refer to the Privacy Statement at Department of Housing and Works - Privacy Statement.

[9] https://www.wa.gov.au/government/publications/western-australian-social-procurement-framework

Part E – ASSESSMENT OF OFFERS

E.1 SELECTION AND ASSESSMENT PROCESS

E.1.1 Mandatory Prequalification Requirements

The Requesting Agency will not consider any Offer that does not meet all of the following Pre-Qualification Requirements:

For all sub-categories detailed in the below table, Respondents must confirm that for each sub-category included within its Offer, at least one director, partner, manager or other person responsible for the delivery of Standing Offer Deliverables meets the requirements of either Option 1, Option 2 or Option 3 in any of the corresponding Area(s) of Practice. These nominated personnel will be Specified Personnel.

Note: The Cat # in the following tables in Section E.1.1 refers to the subcategories and associated descriptions listed in F.1.1

Cat #	Sub-Category	Option 1	Option 2	Option 3
1	Acoustics Consultancy	Holds a four-plus year undergraduate engineering qualification, accredited under the Washington Accord (or as assessed by Engineers Australia) AND Has a minimum of five years' experience within the Sub-Category	Holds registration as a Chartered Professional Engineer (CPEng) with Engineers Australia OR Holds registration with an equivalent professional association under the Washington Accord	Holds an AQF 5 or higher technical qualification (STEM based) AND Has a minimum of 10 years' experience within the Sub-Category
2	Civil Engineering			
3	Electrical Engineering			
4	Fire Engineering			
5	Hydraulic Engineering			
6	Mechanical Engineering			
7	Structural Engineering			
8	Vertical Transportation			
10	Environmentally Sustainable Design			
15	Traffic Management			
16	Independent Superintendent (Contract Administration)			
17	Geotechnical Consultancy			
20	Building Information Modelling (BIM) Management Consultancy			

For all sub-categories detailed in the below table, Respondents must confirm that for each sub-category offered, at least one director, partner, manager or other person responsible for the delivery of Standing Offer Deliverables meets the Qualification, Experience and Additional Requirements. These nominated personnel will be Specified Personnel.

Cat #	Sub-Category	Qualification Requirements	Experience Requirements	Additional Requirements
9	Building Design	Holds an AQF 5 or higher technical qualification (STEM based)	Has a minimum of five years' experience within the Sub-Category	N/A
11	Land Surveying			All Specified Personnel are licenced under the Land Surveyors Act 1909 by the Land Surveyors Licensing Board of Western Australia
12	Environmental Services			N/A
13	Security Services			All Specified Personnel are licenced under the Security and Related Activities (Control) Act 1996 (WA)
14	Time Planning			N/A
18	Landscape Consultancy			
19	Hazardous Materials Inspections			

E.1.2 Value for Money Assessment

Value for money is a key Western Australian government policy objective, as outlined in the Western Australian Procurement Rules. When assessing value for money, the Requesting Agency may take into account a variety of factors including the State Government's social, economic and environmental priorities and policies.

When purchasing goods, services or works, the Requesting Agency will assess the costs, benefits and risks inherent in an Offer, rather than simply selecting the lowest price offered, in order to achieve the best possible outcome for every dollar spent.

Value for money will be determined solely by the Requesting Agency in its absolute discretion.

Factors that the Requesting Agency may consider include:

(a) relevant policy requirements under State Government policies, strategies and regulatory regimes specified in Part D (Government Policy Framework) of this document;

(b) the response in the Response Documents outlined in Part C.2 (Offer Documents);

(c) the Respondent's financial viability and capacity;

(d) any information in connection with the Offer or regarding the Respondent, including current or past performance in relation to any other contract, arrangement or dealing with the State of Western Australia or its agencies including:

(i) quality, time and cost under previous contracts; and

(ii) payment of workers and / or subcontractors

(e) any demerits or sanctions issued against the Respondent under the Department of Housing and Works' Contract Management Supplier Demerit Scheme.

E.1.3 Compliance and Disclosure Assessment

E.1.3.1 Compliance and Disclosure Requirements and Departures

The Requesting Agency reserves the right to reject any Offer for any reason including where the Offer:

(f) does not properly address any of the compliance and disclosure requirements in this Part E1.3 and corresponding E.1.3 (Compliance and Disclosure Requirements) of the Electronic Response Form and, with respect to Specified Personnel, E.1.5.2(c) (Specified Personnel) of the Electronic Response Form; and

(g) contains material departures from the Standing Offer Details in Part H and/or the Standing Offer Conditions referenced in Part B.1.3.2 of this document; and/or

(h) contains material departures from the Contract Details in Part I and/or the Contract Conditions specified in Part B.1.3.3 of this document.

E.1.3.2 Criminal Convictions

The Respondent must confirm in E.1.3 (Compliance and Disclosure Requirements) of the Electronic Response Form that neither the Respondent nor any Senior Officer of the Respondent (as defined in regulation 3(1) of the *Procurement (Debarment of Suppliers) Regulations 2021* (WA)) has been convicted of any:

(a) criminal offence that is punishable by imprisonment or detention; or

(b) criminal or statutory offence that is punishable by a fine or penalty of, or exceeding, $10,000.

The Respondent must complete equivalent criminal convictions disclosures in E.1.5.2(c) (Specified Personnel) of the Electronic Response Form with respect to the Specified Personnel (if any).

The Respondent is not required to disclose convictions that are spent convictions under the *Spent Convictions Act 1998* (WA) or equivalent legislation of another State or Territory of Australia.

E.1.3.3 Conflict of Interest

The Respondent must complete conflict of interest disclosures in E.1.3.2. (c) (Conflict of Interest) of the Electronic Response Form in respect of itself and its Senior Officers, and in Section F with respect to its Specified Personnel.

E.1.3.4 Independent Evidence of Financial Solvency

If the Respondent is selected as a preferred Respondent, the Respondent is required to submit Financial Information that provides independent evidence of financial solvency.

The Financial Information must:

(a) clearly indicate the credit risk of engaging with the Respondent;

(b) be in the form of:

  (i) a credit rating report from a reputable, independent credit rating risk report provider; or

  (ii) a financial report or other document prepared and signed by an independent, qualified accountant; and

(c) have been issued no more than six months prior to the Closing Time.

Financial Information comprising financial statements, yearly statements, marketing material or statements from a Respondent's director/s will not be acceptable because they will not meet the requirement of independence.

If the evidence is sourced from an independent accountant, the Respondent must submit a letter from the accountant on the accountant's letterhead containing the following statement:

> *"We act as accountants for [insert Respondent legal entity name] (the Respondent). We have reviewed the Respondent's accounts for the period [insert reference period] and confirm that the Respondent is financially solvent and able to pay its debts as and when they fall due and payable."*

The independent evidence of financial solvency will be considered as part of the due diligence process.

E.1.4 Referees

In the Response Documents (refer Part C.2,) the Respondent must provide the contact details of at least two independent referees who have received from the Respondent services similar to those described in Part F (Specification) of this document.

The Requesting Agency may choose to contact a Respondent's referees for a referee report and consider the information provided as part of the selection process outlined in this Part E.1.

E.1.5 Weighted Qualitative Assessment

The Requesting Agency will, in its value for money assessment, consider the extent to which the Respondent's Offer satisfies the qualitative requirements listed in *WCS2024NR1 – Electronic Response Form – E1.5(a) Qualitative.*

The qualitative requirements are not weighted equally. Refer to E.1.5.1 Organisational Capacity and Experience and E.1.5.2 Suitability of Proposed Services and Methodology in *WCS2024NR1 – Electronic Response Form – E1.5(a) Qualitative* for the weighting of each requirement.

E.1.6 Preferred Respondent

The Requesting Agency has the right to select one or more Respondents as a preferred Respondent, or if there is a sole Respondent to the Request, the Request Conditions deem that Respondent to be a preferred Respondent unless notified otherwise by the Requesting Agency.

If a Respondent is selected as a preferred Respondent, condition 5.2 of the Request Conditions applies and the Requesting Agency may choose to negotiate any aspect of the Respondent's Offer.

The Requesting Agency reserves the right not to select any preferred Respondents.

Part F – SPECIFICATION

F.1 STATEMENT OF REQUIREMENTS

The statement of requirements contained in this Part F provides an overview of the Standing Offer Deliverables required under this Standing Offer. A more fulsome description of the requirements may be found in Annexure C.

This Request seeks to establish a Works Consultancy Services Panel under a Standing Offer for Non-Residential Engineering and Building Related Services (WCS2024NR1).

The key objectives of WCS2024NR1 are to:

- introduce a whole-of-government procurement framework that enables Eligible Customers to source a broad range of works consultancy services;
- maximise the value for money achieved on works consultancy services through establishing competitive panel arrangements;
- provide a streamlined buying process to reduce risk and transaction costs for WA Government when sourcing works consultancy services; and
- provide sufficient flexibility to enable Eligible Customers to engage Suppliers under terms and conditions relevant to the State Agency at the Contract level.

F.1.1 Subcategories of WCS2024NR1

The Requesting Agency is seeking Offers from Respondents who are able to supply services in one or more of the twenty sub-categories of non-residential engineering and building related services outlined in the table below, and in Annexure C.

Within these subcategories, Eligible Customers may request a range of Standing Offer Deliverables. These include:

- business case development;
- feasibility studies;
- design development (including concept design and construction documentation);
- value engineering;
- drafting services;
- ad-hoc advice;
- ad-hoc report development;
- advisory reports; and
- contract administration.

In addition, Respondents may be contracted to act in the capacity of ‘Lead Consultant’. As a Lead Consultant, Respondents must manage sub-consultants.

	Sub-Category	Description
1.	Acoustic Consultancy	For the provision of advice on a wide range of architectural acoustics issues including room acoustics, acoustic isolation, speech privacy, service noise control, rain noise control, reverberation control, noise and vibration associated with mechanical, electrical, and hydraulic services.
2	Civil Engineering	For the provision of services in relation to civil engineering, hydrology and hydrology engineering, and specialist requirements such as, but not limited to, gas and water supply schemes, and water management plans.
3.	Electrical Engineering	For the provision of services in relation to the design, development, installation and maintenance of equipment, machines and systems for the generation, distribution, utilisation and control of electric power. For specialist services such as, but not limited to, light and power, security surveillance systems, and renewable energy systems, including solar / photovoltaic / battery power storage.
4.	Fire Engineering	For the provision of services in relation to the design, inspection and certification of fire safety features in buildings to protect life, facilitate intervention and prevent the spread of fire to other buildings. For specialist services such as, but not limited to, fire modelling, fire prevention, fire modelling, fire system installation and performance solutions. This category includes wet fire.
5.	Hydraulic Services	For provision of engineering services in relation to the flow and conveyance of fluids. For specialist services such as, but not limited to, wastewater systems, water systems, gas, and compressed air.
6.	Mechanical Engineering	For the provision of services in relation to research, design, manufacture, construction, operation and maintenance of machines, manufacturing equipment, mechanical installations and facilities. For specialist services such as, but not limited to, heating, air conditioning, ventilation, dust collection systems, pumps and pipework, medical gasses and plumbing and passive climate design.
7.	Structural Engineering	For the provision of services in relation to building structures, retaining structures and façade engineering. For specialist requirements, including but not limited to, glass cladding, aluminium cladding and roof safety assessments.
8.	Vertical Transportation	For the provision of advice and deliverables related to required lift services, electrical services including equipment, fittings and fixtures, and incorporation and integration of all service requirements into the design, site assessment reports, final installation inspections, testing and commissioning of all lift services.
9.	Building Design	For the provision of building design services that include specialist services such as drafting and technician services for minor works.

10.	Environmentally Sustainable Design	For the provision of advice related to building sustainability ratings, Greenstar, NABERS, and compliance and carbon minimisation strategies.
11.	Land Surveying	For the provision of advice and deliverables including project site feature surveys for greenfield and brownfield sites, underground surveys, subdivisions, and easements. Includes drones and 3D contour services.
12.	Environmental Services	For the provision of specialist services such as, but not limited to, environmental, and contaminated sites assessment, occupational hygienist services, environmental surveys and impact studies, wetland studies, flora and fauna studies and arborist studies.
13.	Security Services	For the provision of services in relation to planning, design and delivery of security solutions for facilities such as, but not limited to, custodial facilities such as prisons and courts and general non-residential facilities such as schools.
14.	Time Planning	For the provision of services in relation to the analysis of project timeframes for specialist services including, but not limited to, construction programming and scheduling.
15.	Traffic Management	For the provision of advice and deliverables on traffic and road safety assessments and road safety audits, traffic management design, transport planning, traffic modelling, and pedestrian and cyclist demand and facilities assessment.
16.	Independent Superintendent (Contract Administration)	For contract administration services as the Superintendent's representative during the construction period including defects liability period. Provision for independent superintendent services is included under this category.
17.	Geotechnical Consultancy	For the provision of services in relation to, but not limited to, analysing the likely behaviour of soil and rocks when placed under pressure by proposed structures and designs above and below ground foundations.
18.	Landscape Consultancy	For the provision of services in relation to the planning and design of soft and hard landscaping for land areas around buildings and irrigation systems including bores.
19.	Hazardous Materials Inspections	For the provision of services and advice in relation to hazardous materials including inspection, survey condition reporting and safety management advice services (including assistance with the management of remediation works) to be offered in accordance with Government requirements including National Occupational Health and Safety Commission guidelines, procedures and requirements, and work health and safety legislation, regulations and guidelines.
20.	Building Information Modelling (BIM) Management Consultancy	For the provision of independent advice and guidance on all aspects of building information modelling and digital engineering, such as but not limited to, management plans and reviews, project management duties, advice, specification and facilitation of common data environments and BIM process, software education and training, and 3D model reviews.

F.1.2 Out of Scope of WCS2024NR1

The following is out of scope for this Request:

- Information & Communication Technology: these services are available through CUAICTS2021
- Cost Management and Quantity Surveying: these services are available to the Department of Housing and Works through the Cost Management Services Panel
- Occupational Health & Safety: these services are available to the Department of Housing and Works through the Occupational Safety and Health Services Panel
- Ethnographic & Archaeological Services
- Machinery Design
- Logistics and Materials Handling
- Theatre Advisory Services
- Asbestos Removal
- Asbestos Registers

F.2 CATEGORY MANAGEMENT

F.2.1 Works Consultancy Services Panel Catalogue

The Requesting Agency will maintain a Works Consultancy Services Panel Catalogue that will include information on which Suppliers have been successfully appointed to which sub-categories of WCS2024NR1, including pricing information. Suppliers must only supply services within the scope of the subcategory for which they are appointed to the Panel.

The Requesting Agency may publish the Works Consultancy Services Panel Catalogue. Publication will be online for public access.

F.2.2 Standing Offer Management Requirements

F.2.2.1 Representatives

The Requesting Agency will monitor and manage Suppliers under this Standing Offer.

The Supplier must nominate a Supplier's Representative(s) to liaise with the Requesting Agency and manage each of the relevant contract management activities required under the Standing Offer.

The Supplier's notice to vary or terminate the appointment of a Supplier's Representative, as required by clause 17.1 (d) of the Standing Offer Conditions, must be given to the Requesting Agency's Representative least 14 days prior to departure of the Supplier's Representative. A new Supplier's Representative must be nominated in the notice.

F.2.2.2 Meetings with Requesting Agency Representative

The Requesting Agency's representative may seek a meeting with a Supplier's Representative to discuss any matters related to the Standing Offer, including any Contracts, at any time.

The Supplier's Representative must respond to a request from the Requesting Agency to meet within ten (10) Business Days of receiving a meeting request.

Meetings may include representatives from other State Agencies provided the Requesting Agency Representative advises the Supplier's Representative of the parties' attendance prior to the agreed meeting time and date.

F.2.3 Standing Offer Reporting Requirements

F.2.3.1 Contract Reports

The Supplier must accurately record all Contracts made through this Standing Offer and report these transactions quarterly using the Contract Report template in *WCS2024NR1 – Electronic Response Form – E1.5.2(e) Reporting to the Requesting Agency*.

For the purpose of reporting, a "Quarter" shall mean a period of three months ending on the 31 March, 30 June, 30 September and 31 December respectively.

Suppliers must submit the reports in accordance with the requirements defined in *WCS2024NR1 – Electronic Response Form – E1.5.2(e) Reporting*. The Contract Report must be submitted in an electronic form through the Requesting Agency's online portal.

The Requesting Agency may, at its absolute discretion, unilaterally amend the content and format of the Contract Report during the Standing Offer Term.

F.2.3.2 Other Information

The Supplier must provide the following information on an ad-hoc basis, when requested by the Requesting Agency:

- information for a Customer Buyers Guide, Works Consultancy Services Panel Catalogue and Capability Statements to be provided within one (1) Business Days of Standing Offer Commencement Date and as required throughout the Standing Offer Term; and
- other ad hoc reports.

Suppliers must notify the Requesting Agency Representative of any changes in their capability statement within five (5) Business Days of the date of change occurring and must issue a revised capability statement to the Requesting Agency Representative within 14 Business Days.

F.2.4 Standing Offer Supplier Performance Management

F.2.4.1 Key Performance Indicators

Suppliers must meet or exceed the targets specified for the key performance indicators (KPI) specified below by the Requesting Agency where requested:

KPI	KPI Target	Frequency
Contract Reports	Contract Reports completed correctly and submitted no later than 30 calendar days post the end of sales report period. **NOTE: "**Submitted" means fully loaded with no missing data and without errors into the Requesting Agency's system and does not refer to the date in which the report was first submitted to the Requesting Agency.	Quarterly
Evidence of Insurance	100% of insurance certificates submitted to the Requesting Agency no later than 30 calendar days post the expiry of the previous certificate.	Annually
Standing Offer Materials (Capability Statements)	Consultants must advise the Requesting Agency of changes to their capability statement occurring within 5 Business Days of the change and provide any revised capability statement within 14 Business Days.	As required
Customer Satisfaction	Overall Customer satisfaction with the Consultant's performance under the Standing Offer during the prior 12 months must meet or exceed 75%. **NOTE**: "Customer satisfaction" is measured by the Customer Satisfaction Survey as administered by the Requesting Agency. Refer to Schedule 4 - WCS2024NR1 Customer Satisfaction Survey.	Annually or at the discretion of the Requesting Agency

Failure to comply with one or more of the KPIs constitutes an Event of Default.

F.2.4.2 Service delivery to Eligible Customer

It is imperative that a high level of customer service is maintained in the provision of the Standing Offer Deliverables, including the suitability of the proposed Standing Offer Deliverables and accuracy of the administrative, technical, and billing operations undertaken by the Supplier.

The Supplier must:

(a) manage standards, processes and quality and ensure that services are supplied at the quoted rates;

(b) offer suitable service outcomes to Eligible Customers on a 'value for money' basis;

(c) provide a consistent and high level of services to Eligible Customers;

(d) collaborate with Eligible Customers to deliver all aspects of the delivery of the Standing Offer Deliverables;

(e) respond within 24 hours to any enquiry or concern from Eligible Customers and the Requesting Agency;

(f) ensure quality processes are in place to assess the suitability of Specified Personnel to meet the outcomes and service requirements;

(g) carry out the Standing Offer Deliverables as requested by Eligible Customers, including any additional requirements that may be requested in the Standing Offer Order;

(h) provide feedback to Eligible Customers on any issues, opportunities for improvement and cost minimisation;

(i) maintain adequate records of the Standing Offer Deliverables performed in sufficient detail to permit performance monitoring and auditing by Eligible Customers and the Requesting Agency and to provide the information to Eligible Customers and/or Requesting Agency within 10 Business Days if requested; and

(j) participate in regular reviews of its performance by Eligible Customers and the Requesting Agency.

F.2.5 Contract Management Requirements

Customers may nominate a contract representative to monitor and manage the Contract for any Contract formed under this Standing Offer.

The Supplier must nominate a representative(s) to manage each of the relevant contract management activities required under each Contract.

Customers may prescribe key performance indicators, and any meeting requirements for the engagement between the Customer and Supplier in any Contract.

Any key performance indicators, meeting requirements or contract representatives will be set out in the Standing Offer Order.

F.2.6 Extension of Standing Offer

Without limiting the Standing Offer Conditions, the Requesting Agency may, in its sole and absolute discretion, elect not to exercise an extension option with specific Suppliers. This right may be exercised notwithstanding that the Requesting Agency has, or will, exercise extension option(s) with other Suppliers.

Part G – PRICING REQUIREMENTS

The Requesting Agency reserves the right to reject any Offer for any reason including that the Offer does not properly address and satisfy any of the pricing requirements specified in this Part G (Pricing Requirements).

G.1 Offered Price General Requirements

The Respondent must:

(a) provide their Price based on maximum hourly rates for each resource nominated in *WCS2024NR1 - Pricing Form*

(b) state the Price in Australian dollars.

(c) The Price will be deemed to include the cost of complying with the documents specified at Part B1.3 (Request Documents and Terms and Conditions) of this document and the cost of complying with all matters and things necessary or relevant for the due and proper performance of a Standing Offer (if formed) and a Contract (if awarded).

(d) All fees and charges must be fully declared in the Respondent's Offer.

G.2 GST

If the Price is consideration for a taxable supply under the GST Act, the Price will be deemed to be inclusive of all GST applicable to the taxable supply at the rate in force for the time being.

G.3 HOURLY RATES

Respondent's Price must provide the maximum hourly rate for the provision of services described in Part F (Specification), stratified on the basis of the staffing requirements and levels assessed by the Respondent as being required to meet the requirements of the Request. The proposed hourly rates must include all management and supervision hours and charges. Respondents are to provide these rates for each sub-category for which they apply.

Two different rates are required:

(a) A Standing Offer Rate: The hourly rate the Consultant must offer Eligible Customers under WCS2024NR1. This rate will be published; and

(b) A Corporate Rate – the Contractor's rate when working with non-Government customers on similar works consultancy service sub-categories. The Requesting Agency requires this information in order to calculate notional Government savings – that is, the difference between the rate charged under the WCS2024NR1 and the rate charged to Suppliers' other customers.

The Corporate Rate will be used by Requesting Agency only and will not be made public.

Part H – STANDING OFFER DETAILS

The Standing Offer Details in this Part H describe specific requirements that apply to any Standing Offer resulting from the Request.

A Standing Offer (if formed) will comprise the documents listed in the definition of 'Standing Offer Documents' in clause 1.1 (Definitions) of the Standing Offer Conditions. That list of documents includes these Standing Offer Details.

Clause 2.2 (Order of Precedence – Standing Offer Documents) of the Standing Offer Conditions specifies an order of precedence that applies to the interpretation of the documents. If there is any inconsistency between the documents making up the Standing Offer, the document listed higher in the order of precedence prevails to the extent of the inconsistency.

H.1 STANDING OFFER GENERAL REQUIREMENTS

Item	Details
1. Requesting Agency	The Requesting Agency is the State of Western Australia acting through the Department of Housing and Works
2. Eligible Customers	(a) All State Agencies with statutory works powers who are listed under Rule C1 in the WA Procurement Rules are Eligible Customers. (b) All State Agencies that have been issued an Agency Specific Procurement Direction under Part 4 of the *Procurement Act 2020* which provides them with limited works power are Eligible Customers. At the date of the Request, these include the following: • Commissioner of Main Roads • Department of Health including Health Service Providers (HSP) • Department of Primary Industries and Regional Development • Department of Transport • Forest Products Commission • Gold Corporation • Insurance Commission of Western Australia • Lotteries Commission • Public Transport Authority of Western Australia • The National Trust of Australia (W.A.) • Western Australia Police Force • Western Australian Greyhound Racing Association (c) The Requesting Agency reserves the right to add Eligible Customers at its complete discretion, by notice to all Suppliers. At the date of the Request, these include the following: • Other Government Entities - Universities

3. Standing Offer Commencement Date	The Requesting Agency will notify the Supplier of the Standing Offer Commencement Date in the Letter of Appointment.
4. Standing Offer Term	The Standing Offer Term includes an initial term of four (4) years and any extension of that term effected by the exercise of the extension option(s) described in Item 5 below.
5. Standing Offer Extension Options	The Requesting Agency has three (3) options to extend the Standing Offer Term, each option having a two (2) year duration. The minimum period of notice for exercising an extension option is 20 Business Days before the expiry of the Standing Offer Term.
6. Panel Standing Offer	This Standing Offer is to establish a Panel under Part 5, Section 26 of the *Procurement Act 2020* (WA). Clause 4 (Panels) of the Standing Offer Conditions applies. Annexure A to this document describes the process established by the Requesting Agency which applies to Eligible Customers purchasing from the Panel (the Buying Rules). The Buying Rules are described in Annexure A and referenced in these Standing Offer Details for the Supplier's information only and do not form part of the Standing Offer (if formed) or any Contract established under the Standing Offer.
7. No Exclusivity or Minimum Volume	Clause 2.5 of the Standing Offer Conditions applies.
8. Price and Price Adjustment	Prices are fixed for the first year of the Standing Offer Term. **8.1 Price Adjustment Request** The Supplier may seek adjustment of the Price during the Standing Offer Term, subject to compliance with the requirements below. The Supplier must ensure the Price adjustment request is: (a) made in writing to the Requesting Agency and includes evidence to justify the requested Price adjustment; (b) submitted no more than 30 Business Days prior to an anniversary of the Standing Offer Commencement Date; and (c) submitted no more than once per annum during the Standing Offer Term. If a request is approved by the Requesting Agency, the Price will be adjusted using the Price Adjustment Method specified below (the **Adjusted Price**). **8.2 Price Adjustment Method** In this item: (a) **Wage Price Index** means the Index published from time to time by the Department of Treasury WA. If that index number is no longer

	published, any reasonably substituted index published by the Australian Bureau of Statistics. (b) **Wage Price Index Percentage Change** is the annual percentage change in the WPI (Western Australia) reported by the Department of Treasury WA and calculated by reference to the latest quarter WPI index number over the same quarter of the preceding year. (c) **Price** means that specified in the Standing Offer (as previously adjusted if relevant) exclusive of GST. The Adjusted Price will be calculated by applying the following formula: *Adjusted Price = Price + (Price x WPI Percentage Change (%))* **8.3 WPI Percentage Change Calculation Example** The example below illustrates the computation of the WPI Percentage Change (%) by reference the December Quarter 2023: *C / B x 100 = WPI Percentage Change (%)* *Where:* *A = Index number for the WPI (WA) Dec Qtr 2023* *B = Index number for the WPI (WA) Dec Qtr 2022* *C = A - B* ***WPI Percentage Change is 4.7/129.3 x 100 = 3.6%*** A = 134.0 (Index number for the WPI (WA) Dec Qtr 2023) *minus* B = 129.3 (Index number for the WPI (WA) Dec Qtr 2022) C = 4.7 (Change in index points) **8.4 Application of Adjusted Price – New Contracts** The Adjusted Price may only be applied to new Contracts formed under the Standing Offer after the Price adjustment request has been approved by the Requesting Agency in writing. **8.5 Application of Adjusted Price – Exiting Contracts** Any request by the Supplier for back-payment of an Adjusted Price under a Contract formed under the Standing Offer will not be considered. **8.6 Price reductions** A Supplier may reduce its maximum hourly rates under the Standing Offer at any time.
9. Confidential Information	For the purposes of paragraph (b) of the definition of "Confidential Information" in clause 1.1 of the Standing Offer Conditions, the Requesting Agency does not specify any information as confidential.
10. Privacy	For the purposes of clause 13.6(b)(iii) of the Standing Offer Conditions, the Requesting Agency does not specify any privacy procedures.
11. Warranties	For the purposes of the Standing Offer, no warranties are specified.

H.2 STANDING OFFER – INSURANCES

Item	Details
12. Public Liability	Public liability insurance covering: (a) the legal liability of the Supplier and the Supplier Personnel arising out of the Standing Offer, including site visits, for an amount of not less than **$20 million** for any one occurrence and unlimited in the number of occurrences happening in the any one period of insurance; and (b) indemnification of the Requesting Agency as principal to the extent of its liability arising out of the Services.
13. Workers' Compensation	Workers' compensation insurance in accordance with the provisions of the *Workers' Compensation and Injury Management Act 2023* (WA) (the **WCIM Act**). The insurance policy must include: (a) common law liability cover for an amount of not less than **$50 million** for any one event in respect of workers of the Supplier; and (b) principal's indemnity cover (by policy extension or otherwise), covering any claims or liability that may arise under the principal's indemnity described in section 217 of the WCIM Act.

H.3 STANDING OFFER – SECURITY CHECKS AND CLEARANCES

Item	Details
14. Screening and National Police Certificates	Clause 11.1 of the Standing Offer Conditions applies.

H.4 STANDING OFFER ADMINISTRATION

Item	Details
15. Requesting Agency Representative and Address for Notices	The Requesting Agency's Representative and notice details are specified in the Letter of Appointment. The Requesting Agency may change its designated representative and notice details at any time by notice to the Supplier.
16. Supplier Performance Management	For the purposes of clause 17.2 of the Standing Offer Conditions, the following performance management requirements apply to the Supplier under the Standing Offer: **Reporting** – • Refer to Section F.2.3 (Standing Offer Reporting Requirements) **Key Performance Indicators (KPIs)** • Refer to Section F.2.3 (Standing Offer Reporting Requirements)

	Supplier Meetings – • Refer to Section F.2.3 (Standing Offer Reporting Requirements)

H.5 STANDING OFFER – SPECIAL CONDITIONS

Item	Details
17. Termination Without Cause	The Requesting Agency may, in its absolute discretion and for its sole benefit, terminate this Standing Offer without cause in whole or in part at any time by 30 days (or such other period as may be agreed between the parties) prior written notice to the Supplier, in which case clause 20.2 of the Standing Offer Conditions applies.
18. Extension	If the Requesting Agency exercises its discretion under clause 2.4 of the Standing Offer Conditions not to extend this Standing Offer, including where other standing offers for the Panel are extended, the Requesting Agency is under no obligation to provide any reasons or evidence for the use of its discretion.
19. Compliance with Building Services (Registration) Act 2011 (the Building Services Act)	Where required to be registered under the Building Services Act, Suppliers must provide to the Requesting Agency evidence of registration either: a) by the date the requirement commences under the Building Services Act; or b) if the Standing Offer Commencement Date is after the date the requirement commences in the Building Services Act, within 5 Business Days of the Standing Offer Commencement Date. Failure to provide evidence of registration is an Event of Default.
20. Requesting Agency Variations to Standing Offer	a) During the Standing Offer Term, the Requesting Agency may notify all Suppliers of a change request relating to any terms of the Standing Offer (**Change Notice**). b) On receipt of a Change Notice, a Supplier may, within 10 Business Days of the Change Notice, notify the Requesting Agency: i. that the Supplier accepts the Change Notice; ii. that the Supplier elects to negotiate the Change Notice, in which case the Supplier's participation on the Panel will be suspended until the Requesting Agency and Supplier agree the terms of the Change Notice that amend the terms of the Standing Offer or the Supplier gives a further notice under paragraph (b)(iii); or iii. that the Supplier rejects the Change Notice, in which case the Supplier will be deemed to have withdrawn from the Panel, and the Supplier's Standing Offer will be terminated under clause 20 of the Standing Offer Conditions from the date of the Supplier's notice under this paragraph (b)(iii);

	and if the Supplier does not give notice to the Requesting Agency as contemplated by paragraph (b)(i), (b)(ii) or (b)(iii) within the period specified in paragraph (b), the Supplier is deemed to accept the terms of that Change Notice. c) Notwithstanding clause 21.2 of the Standing Offer Conditions, if: i. the Supplier gives notice under paragraph (b)(i) or the Supplier is deemed to accept the Change Notice, the Change Notice will take effect as a variation to the Supplier's Standing Offer from the date that is 10 Business Days after the date of the Change Notice; or ii. paragraph (b)(ii) applies, and the Requesting Agency and Supplier agree amendments to the Change Notice, the amended Change Notice will take effect as a variation to the Supplier's Standing Offer from the date of the Requesting Agency and Supplier's agreement on the amendments to the Change Notice.
21. Obligations of Suppliers	Subject to the terms applying to each Contract, a Supplier to WCS2024NR1 may be engaged by another Supplier to WCS2024NR1 to deliver Standing Offer Deliverables in the capacity of a subconsultant. Suppliers, agree that: • The Requesting Agency and the Eligible Customer are not a party to any contract or arrangement between Suppliers; • The Requesting Agency and the Eligible Customer make no representations as to the capacity and/or capability of any Supplier being engaged as a subconsultant; • The Supplier engaging the subconsultant is expected to undertake its own due diligence with respect to any subconsultant's capacity and/or capability; and • The Supplier engaging the subconsultant is responsible for managing the subconsultant's performance under any contract formed.

22. Application Of Privacy Laws and PRIS Act	In this clause H5 – 22: **Government Agency** means any Australian government or any governmental, semi-governmental, administrative, regulatory, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, Minister of the Crown, Ministerial Body, agency, entity or Parliament**.** **Personal Information** has the meaning given to it in the PRIS Act. **PRIS Act** means the *Privacy and Responsible Sharing of Information Act* 2024 (WA). **Privacy Act** means the *Privacy Act* 1988 (Cth). **Privacy Commissioner** means the Australian Information Commissioner, the Information Commissioner and the Privacy Deputy Commissioner (as each of those terms is defined in the PRIS Act), and (upon commencement of the relevant provision) any other authority to whom a privacy complaint is referred in accordance with section 93 of the PRIS Act. (a) The Consultant must: i. comply with its obligations (if any) under or arising pursuant to the Privacy Act; ii. whether or not the Consultant is an organisation which is bound by the Privacy Act or other privacy laws, comply with the Australian Privacy Principles set out in the Privacy Act as if it were required to comply with that legislation; iii. facilitate the Principal's compliance with their obligations under the PRIS Act, including providing assistance as requested by the Principal; and iv. not do or omit to do anything that is likely to cause the Principal or their respective officers, employees or agents to contravene the PRIS Act, to the extent relevant to the Standing Offer. v. The Consultant also agrees to comply with: (A) such other Commonwealth, State or Territory legislation related to privacy; (B) any directions made by a Privacy Commissioner; (C) any reasonable policies, procedures and guidelines of the Principal relating to privacy; and (D) any other reasonable direction relating to privacy which is given by the Principal. (b) Without limiting the Consultant's obligations under clause H5 – 22(a), the Consultant must, in relation to any Personal Information which it collects, holds, uses, has access to, or otherwise deals with in the course of performing its obligations under, or otherwise in connection with the Standing Offer: i. take all reasonable steps to ensure the Personal Information is protected against loss and unauthorised access, use, modification or disclosure; and ii. where any breach of privacy occurs due to the Consultant's failure to comply with any obligation under this clause H5 – 22, do all things necessary to mitigate the consequences of that breach; iii. not modify or disclose the Personal Information except with the Principal's prior written approval; and iv. ensure that the Personal Information is returned to the Principal (or is permanently destroyed if the Principal so elects) when it is no longer required for the performance of the Consultant's obligations under the Standing Offer.

	(c) The Consultant must immediately notify the Principal (providing full details) if it: i. becomes aware of any suspected or actual misuse of, or any unauthorised access to or disclosure of, Personal Information held by the Consultant or the Consultant Personnel; ii. receives, or otherwise becomes aware of, any complaints concerning its or the Principal's compliance with privacy obligations, including full details of how the Consultant intends to resolve the complaint; iii. becomes aware that a disclosure of Personal Information may be required by law; or iv. is approached with respect to privacy by any Government Agency or by any individual to whom any Personal Information relates. (d) The Consultant must co-operate fully with the Principal to resolve: i. any request, inquiry or notice from a Government Agency in relation to Personal Information which it collects or has access to in the course of performing its obligations under; or ii. any complaint alleging a breach by any party of their respective privacy obligations in connection with, the Standing Offer. (e) Nothing in this clause H5 – 22 is intended to limit any obligation of the Consultant under the PRIS Act or the Privacy Act (if applicable) with respect to Personal Information. (f) This clause H5 – 22 survives the termination or expiry of the Standing Offer.

H.6 STANDING OFFER – GOVERNMENT POLICY REQUIREMENTS

Item	Details
22. Government Policies	For the purposes of clause 12.3 of the Standing Offer Conditions, the Standing Offer contains obligations relating to the Government policies specified below: • Aboriginal Procurement Policy • Western Australian Buy Local Policy 2022; • Western Australian Industry Participation Strategy.

23. Western Australian Participation Strategy (WAIPS) Exemption Reporting	**23.1 Participation Plan Exemption Reporting** (a) The Supplier must submit a completed WAIPS Participation Plan Exemption Report upon the termination or expiry of the Standing Offer (**Participation Plan Exemption Report**). (b) The Supplier must ensure that the Participation Plan Exemption Report: (i) is prepared using the Participation Plan Exemption Report form available on the WAIPS Portal, at waips.industrylink.wa.gov.au; (ii) complies with the WAIPS Portal report submission and content requirements, including with respect to authority, accuracy, currency and detail; and (iii) is submitted via the WAIPS Portal no later than two months after the termination or expiry of the Standing Offer. WAIPS Portal information for businesses, including information on exemption reporting, is available on WA.gov.au (https://www.wa.gov.au/government/multi-step-guides/waips-portal-user-guide-businesses). **23.2 Use of information** The Requesting Agency and the State may use or disclose the Participation Plan Exemption Report provided under this Item for the legitimate purposes of or relating to government or the business of government. **23.3 Survival** This Item survives the termination or expiration of the Standing Offer.

Part I – CONTRACT DETAILS

I.1 CONTRACT DOCUMENTS

The Contract is recorded in the Contract Documents. The Contract Documents will be listed in Annexure Part A to the Contract Conditions for each Contract.

Respondents are referred to the partially complete Annexure Part A provided as Attachment 1 to Schedule 1. As specified in Item 3 of that partially complete Annexure Part A, the Contract Documents are:

1. The Standing Offer Order;
2. The price list (if any) in the Standing Offer (also defined in the Standing Offer as the Price);
3. The letter of appointment which created the Standing Offer (also defined in the Standing Offer as the Letter of Appointment);
4. The Special Conditions in the Standing Offer Request for Supply (if any);
5. Annexure Part A to the AS4122-2010 General Conditions of Contract for Consultants (as amended);
6. The Contract Conditions (being AS4122-2010 General Conditions of Contract for Consultants (incorporating Amendment No. 1) as amended by AS4122-2010 Annexure Part B (contained in Annexure B to this Request);
7. The Reply; and
8. The Standing Offer Request for Supply (other than the Special Conditions).

I.2 EXAMPLE DOCUMENTS

The following example documents are set out in this Part I.

(a) Schedule 1 – Example Standing Offer Request for Supply, which includes:

  (i) Attachment 1 - a partially complete Annexure Part A to the AS4122-2010 General Conditions of Contract for Consultants (as amended);

  (ii) Attachment 2 – an example Scope / Contract Particulars; and

  (iii) Attachment 3 – placeholder for a Reply Form.

(b) Schedule 2 - Example Reply, which includes:

  (i) Attachment A – Price Preferences; and

  (ii) Attachment B – Qualitative Requirements.

(c) Schedule 3: Example Standing Offer Order.

(d) Schedule 4: WCS2024NR1 Customer Satisfaction Survey.

Capitalised terms used in the example documents have the meaning given in the Contract Documents. In particular, Respondents should note that a reference to the

"Consultant" is, for the purpose of the Standing Offer, a reference to the "Supplier" and a reference to the "Client" is, for the purpose of the Standing Offer, a reference to the "Eligible Customer" prior to formation of the Contract, and, from formation of the Contract, to the "Customer".

SCHEDULE 1 – EXAMPLE STANDING OFFER REQUEST FOR SUPPLY

This Schedule 1 describes the information requirements for a Standing Offer Request for Supply issued under the Standing Offer (if formed). Attachment 1 to this Schedule 1 is a partially complete Annexure Part A to the AS4122-2010 General Conditions of Contract for Consultants (as amended). Each Standing Offer Request for Supply will include its own:

(a) Annexure Part A to the AS4122-2010 General Conditions of Contract for Consultants (as amended);

(b) Scope / Contract Particulars; and

(c) Reply form.

Standing Offer Request for Supply

The sample form below specifies the minimum information requirements for a Standing Offer Request for Supply. A reference to an 'Item' refers to the corresponding reference in the Contract Conditions. The Client may supplement these minimum requirements if required.

STANDING OFFER REQUEST FOR SUPPLY FORM *(This is a Standing Offer Request for Supply as defined the Standing Offer Conditions. This form attaches Annexure Part A required by the Contract Conditions.)*	
This Standing Offer Request for Supply is issued in connection with the Standing Offer formed under **RFO WCS2024NR1** *(Capitalised terms used in this form have the meaning given in the Contract Documents. A reference to the "Consultant" is, for the purpose of the Standing Offer, a reference to the "Supplier" and a reference to the "Client" is, for the purpose of the Standing Offer, a reference to the "Eligible Customer" prior to formation of the Contract, and, from formation of the Contract to the "Customer".)*	
Client	[Insert Client's legal entity name]
Request for Supply No.	[Insert Request for Supply Number]
Contact Name	[Insert contact name and title]
Contact Details	[Insert email / phone contact details]
REPLY REQUIREMENTS	
REPLY DUE BY	[Insert due date / time for the Consultant's Reply]
REPLY FORMAT	The Consultant must document their Reply using the form issued by the Client.
REPLY VALIDITY PERIOD	The Client may rely on the information in the Reply for a period of up to two months from the date of receipt of the Reply or shorter where circumstances allow.

REPLY SUBMISSION REQUIREMENTS	[Client to specify preferred submission method, e.g. by email to the listed contact person or by uploading to Tenders WA]

1	**DELIVERY REQUIREMENTS**	
(a)	CONTRACT DELIVERY POINT	Metropolitan (Zone 1 as referenced in the Buy Local Policy) *OR* [Client to specify location if location is not metropolitan] As the Contract Delivery Point is regional, Consultants may claim Regional Price Preferences as applicable. To claim Regional Price Preferences, Consultants must complete Attachment A and return with its Reply. *<Drafters please ensure Attachment A is deleted if the Contract Delivery Point is metropolitan. If the Contract Delivery Point is regional, please ensure Attachment A is included in the Reply form.* *In addition, where seeking quotes for work that will be undertaken in a regional location, at least one quotation must be from a regional business, if available.>*
(b)	PREMISES	[Client to specify details of the premises, if relevant]
2	**SPECIAL CONDITIONS**	
(a)	ENGAGING SUBCONSULTANTS	*<Drafters please include the following 'Engaging Subconsultants' if the scope includes engaging a Lead Consultant.>* This Standing Offer Request for Supply is for a lead consultant (**Lead Consultant**). The Lead Consultant may charge the Client the subconsultant pass through costs in accordance with subclause 10.11(b) of the contract conditions underpinning WCS2024NR1 (AS4122-2010 (Amended)). Where a Lead Consultant seeks to engage a subconsultant that is: • also a Supplier under WCS2024NR1, the Lead Consultant must comply with the Buying Rules; or • if not a Supplier appointed to WCS2024NR1, the Lead Consultant must comply with the minimum approach to market requirements as outlined within Rule C4.1 of the Western Australian Procurement Rules (Procurement Direction 2021/02). The Lead Consultant must comply with the WA Procurement Rules when undertaking tendering processes. It is incumbent on Lead Consultants to ensure it uses the latest published version of the WA Procurement Rules which are available on wa.gov.au and updated from time to time.

		The Client may at any time request that the Lead Consultant provide evidence of compliance with this section, and if the Lead Consultant cannot substantiate compliance to the satisfaction of the Client, the Client may by written notice to the Lead Consultant: • direct that the subconsultant is removed from providing services under the Contract within the timeframe specified by the Client in the notice; and/or • direct that all work performed by the subconsultant that was not engaged in accordance with this section be resupplied by a different subconsultant engaged in accordance with this section at the Lead Consultant's own cost.
(b)	RECIPIENT CREATED TAX INVOICES	Is a Recipient Created Taxation Invoice required for this engagement? YES ☐ NO☐
(c)	SPECIAL CONDITION/S	[Client to specify details of the special conditions, if relevant].
3	**PRICING AND PAYMENTS**	
(a)	PRICE NEGOTIATION	Clients and Consultants may negotiate hourly rates lower than the maximum hourly rates in the Pricing Form for the number of hours allocated for completion of the scope of work. Consultants must supply a breakdown of rates if requested to do so by the Client when negotiating a fixed fee.
(b)	DISBURSEMENTS	*<Drafters please choose from the following options.>* *<Option 1 Perth metropolitan area delivery:>* Refer to subclause 10.1 of the Contract Conditions, no disbursements will be payable. *<Option 1 Regional WA delivery:>* Notwithstanding subclause 10.1 of the Contract Conditions, due to the Contract delivery being located in regional Western Australia (as defined in the Buy Local Policy), travel and accommodation disbursements are payable under the Contract provided that: (a) the Contract delivery point is located more than 80 kilometres from the Consultant's permanent operational office from which the Consultant is managing and delivering the Contract, and the travel and accommodation disbursements are from that permanent operational office to and from the Contract delivery point, and accommodation at the Contract delivery point; and (b) the disbursement fees have been set with reference to the Fees or hourly rates.

4	**CONTRACT ADMINISTRATION**	
(a)	CONTRACT MANAGEMENT REQUIREMENTS	[Client to specify relevant contract management requirements, e.g. reporting, Consultant meetings etc.]
(b)	PERFORMANCE MANAGEMENT REQUIREMENTS	[Client to specify relevant performance management requirements eg KPIs, if applicable]
	This Standing Offer Request for Supply is issued on behalf of the Client by:	
	Signed	
	Name	
	Title	
	Date	

ATTACHMENT 1 TO THE STANDING OFFER REQUEST FOR SUPPLY

AUSTRALIAN STANDARD GENERAL CONDITIONS OF CONTRACT FOR CONSULTANTS AS 4122 - 2010, ANNEXURE PART A

[*Note to Respondents: The Eligible Customer will complete and provide AS 4122 - 2010, ANNEXURE PART A for the Standing Offer Request for Supply. An example Annexure Part A is provided here for reference only*]

GUIDE-NOTES

Complete the blank sections of Annexure Part A to the General Conditions.

1. The Consultant: Enter the full details of the legal entity tendering and proposed as the Consultant, including ACN's, ABN's, addresses etc.
2. The Consultant's representative: Enter the name, address, email address facsimile number and phone number of the person responsible for administering this Contract.
3. Existing Conflicts of Interest: Set out all existing conflicts of interest or conflicts of interest that are likely to arise in the Consultant's performance of the Contract.
4. Moral Rights: If moral rights Clause 22 applies, insert the name and details of the author of the physical works if applicable. This may be the Consultant or a third party.
5. The Address for Service of Notices: Insert the appropriate physical address, mail address, facsimile number, email or other electronic address of the Consultant for the service of notices under the Contract.

Item		
1	The Client is: (Clause 1.1)	[Client to insert]
2	The Consultant is: (Clause 1.1)	(Refer to **Guide-note 1**)

3	The Contract Documents are: (Clause 1.1)	1. The Standing Offer Order 2. The price list (if any) in the Standing Offer 3. The letter of appointment which created the Standing Offer 4. The Special Conditions in the Standing Offer Request for Supply (if any) 5. This Annexure Part A to the General Conditions of Contract 6. The General Conditions of Contract (being AS4122-2010 General Conditions of Contract for Consultants (incorporating Amendment No. 1) as amended by Annexure B of the Standing Offer RFO) 7. The Reply 8. The Standing Offer Request for Supply (other than the Special Conditions)
4	The Scope is described in the following Documents, or the Scope is: (Clause 1.1)	The Scope is contained within the following documents: [Client to insert]
5	The purpose(s) for which the Services will be suitable is/are: (Clause 5.1)	[Client to insert]
6	The Client's representative is: (Clause 6.1)	As set out in the Standing Offer Order.
7	The Consultant's representative is: (Clause 6.2)	(Refer to **Guide-note 2**)
8	Claims for payment must be made on the following basis: (Clause 10.1)	As set out in the Reply. For clarity, the Reply may provide that the basis for payment is hourly rates, fixed price or a combination of hourly rates and fixed price (and may include pass-through of Subconsultant costs, where expressly stated).
9	Disbursements for which the Consultant may claim payment: (Clause 10.2)	[Client to insert]
10	Time to claim payment is no later than:	Monthly, by the last Business Day of each month or as otherwise agreed by the Client in writing.

11	(Clause 10.3) The time for payment is no later than: (Clause 10.6)	20 calendar days after the Contractor makes a payment claim.
12	The rate of interest for overdue payment is: (Clause 10.9)	The rate prescribed under the *Civil Judgments Enforcement Act 2004* (WA) section 8(1)(a).
13	Alternative 1: The date or the period after commencement of this Contract, by which the Services must be completed is: Alternative 2: In accordance with the Program. Alterative 3: When requested by the Client. (Clause 12.1)	[Client to insert] Alternative 1: [insert date] OR Alternative 2: the program is as attached to the Reply. OR Alternative 3: the timeframes for delivery of each Deliverable is as contained in the Standing Offer Request for Supply.
14	Other causes of delay for which the Consultant may notify an extension of time: (Clause 12.3(c))	[Client to insert]
15	The Approvals to be obtained by the Consultant are: (Clause 13.2)	[Client to insert]
16	The key personnel are: (Clause 18)	As set out in the Reply.
17	Existing conflicts of interest: (Clause 19.2)	(Refer to **Guide-note 3**)
18	Copyright and other Intellectual Property Rights, the Alternative that applies is: (Clause 21.3) Identify whether Alternative 1 or Alternative 2 applies.	[Client to insert]
19	List excluded Intellectual Property Rights: (Clause 21.3 Alternative 2)	Nil.

20	The additional amount payable to the Consultant for granting Intellectual Property Rights to the Client is: (Clause 21.4 Alternative 2)	Nil.
21	Does clause 22 (Moral Rights) apply? (Clause 22.1) If yes, the author is:	Yes The author is: (See **Guide-note 4**)
22	The following Documents are confidential: (Clause 23.1)	The Contract Documents and any other materials provided to the Consultant by the Client or any other party for the purpose(s) of this Contract.
23	Maximum period for which Client may suspend the Services at any one time, after which the Consultant may terminate: (Clause 24.4)	[Client to insert]
24	The Consultant's liability is limited to: (Clause 29.1)	The Consultant's liability is not limited.
25	The amount of public liability insurance is: (Clause 30.2)	$20,000,000
26	The amount of the professional indemnity insurance is: (Clause 30.4)	[Client to insert]
27	The professional indemnity insurance must be maintained for the following period: (Clause 30.4)	The duration of the Contract plus 7 years
28	The Client must effect the following insurances and maintain them for the following periods: (Clause 30.7)	[Client to insert]
29	The address for the service of notices is: (Clause 33.1)	Client: [Client to insert] Consultant: (See **Guide-note 5**)

30	The law governing this Contract is: (Clause 35)	Western Australia
31	Has this Contract been amended from its original form?	Yes

ATTACHMENT 2 TO THE STANDING OFFER REQUEST FOR SUPPLY

Scope / Contract Particulars

<Drafters to add project details.

Drafters may add additional Schedules if needed.>

ATTACHMENT 3 TO THE STANDING OFFER REQUEST FOR SUPPLY

Reply Form

<Drafters to Reply form.>

SCHEDULE 2 – EXAMPLE REPLY

This Schedule 2 describes the information requirements for a Consultant's Reply issued under the Standing Offer (if formed).

Each Reply issued by a Consultant must provide information addressing the items required by the Client in the Standing Offer Request for Supply, and be provided in the required format. The sample form below describes the minimum information requirements for a Reply. The Client should provide the Consultant with the Reply form when issuing a Standing Offer Request for Supply.

CONSULTANT REPLY FORM *(This is a Reply as defined the Standing Offer Conditions)*		
This Reply is issued in connection with the Standing Offer formed under **RFO WCS2024NR1** *(Capitalised terms used in this form have the meaning given in the Contract Documents. A reference to the "Consultant" is, for the purpose of the Standing Offer, a reference to the "Supplier" and a reference to the "Client" is, for the purpose of the Standing Offer, a reference to the "Eligible Customer" prior to formation of the Contract, and, from formation of the Contract, to the "Customer".)*		
Client		[Client legal entity name]
Request for Supply No.		[Request for Supply Number]
	consultant Details	
Consultant's Name		[Consultant's legal entity name]
Consultant ABN		[Insert ABN]
Reply Date		This Reply is issued on [insert date]
Reply Number		[Consultant to provide a reference number for each Reply]
Consultant Contact		Name: Email: Phone:
By submitting a Reply the Consultant acknowledges and agrees: • *the Reply has been prepared by reference to the requirements and information specified by the Client in the Standing Offer Request for Supply; and* • *that pursuant to clause 5.1(b) of the Standing Offer Conditions no Contract will be formed unless and until the Client issues a Standing Offer Order to the Consultant.*		

	PRICING INFORMATION					
PRICING BASIS		Hourly Rate ☐ Fixed Price ☐ Both ☐				
	Hourly Rate Pricing					
	Hourly Rates as per the Standing Offer Price List ☐ Negotiated rates specified below ☐ *(Supplier to select the rates applicable to this Reply)*					
Position Title	**Specified Personnel**	**Corporate Hourly Rate (GST excl)**	**Hourly Rate (GST excl.)**	**Allocated Hours**	**Cost Per Position (GST excl.)**	
					$	
					$	
					$	
					$	
	Other charges (if applicable, provide details of disbursements)				$	
	Total (exclusive of GST)				$	
	Total (inclusive of GST)				**$**	
	(Provide description of disbursements if applicable)					
	Fixed Price					
	Contract Price				$	
	Other Charges (disbursements, permitted under the Standing Offer)				$	
	<Drafters to include if Consultant is being engaged as a Lead Consultant> Subconsultant pass-through costs (refer to clause 10.11(b) of the Contract Conditions)				$	
	Total (exclusive of GST)				**$**	
	Total (inclusive of GST)				**$**	
	(Provide description of disbursements if applicable)					
	SUPPLIER DELIVERABLES					
PERSONNEL		[Consultant to complete by reference to the Personnel requirements in the Standing Offer Request for Supply]				

INSURANCES		The Consultant holds the insurances described in the Standing Offer Request for Supply. Yes ☐ No ☐] Certificates of Currency attached: Yes ☐ No ☐
	DECLARATION OF INTERESTS	
	The Consultant acknowledges its obligations under clause 16.1 of the Standing Offer Conditions and clause 19 of the Contract Conditions with respect to the identification, disclosure and management of conflicts of interest by the Consultant.	
CONFLICTS OF INTEREST		The Consultant has identified actual or perceived conflicts of interest: Yes ☐ No ☐
	Describe the conflicts (if any) and the actions that the Consultant will take to manage the conflict(s):	
	ABORIGINAL BUSINESS AND EMPLOYMENT TENDERING PREFERENCE	
	<Drafters to insert where Replies are being sought from more than one Consultant. If inserted, be sure to include Attachment A – Price Preferences.> Any Consultant that is an Aboriginal Business, or an Aboriginal Employer, or a Joint Venture with Aboriginal Participation, or an Aboriginal Person, may be eligible to receive the Aboriginal Business and Employment Tendering Preference. This preference will reduce the proposed Contract Fee, for evaluation purposes only, at a rate of 10% of the preference amount up to a maximum of $250,000. The preference amount is: (a) the proposed Contract Fee if the tenderer is an Aboriginal Person, an Aboriginal Business or a Joint Venture with Aboriginal Participation; or (b) that proportion of the proposed Contract Fee attributable to Aboriginal Persons or Aboriginal Businesses that are subconsultants engaged on the work under any resultant contract; or (c) that proportion of the proposed Contract Fee attributable to the direct employment costs of Aboriginal Persons engaged on the work under any resultant contract, by either the Consultant or subconsultants. It is not a requirement that Aboriginal Persons are employed at the award of any resultant contract; or (d) any combination of the above.	

		APPLICATION OF PRICE PREFERENCES
		The Consultant acknowledges that the Client reserves the right to request from the Consultant evidence to the satisfaction of the Client to verify the validity of the Consultant's claim for any financial preference. When a Consultant is unable to provide evidence to the satisfaction of the Client that verifies the validity of the Consultant's claim for a preference, then the claim for that preference may be considered invalid and the preference may not be applied to the Reply.
		This Reply is issued on behalf of the Consultant by the Consultant's Representative:
Signed		
Name		
Title		
Date		

ATTACHMENT A – PRICE PREFERENCES

A.1 Aboriginal Business and Employment Tendering Preference

Consultants eligible to claim the Aboriginal Business and Employment Tendering Preference must complete the table below.

All suppliers and subcontractors must be registered at http://www.abdwa.com.au or http://supplynation.org.au to be eligible to receive the preference.

SECTION A Suppliers	Name of supplier	Materials/Good Supplied	Cost (GST inclusive)
	1.		$
	2.		$
	3.		$
	Insert rows if needed		
		SUB-TOTAL 1	**$**
SECTION B Subcontractors	Name of subcontractor	Trade/Service	Cost (GST inclusive)
	1.		$
	2.		$
	3.		$
	Insert rows if needed		
		SUB-TOTAL 2	**$**
TOTAL VALUE OF CLAIM FOR ABORIGINAL PERSONS OR BUSINESSES ENGAGED AS SUPPLIERS OR SUBCONTRACTORS (SUB-TOTAL 1 + SUBTOTAL 2			**$**

A.2 Regional Preferences

<Drafter to insert if Contract Delivery Point is Regional Western Australia (Zone 2 or 3 as defined in the Buy Local Policy)>

Where a Standing Offer Request for Supply requires work to be undertaken in a regional zone (zones 2 or 3 as outlined in the Buy Local Policy) and more than one Reply is received, regional price preferences will be applied.

Defined terms in this section are explained within the Buy Local Policy.

Regional price preference will not be applied where the Client receives a Reply from a supplier located in another state or territory of Australia, or in New Zealand.

Consultants can claim either a 'Regional Business Preference' or a 'Regional Content Preference' but not both.

A.2.1 Regional Business Preference

A Regional Business Preference may be afforded to Consultants that submit Replies from and manage any resultant contract from a permanent operational office that is within the Prescribed Distance from the Contract delivery point.

When comparing Replies received from regional Consultants located within the Prescribed Distance, with Replies received from Western Australian suppliers located outside the Prescribed Distance, including the Perth region, the proposed Contract Fee from the regional Consultant(s) located within the Prescribed Distance will be reduced, for evaluation purposes only, by 5% of the proposed Contract Fee calculated to a maximum of $500,000.

Consultants that wish to claim eligibility for the Regional Business Preference must complete the boxes below.

A. What is your total Offered Price?	**AUD$ (GST inclusive)**
B. Is your business located within the Prescribed Distance from the contract Point of Delivery (excluding Zone 1, Perth Region)?	
Yes ☐	**No ☐**
If Yes, complete items (C) to (H) below:	
C. Does your business maintain a permanent operational office within the Prescribed Distance?	
Yes ☐	**No ☐**
If Yes, provide the address for the relevant permanent operational office below:	

D. Has your business been conducted from the above listed permanent operational office for at least the six (6) months prior to the date the Standing Offer Request for Supply was issued?	
Yes ☐	**No** ☐
E. Is your business resourced by a least one person who permanently resides within the Prescribed Distance?	
Yes ☐	**No** ☐
F. Is your business: • registered and/or licensed as the Standing Offer Request for Supply / law requires; and • entitled to operate within Western Australia?	
Yes ☐	**No** ☐
G. Have you bid from your permanent operational office?	
Yes ☐	**No** ☐
H. Will your business manage / deliver the majority of the outcomes under the Contract (if awarded) from the permanent operational office specified above?	
Yes ☐	**No** ☐

A.2.2 Regional Content Preference

A Regional Content Preference may be available irrespective of a Consultant's eligibility for a Regional Business Preference, and a Consultant may be afforded the Regional Content Preference regardless of the location of their Permanent Operational office.

The available Regional Content Preference is at the rate of 5% of the cost (GST inclusive) of materials (supplies) and services (subcontracts, in-house labour and the like) proposed for use in any resultant contract and that are purchased from businesses within the Prescribed Distance. The Regional Content Preference will reduce the proposed Contract Fee, for evaluation purposes only, up to a maximum preference of $500,000.

Consultants that wish to claim eligibility for the Regional Business Preference must complete the boxes below.

A. Is the Consultant's business located outside of the Prescribed Distance from the contract Delivery Point specified in the Contract Delivery Point section of the Standing Offer Request for Supply?	
Yes ☐	No ☐
If Yes, complete item (B) below:	

B. Does the Consultant intend to purchase goods, materials and/or services for use in the Contract (if awarded) from businesses that are located within the Prescribed Distance from the contract Point of Delivery (excluding Zone 1, Perth Region)?	
Yes ☐	No ☐
If Yes, complete item (C) below:	

C. List details of the goods and/or services, including proposed subcontracting arrangements that the Respondent intends to purchase from businesses that are located within the prescribed distance from the contract Point of Delivery (excluding Zone 1, Perth Region).

Include the value of the goods and/or services in the table below. Insert more rows or attach an additional list if required.

Description of the Regional Goods and/or Services	Regional Business Name and Location	Cost AUD$ (Incl. GST)
		$
		$
Total Cost of Regional Content (incl. GST) =		• $

Attachment B Qualitative Requirements

Drafters should include qualitive requirements whenever a Reply from more than one Consultant is being sought. Drafters must include qualitative requirements whenever a WAIPS Participation Plan is required.

<A WAIPS Participation Plan qualitative requirement must be included for goods and / or services procurements with an estimated contract value of:

- *Metropolitan - $1 million and above;*
- *Regional - $500,000 and above; and*

where an exemption from including this criterion has not been granted by the Director General, Department of Jobs, Tourism, Science and Innovation (JTSI).

Agencies can choose whether this criterion is weighted at 10% or 20% by considering factors like (but not limited to) the contract value, duration, location, market competition and realisable benefits. Refer to the current WAIPS Agency Operations Guide *for more detail, or email* industrylink@jtsi.wa.gov.au*.*

If the Minister for Jobs has declared this procurement a Strategic Project, reflect any prescribed upward variation of the Participation Plan weighting.

You will need to assess whether a CORE or FULL Participation Plan is required, depending on the total estimated contract value:

CORE Participation Plan thresholds:

- *Metropolitan - $1 million to $5 million*
- *Regional - $500,000 to $5 million*

The qualitative requirements in this Attachment B have the weighting listed in the table below. [Responses to the qualitative requirements must not exceed the limit specified in the '[Page Limit / Word Limit]' column in the table.]*<List each qualitative requirement and the prescribed weighting in the table below. Select, adapt or delete the examples provided below.*

Delete the 'Page Limit / Word Limit' column if these restrictions are not required. If a page limit or word limit is required, list the limit in the 'Page Limit / Word Limit' column. Consider the use of these types of limits with care. Agencies need to ensure that the framing of the requirements and the assessment compliance with the requirements is both reasonable and fair to the Consultants>

Qualitative Requirement	**Weighting (%)**	**Page Limit / Word Limit**
Organisational Capacity and Demonstrated Experience		
Suitability of Proposed Services		
Work Health and Safety		
WAIPS Participation Plan		
[insert requirement]		
TOTAL:	**100%**	**[insert]**

Responses to the qualitative requirements must address each of the qualitative requirements described below. *<The qualitative requirements in this template are included as examples only. Adapt, supplement or delete as required to suit the procurement requirements>*

ORGANISATIONAL CAPACITY & DEMONSTRATED EXPERIENCE (X%)

Capacity and Experience

(A) Organisational History, Structure and Clients

The Consultant must demonstrate that it has the organisational capacity to perform a Contract (if awarded), and in doing so must provide details of its organisational history, structure and current clients.

(B) Demonstrated Experience

The Consultant must demonstrate suitable previous experience and in doing so must provide details of contracts for similar services to those described in the Standing Offer Request for Supply that it has provided for other clients including:

- a detailed description of the services provided;
- similarities between the previous contracts and the requirements set out in the Standing Offer Request for Supply;
- when the previous contracts were performed; and
- the outcome of the previous contracts.

[<Select required option> Consultant to complete below: / Provide the response to this Qualitative Requirement in an attachment named:

[Insert Request Number] – Attachment [E.4] – [Respondent legal entity name, e.g. ABC Pty Ltd]

Referees

*<**Important note:** If referee reports are to be collected to verify the Consultant's response to the qualitative requirements, include the provision below. The referee reports must be considered as part of the evaluation of the relevant criterion.*

The Consultant must also provide at least two referees in respect of the experience and contracts detailed above.

Referees			
Name	**Title and Company**	**Email**	**Phone**

SUITABILITY OF PROPOSED SERVICES (X%)

(A) Suitability of Services and key Personnel

The Consultant must demonstrate an appreciation and understanding of the requirements of the Standing Offer Request for Supply and describe:

- how its proposed services meet the requirements set out in the Standing Offer Request for Supply;
- the scope of work/requirements broken into components including timeframes and the estimated number of hours required to complete each component; and
- detail of the roles of the key Personnel and an estimated percentage of time to be spent by each to complete the scope of work/requirements

(B) Methodology

The Consultant must describe a suitable proposed methodology and approach for the supply of the Services under the Contract (if awarded).

Details of the methodology should include:

- the scope of work/requirements broken into components including timeframes and the estimated number of hours required to complete each component of the scope of work/requirements;
- a description of critical issues, and quality control mechanisms used in undertaking the requirements.

(C) Confidentiality

The Consultant must evidence appropriate systems and processes to maintain the confidentiality of Confidential Information that may be supplied under a Contract (if awarded).

Key Personnel

Complete the boxes below for each person nominated as key Personnel. Add boxes as required.

STANDING OFFER KEY PERSONNEL 1	
Name	
Position Title / Role	
Availability / % of time	
Curriculum Vitae	*[Provide details here or in an attachment]*
Referee	

WORK HEALTH AND SAFETY (X%)

<Where elevated or novel WHS risks are identified, agencies should consider including qualitative criteria that address specific WHS risks or requirements. Some example criteria are listed below. This example can be used as a standalone qualitative requirement or built into an organisational capacity requirement>

The Consultant must describe how it will meet its work health and safety responsibilities in providing the proposed services including; (A) providing details of its work health and safety management system; (B) [describe requirements addressing the specific work health and safety requirements specified in Specification of the Standing Offer Request for Supply]; and (C) identifying work health and safety risks associated with the proposed services and how these risks are managed.
[<Select required option>Consultant to complete below: / Provide the response to this Qualitative Requirement in an attachment named: *[Insert Request Number] –Attachment [E.12] – [Consultant legal entity name, e.g. ABC Pty Ltd]*

WAIPS PARTICIPATION PLAN ([10%] OR [20%])

The Client will, in its value for money assessment, consider as a qualitative requirement the extent to which Section B of the Respondent's Participation Plan meets the specified participation objectives.

The Client reserves the right to reject any Offer that does not contain a Participation Plan which properly addresses the matters outlined in the WAIPS Participation Plan form.

Has the Consultant completed a Participation Plan and submitted the Participation Plan as part of their Reply?	
Yes ☐	No ☐
If successful, the Consultant's Participation Plan will be available to the Industry Link Advisory Service (ILAS), Department of Jobs, Tourism, Science and Innovation, and may be used or disclosed for the legitimate purposes of, or relating to, government or the business of government.	

SCHEDULE 3 – EXAMPLE STANDING OFFER ORDER

This Schedule 3 describes the information requirements for a Standing Offer Order issued under the Standing Offer (if formed). A Standing Offer Order will contain the information specified in the sample form below, together with any additional requirements specified by the Client in the Standing Offer Request for Supply.

STANDING OFFER ORDER FORM	
This Standing Offer Order is issued in connection with the Standing Offer formed under **RFO WCS2024NR1**	
Client	[Insert Client legal entity name]
Consultant (Refer Item 1 Standing Offer Request for Supply)	This Standing Offer Order is issued to [Insert Consultant legal entity name]
Consultant ABN	[Insert Consultant ABN]
This Standing Offer Order Form is issued by reference to:	
Request for Supply No.	[Insert the applicable Request for Supply Number]
Reply No.	[Insert the Reply Number provided by the preferred Consultant]
DELIVERABLES & PRICE	
SERVICES	[Specify the required Services by reference to the Standing Offer Request for Supply and the Consultant's Reply]
PRICE (GST INCL.)	[Specify the Price by reference to the Consultant's Reply]
CONFLICTS DECLARATION	
DECLARED CONFLICTS	The Consultant identified actual or perceived conflicts of interest in their Reply: Yes ☐ No ☐
MANAGEMENT OF CONFLICTS	*<If the Consultant declared any actual or perceived conflicts of interest in their Reply, specify how those interest(s) will be managed during the Term. If no conflicts were identified, delete this row.>*
CONTRACT ADMINISTRATION	
Client's Representative: [Insert name, title and contact details]	**Consultant's Representative:** [Insert name, title and contact details]

CONTRACT MANAGEMENT	*<Client to delete this row if not applicable or select required option>* [The contract management requirements specified in the Standing Offer Request for Supply apply to the Contract.]
PERFORMANCE MANAGEMENT	*<Client to delete this row if not applicable or select required option>* [The performance management requirements specified in the Standing Offer Request for Supply apply to the Contract.]

*This Standing Offer Order is issued by the Client named above and establishes a Contract under **RFO WCS2024NR1***

The Standing Offer Order is issued on behalf of the Client by:

Signed	
Name	
Title	
Date	

SCHEDULE 4 – WCS2024NR1 CUSTOMER SATISFACTION SURVEY

WCS2024NR1 CUSTOMER SATISFACTION SURVEY

(F.2.4.1 Key Performance Indicators)

Standard:	Overall customer satisfaction with the Panel suppliers must not be less than 75%.
Frequency:	Annually or otherwise at the discretion of the Requesting Agency
Testing Method & Consequence:	A Customer satisfaction survey will be conducted to measure overall customer satisfaction. The survey will be conducted at the request of and by the Requesting Agency. If an overall satisfaction rating of less than 75% is recorded, the Requesting Agency will determine the appropriate contract management strategy to address customer concerns.

Scoring Key	
Above Satisfactory	100%
Satisfactory	75 and over%
Below Satisfactory	50-74%
Not met	0-49%
Not applicable	Not scored*

Note: *No visibility or not relevant to the period being surveyed (no orders etc.)

Q1. ELIGIBLE CUSTOMER IDENTIFICATION

Please enter the name of your organisation.

_____

Q2. BILLING COMPLIANCE (WCS2024NR1 - AS4122-2010 – PAYMENT CLAIMS - CLAUSE 10.4)

The Supplier must provide on-time billing in accordance with their rates. This billing must clearly identify hourly rates charged and disbursements claimed with supporting evidence of expenditure to be provided to the Customer to validate charges are in accordance with Panel rates and allowances.

Please rate your satisfaction level based on the number of instances between **DAY MONTH YEAR** to **DAY MONTH YEAR** where your organisation:

- Invoice could not be verified against Panel rates or negotiated Customer Contract rate;
- Received an invoice that was not in accordance with the Panel rates; and/or
- Did not receive evidence to support disbursement claim with the invoice.

Rating	Measurement	Weighting
☐ Above Satisfactory	0 instances	2.00
☐ Satisfactory	Less than 2 instances (≤ 20 invoices) OR 10% of instances (> 20 invoices)	1.50
☐ Below Satisfactory	Less than 4 instances (≤ 20 invoices) OR 25% of instances (> 20 invoices)	1.00
☐ Not Met	More than 4 instances (≤ 20 invoices) OR 25% of instances (> 20 invoices)	0.50
☐ Not Applicable	Unsure OR no goods and/or services have been purchased under the Standing Offer from this Contractor during this period	0

Q3. CUSTOMER RESPRESENTATIVE RESPONSIVENESS (WCS2024NR1 - F2.4.2)

The designated Customer Representative is expected to be available to answer queries and resolve disputes.

Please rate your satisfaction level based on the number of instances between **DAY MONTH YEAR** to **DAY MONTH YEAR** where the Customer Representative was unresponsive, or unable to respond to queries within a 24-hour period.

Rating	Measurement	Weighting
☐ Above Satisfactory	0 instances	2.00
☐ Satisfactory	Less than 2 instances (≤ 20 contact attempts) OR 10% of instances (> 20 contact attempts)	1.50
☐ Below Satisfactory	Less than 4 instances (≤ 20 contact attempts) OR 25% of instances (> 20 contact attempts)	1.00
☐ Not Met	More than 4 instances (≤ 20 contact attempts) OR 25% of instances (> 20 contact attempts)	0.50
☐ Not Applicable	Unsure OR no goods and/or services have been purchased under the Standing Offer from this Contractor during this period	0

Comments:

Q4. BUILDING SERVICES (REGISTRATION) ACT 2011(WA) (WCS2024NR1 - AS4122-2010 – CLAUSE 50. EVIDENCE OF REGISTRATION)

In RFO Annexure Part B to the General Conditions, under Clause 50 – *Building Services (Registration) Act (WA) 2011* in AS4122-2010, where the Contract commences after the date the requirement to be registered commences in the Building Services Act, evidence of registration must be provided within 5 Business Days of the commencement date of the Contract.

Please rate your satisfaction level based on the number of instances between **DAY MONTH YEAR** to **DAY MONTH YEAR** where the Customer Representative did not provide evidence of registration within 5 Business days of the commencement date of the Contract.

Rating	Measurement	Weighting
☐ Above Satisfactory	0 instances	2.00
☐ Satisfactory	Less than 1 instances (≤ 10 evidentiary requirements) OR 10% of instances (> 10 evidentiary requirements)	1.50
☐ Below Satisfactory	More than 2 instances (≤ 10 evidentiary requirements) OR 25% of instances (> 10 evidentiary requirements)	1.00
☐ Not Met	More than 2 instances (≤ 10 evidentiary requirements) OR 25% of instances (> 10 evidentiary requirements)	0.50
☐ Not Applicable	Unsure OR no services have been purchased under the Standing Offer from this Contractor during this period	0

Comments:

Q5. SERVICE DELIVERY TO ELIGIBLE CUSTOMERS - RESPONSIVENESS (F.2.4.2)

It is imperative that a high level of customer service is maintained in the provision of the Standing Offer Deliverables, including the suitability of the proposed Standing Offer Deliverables and accuracy of the administrative, technical, and billing operations undertaken by the Supplier.

The Supplier must:

(e) respond within 24 hours to any enquiry or concern from Eligible Customers and the Requesting Agency;

Please rate your satisfaction level based on the number of instances between **DAY MONTH YEAR** to **DAY MONTH YEAR** where the Customer Representative did not respond to an attempt to contact within 24-hours.

Rating	Measurement	Weighting
☐ Above Satisfactory	0 instances	2.00
☐ Satisfactory	Less than 2 instances (≤ 20 contact attempts) OR 10% of instances (> 20 contact attempts)	1.50
☐ Below Satisfactory	More than 4 instances (≤ 20 contact attempts) OR 25% of instances (> 20 contact attempts)	1.00
☐ Not Met	More than 4 instances (≤ 20 contact attempts) OR 25% of instances (> 20 contact attempts)	0.50
☐ Not Applicable	Unsure OR no services have been purchased under the Standing Offer from this Contractor during this period	0

Comments:

Q6. CONSULTANT REPORTS – PROVISION OF ADEQUATE REPORTS

It is imperative that a high level of customer service is maintained in the provision of the Standing Offer Deliverables, including the suitability of the proposed Standing Offer Deliverables and accuracy of the administrative, technical, and billing operations undertaken by the Supplier.

The Supplier must:

(i) *maintain adequate records of the Standing Offer Deliverables performed in sufficient detail to permit performance monitoring and auditing by Eligible Customers and the Requesting Agency and to provide the information to Eligible Customers and/or Requesting Agency within 10 Business Days if requested;* and

Please rate your satisfaction level based on the number of instances between **DAY MONTH YEAR** to **DAY MONTH YEAR** where the Customer Representative did not provide evidence of registration within 10 Business Days of the commencement date of the Contract.

Rating	Measurement	Weighting
☐ Above Satisfactory	0 instances	2.00
☐ Satisfactory	Less than 2 instances (≤ 20 requests) OR 10% of instances (> 20 requests)	1.50
☐ Below Satisfactory	More than 4 instances (≤ 20 requests) OR 25% of instances (> 20 requests)	1.00
☐ Not Met	More than 4 instances (≤ 20 requests) OR 25% of instances (> 20 requests)	0.50
☐ Not Applicable	Unsure OR no services have been purchased under the Standing Offer from this Contractor during this period	0

Comments:

Q7. OVERALL PERFORMANCE RATING

Please provide an opinion of the "overall" performance of the Contractor regarding its ability to deliver goods and services under the Panel between **DAY MONTH YEAR** and **DAY MONTH YEAR** by using the rating scale below, and then provide comments to support your rating

Rating
☐ Above Satisfactory
☐ Satisfactory
☐ Below Satisfactory
☐ Not Met
☐ Not Applicable

Comments:

Q8. CUSTOMER CONTACT DETAILS

Please provide the following details:

First name _____

Last name _____

Email (Optional) _____

Phone number (Optional) _____

Thank you for completing the WCS2024NR1 Customer Satisfaction Survey

~ END OF SCHEDULE

ANNEXURE A – STANDING OFFER BUYING RULES

This Annexure is provided for information purposes only and does not form part of the Standing Offer (if formed) resulting from the Request.

Eligible Customers are encouraged to use the templates in Schedule 1 - 3 published by the Requesting Agency when establishing a Contract, though Eligible Customers retain the right to use alternative documents.

Eligible Customers must comply with the following Buying Rules:

Monetary Thresholds (inc GST)	Buying Process
Up to $200,000	Pick and buy.
Between $200,001 and $2,000,000	Request written quotations from a minimum of three Consultants on the panel.
$2,000,001 and above	Open Tender.

The Office of Major Infrastructure Delivery, as a division of the Department of Transport and Major Infrastructure, oversees the planning and execution of major capital works projects (over $100 million) deemed to be imperative to the State.

The Buying Rules reflected in the table below are exclusively applicable to the Office of Major Infrastructure Delivery team:

Monetary Thresholds (inc GST)	Buying Process
Up to $200,000	Pick and buy.
Between $200,001 and $5,000,000	Request written quotations from a minimum of three Consultants on the panel.
$5,000,001 and above	Open Tender.

Guide Note

All Eligible Customers (including the Office of Major Infrastructure Delivery) should undertake a risk assessment for the proposed scope of work to determine the insurance requirements for the project. The requirements will be included in the Standing Offer Request for Supply.

The Replies should be evaluated by an Evaluation Panel.

A reverse brief may be sought by direct sourcing and is exempt from the requirement for three written quotations.

Where the Standing Offer Request for Supply is issued for work that will be undertaken in a regional location, at least one quotation must be from a regional business, if available.

ANNEXURE B – ANNEXURE PART B TO THE GENERAL CONDITIONS OF CONTRACT

For the purpose of any Contract arising from a Standing Offer formed pursuant to this Request, the AS4122-2010 General Conditions of Contract for Consultants are hereby amended in accordance with this Annexure B:

1 The following clauses or parts of clauses have been deleted from the General Conditions in AS 4122-2010:

Clause 33.2.

2. The following clauses have been amended and differ from the corresponding clauses in AS 4122–2010:

SUBCLAUSE 1.1 – DEFINITIONS

Insert the following new definition:

> **Change in Control** means, in respect of an entity, a change in the entity or entities who, directly or indirectly, ultimately Control that entity.

Insert the following new definition:

> **Client's Personnel** means the Client's directors, officers, employees, agents and contractors (other than the Consultant).

Insert the following new definition:

> **Control** has the meaning given in the *Corporations Act 2001* (Cth).

Insert the following new definition:

> **Consultant's Personnel** means the Consultant's directors, officers, employees, agents and Subconsultants and all employees, agents and contractors of the Subconsultants.

Insert the following new definition:

> **Default** means, in respect of the Consultant:
>
> (a) an Insolvency Event occurs in respect of the Consultant;
>
> (b) the Consultant suspends the performance of the Services other than as permitted by clauses 10.8 and 25;
>
> (c) the Consultant fails to effect, have in place or otherwise maintain or provide evidence of, insurance as required by clause 30;
>
> (d) the Consultant fails to commence the Services in accordance with the requirements of this Contract;
>
> (e) the Consultant abandons the Services or otherwise demonstrates an intention not to continue with the performance of its obligations under this Contract;

(f) the Consultant fails to exercise the standard of care required by clause 4;

(g) the Consultant fails to comply with a direction of the Client pursuant to clause 8;

(h) the Consultant fails to meet the requirements of the key performance indicators as nominated in the Standing Offer Order (if any);

(i) in respect of clause 10.4(c), the Consultant knowingly provides documentary evidence containing an untrue statement;

(j) subject to clause 12.2:

(i) the Consultant fails to complete the Services (or a component of the Services, as applicable) by the time stated in Item 13 without reasonable cause or the Client's approval;

(ii) if a program is attached, the Consultant substantially departs from the program without reasonable cause or the Client's approval; or

(iii) where there is no time stated in Item 13 or program, the Consultant fails to proceed with due expedition and without delay without reasonable cause or the Client's approval;

(k) the Consultant fails to comply with clause 13.1 or clause 13.2;

(l) the Consultant makes a false representation or breaches a warranty under this Contract;

(m) the Consultant fails to observe or perform a material obligation under this Contract;

(n) where applicable, the Consultant fails to comply with clause 44 (Consultant's Buy Local Policy Obligations);

(o) the Consultant:

(i) becomes a debarred supplier as defined in section 32 of the *Procurement Act 2020* (WA);

(ii) subcontracts or allows a Subconsultant to subcontract, with a debarred supplier as defined in section 32 of the *Procurement Act 2020* (WA); or

(iii) fails to terminate a Subcontract, or ensure a Subconsultant terminates a subcontract, with a debarred supplier as defined in section 32 of the *Procurement Act 2020* (WA); or

(p) any other event deemed to be a Default under this Contract,

and, in respect of the Client, means the Client fails to pay the Consultant in accordance with clause 10.

Delete the definition of Force Majeure and replace with the following:

Force Majeure means an event that prevents a party from performing its obligations in whole or in part under this Contract and which is unforeseeable and beyond the reasonable control of the affected party including:

(a) fire, flood, a category 3 or above tropical cyclone (as defined by the Australian

Bureau of Meteorology), earthquake, tsunami or explosion;

(b) war, insurrection, civil disturbance or acts of terrorism;

(c) act of God;

(d) impact of vehicles or aircraft; or

(e) epidemic or pandemic,

but does not include:

(f) lack of or inability to use funds for any reason;

(g) any occurrence which results from the wrongful or negligent act or omission of the affected party or the failure by the affected party to act in a prudent and proper manner and in accordance with clause 4;

(h) an event or circumstance where the event or circumstance or its effects on the affected party or the resulting inability of the affected party to perform its obligations could have been prevented, overcome or remedied by the exercise by the affected party of the standard of care and diligence consistent with that of a reasonable and prudent person;

(i) breakdown of any equipment;

(j) industrial action limited to the Services, the Consultant or the Consultant's Personnel;

(k) weather conditions or any effects of weather conditions, other than as described in paragraph (a) above;

(l) acts or omissions of a Subconsultant (including if a Subconsultant suffers an Insolvency Event);

(m) a failure by a third party to fulfil a contract commitment to the affected party other than as a result of an event in paragraph (a) to (e) above; or

(n) lack of resources, including local materials or personnel.

Delete the definition of GST and replace with the following:

GST means the same as it means in the GST Act.

Insert the following new definition:

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and (where the context permits) includes the regulations and the Commissioner of Taxation's Goods and Services Tax Rulings and Determinations made thereunder and any other written law dealing with GST applying for the time being in the State of Western Australia.

Insert the following new definition:

Project means the project described in the Standing Offer Request for Supply.

Insert the following new definition:

Reply means the Consultant's offer in response to the Standing Offer Request for Supply.

Insert the following new definition:

Requesting Agency means the State of Western Australia acting through the Department of Housing and Works.

Insert the following new definition:

SOP Legislation means the *Building and Construction Industry (Security of Payment) Act 2021* (WA) and its accompanying regulations.

Insert the following new definition:

Standing Offer means the agreement between the Requesting Agency and the Consultant which led to the formation of the Contract.

Insert the following new definition:

Standing Offer Request for Supply means the request issued by the Client under the Standing Offer in relation to the Services.

Insert the following new definition:

Standing Offer RFO means the request issued by the Requesting Agency dated [*month, year to be inserted prior to issue*], which led to the formation of the Standing Offer.

Insert the following new definition:

Standing Offer Order means the purchase order issued by the Client to the Consultant for the supply of the Services, following acceptance of the Reply.

Insert the following new definition:

Subcontract means a contract or agreement between the Consultant and a third party under which the third party agrees to perform any part of the Services.

Insert the following new definition:

Subconsultant means a person engaged by the Consultant under a Subcontract.

Insert the following new definition:

WHS Laws means all laws (including the *Work Health and Safety Act 2020* (WA), the *Work Health and Safety Regulations 2022* (WA) and mandatory codes of practice or guidelines) relating to work health and safety that are applicable to this Contract or the Services.

Insert the following new definition:

WHS Notification Requirements means any requirement to notify WorkSafe WA or any other regulator about an incident or event under WHS Law.

CLAUSE 4 STANDARD OF CARE

After the first paragraph, insert the following two paragraphs:

The Consultant must ensure that, when delivered to the Client, the Deliverables are suitable, appropriate and adequate for the purpose stated in the Scope and are in accordance with all industry standards that are reasonably applicable to the Deliverables.

The Consultant must engage Consultant's Personnel with appropriate qualifications and experience to perform the Services.

CLAUSE 5 SCOPE

SUBCLAUSE 5.4

Immediately after the words “The Consultant is entitled to an adjustment to the Fee and/or”, insert the following:

an extension of

CLAUSE 7 INFORMATION

Delete the entire clause and replace with the following:

7.1 If requested by the Consultant, the Client must promptly provide the Consultant with Client Information sufficient to enable the Consultant to perform the Services.

7.2 If requested by the Client, the Consultant must submit reports to the Client in an agreed format and at agreed intervals as to the progress of the Services.

The Consultant must attend progress review and co-ordination meetings in accordance with the requirements of the Client and at a location specified by the Client and must attend any other meetings which are desirable to ensure the proper and effective provision of the Services by the Consultant.

CLAUSE 8 DIRECTIONS

Insert the following new subclause 8.6:

8.6 The Client may direct the Consultant to have removed from any activity connected with the Services, within such time as the Client directs, any person employed in connection with the Services who, in the opinion of the Client (acting reasonably), is not acting in the best interests of the Project (which includes being, in the Client's opinion, guilty of misconduct or any criminal activity) or is incompetent or negligent.

A person removed under this clause 8.6 must not thereafter be employed or engaged on the Project or on activities connected with the Services by the Consultant without the prior written approval of the Client.

Insert the following new subclause 8.7:

8.7 Except as expressly stated in this Contract, the Consultant must not rely upon or action any direction, instruction, order or request relating to this Contract or the Services from any person other than the Client.

If the Consultant receives a purported direction, instruction, order or request relating to this Contract or the Services from a person other than the Client, the Consultant must immediately notify the Client.

CLAUSE 9 VARIATIONS

SUBCLAUSE 9.2

Delete subclause 9.2 and replace with the following:

9.2 If the Consultant considers that a Direction constitutes a Variation but the Direction is not in writing or does not specify that it constitutes a Variation, then prior to commencing the work the subject of that Direction (and within 10 Business Days of receiving the Direction), the Consultant must notify the Client in writing that it considers that the Direction constitutes a Variation. The notice required to be given by the Consultant under this clause 9.2 must set

out the grounds on which the Consultant considers that the Direction constitutes a Variation and an estimate of the effect on the Fee and the time for completion of the Services.

If the Client agrees that the Direction constitutes a Variation, then it must notify the Consultant in writing and clause 9.3 will apply as if the Direction was given by the Client under clause 9.1. If the Client does not agree that the Direction constitutes a Variation, then it must notify the Consultant in writing and clause 32 will apply to resolve the Dispute. If the Consultant does not give the notice referred to in this clause 9.2 prior to commencing the work the subject of the Direction, then notwithstanding the remainder of this clause 9, the Consultant will be bound to implement and complete the required work and is not entitled to have the work valued as a Variation under clause 9.3 or to make any claim (whether for payment, adjustment to the Fee or extension of time for completing the Services or otherwise), in respect of that work.

CLAUSE 10 PAYMENT

SUBCLAUSE 10.1

Add the following after the words "Item 8."

The prices referred to in Item 8 (including all hourly rates or fixed prices set out in the Reply) are deemed to include all labour, materials, services, supplies, tasks, fees, taxes (other than GST), disbursements (other than those allowed under clause 10.2), overheads and profit related to the Services.

SUBCLAUSE 10.4

Delete subclause 10.4 and replace with the following:

10.4 The payment claim must:

(a) in respect of the Services:

(i) be in writing and delivered in the approved form (if any) to the Client;

(ii) identify the Services to which the payment claim relates;

(iii) where Alternative 3 applies in Item 13, include evidence that the relevant Services were requested by the Client and dates and times of when they were performed;

(iv) where the basis for payment identified in Item 8 is hourly rates, include detailed timesheets clearly identifying the name of each person who performed the Services, together with the hours worked and the work completed by that person;

(v) separately identify each Variation;

(vi) set out the amount of the Fee claimed, and how that amount was determined; and

(vii) separately identify any other claim for payment under this Contract including a payment stated in Item 20;

(b) if applicable, in respect of disbursements:

(i) identify each disbursement claimed;

(ii) state the amount of the disbursement claimed;

(iii) be accompanied by relevant invoices and receipts for payment;

(c) be accompanied by a statement from the Consultant confirming that*:*

(i) all amounts which are then due and payable by the Consultant to its Subconsultants have been duly paid by the Consultant;

(ii) the claim does not contain any amount for costs under this Contract which are expressly referred to as being at the Consultant's own cost;

(iii) no fees or wages are due and owing by the Consultant in respect of its obligations under this Contract for the period to which the payment claim relates; and

(iv) no Subconsultant or any other person engaged by the Consultant arising out of or in connection with this Contract has a lien or similar entitlement to any of the Deliverables or any item in respect of the Deliverables;

(d) expressly state that it is a payment claim under the SOP Legislation;

(e) be accompanied by any other information and documentation reasonably required by the Client;

(f) be in the form of a valid tax invoice unless a recipient created tax invoice agreement has been entered into by the parties; and

(g) include details of any matters which have arisen to the date of the claim which may affect the total Fee payable under this Contract and, where practicable, an estimate of the amount thereof.

If the Consultant has not complied with paragraph (c) above for any part of the Services which is the subject of the payment claim, the Client is entitled to withhold payment for those Services.

SUBCLAUSE 10.5

Delete subclause 10.5(b) and insert the following:

(b) if the Client intends to pay less than the whole amount claimed (or the Client considers any amounts are owed by the Consultant to the

Client), within 10 calendar days of receipt of a payment claim, issue a payment schedule, which must:

(i) be in writing and in the approved form (if any);

(ii) identify the payment claim to which it relates;

(iii) indicate the amount of the payment (if any) that is intended to be made by the Client to the Consultant and any payment owed by the Consultant to the Client;

(iv) if no payment is proposed to be made, specify this; and

(v) indicate:

a. why the scheduled amount is less or why no payment is proposed; and

b. if the reason is that payment is being withheld, the reason(s) for this.

SUBCLAUSE 10.6

Delete subclause 10.6 and insert the following:

10.6 The Client or the Consultant (as applicable) must pay the amount specified in clause 10.5(a) or 10.5(b) within the period specified in Item 11 or, if no period is specified, within 20 calendar days after the Consultant makes a payment claim under clause 10.4.

SUBCLAUSE 10.8

Delete subclause 10.8 and insert the following:

10.8 If the Client fails to make the payment that is due and payable in accordance with clause 10.6, the Consultant may suspend the performance of the Services in accordance with the SOP Legislation.

SUBCLAUSE 10.9

Delete subclause 10.9 and insert the following:

10.9 If payment is not made in accordance with clause 10.6, interest, applied at the rate in Item 12, is due and payable on the amount outstanding from the date the payment was due until the date payment is made in accordance with clause 10.6.

SUBCLAUSE 10.11

Insert the following new subclause 10.11:

10.11 Where the Consultant engages Subconsultants, the Consultant acknowledges and agrees that:

(a) the Client will make payments to the Consultant only and the Consultant is responsible for making any payment that is due to its Subconsultants; and

(b) if Subconsultant pass-through costs are expressly contemplated in the Standing Offer Order and the Reply, the Consultant may claim the actual costs of engaging the Subconsultant, provided that:

(i) the Client has provided written approval of such costs prior to the Consultant incurring the costs; and

(ii) the Consultant must not claim any mark-up, margin or impost on the amount owed by the Consultant to the Subconsultant.

CLAUSE 10A SOP LEGISLATION

Insert the following new subclause 10A:

10A SOP LEGISLATION

10A.1 This clause 10A applies to the extent that the SOP Legislation applies to this Contract.

Expressions defined or used in the SOP Legislation have the same meaning for the purposes of this clause 10A (unless the context requires otherwise).

10A.2 The Consultant must, if the Consultant becomes aware that a Subconsultant is entitled to suspend work pursuant to the SOP Legislation or if the Consultant receives any communication from any Subconsultant in relation to any adjudication pursuant to the SOP Legislation, promptly and without delay give the Client a copy of any written communication of whatever nature in relation to the SOP Legislation which the Consultant receives from a Subconsultant.

10A.3 If:

(a) the Consultant suspends the Services pursuant to the SOP Legislation, the Consultant will have no claim other than as expressly provided for by the SOP Legislation; and

(b) any Subconsultant suspends the provision by it of work, services, materials or other things (which form part of the Services), the Consultant will have no claim (including for any extension of time under clause 12.2).

10A.4 Nothing in this Contract will be construed to:

(a) make any act or omission of the Client in contravention of the SOP Legislation (including a failure to pay an amount becoming due under the SOP Legislation) a breach of this Contract (unless the Client would have been in breach of this Contract had the SOP Legislation had no application); or

(b) give to the Consultant rights or remedies under this Contract which extend or are in addition to rights or remedies given to the Consultant by the SOP Legislation in respect of any act or omission of the Client in contravention of the SOP Legislation.

CLAUSE 11 GST

Delete the entire clause and replace with the following:

11.1 A word or expression which is defined in the GST Act has the same meaning in this clause 11.

11.2 The Consultant warrants to the Client that:

(a) the Consultant is registered for GST; and

(b) the Consultant's ABN stated in this Contract (or otherwise notified by the Consultant to the Client) is correct.

11.3 The Consultant must notify the Client immediately if it ceases to be registered for GST at any time.

11.4 Unless stated otherwise in the Standing Offer Order, all sums payable, or consideration to be provided, under this Contract are expressed exclusive of GST.

11.5 If this Contract requires a party to pay for, reimburse or contribute to any expense, loss or outgoing ("reimbursable expense") suffered or incurred by the other party, the amount required to be paid, reimbursed or contributed by the first party must be the sum of:

(a) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and

(b) to the extent that the other party's recovery from the first party is consideration for a taxable supply to the first party, any GST payable in respect of that supply.

11.6 Unless the Client notifies the Consultant in writing that it will not issue recipient created tax invoices under this Contract, the following will apply:

(a) the Client will issue tax invoices and adjustment notes in respect of those supplies;

(b) the Consultant must not issue tax invoices or adjustment notes in respect of those supplies;

(c) the Client acknowledges that it was registered for GST when it entered into this Contract and that it will notify the Consultant if it ceases to be registered; and

(d) the Consultant must notify the Client immediately if it becomes aware of an adjustment event occurring in respect of those supplies.

CLAUSE 12 TIME

SUBCLAUSE 12.1

Delete subclause 12.1 and replace with the following:

12.1 The Consultant must, where Item 13 identifies:

(a) Alternative 1, complete the Services by the time stated in Item 13;

(b) Alternative 2, complete the Services in accordance with the program; or

(c) Alternative 3, perform each component of the Services (including preparation of each Deliverable) when reasonably requested by the Client and must complete each component of the Services (including submission of each Deliverable to the Client) in accordance with the timeframes stated in Item 13. The Consultant must not commence a component of the Services (including preparation of a Deliverable) unless requested to do so by the Client.

SUBCLAUSE 12.1A

Insert the following new subclause 12.1A after subclause 12.1:

12.1 A If the Consultant reasonably considers that the performance of the Services may be delayed for any reason, the Consultant must promptly notify the Client in writing with details of the possible delay and proposals for mitigating the risk of delay.

SUBCLAUSE 12.2

Delete the entire subclause 12.2 and replace with the following:

12.2 The Client must grant the Consultant a reasonable extension of time for any delay in completion of the Services caused by:

(a) any breach of this Contract or negligent or unlawful act or omission of the Client or its officers, employees, agents or other consultants or contractors;

(b) a Variation directed by the Client;

(c) a Force Majeure;

(d) an event or circumstance set out in Item 14; or

(e) an event or circumstance for which another provision of this Contract provides that the Consultant may be entitled to an extension of time,

provided that the following conditions precedent to any entitlement to an extension of time are satisfied:

(f) the Consultant must submit a written claim for an extension of time to the Client promptly after the Consultant becomes aware of the delay, which claim must set out the facts on which the claim is based and the period of time for which an extension of time is claimed (or is expected to be claimed if the cause is ongoing);

(g) the completion of the Services has actually been delayed due to one of the causes of delay set out in this clause 12.2; and

(h) the Consultant has taken all reasonable steps to minimise the delay and no reprogramming or alteration of the sequence of activities or other method could avoid the delay.

Where Item 13 provides for a program to be provided by the Consultant, without limiting clause 12.2(f), the Consultant must provide any written claim for an extension of time within 10 Business Days of when the Consultant should reasonably have become aware of the cause of the delay commencing. The Consultant acknowledges that it can comply with this 10 Business Day notice requirement and compliance with the provision is not unreasonably onerous.

SUBCLAUSE 12.3

Immediately after the words “must pay the Consultant’s reasonable” insert the following:

and necessary

SUBCLAUSE 12.4

Insert the following new subclause 12.4:

12.4 The Consultant’s entitlement to an extension of time under clause 12.2 will be reduced to the extent that the delay has been caused or contributed to by:

(a) an act or omission of the Consultant or the Consultant's Personnel; or

(b) any cause of delay which is not set out in clause 12.2.

SUBCLAUSE 12.5

Insert the following new subclause 12.5:

12.5 Where Item 13 provides for a program to be provided by the Consultant for the purposes of clause 12.1, then:

(a) the program must be in a form appropriate for the Services and acceptable to the Client and must:

(i) set out a program for the delivery of the Services to meet the completion date or dates stated in Item 13;

(ii) indicate the interdependencies of each component part of the Services;

(iii) allow appropriate periods for the review by the Client of Deliverables;

(iv) clearly indicate any allowances made in the program for delays to the provision of the Services or any component parts of the Services outside the Consultant's control; and

(v) include a separate timeline for each discrete component of the Services and a completion date for each of those components; and

(b) during this Contract, the Consultant must progressively make the necessary adjustments to the program to ensure that the Consultant is able to achieve the completion dates stated in Item 13.

CLAUSE 13 LAW AND APPROVALS

SUBCLAUSE 13.3

Delete subclause 13.3 and replace with the following:

13.3 If there is a new Legislative Requirement or Approval, or a change in a Legislative Requirement or Approval which:

(a) occurs after agreement of the Fee;

(b) the Consultant is bound to comply with or obtain;

(c) causes the Consultant to incur more or less cost or time than otherwise would have been incurred or expended (other than the costs of any fines or penalties); and

(d) could not have been reasonably anticipated by the Consultant prior to the date of this Contract,

then, provided the Consultant has taken all reasonable steps to mitigate and minimise all costs and expenses, or any delay in the delivery of the Services,

the difference in cost will be valued as a Variation and an extension of time may be granted in accordance with clause 12.

CLAUSE 15 REVIEW AND ACCEPTANCE

SUBCLAUSE 15.2

Delete the entire subclause and replace with the following:

15.2 The Consultant remains responsible for the Services despite any:

(a) review or acceptance of any of the Services or the Deliverables by the Client;

(b) Directions given by the Client in respect of the Services, the Deliverables or the performance of the Consultant's obligations under this Contract; or

(c) failure by the Client to review or accept any of the Services or Deliverables.

CLAUSE 16 ADVERSE EVENT

After the first paragraph, insert the following paragraph:

The Consultant acknowledges and agrees that, except where expressly provided in this Contract, the Consultant will not be entitled to any extension of time, payment for costs incurred or other relief with respect to any matter or circumstances the subject of this clause 16.

CLAUSE 17 COOPERATION WITH OTHERS AND SITE ACCESS

Delete the entire clause 17 and replace with the following:

17.1 In this clause 17:

(a) **Other Contractors** means any consultant, contractor, supplier or other person engaged by the Client, other than the Consultant and its Subconsultants; and

(b) **Project Contractor** means any person who is engaged by the Client to deliver the Project.

17.2 The Consultant must:

(a) fully cooperate with the Client, the Project Contractors and Other Contractors; and

(b) perform the Services in a manner that does not interfere with, disrupt or delay the Project Contractors or Other Contractors.

17.3 If the Consultant requires access to the Project site or any other premises not within the control of the Consultant for the purpose of performing the Services, then:

(a) the Client or Project Contractor (as applicable) will provide such access (or arrange for such access to be provided) to those premises or sites as are reasonably necessary for the Consultant to perform the Services; and

(b) the Consultant must comply (and must ensure that the Consultant's Personnel comply) with:

a. all directions given by the Client, the Project Contractor or any other person in control of the premises or sites; and

b. all procedures and policies relating to work health and safety and security which are in effect at those premises or sites and have been notified to the Consultant.

CLAUSE 18 KEY PERSONNEL

Delete the second sentence and replace with the following:

> If any key person is not available due to circumstances beyond the reasonable control of the Consultant, the Consultant must promptly notify the Client and arrange a replacement (at the Consultant's cost) approved by the Client (such approval not to be unreasonably withheld or delayed).

CLAUSE 20 SUBCONTRACTING AND ASSIGNMENT

SUBCLAUSE 20.2

Delete subclause 20.2 and replace with the following:

> 20.2 The Client may assign, novate or transfer this Contract or any part of it to any person provided it is financially and technically capable of performing the obligations of the Client under this Contract.

SUBCLAUSE 20.4

Insert the following immediately after the end of this subclause:

20.4 The Consultant is liable for the acts and omissions of the Subconsultants as if such acts or omissions were those of the Consultant.

SUBCLAUSE 20.5

Insert the following new subclause 20.5:

20.5 The Consultant must not, without the Client's prior written approval, and except on such terms and conditions as are determined by the Client, permit a Change in Control of it.

CLAUSE 21 COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

SUBCLAUSE 21.4

Delete the entire subclause 21.4 and replace with the following:

21.4 The rights created by clause 21.3 are revocable by the Consultant if the Client does not pay the amount stated in Item 20 (subject to any rights of the Client at law including any right of set-off) within 40 Business Days after the later of:

(a) completion of the Services;

(b) termination of this Contract; or

(c) determination of any dispute regarding the Consultant's entitlement to payment.

If no amount is stated in Item 20 or if Item 20 states that no amount is payable to the Consultant, then this clause 21.4 does not apply.

SUBCLAUSE 21.7

Insert the following new subclause 21.7:

21.7 The Consultant releases and indemnifies the Client from and against all loss and any claims which may be brought or made against the Client by any person, including the Consultant, arising from any actual or alleged infringement of any Intellectual Property Rights or moral rights in respect of the Deliverables.

SUBCLAUSE 21.8

Insert the following new subclause 21.8:

21.8 Without limiting clause 20, where the Consultant subcontracts any part of the Services, the Consultant must ensure that the Subconsultants grant to the

Client a licence to use any Intellectual Property Rights on the same terms as clause 21.3.

CLAUSE 23 CONFIDENTIALITY

SUBCLAUSE 23.1

Delete the words "The parties" and replace with "The Consultant".

SUBCLAUSE 23.3

Delete the entire subclause and replace with the following:

23.3 The Consultant must not publish or enable others to publish any information in connection with the Services or this Contract without the consent of the Client (which may be withheld at the Client's sole discretion).

CLAUSE 24 SUSPENSION BY THE CLIENT

SUBCLAUSE 24.2

Delete the entire subclause and replace with the following:

24.2 Unless the suspension has been directed due to the Consultant's breach of this Contract (including the breach of any Legislative Requirement or Approval), the Client must pay the Consultant any costs and expenses reasonably incurred by the Consultant as a result of the suspension. The Client will not be liable for payment under this clause 24.2 unless and until:

(a) the Consultant provides evidence, to the reasonable satisfaction of the Client, of the costs and expenses incurred by the Consultant; and

(b) the Consultant can demonstrate that the Consultant took all reasonable steps to mitigate and minimise any costs and expenses incurred by the Consultant by reason of the suspension.

CLAUSE 25 SUSPENSION BY THE CONSULTANT

SUBCLAUSE 25.3

Delete the entire subclause and replace with the following:

25.3 If the Consultant suspends the performance of the Services under clause 25.1:

(a) the Consultant must recommence the performance of the Services as soon as possible and give prompt notice to the Client of the recommencement of the Services;

(b) except as expressly provided elsewhere in this Contract, the Consultant will not be entitled to claim any additional costs, extension of time or other form of relief in respect of the suspension of the performance of the Services by the Consultant; and

(c) the Client's payment obligations under this Contract will be suspended during the period of the suspension of the performance of the Services, unless the parties otherwise agree in writing or the payment obligation relates to Services performed prior to the time of suspension.

CLAUSE 26 TERMINATION WITHOUT CAUSE

In the clause heading, immediately after the word TERMINATION, delete the words WITHOUT CAUSE.

SUBCLAUSE 26.2

Delete the entire subclause and replace with the following:

26.2 If this Contract is terminated under clause 26.1, the Client must pay to the Consultant:

(a) the applicable portion of the Fee for the Services performed prior to the date of termination and not included in any prior payment by the Client; and

(b) if applicable, all disbursements incurred by the Consultant prior to the date of the termination which would have been payable had this Contract not been terminated.

The Client is not liable to the Consultant under this clause 26 for any amount greater than the amount that the Client would have paid to the Consultant had this Contract been completely performed.

SUBCLAUSE 26.4

Delete the entire subclause and replace with the following:

26.4 In the event that this Contract is terminated in accordance with this clause 26, the Consultant must deliver to the Client all Deliverables and all Documents which, on completion, would have formed Deliverables.

SUBCLAUSE 26.5

Insert the following new subclause 26.5:

26.5 The Client is not liable to pay the amount due to the Consultant under clause 26.2 until the Consultant has submitted the Deliverables required by clause 26.4.

CLAUSE 27 TERMINATION DUE TO DEFAULT BY EITHER PARTY

Delete the entire clause and replace with the following:

27.1 If either party commits a Default, the other party may give to the party who committed the Default a written notice to remedy the Default. A notice given under this clause 27.1 must:

(a) state it is a notice given under this clause;

(b) specify the alleged Default with reasonable details;

(c) require the party who committed the Default to remedy the Default; and

(d) specify the date (which must not be less than five Business Days after the notice is served) by which the party who committed the Default must remedy the Default.

27.2 If the recipient of a notice given under clause 27.1 fails to:

(a) remedy the Default; or

(b) provide an undertaking in writing (to the reasonable satisfaction of the party issuing the notice) of the steps it intends to take to remedy the Default,

within the time specified in the notice, the other party may, by further written notice, terminate this Contract.

CLAUSE 27A DEFECTIVE SERVICES

Insert the following new clause 27A:

27A DEFECTIVE SERVICES

27A.1 At any time during the term of this Contract, the Client may request a third party to perform any aspect of the Services by way of a peer review of the Services performed by the Consultant.

27A.2 If, acting reasonably, the Client considers that the Services have not been performed in accordance with this Contract (whether following a review

referred to in clause 27A.1 or otherwise), then, without limiting any other remedy available to the Client, the Client may by notice to the Consultant:

(a) identify the Services which have not been performed in accordance with this Contract, including the non-compliances with this Contract; and

(b) require the Consultant to rectify or remedy the Services and identify the time within which the Services must be rectified or remedied.

27A.3 If the Consultant fails to rectify or remedy the Services in accordance with the Client's notice under clause 27A.2, the Client may engage another consultant to provide the Services (or provide the Services itself) and the Consultant must reimburse the Client for any additional costs and expenses incurred by the Client as a result of engaging another consultant (or providing the Services itself). The Client is entitled to set off the additional costs and expenses incurred by the Client under this clause 27A.2 against any amounts payable to the Consultant under this Contract.

CLAUSE 28 INDEMNITY

SUBCLAUSE 28.1

Delete clause 28.1 and replace with the following:

The Consultant indemnifies the Client and the Client's Personnel (**Indemnified Persons**) against any liability, loss, damage, cost, expense or claim suffered or incurred by the Indemnified Persons arising out of or in connection with, whether directly or indirectly, the performance or the non-performance of the Consultant's obligations or any act or omission of the Consultant or the Consultant's Personnel, including by reason of any:

(a) tort, including negligence or breach of statutory duty by the Consultant or the Consultant's Personnel;

(b) breach of equitable duty, including breach of confidentiality or breach of fiduciary duty by the Consultant or the Consultant's Personnel; or

(c) breach of this Contract by the Consultant.

CLAUSE 29 LIMITATION OF LIABILITY

SUBCLAUSE 29.1

Immediately after the words "the amount specified in Item 24" delete the words "if any" and replace with the following:

If no amount is specified in Item 24, the liability of the Consultant is not limited.

SUBCLAUSE 29.3

Insert the following new subclause 29.3:

29.3 The Client may set off or deduct from any amount payable to the Consultant under this Contract any money that is payable by the Consultant to the Client under this Contract or any other contract between the Client and the Consultant.

CLAUSE 30 INSURANCE

SUBCLAUSE 30.5

Delete subclause 30.5 and replace with the following:

30.5 Before the Consultant commences work, and whenever requested in writing by the Client, the Consultant must provide to the Client proof to the Client's reasonable satisfaction of currency and coverage of each policy of insurance.

SUBCLAUSE 30.8

Insert the following new subclause 30.8:

30.8 The insurances contemplated by this clause 30 are primary and not secondary to the indemnities referred to in this Contract. For the avoidance of doubt, the parties acknowledge that, if a claim is made under any of those insurances by the Client, it is their intention that the insurer cannot require the Client to exhaust any indemnities referred to in this Contract before the insurer considers or meets the relevant claim.

Notwithstanding the above, the Client is not obliged to make a claim or institute proceedings against any insurer under those insurances before enforcing any of its rights or remedies under the indemnities referred to in this Contract, or generally.

SUBCLAUSE 30.9

Insert the following new subclause 30.9:

30.9 Without limiting clause 20, where the Consultant subcontracts any part of the Services, the Consultant must ensure that the Subconsultant effects insurance on similar terms to those set out in this clause 30. The Consultant must, on request by the Client, provide evidence of the insurances effected by the Subconsultant.

CLAUSE 32 DISPUTE RESOLUTION

SUBCLAUSE 32.1

Delete the entire subclause and replace with the following:

32.1 If a dispute or difference between the Consultant and the Client arises out of or in connection with this Contract, either party may serve the other party with a notice of dispute in writing identifying and providing all details of the dispute or difference.

SUBCLAUSE 32.4

Delete the entire subclause and replace with the following:

32.4 If the dispute has not been resolved within 20 Business Days of service of the notice of dispute, either party may commence litigation or, if agreed in writing by the parties, commence arbitration or other alternative dispute resolution proceedings.

CLAUSE 35 GOVERNING LAW

Delete the words "and each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in that State or Territory." and replace with the following:

Each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in that State or Territory and courts of appeal from them in respect of any proceedings arising out of or in connection with this Contract. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

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3. The following clauses have been added to those of AS 4122-2010:

37 WARRANTIES

The Consultant warrants that:

(a) it has full power and authority to enter into and perform its obligations under this Contract;

(b) the Consultant and all of the Consultant's Personnel are competent and have all the necessary skills, training and qualifications to perform the Services;

(c) it has taken all necessary action to authorise the execution, delivery and performance of this Contract in accordance with its terms; and

(d) this Contract constitutes legal, valid and binding obligations and, subject to any necessary stamping and registration, is enforceable in accordance with its terms.

38 WORK HEALTH AND SAFETY

(a) The Consultant must at all times discharge its responsibilities under all statutory requirements relating to work health and safety, including the WHS Laws, that are applicable to the provision of the Services including identifying and exercising all necessary precautions for the safety and health of all persons including:

(i) the Consultant's Personnel;

(ii) the Client's Personnel; and

(iii) any other person,

who may be affected directly or indirectly by or as a result of activities related to this Contract or the provision of the Services.

(b) Without limiting the Consultants obligations under this Contract, the Consultant must:

(i) comply with its WHS Notification Requirements and notify the Client as soon as practicable after any incident which necessitates such notification being made; and

(ii) consult, co-operate and co-ordinate with the Client in respect of the discharge of the parties' obligations in connection with the provision of the Services under WHS Laws and provide all information and documents to the Client that are reasonably necessary to facilitate the process of consultation, coordination and cooperation.

39 CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE

(a) If the Client considers, or the Consultant gives notice to the Client that it considers, that any of the terms of this Contract contain an ambiguity, conflict, discrepancy or inconsistency, the Client will direct the interpretation of this Contract which the Consultant must follow.

(b) In giving a direction in accordance with clause 39(a), the Client:

(i) is not required to determine whether or not there is an ambiguity, conflict, discrepancy or inconsistency in the terms of this Contract; and

(ii) must have regard to the order of precedence of the Contract Documents as set out in Item 3.

(c) The Consultant will bear the costs of compliance with a direction under clause 39(a) unless the Client directs the Consultant to follow an interpretation that could

not reasonably have been arrived at by a competent consultant experienced in services of a similar character, size and complexity to the Services. If such a direction is given, the direction will be deemed to be a Variation and the corresponding adjustment to the Fee will be determined in accordance with clause 9.3.

40 DISCLOSURE OF CONTRACT INFORMATION AND DOCUMENTS

(a) In this clause, the expression "Contract Award Information" means:

(i) the general description of goods and services the subject of this Contract;

(ii) the Consultant's name; and

(iii) the Fee.

(b) The Contract Award Information will be publicly available and published on the Tenders WA website after this Contract is legally established.

(c) Documents and other information relevant to this Contract may be disclosed when required by law under the *Freedom of Information Act 1992* (WA), tabling of documents in Parliament or under a court order.

(d) The Consultant will not have, make or bring any action, suit, claim, demand or proceeding against the Client for any loss resulting from public disclosure of Contract Award Information.

41 ACCESS BY THE AUDITOR GENERAL

The parties acknowledge and agree that, notwithstanding any provisions of this Contract to the contrary, the powers and responsibilities of the Auditor General for the State of Western Australia under both the *Auditor General Act 2006* (WA) and the *Financial Management Act 2006* (WA) are not limited or affected by the terms of this Contract.

42 RELATIONSHIP

This Contract does not create a relationship of employment, trust, agency, partnership or joint venture between the parties. The Consultant must not represent that the Consultant is the employee, agent, partner or joint venture partner of the Client.

43 CONSULTANT PERFORMANCE

43.1 CONSULTANT PERFORMANCE REPORTING

(a) The Client will, at various stages during this Contract, prepare a report for the use of the Client in respect of aspects of the Consultant's performance. The frequency of the reports will be determined by the Client but will not be less than one occasion during the period of this Contract and at completion of the Services. A sample report will be made available to the Consultant upon request.

(b) The Consultant acknowledges that the Client may use the outcome of these performance reports when considering future tendering and contracting opportunities of the Consultant.

43.2 SUPPLIER DEMERIT SCHEME

(a) Where the Client is the Department of Housing and Works (**Department**), the Consultant agrees to be subject to the operation of the Department's "Supplier Demerit Scheme" (**Scheme**) as set out on the WA Government's webpage:

www.wa.gov.au/government/multi-step-guides/supplying-works-related-services/supplier-performance-management-government-non-residential-building-projects.

(b) If the Consultant fails to meet Departmental requirements (as a defined "Infraction" for the purposes of the Scheme) the Department will, unless it determines otherwise, apply one or more demerits to the Consultant under the Scheme depending on the severity of the "Infraction".

(c) If the Consultant has received three demerits under the Scheme within a three-year period, the Department will, unless it determines otherwise, apply a sanction set out under the Scheme to the Consultant.

(d) The Department's operation of the Scheme is in addition to and does not limit any other rights the Client may have under this Contract or at law in relation to any act, matter or thing that may be treated as an "Infraction" for the purposes of the Scheme.

(e) The Consultant's agreement to be subject to the operation of the Scheme pursuant to this clause will survive the performance, expiration, frustration, rescission, novation, assignment or termination of this Contract for any reason for as long as the Department operates the Scheme in its sole discretion.

44 BUY LOCAL POLICY

44.1 CONSULTANT BUY LOCAL POLICY OBLIGATIONS

(a) Where the Standing Offer Request for Supply provides that the Buy Local Policy applies to this Contract and the Consultant claimed a Regional Price Preference (Regional Business Preference and/or a Regional Content Preference) in its Reply, the Consultant warrants that:

(i) it will comply with the Buy Local Policy and any other applicable government procurement policies as set out in the Standing Offer Request for Supply and Contract Documents; and

(ii) any undertakings made in its Reply will be met in full.

(b) The Consultant must use the regional content detailed in its Reply or, where agreed by the Client, alternative regional content to the same value.

(c) If the Consultant is unable to use the agreed regional suppliers or Subconsultants detailed in its Reply, the Consultant must:

(i) immediately notify the Client; and

(ii) where agreed by the Client in writing, use substitute regional suppliers or Subconsultants of comparative qualifications, skill and experience ensuring the substitute business(es) use eligible regional content.

44.2 ENFORCEMENT OF BUY LOCAL POLICY

(a) If the Consultant fails to comply with clause 44.1 (in whole or part), the Client may, in addition to any other contractual or common law remedy available to it, do any one or more of the following:

(i) recover from the Consultant any Regional Price Preference it received;

(ii) require the Consultant to use eligible regional content (i.e. goods, materials or services) in accordance with the Buy Local Policy and/or its undertakings referred to above;

(iii) exercise a right under clause 27; or

(iv) suspend the Consultant from further contracting opportunities with the Client for a period of time determined by the Client.

(b) The Client will, in its absolute discretion, determine if the Consultant has failed to comply with the Buy Local Policy or its undertakings set out in its Reply and the extent of any such failure. The Client's determination will be final and binding on the parties.

(c) If the Client determines that the Consultant is non-compliant and exercises its rights under subclause (a) above, the difference between the amount of the Consultant's Reply and the amount of the lowest conforming Reply will be a debt due from the Consultant to the Client, which the Client is entitled to deduct from the Fee or any security it holds, or to recover from the Consultant in any court of competent jurisdiction.

44.3 BUY LOCAL COMPLIANCE REPORTING

(a) Where the Standing Offer Request for Supply provides that the Buy Local Policy applies to this Contract and the Consultant was granted a Regional Content Preference, it must submit a Monthly Compliance Report reporting on its compliance with the Buy Local Policy and its Reply commitments, and all regional spend (including but not limited to Reply specified spend) (using the Department's Monthly Compliance Report template available on the WA Government website: https://www.wa.gov.au/government/publications/monthly-compliance-report-template) and adequate supporting evidence.

(b) Where the Fee is:

(i) less than $250,000, the Consultant must submit the *Monthly Compliance Report* to the Client if requested by the Client; or

(ii) $250,000 or more, the Consultant must submit the *Monthly Compliance Report* to the Client with each payment claim.

(c) The report must detail the Consultant's regional content expenditure to the date of the payment claim for each item of regional content included in the Consultant's Reply and any regional content not claimed in its Reply.

(d) The Client may direct the Consultant to provide further supporting evidence of cost to demonstrate to the Client's reasonable satisfaction that the Consultant is actually using or has used the regional content outlined in its Reply, or where agreed by the Client, alternative regional content to the same value.

(e) The Client may provide the Monthly Compliance Reports to the Department of Energy and Economic Diversification (**DEED**), the Buy Local Policy owner and administrator. JTSI may appoint an independent auditor to confirm if the Consultant has met its regional content commitments. The Consultant acknowledges and consents to the Client's disclosure of its Monthly Compliance Reports to JTSI for Buy Local Policy administration purposes.

45 ABORIGINAL PARTICIPATION COMPLIANCE REPORTING

Where the Consultant has claimed in its Reply an Aboriginal tendering preference, the Consultant must provide details of its aboriginal participation in a *Monthly Compliance Report* (using the Department's *Monthly Compliance Report* template available on the WA Government website: https://www.wa.gov.au/government/publications/monthly-compliance-report-template) and adequate supporting evidence.

46 WESTERN AUSTRALIAN INDUSTRY PARTICIPATION STRATEGY – PARTICIPATION PLAN OBLIGATIONS AND REPORTING

46.1 APPLICATION

Where the Standing Offer Request for Supply provides that the Western Australian Industry Participation Strategy applies to this Contract, this clause 46 applies.

46.2 DEFINITIONS

In this clause, the following terms have the following meanings, unless the context otherwise requires:

(a) **"ILAS"** means the Industry Link Advisory Service at the Department of Jobs, Tourism, Science and Innovation. More information on ILAS can be found at https://www.wa.gov.au/organisation/department-of-jobs-tourism-science-and-innovation/support-businesses#industry-link-advisory-servicel; and

(b) **"Participation Plan"** means the *Western Australian Industry Participation Strategy – Participation Plan* document submitted by the Consultant with its Reply or otherwise forming part of the Contract Documents or submitted after the award of this Contract, that complies with WAIPS and being to the satisfaction of the Client.

46.3 REQUIREMENT FOR A COMPLETE PARTICIPATION PLAN

Unless already provided to the Client's satisfaction, the Consultant must provide to the Client a completed Participation Plan in compliance with WAIPS and also being to the satisfaction of the Client within 28 days of the date of award of this Contract.

46.4 THE PARTICIPATION PLAN

(a) The Consultant must, in performing its obligations under this Contract, comply with the statements of intention, proposals, undertakings and commitments which are given or made by the Consultant in "Section B: Industry Engagement" of the Participation Plan (**Participation Plan Obligations**).

(b) The Consultant acknowledges and agrees that its Participation Plan Obligations apply during the term of this Contract, any extensions of the term of this Contract and until all of its reporting obligations as set out in the subclauses below are fulfilled.

(c) The Consultant acknowledges and agrees that the Participation Plan Obligations include the Consultant ensuring its Subconsultants (at any tier) do what is necessary to enable the Consultant to comply with subclauses (a) and (b) above.

(d) The Client may, in its absolute discretion and notwithstanding clause 10, withhold payment of moneys due to the Consultant until the Consultant satisfies the Client that it has complied with the requirements of the policy, including but not limited to the Consultant providing a complete Participation Plan.

46.5 VARIATION OR REVISION OF PARTICIPATION PLAN

If a party wishes to vary or revise the Participation Plan, the parties must liaise in good faith with a view to agreeing and then documenting the proposed variations or revisions. If the parties cannot agree on a variation or revision of the Participation Plan, it will remain unchanged.

46.6 PARTICIPATION PLAN REPORTING

(a) **Participation Plan Reporting**

(i) The Consultant must submit a completed WAIPS Participation Plan Report upon the termination or expiry of the Contract (Participation Plan Report).

(ii) The Consultant must ensure that the Participation Plan Report is:

(A) is prepared using the Participation Plan Report form available on the WAIPS Portal, at waips.industrylink.wa.gov.au;

(B) complies with the WAIPS Portal report submission and content requirements, including with respect to authority, accuracy, currency and detail; and

(C) is submitted via the WAIPS Portal no later than two months after the termination or expiry of the Contract.

WAIPS Portal information for businesses, including information in relation to participation plan reporting, is available on WA.gov.au.

46.7 VERIFICATION OF CONSULTANT'S COMPLIANCE WITH PARTICIPATION PLAN

(a) The Consultant must:

(i) permit the Client or its duly authorised representative, from time to time during ordinary business hours and upon notice, to inspect, verify and make copies at the Client's expense of all records maintained by the Consultant for the purposes of this Contract;

(ii) permit the Client, or its duly authorised representative, from time to time to undertake a review of the Consultant's performance of the Participation Plan Obligations; and

(iii) ensure that its employees, agents and Subconsultants (at all tiers) give all reasonable assistance to any person authorised by the Client to undertake such audit or inspection.

(b) If the Client requests from the Consultant information or access to documentation in connection with the Participation Plan or the Participation Plan Obligations, or information or documentation in connection with any Participation Plan Report, the Consultant must promptly comply with such request, ensuring that the information or documentation provided, or to which access is provided, is accurate, up-to-date, comprehensive, sufficiently detailed, and in no way misleading or deceptive.

(c) The Consultant authorises the Client, and any duly authorised representative of the Client, to obtain information from any relevant persons, firms or corporations, including third parties, regarding the Consultant's compliance with the Participation Plan Obligations.

(d) The obligations set out in the subclauses above are in addition to and do not derogate from any other obligation under this Contract.

46.8 VERIFICATION OF PARTICIPATION PLAN

The Consultant must ensure that both the Participation Plan and the Participation Plan Report is endorsed and verified as being true and correct by the Consultant's Chief Executive Officer, Managing Director or equivalent.

46.9 USE OF INFORMATION

Both the Client and the State of Western Australia may use or disclose the Participation Plan, any Participation Plan Report, or any information or documentation referred to in the clauses above for the legitimate purposes of or relating to government or the business of government.

46.10 COMPLIANCE WITH PARTICIPATION PLAN

The Consultant acknowledges that if the Consultant does not comply with the Participation Plan Obligations, this may result in the State (including any agency, department, authority or instrumentality of the State) not awarding a supply contract, or supply contracts, to the Consultant in the future.

46.11 CLAUSE SURVIVES

This clause survives the termination or expiration of this Contract.

47 CIVIL LIABILITY ACT 2002 (WA)

(a) Notwithstanding any other provision of this Contract, the operation of Part 1F of the *Civil Liability Act 2002* (WA) is excluded in relation to all and any rights, obligations and liabilities (including negligence) arising out of or in connection with this Contract or the performance of the Services.

(b) Without limiting paragraph (a), it is further agreed that the rights, obligations and liabilities of the parties (including those relating to proportionate liability) are as specified in this Contract and not otherwise whether such rights, obligations and liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law.

(c) The Consultant must ensure that all insurance policies required by this Contract which cover third party liability:

(i) cover the Consultant for potential liability to the Client assumed by reason of the exclusion of Part 1F; and

(ii) do not exclude cover for any potential liability the Consultant may have to the Client under or by reason of this Contract.

48 AUDIT OF EMPLOYMENT CONTRACT AND INDUSTRIAL RELATIONS PRACTICES

(a) For the purposes of this clause:

Employment related Information means Information pertaining to employees or the terms and conditions of their employment, or payroll;

Information includes information, facts, data, records and documentation; and

Subconsultants means subconsultants (at any tier) of the Consultant.

(b) An agent or representative of the Client may commission an audit of the Consultant's or any Subconsultant's employment or industrial relations practices (including terms of employment) in connection with this Contract and goods or Services performed or provided under or in connection with this Contract, and, upon such commissioning, the following provisions apply.

(c) The Consultant must, and must ensure that its Subconsultants, fully cooperate with the agent or representative of the Client and any auditor appointed by them in any audit including to:

(i) allow an agent or representative of the Client access to all employment related Information in the Consultant's or Subconsultant's (as the case may be) ownership, possession or control, and allow an agent or representative of the Client to conduct audits of all employment and

payroll records in the Consultant's or Subconsultant's (as the case may be) ownership, possession or control;

(ii) allow auditors appointed by the agent or representative of the Client to communicate directly with employees of the Consultant or Subconsultants (as the case may be), and to have access to sites and premises in the ownership, possession or control of the Consultant or relevant Subconsultant (as the case may be) for the purpose(s) of the audit;

(iii) ensure that all employment related Information (including access to such Information), in the Consultant's or relevant Subconsultant's ownership, possession or control, is promptly provided to the auditor on request; and

(iv) promptly rectify any problem or wrong identified by the auditor and notified to the Consultant or relevant Subconsultants (as the case may be).

(d) The Consultant acknowledges and agrees, and must ensure that each of its Subconsultants acknowledge and agree, that the agent or representative of the Client may refer any problem or wrong identified by the auditor to any State or Commonwealth body or authority having an oversight role in respect to employment or industrial relations matters.

49 SECURITY SCREENING AND ACCESS TO RESTRICTED PREMISES

49.1 Definitions

(a) For the purpose of this clause 49:

National Police Certificate means a national police certificate issued by the Western Australia Police Force or the police force of another Australian jurisdiction.

Premises means any premises other than the Contractor's premises, which:

(i) are identified in the Standing Offer Request for Supply or other Contract Documents; or

(ii) are premises on which the Services are to be supplied or to which the Consultant has access in order to supply the Services, and includes anything on those premises.

Restricted Premises means any school or any other Premises where children are likely to be present.

49.2 Screening and National Police Certificates

(a) The Client may direct the Consultant, at any time and from time to time, to provide it with a National Police Certificate in respect of any Consultant's Personnel, any supplier and any other person engaged by the Consultant in connection with the

performance of the Contract, and the Consultant must comply with that direction within 15 Business Days of such direction.

(b) The issue date of each National Police Certificate produced by the Consultant under clause 49.2(a) must be no more than two years prior to the date of production.

(c) The Consultant must not permit any Consultant's Personnel, any suppliers or any other persons engaged by it in relation to the performance of the Contract to access Premises or any part of the Client ICT Environment where that person's National Police Certificate discloses criminal convictions that relate to:

(i) crimes of a violent or sexual nature;

(ii) dealing or trafficking in illegal drugs;

(iii) fraud or dishonesty; or

(iv) other criminal convictions that are punishable by a term of imprisonment or by a fine or penalty of $10,000 or more,

unless, on disclosure of such convictions, the Client has approved their access in writing.

(d) If any National Police Certificate evidences that any Consultant's Personnel, any supplier or any other person engaged by the Consultant in connection with the performance of the Contract has committed a criminal or statutory offence of the type described in clause 49.2(c), then the Consultant must promptly notify the Client and:

(i) the Client may, without prejudice to its other rights under the Contract, direct the Consultant to remove that person from any activity connected with the Contract (which direction may be via any medium, including orally or by email); and

(ii) the Consultant must, at its own cost, remove that person as directed under clause 49.2(d)(i):

(A) promptly and, in any event, within any reasonable timeframe included in the Client's direction; and

(B) appoint a replacement with at least equivalent experience, skills and knowledge who is acceptable to the Client.

(e) In complying with this clause 49.2, the Consultant must avoid any interruption to the Consultant's obligations under the Contract.

(f) An individual removed under this clause 49.2 must not be employed or engaged in respect of the Contract without the Client's prior written approval.

(g) A breach of clause 49.2(c), 49.2(d)(ii)(A) or 49.2(f) will be deemed a Default which cannot be remedied.

49.3 Restricted Premises Clearance

(a) In relation to Restricted Premises, the Consultant must:

(i) obtain and maintain a current police clearance in the form of a National Police Certificate for any Consultant's Personnel, any suppliers and any other persons engaged by it in connection with the performance of the Contract prior to such persons attending the Restricted Premises; and

(ii) complete the Client's "Confidential Declaration" form for each Restricted Premises to be attended (a copy of which can be obtained from the Client), and

(iii) promptly provide evidence to the Client as requested by the Client from time to time.

(b) If a National Police Certificate required under clause 49.3(a) discloses any convictions of the type described in clause 49.2(c)(i) to (iv) (**Screening and National Police Certificates**), the Consultant must:

(i) promptly notify the Client; and

(ii) ensure that the relevant Consultant's Personnel is removed from and does not enter the Restricted Premises without the prior written consent of the Client.

(c) The Consultant must maintain the currency of each National Police Certificate required under clause 49.3(a) in accordance with the requirements specified in the Contract, or as otherwise prescribed by the Client by notice to the Consultant.

(d) The confidential declaration referred to in clause 49.3(a)(ii) will be deemed to have been re-made by each such person on each and every occasion they enter Restricted Premises.

(e) If the Contract involves attendance at Restricted Premises, the Consultant must cooperate with the Client's nominated representative to maintain effective control of access to Restricted Premises.

49.4 Working with Children

(a) If the Contract involves "child-related work" (as that term is defined in section 6 of the *Working with Children (Screening) Act 2004* (WA)) (the **Act**) then:

(i) all Consultant's Personnel who will undertake "child-related work" must provide to the Client an assessment notice under section 12 of the Act before they commence work under the Contract; and

(ii) the Consultant must otherwise at all times comply, and ensure that all Consultant's Personnel comply, with the provisions of the Act.

(b) The Consultant must immediately remove any Consultant's Personnel from Premises who do not have a current assessment notice.

(c) A breach of this clause will be deemed a Default which cannot be remedied.

50 BUILDING SERVICES (REGISTRATION) ACT 2011

(a) Where required to be registered under the *Building Services (Registration) Act 2011* (WA) (**Building Services Act**), the Consultant must provide to the Client evidence of registration. Evidence of registration must be provided by the date the requirement commences under the Building Services Act. Failure to provide evidence of registration is deemed to be a Default.

(b) Where the Contract commences after the date the requirement commences in the Building Services Act, then evidence of registration must be provided within 5 Business Days of the commencement date of the Contract.

(c) For the purpose of clause 13.3, no Variation will arise (and no costs will be payable) as a result of complying or not complying (as the case may be) with any Engineers Registration Scheme.

51 APPLICATION OF PRIVACY LAWS AND PRIS ACT

In this clause 51.:

Government Agency means any Australian government or any governmental, semi-governmental, administrative, regulatory, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, Minister of the Crown, Ministerial Body, agency, entity or Parliament**.**

Personal Information has the meaning given to it in the PRIS Act.

PRIS Act means the *Privacy and Responsible Sharing of Information Act* 2024 (WA).

Privacy Act means the *Privacy Act* 1988 (Cth).

Privacy Commissioner means the Australian Information Commissioner, the Information Commissioner and the Privacy Deputy Commissioner (as each of those terms is defined in the PRIS Act), and (upon commencement of the relevant provision) any other authority to whom a privacy complaint is referred in accordance with section 93 of the PRIS Act.

(a) The Consultant must:

i. comply with its obligations (if any) under or arising pursuant to the Privacy Act;

ii. whether or not the Consultant is an organisation which is bound by the Privacy Act or other privacy laws, comply with the Australian Privacy Principles set out in the Privacy Act as if it were required to comply with that legislation;

iii. facilitate the Principal's compliance with their obligations under the PRIS Act, including providing assistance as requested by the Principal; and

iv. not do or omit to do anything that is likely to cause the Principal or their respective officers, employees or agents to contravene the PRIS Act, to the extent relevant to the Contract.

v. The Consultant also agrees to comply with:

(A) such other Commonwealth, State or Territory legislation related to privacy;
(B) any directions made by a Privacy Commissioner;

(C) any reasonable policies, procedures and guidelines of the Principal relating to privacy; and

(D) any other reasonable direction relating to privacy which is given by the Principal.

(b) Without limiting the Consultant's obligations under clause 51(a), the Consultant must, in relation to any Personal Information which it collects, holds, uses, has access to, or otherwise deals with in the course of performing its obligations under, or otherwise in connection with the Contract:

i. take all reasonable steps to ensure the Personal Information is protected against loss and unauthorised access, use, modification or disclosure; and

ii. where any breach of privacy occurs due to the Consultant's failure to comply with any obligation under this clause 51, do all things necessary to mitigate the consequences of that breach;

iii. not modify or disclose the Personal Information except with the Principal's prior written approval; and

iv. ensure that the Personal Information is returned to the Principal (or is permanently destroyed if the Principal so elects) when it is no longer required for the performance of the Consultant's obligations under the Contract.

(c) The Consultant must immediately notify the Principal (providing full details) if it:

i. becomes aware of any suspected or actual misuse of, or any unauthorised access to or disclosure of, Personal Information held by the Consultant or the Consultant Personnel;

ii. receives, or otherwise becomes aware of, any complaints concerning its or the Principal's compliance with privacy obligations, including full details of how the Consultant intends to resolve the complaint;

iii. becomes aware that a disclosure of Personal Information may be required by law; or

iv. is approached with respect to privacy by any Government Agency or by any individual to whom any Personal Information relates.

(d) The Consultant must co-operate fully with the Principal to resolve:

i. any request, inquiry or notice from a Government Agency in relation to Personal Information which it collects or has access to in the course of performing its obligations under; or

ii. any complaint alleging a breach by any party of their respective privacy obligations in connection with, the Contract.

(e) Nothing in this clause 51 is intended to limit any obligation of the Consultant under the PRIS Act or the Privacy Act (if applicable) with respect to Personal Information.

(f) This clause 51 survives the termination or expiry of the Contract.

ANNEXURE C – PRACTICE BRIEF

The WCS2024NR1 Non-Residential Engineering and Building Related Services Practice Brief outlines how the Respondent must engage with Eligible Customers to deliver the Standing Offer Deliverables and may be issued by an Eligible Customer with its Standing Offer Request for Supply.

Suppliers are responsible for familiarising themselves with the Practice Brief and for applying requirements where the Practice Brief specifies standard requirements for specific State Agencies if applicable.

The Practice Brief may be customised by the Customer to fit the scope of work prior to the issue of the Standing Offer Request for Supply and is binding on the Supplier in any resultant contract.

See attached Annexure C.