



TransGrid

Conditions for Supply of Information & Communications Technology Products and Services

NSW Electricity Networks Operations Pty Limited (ACN 609 169 959) as trustee for NSW Electricity Networks Operations Trust (ABN 70 250 995 390) trading as TransGrid

and

Supplier
ACN ### # ## # ##

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The Quotation Conditions outlined at Part A apply to any Quotation submitted by the Supplier in relation to the Products, Deliverables and Services described in this Schedule 1. Once the Quotation has been accepted by TransGrid in accordance with clause 3 of Part A, the Order Conditions outlined at Part B will apply to any Products, Services and Deliverables ordered by TransGrid. Any terms not defined in Part A have the meaning given in Part B. Otherwise, the terms defined in Part C apply to both Part A and Part B. On the date of that the Quotation is accepted (the “**Effective Date**”), the Contract is formed between the party submitting the Quotation (“**Supplier**”) and NSW Electricity Networks Operations Pty Limited (ACN 609 169 959) as trustee for NSW Electricity Networks Operations Trust (ABN 70 250 995 390) trading as TransGrid (“**TransGrid**”).

PART A: Quotation Conditions

1. Lodging Quotations

What to provide: In order to provide a quote for the supply of Works, the Supplier must return to TransGrid: (1) a completed copy of the ‘Returnable Schedules’ issued by TransGrid, including the Quotation Form and any Schedule of Rates, and (2) any other relevant attachments to the Quotation Form (collectively, a “**Quotation**”) and (3) a full copy of the signed Contract with Part D signed by the Supplier. The “**Quotation Form**” means the form provided by TransGrid, using which the Supplier submits a binding quote for the supply of Products, Services and/or Deliverables.

How to lodge: The Quotation Form and attachments and the Schedule of Rates must be completed in all respects, in accordance with clause 3, and be submitted via one of the following methods: (1) eTender or (2) Email. Quotations must be submitted so as to be received by TransGrid before the closing time stated on the Quotation Form.

2. Complying Quotations

2.1 Initial quotation

Any quotation submitted by the Supplier must comply with the requirements of the Quotation Form, and this Contract including the Specifications. Subject to any applicable software licence terms, the Supplier must not include conditions of sale, commercial departures or add special conditions to the Order Conditions. TransGrid may request the Supplier to withdraw such conditions, departure or special conditions at no additional cost to TransGrid, and failure by the Supplier to do so may result in the Quotation being excluded from further consideration.

2.2 Alternative quotations

Provided the Supplier has submitted a Quotation in accordance with clause 2.1, the Supplier is permitted to submit alternative Quotations in relation to the same Products, Deliverables and Services described in Schedule 1. If the Supplier submits an alternative Quotation, the Supplier must state specifically (i) in what respect each alternative is not in compliance with clause 2.1. and (ii) any advantage to TransGrid that, in the Supplier's opinion, is likely to be derived as a result. Except in the respects stated by the Supplier, the Supplier must ensure that the alternative Quotations comply with clause 2.1. The Supplier must state the pricing for each alternative proposed, including a breakdown of rates (“**Alternative Rates**”). The Supplier must include all costs required to deliver the Products, Deliverables and Services. Where the Alternative Rates do not provide rates for all of the materials specified in the Schedule of Rates, the rates provided in the Schedule of Rates will apply for all such materials.

2.3 Open source materials

In the event that the Supplier provides any open source materials, such open source materials must be specified in the Quotation.

3. Acceptance of Quotation

TransGrid is not bound to accept any Quotation and is not, in any circumstances, responsible for any costs incurred by the Supplier in preparing and submitting a Quotation, including the Initial Quotation and any alternative Quotations. TransGrid reserves the right to terminate the tender process at any time prior to the Effective Date, without incurring any liability to the parties responding to the request for quotation. TransGrid reserves the right to Supplier

accept a Quotation on an item by item basis. The Quotation is deemed to be accepted on the date that TransGrid countersigns Part D of the contract (the “**Effective Date**”).

4. Supplier’s Obligation to Inform Itself

- 4.1.1 The Supplier must use all best endeavours to inform itself in relation to the Products, Services and Deliverables and any Specifications, including by reasonable request for further information from TransGrid prior to submitting a Quotation. The Supplier must ensure that any Quotation is based on the current and accurate Specifications
- 4.1.2 TransGrid does not warrant that the TransGrid Information (as defined at clause 16.1.1) provided for another Quotation, regardless of its similarity in subject matter, will be valid or applicable to this request for quotation and the Supplier relies upon any alternative information at its own risk.

PART B: Order Conditions

5. Supply of Products and Services

5.1 Supply

The Supplier:

- (a) must provide any Products, Services and Deliverables specified in the accepted Quotation;
- (b) must supply any Products, Services and Deliverables in accordance with the Contract, in conformance with the Specifications and in compliance with all Laws;
- (c) grants to TransGrid a non-exclusive licence to use the Products in accordance with this Contract and any third party licence terms appended to the Quotation and accepted by TransGrid; and
- (d) must ensure that any Products and Deliverables are free from all encumbrances; and

5.2 Supply Schedule

- 5.2.1 TransGrid will specify in writing, and the Supplier must meet, a reasonable time by which the Supplier must submit to TransGrid a schedule for the delivery of any Products or Deliverables and performance and completion of any Services.
- 5.2.2 The Supplier must deliver any Products, Deliverables and Services in accordance with the schedule agreed pursuant to clause 5.2.1.

6. Delivery

Any Products, Services and Deliverables will be deemed to have been “**delivered**” when the Supplier has fulfilled all its obligations under the Contract and the Supplier has notified TransGrid in writing that all Products, Services and Deliverables specified in the Quotation (as the case may be) have been delivered and implemented in accordance with the Specifications.

7. Risk and Title

Except for those Products or Deliverables that are expressly stated in the Quotation as being subject to a licence, the risk and ownership in any Products and Deliverables or that are to be supplied under the Contract will pass to TransGrid upon delivery of the Products or Deliverables (as the case may be) to the Site, to TransGrid electronically, or other location agreed between the parties.

8. Delay

- 8.1.1 As soon as practicable after becoming aware of any matter that is likely to change or that has changed the scope or timing of the delivery of any Products, Deliverables and Services, the Supplier must give written notice, in the form of a Change Request, to TransGrid detailing the circumstances, the extent or likely extent of the change or delay and any related cost impact.
- 8.1.2 The Supplier must specify at the commencement of the Contract, any TransGrid dependencies that must be met in order to deliver the Products, Deliverables and Services. In the event that TransGrid anticipates that there will be a significant delay to the performance of any of its dependencies as specified in the Quotation, TransGrid will, as soon as practicable, notify Supplier in writing of the anticipated period of the delay and give details of the likely impact. The Supplier will, acting reasonably, negotiate and agree any changes to the Quotation arising out of such delay, and the parties will agree any such changes in writing in a Change Request.
- 8.1.3 When the Supplier submits a Change Request in accordance with clause 8.1.1 or where a Change Request is agreed between the parties in accordance with clause 8.1.2, the Supplier may also seek an

Supplier

Extension of Time for the Delivery Date. Where the Supplier seeks an Extension of Time the Delivery Date, the Supplier must provide supporting evidence to TransGrid to demonstrate how the delay will affect the Supplier's ability to deliver the Products, Deliverables and Services by the Delivery Date.

- 8.1.4 For avoidance of doubt, TransGrid will not grant an Extension of Time for:
- 8.1.4.1 a delay entirely caused by the Supplier, or;
 - 8.1.4.2 a delay caused by an event which the Supplier could have reasonably foreseen or taken reasonable steps to mitigate, or;
 - 8.1.4.3 the portion of a delay caused by the Supplier, or;
 - 8.1.4.4 any concurrent delay.

9. Variations

- 9.1.1 TransGrid may, on the recommendation of the Supplier or otherwise, instruct the Supplier in writing to vary the Product, Deliverable and/or Services, so long as the variation is within the general scope of the Specification in Schedule 1.
- 9.1.2 The Supplier's recommendation to vary the Product, Deliverable and/or Services must include an estimate of the time, cost and programming effects of the proposed variation, and an explanation of the impact on the Product, Deliverable and/or Services if the variation is not carried out.
- 9.1.2 In the event the variation is requested by the Supplier, the variation is not binding until TransGrid has provided written approval to proceed with the varied Product, Deliverable and/or Services. If the Supplier varies the Product, Deliverable and/or Services without the express written approval of TransGrid, TransGrid is not obligated to pay for the varied Product, Deliverable and/or Services.
- 9.1.3 A direction by TransGrid to the Supplier to vary any documents submitted with the Quotation where the variation is required for the documents to comply with the Contract will not be deemed to be a variation to the Product, Deliverable and/or Services.
- 9.1.4 The Supplier must comply with any written direction from TransGrid to vary the Product, Deliverable and/or Services.
- 9.1.5 Unless otherwise agreed, the value of the variation will be determined using the rates set out in the Supplier's submission in response to the Quotation.
- 9.1.6 The Supplier acknowledges that any technical changes directed by TransGrid must be delivered in accordance with TransGrid's ITIL Change Management procedure.

10. Supplier's Obligations

10.1 Professional Standard of Care

The Supplier must perform the Services in a diligent, timely manner and to the standard of skill and care expected of a Supplier experienced in delivering the type of Services or Deliverables being provided pursuant to this Contract.

10.2 Knowledge of Requirements of TransGrid

The Supplier must use all reasonable efforts to inform itself of the requirements of TransGrid by reviewing the Specification and must regularly consult with TransGrid during the performance of the Contract.

10.3 Personnel

The Supplier must ensure that all personnel engaged by it in connection with the Contract are appropriately qualified, competent and experienced in the provision of the type of Services required by TransGrid.

10.4 Discrepancies in Information

If the Supplier considers that information, documents and other particulars made available to it are inadequate or contain errors or ambiguities, the Supplier must give written notice as soon as practicable to TransGrid detailing the errors or ambiguities.

10.5 Alterations to Approved Documents

The Supplier must not make any alteration to, addition to or omission from the Specifications or other material previously approved, without the prior written approval of TransGrid.

10.6 TransGrid's Materials

- 10.6.1 The Supplier must protect and keep safe and secure all materials and documentation provided by TransGrid to the Supplier.
- 10.6.2 Upon termination or expiry of the Contract, the Supplier must promptly return to TransGrid those materials and documentation and certify that all such materials and documentation has been deleted or destroyed.

10.7 Co-operation by the Supplier

The Supplier must liaise, co-operate and confer with others as reasonably directed by TransGrid.

10.8 Supplier's relationship with TransGrid

The Supplier must not act outside the scope of the authority conferred on it by this Contract and must not bind TransGrid in any way or hold itself out as having any authority to do so, except where authorised by this Contract.

10.9 Fitness for Purpose

- 10.9.1 The Supplier must ensure that all Products, Services and Deliverables delivered are fit in all respects for the purposes required by TransGrid, as stated in the Specifications.
- 10.9.2 The Supplier acknowledges that TransGrid relies upon the skill and knowledge of the Supplier in providing the Services.
- 10.9.3 Any Products or Deliverables supplied must be new, functioning, and fit for use.

10.10 Conflict of Interest

The Supplier must immediately inform TransGrid upon becoming aware of the existence, or possibility of a conflict of interest that would adversely affect the Supplier's ability to perform the Contract.

10.11 TransGrid Business Ethics

All dealings by the Supplier (including its employees, contractors and subcontractors) with TransGrid (including its employees, contractors and subcontractors) must be undertaken at all times in compliance with "TransGrid Business Ethics, A Guide to Contractors, Customers and Suppliers", which is available from TransGrid's website at www.transgrid.com.au.

By entering into this Contract with TransGrid, the Supplier declares that to its knowledge, its employees, contractors, agents and anyone performing services for or on behalf of TransGrid do not and will not directly or indirectly:

- (a) offer;
- (b) give or agree to give;
- (c) authorise;
- (d) solicit, or;
- (e) accept

the giving of money or anything else of value or grant any advantage or gift to any person, company or undertaking whatsoever.

This includes any:

- (a) government official or employee;

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- (b) political party official;
- (c) candidate for political office;
- (d) person holding a legislative, administrative or judicial position of any kind, or;
- (e) official of a public international organisation

for the purpose of corruptly influencing such person in their official capacity, or for the purpose of rewarding or inducing the improper performance of a relevant function or activity by any person in order to obtain or retain any business for TransGrid or to gain any advantage in the conduct of business for TransGrid.

10.12 Environment

The Supplier must comply with, and must ensure that each of its employees, contractors and subcontractors involved in the delivery of the Products, Deliverables and Services complies at all times with all applicable environmental laws, regulations, codes of practice and guidelines and authorisations in the performance of its obligations under this Contract.

10.13 Work Health and Safety

The Supplier must comply with, and must ensure that each of its employees, agents, contractors and subcontractors involved in the supply of any Products, Services or Deliverables complies at all times with:

- (a) all applicable WHS Laws;
- (b) TransGrid's "Health, Safety, and Environment Requirements" when attending TransGrid's premises, a copy of which is available from TransGrid; and
- (c) any other directions, procedures and policies relating to work health and safety, and security pertaining to the use of TransGrid's premises and facilities.

10.14 Security of Premises

The Supplier must:

- (d) only allow access to TransGrid's premises and facilities, including the Site, by its employees, contractors or subcontractors or other persons that have been authorised to access these premises and facilities by TransGrid; and
- (e) ensure that any keys, electronic security cards or passwords provided to the Supplier (including its employees, contractors or subcontractors) by TransGrid, are not made available to anyone unless expressly authorised in writing by TransGrid.

10.15 Supplier's Authorised Representative

The person named on the Quotation Form will be responsible, on behalf of the Supplier, for all aspects of the delivery of any Products, Services and Deliverables (as the case may be) and has the legal power to bind the Supplier in respect of any matters arising in connection with the Products, Services and Deliverables provided (as the case may be). Any substituted Supplier representative must be notified promptly in writing to TransGrid.

10.16 Compliance with Modern Slavery Laws

10.16.1 The Supplier shall, and ensure its Related Parties shall:

- (i) not engage in any Modern Slavery practices;
- (ii) comply with all Laws relating to Modern Slavery;
- (iii) take all steps reasonably necessary to ensure that its contractors, agents or other associated parties (**Associates**) do not engage in, and its supply chains do not involve, Modern Slavery practices; and
- (iv) develop and maintain policies and procedures, and provide training for all staff about Modern Slavery.

10.16.2 The Supplier must:

- (v) notify TransGrid upon becoming aware of any complaint or allegation that the Supplier or any of its Related Parties, or any entity in their respective supply chains, have engaged in Modern Slavery;
- (vi) provide all information as may be reasonably required by TransGrid to comply with any Laws or legal requirement to provide a public compliance statement in relation to Modern Slavery, including in relation to:
 - a. the Supplier's structure, operations and supply chains;

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- b. the risks of Modern Slavery practices in the operations (including in respect of its Related Parties) and supply chains;
 - c. the actions taken by the Supplier to assess and address any Modern Slavery risks, including due diligence and remediation processes, and details of the Supplier's effectiveness of the actions; and
 - d. details of consultation with the Supplier's Related Parties;
- (vi) otherwise, within a reasonable period of time following a request by TransGrid, provide all required information to TransGrid to comply with its reporting obligations under the Modern Slavery Law; and
- (viii) do anything else otherwise reasonably required by TransGrid, in relation to compliance with all Laws and legal requirements relating to Modern Slavery.

11. Warranty

- 11.1.1 The Supplier warrants that any Products or Deliverables delivered or Services performed will not contain or introduce any computer program, code, device, product or component that is designed to or may, in the ordinary course of its operation, prevent, inhibit or impair the performance of TransGrid's systems or part of TransGrid's systems (Harmful Code).
- 11.1.2 The Supplier warrants that any Services performed by it in relation to the Products will not void the manufacturer's warranty. In the event the Services performed by the Supplier voids the manufacturer's warranty, the Supplier will undertake to replace the item at its own cost.
- 11.1.3 The Supplier makes no warranty in relation to the Products or Services other than as contained in these terms or as prescribed by a law which cannot be excluded or in the case of Products, as provided by the Products' respective manufacturers as made known to TransGrid, as provided in the documents supplied by the Supplier or by the manufacturer or as otherwise published or made known to TransGrid.
- 11.1.4 Defects in Deliverables and Services reported to the Supplier within 90 Days of delivery of the Service or Deliverable will be rectified by the Supplier at no charge to TransGrid.

12. Terms of Payment

12.1 Payment

- 12.1.1 **Payment terms.** Unless specifically stated otherwise in the accepted Quotation, TransGrid will pay the fees as follows:
- a. **Software licence fees:** 100% payable upon the Effective Date of this Contract;
 - b. **Deliverables fees:** paid monthly in arrears, on a time-and-materials basis, for the actual hours incurred in the billing period;
 - c. **Professional Services fees:** paid monthly in arrears, on a time-and-materials basis, for the actual hours incurred in the billing period;
 - d. **Maintenance and Support Services fees:** payable quarterly in advance, commencing upon the commencement date of such maintenance and support services; and
 - e. **Hosted services subscription fees:** payable quarterly in advance, commencing upon the commencement date of such hosted services.
- 12.1.2 **Invoicing.** In all cases the Supplier must submit the relevant invoice pertaining to the Works via their Supplier SAP Ariba Profile, iBuy. It is mandatory for all Supplier invoices to include TransGrid Purchase Order number. Any invoices received from a Supplier which do not reference a valid Purchase Order will be rejected. TransGrid reserves its right not to pay any Supplier who undertakes Works without a valid Purchase Order. For further information, please visit TransGrid's website via the following link: <https://www.transgrid.com.au/being-responsible/Suppliers/Pages/default.aspx>
- 12.1.3 **Payment of Accounts.** TransGrid must pay an invoice by the end of the calendar month following the month in which the Supplier issues the invoice. If payment is not made within the time provided for in the terms of payment the matter can be taken up with TransGrid's Procurement Officer named on the Purchase Order or by writing to procurement.enquiries@transgrid.com.au. Specific complaints in respect to overdue payments may be taken up with TransGrid's Accounts Payable Team at Accounts.Payable@transgrid.com.au.

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12.1.4 **Method of payment.** Payments pursuant to the Contract will be made by TransGrid drawn on a bank in New South Wales by Electronic Funds Transfer or BPAY to a nominated Australian bank account of the Supplier.

12.2 Goods and Services Tax

12.2.1 The tendered rates and prices do not include any Australian GST.

12.2.2 In the event that the Supplier is required to pay, in accordance with the relevant GST legislation, any Australian GST on any Products, Services and Deliverables provided under the Contract, TransGrid will pay to the Supplier the amount of GST properly payable provided the Supplier has issued TransGrid with a valid tax invoice. The Supplier must notify TransGrid within seven Days if the Supplier ceases to be GST registered. The Supplier agrees to issue tax invoices promptly and in accordance with the relevant legislation and regulations that apply from time to time governing the issue of such tax Invoices

13. TransGrid's Obligations

13.1 Provide Information

TransGrid will soon as practicable, or as required by this Contract:

- (a) make available to the Supplier all relevant instructions, information, documents, specifications, plans, drawings and any other material and particulars; and
- (b) answer queries made by the Supplier, relating to TransGrid's requirements in connection with this Contract.

13.2 Appoint a Representative

The person named on the Quotation, or any other person TransGrid nominates in writing, will act as TransGrid's representative and will have authority to act on behalf of TransGrid for all purposes in connection with this Contract

14. Insurance

The Supplier must obtain any insurances as outlined Schedule 2. The Supplier must provide copies of any insurance certificates upon reasonable request by TransGrid.

15. Indemnity and Liability

15.1 Infringement of Intellectual Property Rights

15.1.1 **Supplier indemnity.** The Supplier warrants that any design, materials, documents and methods of working provided by the Supplier ("**Supplier IP**") will not infringe any Intellectual Property Rights. The Supplier will pay all royalties and expenses, and will indemnify TransGrid against all claims by a third party that the Supplier IP infringes that third party's Intellectual Property Rights, provided that TransGrid (1) notifies the Supplier of any such claim promptly in writing after receiving notice of such claim, (2) gives the Supplier sole control over the defence and settlement of any such claim and any negotiation for its settlement or compromise, (3) does not take a position that is adverse to the Supplier and (4) at the Supplier's expense and request, provides reasonable assistance in the defence and settlement of any such claim.

15.1.2 **TransGrid indemnity.** TransGrid will indemnify the Supplier against claims arising from infringement of Intellectual Property Rights. where such infringement results from (i) a modification of the Supplier IP made by or at the request or direction of TransGrid, (ii) the combination of the Supplier IP with an item not supplied or authorised by the Supplier, or (iii) compliance, by the Supplier, with TransGrid's instructions in relation to designs prepared by TransGrid, provided that the Supplier (1) notifies TransGrid of any such claim promptly in writing after receiving notice of such claim, (2) gives TransGrid sole control over the defence and settlement of any such claim and any negotiation for its settlement or compromise, (3) does not take a position that is adverse to TransGrid and (4) at TransGrid's expense and request, provides reasonable assistance in the defence and settlement of any such claim.

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15.2 Limitation of Liability

With the exception of clause 15.3, the Supplier's liability for all claims, demands or proceedings under this Contract whether in contract, or in tort, or breach of statutory duty or otherwise or under any indemnity will be capped at [the amount of the cap must be based on a risk assessment which should be provided to Procurement prior to the tender documentation being let.] and will be reduced proportionately to the extent that any act or omission of TransGrid caused or contributed to the loss.

15.3 Damage to persons and property

The Supplier will indemnify TransGrid against claims by any person against TransGrid in respect of (i) personal injury or death, or (ii) loss of or damage to third party property, resulting from the negligence, statutory or contractual breach or the commission of a tort by the Supplier or its subcontractor and their employees and agents in the delivery of Products, Deliverables or Services under the Contract but the Supplier's liability to indemnify TransGrid will be reduced proportionally to the extent that the negligence, statutory or contractual breach or the commission of a tort by TransGrid or employees or agents of TransGrid has contributed to the loss, damage, death or injury.

15.4 Exclusion of Consequential Loss

Neither party will be liable under this Contract for any indirect, special or consequential damages or loss including loss of actual or anticipated revenue, loss of business or goodwill, loss of use or operation or loss of opportunity howsoever caused or arising under this Contract.

15.5 Time for Notification of Claims

TransGrid will not be liable for any claim arising out of or associated with the Contract unless and only to the extent that within 28 Days after the first Day on which the circumstances giving rise to the claim occurred the Supplier has given to TransGrid written notice specifying the basis and the calculation of the amount of the claim in detail.

16. Information Security Management

16.1 Confidentiality

- 16.1.1 The Supplier acknowledges it may receive, as part of a Quotation, Personal Information and proprietary, confidential information from TransGrid ("TransGrid Information"). The Supplier agrees that it must handle the TransGrid Information in accordance with this clause 16 at all times.
- 16.1.2 The Supplier must not access or use the TransGrid Information, unless it is needed for the provision of the Products, Deliverables and Services to TransGrid.
- 16.1.3 The Supplier must not disclose the TransGrid Information except to the extent necessary to perform the Works or deliver the Goods, or comply with any statutory requirements or government policy.
- 16.1.4 The Supplier will ensure that it has a current police check from their local authorities for any of the Supplier's personnel or contractors engaged to perform work on behalf of the Supplier, where the Supplier's personnel or contractor is working with TransGrid Information, identified as being of a Classified class or higher. The Supplier must provide a letter of attestation upon request from TransGrid to demonstrate the police checks were performed and the results were clear.
- 16.1.5 The Supplier must promptly report to TransGrid any actual or suspected any loss, damage, unauthorised access or misuse of the TransGrid Information.
- 16.1.6 The Supplier must not, without the prior written consent of TransGrid, at any time issue any statement or communication or make any representation directly or indirectly in connection with any supply or proposed supply under the Contract to any person or entity who is not a party to the Contract.

16.2 Use and Return of TransGrid Information

- 16.2.1 The Supplier must return any TransGrid Information immediately upon request by TransGrid.
- 16.2.2 The Supplier agrees it will only use the TransGrid Information for the purpose of providing a Quotation.

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- 16.2.3 The Supplier is responsible for compliance by its employees, subcontractors, consultants or agents with all the confidentiality obligations under this Contract, and is liable for any breach of such obligations by the Supplier or any of its employees, subcontractors, consultants or agents.

16.3 Data Protection and Privacy

- 16.3.1 The Supplier must take all reasonable steps to protect any Personal Information (PI) obtained in the course of supplying any Products, Deliverables or Services in accordance with all Australian privacy laws, including the *Privacy Act* 1988 (Cth) and must provide all reasonable assistance to assist TransGrid to comply with all Australian privacy laws.
- 16.3.2 In respect of any of the load data less than 30 Days old or personal information (load data and PI), the Supplier must not (i) host load data and PI, (ii) transfer load data and PI (other than to TransGrid), (iii) permit load data and PI to be transferred outside of Australia, or (iv) permit access to load data and PI any third party, without TransGrid's prior written consent.
- 16.3.3 The Supplier must not access, permit or cause another to access TransGrid's servers remotely from outside of Australia for any purpose. If such access is required, prior written notice and approval must be sought from TransGrid.

17. Harmful Code

Throughout the Term, the Supplier must:

- (a) use and maintain at all times appropriate and up-to-date industry standard detection software designed to prevent the introduction of Harmful Code into, and to detect and eliminate, Harmful Code from, the Products, Deliverables and the environment, and to prevent the introduction of Harmful Code into the software or systems used by the Supplier and any of its Personnel in the course of supplying any Products, Deliverables or Services (**HC Software**);
- (b) prior to supplying a Product or Deliverable, scan the Product or Deliverable using the HC Software and ensure that any Harmful Code has been eliminated;
- (c) prior to connecting any devices (including laptops, flash drives, memory or other devices) to any of TransGrid's systems, scan the device using the HC Software and ensure that any Harmful Code has been eliminated; and
- (d) ensure that appropriate HC Software is in place in relation to any Product, Deliverable or Service that the Supplier delivers remotely, noting the requirements of clause 16.3.3.

18. Intellectual Property

- 18.1.1 Subject to clause 18.1.5, the intellectual property in any Deliverables and any documentation created for TransGrid will vest in TransGrid.
- 18.1.2 Subject to clause 18.1.5, the Supplier must, at TransGrid's request, do all the things necessary to effect the vesting referred to in clause 18.1.1.
- 18.1.3 The Supplier must ensure that any Deliverables are used, copied, supplied and reproduced only for the purposes of the Contract, unless it obtains TransGrid's written approval to do otherwise.
- 18.1.4 TransGrid will not unreasonably withhold the approval referred to in clause 18.1.3, but TransGrid may attach to its approval terms and conditions it considers appropriate. It will not be considered unreasonable to withhold approval if the Deliverable contains sensitive or proprietary information or trade secrets of TransGrid and it would not be commercially feasible to extricate such information or trade secrets from the Deliverable.
- 18.1.5 Intellectual property in those parts of the Deliverables previously created by the Supplier for clients other than TransGrid will not vest in TransGrid.

19. Inspection of Records

19.1 Records

The Supplier must keep proper accounts, records (including information stored by computer and other devices) and time sheets in accordance with accounting principles generally applied in commercial practice in respect of its time charge billing, its reimbursable expenditure and fees and reimbursements payable to others properly engaged pursuant to this Contract.

19.2 Access

The Supplier must, within a reasonable time of any written request, give TransGrid access to, or verified copies of, any information which may be reasonably required to enable any claim to be substantiated and verified.

19.3 Audit

- 19.3.1 The Supplier must, at all reasonable times and upon reasonable prior notice, permit TransGrid access to the Supplier's premises in order for TransGrid to inspect, discuss and assess material produced in connection with the Contract.
- 19.3.2 The Supplier agrees TransGrid may, at any time during the performance of this Contract, conduct or employ an agent to conduct an audit of the Supplier's records and premises, with specific focus on the Supplier's adherence to the requirements of Australian privacy law.

20. Termination

20.1 Termination for Convenience

- 20.1.1 TransGrid may terminate any software licence granted under this Contract in accordance with the applicable terms and conditions included in the Quotation.
- 20.1.2 Subject to clause 20.1.1, TransGrid may terminate any other part of the Contract, in whole or in part, at any time by written notice to the Supplier.
- 20.1.3 The Supplier must, after receipt of a notice under clause 20.1.1 or 20.1.2, cease work under the Contract in accordance with the directions of TransGrid.
- 20.1.4 As soon as practicable after ceasing work under this clause, the Supplier must submit to TransGrid a statement of the amount of the Fee (and any approved reimbursable expenses) claimed by the Supplier to be payable for Products and Deliverables delivered and Services performed to the earlier of:
- the date of cessation of performance under the Contract; and
 - the date by which the Supplier was required to cease work under the Contract,

including the cost of any Products ordered in accordance with the Specifications. The statement must be accompanied by supporting information as reasonably required by TransGrid.

20.2 Termination Generally

- 20.2.1 A party may terminate the Contract immediately in writing if the other party:
- commits a fundamental or material breach of the Contract, including a sufficiently serious breach of clause 10.12 and/or 10.13;
 - indicates (by its words or conduct) that it intends not to perform its obligations under the Contract in the future;
 - suffers an Insolvency Event;
 - commits a breach of clause 16, the warranty at clause 15.1.1 or clause 18;
 - commits a breach of any term of the Contract and fails to remedy that default within 10 Days after being requested to do so by the first mentioned party; or

(f) commits a breach of any term of the Contract after having been requested on two previous occasions to remedy other breaches of the same term of the Contract.

20.2.2 In the case of any other default, TransGrid may terminate this Contract by written notice to the Supplier if the Supplier fails to remedy the default within 14 Days from the date of service of a notice by TransGrid on the Supplier specifying the relevant default.

20.3 Supplier's Continuing Liability

Termination by TransGrid will not release the Supplier from liability in respect of any breach of, or non-performance of any obligations pursuant to, this Contract arising prior to the date of termination.

20.4 Effect of Termination

20.4.1 Termination of this Contract by either party is without prejudice to any accrued rights for remedies of each party.

20.4.2 Upon termination by TransGrid in accordance with clause 20.1 or 20.2, the Supplier will, at TransGrid's cost and subject to the ongoing payment of fees by TransGrid where Products, Deliverables or Services continue to be supplied, provide to TransGrid with any assistance reasonably required by TransGrid to allow TransGrid to smoothly transition to a replacement provider of any products or services similar to the Products and Services, without any loss of service.

20.4.3 The Supplier must, on or as soon as practicable after the expiration or termination of this Contract, deliver to TransGrid all material brought or required to be brought into existence as part of, or for the purpose of, performing the Services (which are not the Deliverables), including but not limited to documents, equipment, information and data stored by any means, but the Supplier may retain a copy of such material for its internal records.

20.5 Adjustment of the Fee on Termination

20.5.1 Upon termination of the Contract (in whole or in part) pursuant to clause 20.1, TransGrid will pay the aggregate of the amount payable in accordance with clause 20.1.4 and additions or deductions in accordance with this Contract in full and final satisfaction of any claim the Supplier has or may have.

20.5.2 Upon termination of this Contract by TransGrid pursuant to clause 20.2, TransGrid will pay the Supplier for the Services performed by the Supplier as at the date of termination, or taking into account any adjustments and deductions for loss or damage suffered, or reasonably likely to be suffered by TransGrid as a consequence of breach by the Supplier. TransGrid may recover any short-fall from the Supplier as a debt due and payable.

20.5.3 Upon termination of this Contract by the Supplier pursuant to clause 20.2, TransGrid will pay the Supplier for the Services performed by the Supplier as at the date of termination in full and final satisfaction of any claim the Supplier has or may have.

20.6 Survival

Any indemnity and any obligation of confidence under this Contract is independent and survives termination of this Contract. Any other term by its nature intended to survive termination of this Contract survives that termination, including clauses 8, 11, 12, 15, 16, 18, 20 and 23.

21. Dispute Resolution

21.1 Dispute resolution process

(a) A party must not start court proceedings in respect of a dispute or difference arising out of, or in connection with, this Contract (Dispute) unless it has first complied with this clause 21.

(b) Notwithstanding the foregoing, nothing in this clause prohibits a party from seeking urgent interlocutory relief.

21.2 Dispute Notice

A party claiming that a Dispute has arisen under this Contract must:

Supplier

- (a) give Notice (**Dispute Notice**) to the other party within 6 months of the occurrence of the event or events giving rise to the Dispute or the party becoming aware of the occurrence of the event or events; and
- (b) set out in the Dispute Notice in reasonable detail the Dispute claimed, including:
 - (i) a detailed background of the alleged events giving rise to the Dispute;
 - (ii) the basis on which the claim is made; and
 - (iii) the relief (if any) that is claimed.

21.3 Escalation procedure

- (a) If a Dispute Notice is issued by a party, each party will appoint a senior representative, who must meet as soon as reasonably practicable and endeavour to resolve the Dispute in good faith.
- (b) In the event that the Dispute is not resolved as a result of the negotiations between the parties in clause 21.3(a) within five (5) Business Days of a Dispute Notice being received by the other party (or such other period as is agreed between the parties' representatives), a senior executive of each party must meet as soon as reasonably practicable and endeavour to resolve the Dispute in good faith.
- (c) In the event that the senior executives of each party are unable to resolve the Dispute within five (5) Business Days of meeting, then either party may commence court proceedings in relation to the Dispute.

22. General

22.1 Subcontracting

- 22.1.1 The Supplier must not subcontract this Contract, in whole or in part, without the prior written approval of TransGrid (not to be unreasonably withheld).
- 22.1.2 An approval given by TransGrid permitting the Supplier to subcontract any portion of the Contract does not relieve the Supplier from its obligations and liabilities pursuant to this Contract.

22.2 Assignment

Neither party may, without the prior written approval of the other and except on such terms and conditions as are agreed in writing, assign or novate the Contract or any payment there under.

22.3 Notices

- 22.3.1 Any notice given under this Contract:
 - a. must be in writing addressed to the intended recipient at the address shown on the Quotation or the address last notified by the intended recipient to the sender;
 - b. must be signed by an authorised officer of the sender; and
 - c. will be taken to have been given or made (in the case of delivery in person or by fax, cable or post) when delivered, received or left at the specified address.
- 22.3.2 If delivery or receipt of a notice occurs on a Day on which business is not generally carried on in the place to which the communication is sent or later than 4pm (local time), it will be taken to have occurred at the commencement of business on the next Business Day in that place.

22.4 Precedence

In the event of any inconsistencies between statements made by TransGrid in the Quotation Form, in the Specification or in any other document issued by TransGrid with the Quotation Form, the Quotation Conditions and the Order Conditions, the following order of priority from highest to lowest will apply:

- (a) Schedule of Rates or Alternative Rates (as the case may be);
- (b) Quotation Form;
- (c) any other attachments submitted with the Quotation;
- (d) Specifications;
- (e) other documents issued by TransGrid with the Quotation;
- (f) Order Conditions. and

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(g) Quotation Conditions.

22.5 Governing law

This Contract is governed by the laws of the State of New South Wales.

PART C: Definitions

23. Definitions

Any terms not defined in the body of the Order Conditions or in the Quotation Conditions have the meaning given below.

Associates	means the Supplier's contractors, agents or other associated parties.
Business Day/s	means any Day other than: <ul style="list-style-type: none"> a) a Saturday or Sunday; b) public holiday gazetted in the State of New South Wales; c) 27, 28, 29, 30 or 31 December.
Contract	means, collectively, Parts A to D, the Specifications, any other document incorporated by reference and, once accepted by TransGrid in accordance with clause 3, the Quotation.
Data	means includes, but is not restricted to TransGrid's load data less than 30 Days old, Personal Information, TransGrid Information, and all material (excluding intellectual property, and including but not limited to information and documents) created for the purposes of submitting a Quotation carrying out the Works.
Deliverables	means any output from any Service or provided with any Product , including any reports or documentation, that is required to be provided to the Customer.
Delivery Date	means the delivery date of the Goods specified in the Quotation.
Day	means calendar day.
Fee	means the fee specified in the Quotation.
Insolvency Event	means any one or more of the following events occurring in respect of a party: <ul style="list-style-type: none"> (i) a resolution is passed for the winding up of that party (other than for the purposes of reconstruction or amalgamation, which, in the case of a party, is on terms which have been previously approved in writing by the other party); (ii) a liquidator, provisional liquidator or receiver or receiver and manager, voluntary administrator, or administrator of a deed of company arrangement is appointed to all or any part of the property of that party; (iii) a receiver, receiver and manager, voluntary administrator or an administrator of a deed of company arrangement, is appointed to, or a mortgagee takes possession of, all or any part of the business or assets of that party; (iv) that party makes any composition or arrangement or assignment with or for the benefit of its creditors; (v) that party or any creditor appoints a voluntary administrator or a resolution is passed for that party to execute a deed of company arrangement; (vi) that party ceases, or threatens to cease to carry on its business; or (vii) that party becomes unable to pay its debts as and when they become due.
Intellectual Property Rights	means patents, copyright, registered and unregistered designs, knowhow, trade secrets, other proprietary rights and any right to apply for registration of any such rights.

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Law	means any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction and includes any industry codes of conduct.
Modern Slavery	has the meaning given in the Modern Slavery Law.
Modern Slavery Law	means the <i>Modern Slavery Act 2018</i> (NSW) and <i>Modern Slavery Act 2018</i> (Cth), and associated regulations, or any substantially equivalent legislation and regulations applicable to the Employer.
Personal Information	means any information or an opinion (including information or an opinion forming part of a database) whether true or not and whether recorded in material form or not, about an individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion.
Products	means the products, hardware or software specified in the Specification.
Purchase Order	means a purchase order submitted by TransGrid to the Supplier for the purchase of Products and/or Services as per the requirements of the Specification, including any Deliverables, and negotiated position of TransGrid and the Supplier.
Related Parties	as defined in the Corporations Act 2001 at Section 228.
Schedule of Rates	means any document provided by TransGrid to the Supplier in which the Supplier outlines the applicable rates for the Supplier to deliver the Works, including the price for a specified quantity of materials, and which the Supplier lodges as part of the Supplier's Quotation in accordance with clause 1
Services	means the services described in the Specification
Specification	means the specification for any Works to be carried out as specified at Schedule 1 and as agreed on the date of acceptance of the Quotation Form, including any Design Documents, and includes any variation of such specification as agreed in writing between the parties.
Supplier	means the Supplier specified in the Quotation Form.
WHS Laws	means any work health and safety legislation in any applicable jurisdiction where the Supplier supplies the Goods or performs obligations under this Contract, including any regulations, codes of practice or advisory standards made under or in connection with such legislation.

24. Interpretation

In this Contract, unless the contrary intention appears:

- (h) the singular includes the plural and vice versa, and a gender includes other genders;
- (i) another grammatical form of a defined word or expression has a corresponding meaning;
- (j) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (k) a reference to time is to Sydney, New South Wales, Australia time;
- (l) a reference to a party is to a party to this Contract, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (m) titles, clauses or paragraph headings are for ease of reference only and will not affect the interpretation; and
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Contract or any part of it.

PART D: Signing Page

Executed as an Agreement

Each Attorney executing this Agreement states that he or she has no notice of the revocation or suspension of his or her power of attorney.

[Option One (if executed by CEO/ CFO/ EM Legal and Risk)]

SIGNED for and on behalf of NSW Electricity Networks Operations Pty Limited ACN 609 169 959 as trustee for NSW Electricity Networks Operations Trust ABN 70 250 995 390 by its attorney in the presence of:

Signature of Witness

Signature of Attorney

Name of Witness (**BLOCK LETTERS**)

Name of Attorney (**BLOCK LETTERS**)

[CEO/ CFO/ EM Legal, Governance & Risk]

Position of Attorney

Date

Date

[Option Two (if executed by any EM)]

SIGNED for and on behalf of NSW Electricity Networks Operations Pty Limited ACN 609 169 959 as trustee for NSW Electricity Networks Operations Trust ABN 70 250 995 390 by its attorneys:

Signature of Attorney

Signature of Attorney

Name of Attorney (**BLOCK LETTERS**)

Name of Attorney (**BLOCK LETTERS**)

[EM/ Company Secretary]

Position of Attorney

Legal Counsel

Position of Attorney

Date

Date

SIGNED for and on behalf of Supplier ACN ### ### ## as an authorised representative:

Supplier

Signature

Signature

Name **(BLOCK LETTERS)**

Name **(BLOCK LETTERS)**

Position

Position

Date

Date

Schedule 1 : Specifications

Schedule 2: Insurance Requirements
