

Commonwealth Contract – Services**Australian Government****Commonwealth Contract – Services**

Reference ID: s 22(1)(a)(ii)

Customer

Customer Name: Commonwealth of Australia as represented by the
Department of Foreign Affairs and Trade
Customer ABN: 47 065 634 525
Address: 10 John McEwen Cres
Barton ACT 2600

Supplier

Full Name of the Legal Entity: National Museum of Australia
Supplier ABN: 70 592 297 967
Address: National Museum of Australia
Lawson Crescent
Acton ACT 2601

Commonwealth Contract – Services**Statement of Work****C.A.1 Key Events and Dates**

This Contract commences on the Contract Start Date or the date this Contract is executed, whichever is the latter, and continues for the Contract Term unless:

- a) it is terminated earlier or
- b) the Customer exercises the Contract Extension Option, in which case this Contract will continue until the end of the extended time (unless it is terminated earlier).

Event	Details
Contract Start Date:	The date the last party executes the Contract
Contract Term:	This Contract will terminate on Friday, 10 June 2028.
Contract Extension Option:	This Contract includes the following extension options: two periods of 12 months each for the sole purpose of delivering the 6 venue itinerary.

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C.A.2 The Requirement

Scope of services

The Supplier will develop and deliver the *Water Spirits* immersive touring exhibition to six ASEAN countries from 2025 to 2028.

The exhibition tour must have:

- A clearly defined artistic and cultural vision that aligns with DFAT's Indigenous Diplomacy Agenda; and the NMA's mission and First Nations cultural rights and engagement policy.
- A flexible and adaptable exhibition design suitable for various venue sizes and configurations in ASEAN countries.
- Appropriate reporting delivered on activities and progress.

The following exhibition design and touring requirements will be delivered in consultation between the parties:

Pre-Production and Planning:

- **Conceptualisation and Design:** Develop the overarching theme, narrative, and artistic vision for the First Nations exhibition. Design immersive environments, interactive installations, and digital content.
- **Consultation:** Develop consultation plan with relevant First Nations communities, ensuring the exhibition complies with the NMA's First Nations cultural rights and engagement policy.
- **Technical Planning:** Assess venue suitability, determine technical requirements (hardware, software, network infrastructure), and develop a logistical plan for transportation and installation.
- **Content Creation:** Produce high-quality digital assets, including 3D models, animations, videos, soundscapes, and interactive elements.
- **Project Management:** Establish staff, clear timelines, budgets, and communication channels. Coordinate with stakeholders, including artists/art centres, technicians, venues, and marketing teams.

Installation & Setup:

- **Venue Preparation:** Adapt the exhibition design to each venue's unique layout and technical capabilities.
- **Technical Implementation:** Install and configure hardware and software components, including projectors, displays, sensors, audio systems, and interactive devices.
- **Content Integration:** Load and test all digital content, ensuring seamless playback and interaction.
- **User Experience Testing:** Conduct thorough testing to ensure a smooth and engaging visitor experience.

Exhibition Operation:

- **Staffing:** Provide trained staff for visitor assistance, technical support, and maintenance.
- **Maintenance & Troubleshooting:** Address technical issues promptly to minimise downtime. Perform regular maintenance to ensure optimal performance.
- **Data Collection & Analysis:** Gather visitor feedback and usage data to evaluate the exhibition's success and inform future iterations.

Marketing & Promotion:

- **Campaign Development:** In consultation with DFAT, create a comprehensive marketing strategy to generate awareness and attract visitors that is adapted to the Southeast Asian context.

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- **Public Diplomacy:** Engage with media outlets and influencers to generate publicity.
- **Social Media and Digital Marketing:** Use social media platforms and digital channels to reach target audiences.
- **Community Engagement:** Develop outreach programs to involve local communities and foster interest.

Contract Deliverables

The Supplier will be required to provide the following deliverables:

- Detailed plans for creating an immersive audio and visual experience.
- Comprehensive engagement with First Nations artists and communities throughout the exhibition development process.
- Development of engaging public programs, workshops, and educational resources tailored to ASEAN audiences.
- Identify opportunities for cross-cultural dialogue and collaboration between First Nations artists and ASEAN communities.
- Identification and establishment of strategic partnerships with cultural institutions, government agencies, and communities in ASEAN countries.
- Identify opportunities for knowledge sharing and capacity building with ASEAN government and venue partners.
- Development of a diverse range of merchandise to cater to different ASEAN audience segments, including commercial opportunities for First Nations art centres.
- Develop and implement a communication strategy to promote the exhibition to audiences in Australia and the ASEAN region.
- Efficient logistics for transporting exhibition materials and installation procedures.
- Submit an exhibition tour outcomes report to DFAT.

C.A.2(a) Commonwealth Supplier Code of Conduct

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

The Supplier must comply with Commonwealth Contract Terms [Clause C.C.23], which creates a number of obligations in connection with the Code. Without limiting the requirements in Commonwealth Contract Terms [Clause C.C.23.2b], during the term of the Contract, the Supplier must provide the information specified below (if any) to the Customer in connection with its compliance with the Code:

Further information on the Code can be found at:

<https://www.finance.gov.au/government/procurement/commonwealth-supplier-code-conduct>.

C.A.2(b) Standards

The Supplier must ensure that any goods and services provided under this Contract comply with all applicable Australian standards and any Australian and international standards specified in this Statement of Work. The Supplier must ensure that it obtains copies of all relevant certifications and maintains records evidencing its compliance with those standards. If requested by the Customer, the Supplier must enable the Customer, or an independent assessor, to conduct periodic audits to confirm compliance with those standards.

Web Content Accessibility

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As applicable, the Supplier must ensure that any website, associated material and/or online publications (where applicable) complies with the Web Content Accessibility Guidelines available at: <https://www.w3.org/WAI/intro/wcag>.

C.A.2(c) Security Requirements

None Specified

C.A.2(d) Work Health and Safety

Prior to commencement of this Contract, the Customer's Contract Manager and the Supplier's Contract Manager will identify any potential work health and safety (WHS) issues anticipated to arise during the term of this contract and assign management of each issue identified to the party best able to manage it. For all issues assigned to the Supplier, the Supplier will provide the Customer with a WHS plan for approval and no work will commence until the plan is approved unless agreed in writing by the Customer.

Throughout the Contract Term, the Customer and the Supplier will proactively identify and cooperate to manage any WHS issues that arise.

C.A.2(e) Delivery and Acceptance

Where the Customer rejects any deliverables under Clause C.C.11 [*Delivery and Acceptance*] the Customer will specify a timeframe in which the Supplier is required to rectify deficiencies, at the Supplier's cost, so that the deliverables meet the requirements of this Contract. The Supplier must comply with any such requirement. Rectified deliverables are subject to acceptance under Clause C.C.11 [*Delivery and Acceptance*].

The Supplier will refund all payments related to the rejected deliverables unless the relevant deliverables are rectified and accepted by the Customer.

If the Supplier is unable to meet the Customer's timeframe, the Customer may terminate this Contract in accordance with Clause C.C.16 [*Termination for Cause*].

Milestone Description	Contact for Delivery	Delivery Location/Email	Due Date
Commencement of activities and Acceptance by DFAT of project plan	s 22(1)(a)(ii) s 22(1)(a)(ii) @dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	Upon execution of the Contract
Initial Project Establishment: Submission of an initial exhibition design that addresses requirements: Pre-Production and Planning	s 22(1)(a)(ii) s 22(1)(a)(ii) @dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	26 weeks following execution of the Contract
Detailed Project Establishment: Finalisation of a detailed exhibition design that addresses requirements: Pre-Production and Planning, Installation & Setup, Exhibition Operation, Marketing & Promotion	s 22(1)(a)(ii) s 22(1)(a)(ii) @dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	04/09/2025
Completion of (1/3) Tour and Finalisation of Submitted Progress Report to DFAT	s 22(1)(a)(ii) s 22(1)(a)(ii) @dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	31/08/2026

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Completion of (2/3) Tour and Finalisation of Submitted Progress Report to DFAT	s 22(1)(a)(ii) s 22(1)(a)(ii)@dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	31/08/2027
Completion of (3/3) Tour and Finalisation of Submitted Final Report to DFAT	s 22(1)(a)(ii) s 22(1)(a)(ii)@dfat.gov.au	Canberra, aseanaustraliacentre@dfat.gov.au	10/06/2028

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Reports

During the term of this Contract, the Supplier must provide the Customer with reports as set out in the table below:

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Report Type	Detailed Description	Due Date
Submission of Draft Detailed Project Establishment	Submission of a detailed exhibition design that addresses requirements: Pre-Production and Planning, Installation & Setup, Exhibition Operation, Marketing & Promotion	5:00pm 10/06/2025
Finalisation of Detailed Project Establishment	Finalisation of a detailed exhibition design that addresses requirements: Pre-Production and Planning, Installation & Setup, Exhibition Operation, Marketing & Promotion	5:00pm 04/09/2025
Submission of (1/3) Draft Progress Report to DFAT	Touring Exhibition Closure Draft Report including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 10/06/2026
Completion of (1/3) Tour and Finalisation of Progress Report to DFAT	Finalised Touring Exhibition Closure Report including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 31/08/2026
Submission of (2/3) Draft Progress Report to DFAT	Touring Exhibition Closure Draft Report including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 10/06/2027
Completion of (2/3) Tour and Finalisation of Progress Report to DFAT	Touring Exhibition Closure Report, including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 31/08/2027
Submission of (3/3) Draft Progress Report to DFAT	Touring Exhibition Closure Draft Report including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 10/05/2028

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Completion of (3/3) Tour and Finalisation of Report to DFAT	Touring Exhibition Closure Report, including: exhibition venue and dates, visitation numbers breakdown (including comparison to venue's other exhibitions), details of any admission fees, detailed exhibition launch events information, breakdown of promotional activities and publicity generated, public programming details, staffing breakdown, feedback from venue, attendees and DFAT Post/s, SharePoint link with supporting documents, photos and media summaries.	5:00pm 10/06/2028
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C.A.2(f) Meetings

The Supplier is required to attend meetings as follows:

Meeting Type	Position Required	Frequency	Mode	Location
General Planning Meetings	Working and Director (EL2) levels	Fortnightly	Teleconference	n/a
Post Specific Tour Planning	Working Level	Monthly initially, then Fortnightly-Weekly when required	Teleconference	n/a

C.A.2(g) Facilities and Assistance Offered by the Customer

DFAT overseas missions in select ASEAN countries and Timor-Leste will collaborate with NMA on the delivery of the exhibition in their respective countries.

DFAT agrees to provide support to the NMA for:

- If required, access to use of Diplomatic Mail service when required for the duration of tour, including:
 - Freight of crates and exhibition collateral out of Australia, across all venues, and return to Australia
 - Additional freight of equipment as required throughout tour for venue-specific needs
 - Ability to send retail merchandise to stock Arts Hub shop at each venue, and possibly to send purchased goods from Arts Centres in Australia directly to clients
 - Sending of corporate gifts and catalogues to support VIP stakeholder stewardship
- Introduction to potential host venues in each country
 - The NMA will be reliant on in-country DFAT teams to make initial introductions to and support ongoing relationships with potential and confirmed host venues
- Marketing and Communications
 - The NMA will require in-country DFAT teams to drive marketing and social media posts across appropriate platforms to effectively support the host venues marketing and communications plans. This may include connecting the host venue and NMA to local media outlets and social media influencers where possible
- Event support

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- Subject to Post capacity and with assistance of the ASEAN-Australia Centre (the Centre), the NMA will require in-country DFAT teams to support official opening events and visits. This support could include participation in event management and planning meetings, coordination of guest lists for DFAT and NMA, distribution of electronic invitations to DFAT and NMA guest lists and where appropriate, hosting VIP dinners/receptions to host community representatives, NMA representative and collective VIP guests.
- NMA staff and First Nations representatives may require access to DFAT drivers (if available), preferred transport and preferred accommodation services providers while travelling for the program
- NMA staff and First Nations representatives will require letters of invitation to be provided by DFAT posts and further visa application support where required
- First Nations visit support
 - The NMA will require local in-country support when travelling with First Nations representatives to identify opportunities to connect with local artists and develop a broader cultural itinerary.
 - First Nations representatives may also require medical assistance while travelling – which would be provided by Embassy medical support.
- Translation services
 - The NMA will require DFAT support to translate all information panels and exhibition text from English to appropriate language, based on country of display.

C.A.2(h) Customer Material

The Customer will provide material as described in this Contract, particularly clause C.A.2(g).

C.A.2(i) Conflicts of Interest

The Supplier has declared that it has no Conflicts of Interest relevant to the performance of its obligations under this Contract.

C.A.2(j) Public Interest Disclosure

For information about how to make a Public Interest Disclosure, please refer to the information provided on the Customer's website: <https://www.dfat.gov.au/about-us/corporate/public-interest-disclosures>.

All Public Interest Disclosure matters (relating to this procurement) should be referred to:

Name/Position:	Authorised Officer, Public Interest Disclosures, Employee Conduct and Ethics Section, People Division
Email Address:	PID@dfat.gov.au
Telephone:	+61 2 6261 1111

C.A.2(k) Complaints Handling

For information about how to make a complaint, please refer to the information provided on the Customer's website: <https://www.dfat.gov.au/about-us/publications/complaints-handling-procedures-procurement>.

Any complaints relating to this procurement should be referred to:

Name/Position:	Contact Officer
Email Address:	corporate.procurement@dfat.gov.au

If your issue is not resolved refer <https://www.finance.gov.au/business/procurement/complaints-handling-charter-complaints> for more information relating to complaints.

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C.A.3 Contract Price

The maximum Contract Price inclusive of GST and all taxes and charges will not exceed **\$3,500,000** as set out below.

Estimated Price (including all expenses)

Due Date	Milestone Description	Total Price GST n/a
Upon Contract Execution	PRODUCTION STAGE 1: Commencement of activities and Acceptance by DFAT of project plan.	
1/03/2025	PRODUCTION STAGE 2: Ideation and design concept complete	\$1,000,000.00
10/06/2025	PRODUCTION STAGE 3: Content production and tour preparation	\$500,000.00
10/06/2026	Launch (1/3) Tour and Submission of Progress Report to DFAT	\$670,000.00
10/06/2027	Launch (2/3) Tour and Submission of Progress Report to DFAT	\$670,000.00
10/6/2028	Launch (3/3) Tour and Submission of Progress Report to DFAT	\$660,000.00

Total Estimated Price for Services \$3,500,000.00 GST n/a

Adjustment to Estimated Pricing

The Customer acknowledges that appointment and pricing for subcontractors will be determined following a procurement process conducted in accordance with the Commonwealth Procurement Rules. The Contract Price represents an estimate based on current market rates. Tour management costs are likely to increase due to inflation and other impacts such as global fluctuations in freight costs.

The Supplier will be investing significant in-kind staff and expertise resources to deliver the Water Spirits project; these internal in-kind costs ('NMA in-kind costs') have not been included in the Contract Price.

The parties agree they will equally share, on a 50/50 basis, all costs incurred by the Supplier in excess of the Contract Price, not including NMA in-kind costs. The Supplier will notify the Customer as soon as practicable if the cost of delivering the Services appears likely to exceed the Contract Price. The new Contract Price and revised payment schedule will be agreed by variation to the Contract.

The Contract Price covers a tour to 6 ASEAN venues only. Any proposal to tour additional venues is estimated to require additional funding of approximately \$250,000 per city and will require an increase in the Contract Price.

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C.A.3(a) Payment Schedule

Progress payments of the *Fixed Fees and Charges* (GST and inclusive of any charges) will be made as follows:

Estimated Date	Milestone Description	Payment Amount
18/11/2024	PRODUCTION STAGE 1: Commencement of activities and Acceptance by DFAT of project plan. Contract Execution	
1/03/2025	PRODUCTION STAGE 2: Ideation and design concept complete	\$1000,000.00
10/06/2025	PRODUCTION STAGE 3: Content production and tour preparation	\$500,000.00
10/06/2026	Launch (1/3) Tour and Submission of Progress Report to DFAT	\$670,000.00
10/06/2027	Launch (2/3) Tour and Submission of Progress Report to DFAT	\$670,000.00
10/06/2028	Launch (3/3) Tour and Submission of Progress Report to DFAT	\$660,000.00

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C.A.4 Contract Managers and Addresses for Notices

Contract Managers are responsible for issuing or accepting any written Notices under this Contract and are the contact points for general liaison.

C.A.4(a) Customer's Contract Manager:

The person occupying the position of: s 22(1)(a)(ii) a/g Assistant Director, ASEAN-Australia Centre
 Currently:
 Telephone: s 22(1)(a)(ii)
 Mobile: s 22(1)(a)(ii)
 Email Address: s 22(1)(a)(ii) @dfat.gov.au
 Postal Address: RG Casey Building, John McEwen Crescent
 BARTON ACT 2600

C.A.4(b) Customer's Address for Invoices:

Addressee Name/Position Title: s 22(1)(a)(ii) a/g Assistant Director, ASEAN-Australia Centre
 Telephone: s 22(1)(a)(ii)
 Peppol ID:
 Email Address: aseanaustraliacentre@dfat.gov.au
 Postal Address: RG Casey Building, John McEwen Crescent
 BARTON ACT 2600

The Customer's preferred method of invoicing is by email.

C.A.4(c) Supplier's Contract Manager:

Name: s 22(1)(a)(ii)
 Position Title: Head of International and Domestic Engagement
 Telephone:
 Mobile: s 22(1)(a)(ii)
 Email Address: s 22(1)(a)(ii) @nma.gov.au
 Postal Address: National Museum of Australia
 GPO Box 1901
 Canberra ACT 2601

C.A.4(d) Supplier's Address for Notices

Name: s 22(1)(a)(ii)
 Position Title: Head of International and Domestic Engagement
 Email Address: s 22(1)(a)(ii) @nma.gov.au
 Postal Address: National Museum of Australia
 GPO Box 1901
 Canberra ACT 2601

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C.A.5 Specified Personnel

Not applicable.

C.A.6 Subcontractors

Full Legal Name	Postal Address	ACN / ABN / ACNR	Services to be Performed
To be appointed in compliance with the Museum's obligations under the Commonwealth Procurement Rules	TBC	TBC	Production of the immersive exhibition

s 47G(1)(a), s 47G(1)(b)

To be appointed in compliance with the Museum's obligations under the Commonwealth Procurement Rules	TBC	TBC	Video footage and film production
To be appointed in compliance with the Museum's obligations under the Commonwealth Procurement Rules	TBC	TBC	Translation of content from First Nations languages to English

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Additional Contract Terms

An executed contract will incorporate the Commonwealth Contract Terms and also the following Additional Contract Terms:

C.B.1 Intellectual Property

The Supplier owns the Intellectual Property Rights in the Material created under this Contract.

The Supplier grants to the Customer:

- a) a non-exclusive, irrevocable, royalty-free, perpetual, world-wide licence to exercise the Intellectual Property Rights in the Material provided under this Contract for the purposes of this Contract and
- b) a right to sub-licence the rights in (a) above to third parties for the purposes of this Contract.

The licence excludes the right of commercial exploitation by the Customer. The Supplier warrants that it is entitled to grant this licence to the Customer; and that the provision of the Goods and/or Services and any Material by the Supplier under this Contract, and its use by the Customer, in accordance with this Contract, will not infringe any third party's Intellectual Property Rights and Moral Rights.

Intellectual Property Rights in Goods provided under this Contract or pre-existing Intellectual Property of the Supplier, set out below (if any), will not change as a result of this Contract.

Pre-Existing Intellectual Property of the Supplier

The Supplier grants to, or in the case of Third-Party Material, must obtain for, the Customer a non-exclusive, irrevocable, royalty-free, perpetual, world-wide licence (including the right to sub-licence) to exercise the Intellectual Property Rights in all Pre-existing Material and Third-Party Material incorporated into the Material to enable the Customer to receive the full benefit of the Goods and/or Services and the Material and to exercise its rights in relation to the Material.

There are, or will be, pre-existing Intellectual Property Rights in Third Party Material created by First Nations artists whose works will be included in the exhibition. The rights to use these works for the purposes of the Contract will be negotiated in accordance with the National Museum of Australia's First Nations Cultural Rights and Engagement policy.

C.B.1(a) Indigenous Cultural and Intellectual Property

- a) Indigenous Cultural and Intellectual Property or ICIP means the cultural heritage of Indigenous people which comprises all objects, sites and knowledge, the nature or use of which has been transmitted or continues to be transmitted from generation to generation, and which is regarded as pertaining to a particular Indigenous group or its territory. The heritage of an Indigenous people is a living one and includes objects, knowledge and literary and artistic works which may be created in the future based on that heritage. Heritage includes:
 - literary, performing and artistic works (including songs, music, dances, stories, ceremonies, symbols, languages and designs);
 - scientific, agricultural, technical and ecological knowledge (including cultigens, medicines and the phenotypes of flora and fauna);
 - all items of movable cultural property;
 - human remains and tissues;
 - immovable cultural property (including sacred and historically significant sites and burial grounds);
 - documentation of Indigenous peoples' heritage in archives, film, photographs, videotape or audiotape and all forms of media.
- b) The parties acknowledge and agree that ICIP may be included in the activities performed and material developed under this Contract. The ownership of any ICIP will remain with the relevant traditional custodians of such ICIP.
- c) The parties agree to respect ICIP rights by following the Indigenous cultural protocols as outlined in the Museum's First Nations Cultural Rights and Engagement policy.

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C.B.2 Confidential Information of the Supplier

Not Applicable

C.B.3 Payment Terms

Where the Customer and the Supplier both have the capability to deliver and receive eInvoices through the Peppol framework and have agreed to use eInvoicing, following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within five (5) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

In all other circumstances following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within twenty (20) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

Where the Customer fails to make a payment to the Supplier by the Business Day it is due, the Customer will pay the unpaid amount plus interest on the unpaid amount, provided the amount of interest payable under this clause exceeds A\$100.

Interest payable under this clause will be simple interest calculated in respect of each calendar day from the day after the amount was due and payable, up to and including the day that the Customer effects payment, calculated using the General Interest Charge Rate as published on the Australian Taxation Office website [https://www.ato.gov.au/Rates/General-interest-charge-\(GIC\)-rates/](https://www.ato.gov.au/Rates/General-interest-charge-(GIC)-rates/).

C.B.4 Fraud

C.B.4.1 This clause replaces clause C.C.22.F [*Fraud*] of the Commonwealth Contract Terms. For the purposes of this clause, 'Fraud' means, in delivering the Goods and/or Services under the Contract, dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes suspected, alleged or attempted fraud.

C.B.4.2 The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract.

C.B.4.3 Subject to C.B.4.4, if the Supplier becomes aware of any Fraud, it must report the matter to the Customer in writing within five (5) business days.

C.B.4.4 If the Supplier is under a legal obligation not to report a Fraud to the Customer, but local police or other law enforcement agencies provide an exception to permit reporting, the Supplier must report a Fraud to the Customer within five (5) business days of the exception being granted.

C.B.4.5 The Supplier must investigate all Fraud at the Supplier's expense and in accordance with any reasonable directions or standards required by the Customer. After the investigation is finished, the Supplier must promptly report full details of any Fraud to:

- (a) the Customer (unless the Supplier is under a legal obligation not to report a Fraud to the Customer); and
- (b) the local police and any other appropriate law enforcement agency in the country where the incident occurred, unless the Customer agrees otherwise in writing.

C.B.4.6 If the investigation finds Fraud by the Supplier or its officers, employees or agents, or the Supplier has failed to take reasonable steps to prevent Fraud by a subcontractor, the Supplier must, if directed by the Customer, promptly reimburse or compensate the Customer in full.

C.B.4.7 This clause is a material term of the Contract and survives the termination or expiry of the Contract.

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C.B.5 Prohibited dealings

C.B.5.1 The Supplier must ensure that it and its officers, employees, agents and subcontractors involved in delivering Goods and or Services under this Contract are not:

- (a) directly or indirectly engaged in preparing, planning, assisting or fostering a terrorist act;
- (b) listed terrorist organisations for the purposes of the Criminal Code Act 1995 (Cth) (details of listed terrorist organisations are available at:
<https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>);
- (c) subject to sanctions or similar measures under the Charter of the United Nations Act 1945 (Cth) or the Autonomous Sanctions Act 2011 (Cth) (details of individuals and entities are available at:
<https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>);
- (d) listed on the 'World Bank's Listing of Ineligible Firms and Individuals' posted at: <http://www.worldbank.org/en/projects-operations/procurement/debarred-firms>;
- (e) owned, controlled by, acting on behalf of, or at the direction of persons, or entities referred to in clauses C.B.5.1(a) to C.B.5.1(d) above; or
- (f) providing direct or indirect support, resources or assets (including any grant monies) to persons or entities referred to in clauses C.B.5.1(a) to C.B.5.1(e) above.

C.B.5.2 Where the Supplier becomes aware that there are reasonable grounds to suspect it or any of its officers, employees, agents and subcontractors has or may have contravened any part of clause C.B.5, the Supplier must:

- (a) notify the Customer and confirm that information in writing as soon as possible, which must be no later than within 24 hours;
- (b) immediately take all reasonable action to mitigate the risks; and
- (c) take any other action reasonably required by the Customer.

C.B.5.3 The Supplier must ensure that any subcontract entered into by the Supplier for the purposes of fulfilling its obligations under this Contract imposes on the Subcontractor the same obligations that the Supplier has under this clause C.B.5.

C.B.5.4 This clause is a material term of the Contract and survives the termination or expiry of the Contract.

C.B.6 Anti-corruption

C.B.6.1 The Supplier warrants that the Supplier, its officers, employees, agents and subcontractors have not made or caused to be made, or received or sought to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution or performance of the Contract.

C.B.6.2 The Supplier must not, and must ensure that its officers, employees, agents and subcontractors, do not:

- (a) make or cause to be made, or receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the performance of the Contract; and/or
- (b) engage in any practice that could constitute the Australian offence of bribing a foreign public official in relation to the performance of the Contract.

C.B.6.3 If the Supplier becomes aware of any practice, as described in C.B.6.2 (a) or (b), then it must report the matter to the Customer within five (5) business days.

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C.B.6.4 This clause is a material term of the Contract and survives the termination or expiry of the Contract.

C.B.7 Child Protection

C.B.7.1 The Supplier must comply, and must ensure that its officers, employees, agents and subcontractors comply with the Department of Foreign Affairs and Trade's Child Protection Policy, accessible at <http://www.dfat.gov.au/childprotection/>.

C.B.7.2 The Customer may conduct a review of the Supplier's compliance with the Child Protection Policy. The Customer will give reasonable notice to the Supplier and the Supplier must participate co-operatively in any such review.

C.B.7.3 If the Customer finds that the Supplier has failed to comply with the Child Protection Policy, the Supplier must promptly, and at the cost of the Supplier, take such actions as are required to ensure compliance with the Child Protection Policy.

C.B.7.4 If an individual, the Supplier must sign and return to the Customer the Child Protection Professional Behaviours at Attachment B to the Child Protection Policy.

C.B.7.5 This clause is a material term of the Contract and survives the termination or expiry of the Contract.

C.B.8 Preventing Sexual Exploitation Abuse and Harassment

C.B.8.1 The Supplier must comply, and must ensure that its officers, employees, agents and subcontractors comply with the Department of Foreign Affairs and Trade's Preventing Sexual Exploitation Abuse and Harassment Policy, accessible at <https://dfat.gov.au/international-relations/themes/preventing-sexual-exploitation-abuse-and-harassment/Pages/default.aspx>

C.B.8.2 The Customer may conduct a review of the Supplier's compliance with the Preventing Sexual Exploitation, Abuse and Harassment Policy. The Customer will give reasonable notice to the Supplier and the Supplier must participate co-operatively in any such review.

C.B.8.3 If the Customer finds that the Supplier has failed to comply with the Preventing Sexual Exploitation, Abuse and Harassment Policy, the Supplier must promptly, and at the cost of the Supplier, take such actions as are required to ensure compliance with the Preventing Sexual Exploitation Abuse and Harassment Policy.

C.B.8.4 This clause is a material term of the Contract and survives the termination or expiry of the Contract.

C.B.8.5 Workplace Gender Equality Act 2012 (Cth)

Where the Supplier is a relevant employer under the *Workplace Gender Equality Act 2012 (Cth)* (the WGE Act) the Supplier must provide evidence that it complies with its obligations under the WGE Act before commencement of any Contract and, if the term is more than 18 months, within 18 months of commencement and annually thereafter for the duration of the Contract.

If the Supplier becomes non-compliant with the WGE Act during the course of the Contract, the Supplier must notify the Customer's Contact Manager in writing within 10 Business Days. Compliance with the WGE Act does not relieve the Supplier from its responsibilities to comply with its other obligations under the Contract.

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| <p>C.C.1 Background</p> <p>1.1 The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Requirement.</p> <p>1.2 Some terms used in these Commonwealth Contract Terms have been given a special meaning. Their meanings are set out in the Commonwealth Contracting Suite (CCS) Glossary and Interpretation or in the Contract.</p> <p>C.C.2 Relationship of the Parties</p> <p>2.1 By virtue of this Contract, neither Party is the employee, agent, officer or partner of the other Party nor authorised to bind or represent the other Party.</p> <p>2.2 Each Party must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the other Party.</p> <p>2.3 In all dealings related to the Contract, the Parties agree to:</p> <ul style="list-style-type: none"> a) communicate openly with each other and cooperate in achieving the contractual objectives b) act honestly and ethically c) comply with reasonable commercial standards of fair conduct d) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces, and e) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances. <p>C.C.3 Conflicts of Interest</p> <p>3.1 The Supplier warrants that, other than as previously declared in writing to the Customer at the commencement of the Contract, no Conflicts of Interest exist, relevant to the performance by the Supplier of its obligations under the Contract.</p> <p>3.2 At any time during the term of the Contract, the Customer may require the Supplier to execute a Conflicts of Interest declaration in the form specified by the Customer.</p> <p>3.3 As soon as the Supplier becomes aware that a Conflict of Interest has arisen, or is likely to arise during the term of the Contract, the Supplier will:</p> <ul style="list-style-type: none"> a) immediately report it to the Customer b) provide the Customer with a written report setting out all relevant information within three (3) Business Days, and c) comply with any reasonable requirements notified by the Customer relating to the Conflict of Interest. <p>3.4 If the Supplier fails to notify the Customer as set out in this clause or does not comply with the</p> | <p>Customer's reasonable requirements to resolve or manage Conflicts of Interest, the Customer may terminate or reduce the scope of the Contract in accordance with C.C.16 [Termination for Cause].</p> <p>C.C.4 Precedence of Documents</p> <p>4.1 The Contract is comprised of:</p> <ul style="list-style-type: none"> a) Additional Contract Terms (if any) b) if the Contract is issued under a DoSO, the Contract Details Schedule c) Statement of Work d) Commonwealth Contract Terms e) CCS Glossary and Interpretation, and f) additional Contract annexes (if any), unless otherwise agreed in writing between the Parties. <p>4.2 If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.</p> <p>4.3 The Contract may be signed and dated by the Parties on separate, but identical, copies. All signed copies constitute one (1) Contract.</p> <p>C.C.5 Governing Law</p> <p>5.1 The laws of the Australian Capital Territory apply to the Contract.</p> <p>C.C.6 Entire Agreement</p> <p>6.1 The Contract represents the Parties' entire agreement in relation to the subject matter, at the time this Contract was executed.</p> <p>6.2 Anything that occurred before the making of this Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the ATM or the RFQ as relevant remain correct.</p> <p>6.3 Any agreement or understanding to vary or extend the Contract will not be legally binding upon either Party unless in writing and agreed by both Parties.</p> <p>6.4 If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.</p> <p>C.C.7 Survival</p> <p>7.1 All Additional Contract Terms (if any), plus clauses: C.C.14 [Liability of the Supplier] C.C.17 [Supplier Payments] C.C.20 [Transition Out], and C.C.21 [Compliance with Law and Policy], survive termination or expiry of the Contract.</p> <p>C.C.8 Notices</p> <p>8.1 A Notice is deemed to be delivered:</p> <ul style="list-style-type: none"> a) if delivered by hand - on delivery to the relevant address b) if sent by registered post - on delivery to the relevant address, or c) if transmitted by email or other electronic means when it becomes capable of being retrieved by the addressee at the relevant email or other electronic address. <p>8.2 A Notice received after 5:00 pm, or on a day that is not a working day in the place of receipt, is</p> |
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- deemed to be delivered on the next working day in that place.
- C.C.9 Assignment**
- 9.1 The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.
- 9.2 To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty (20) Business Days, or such other time as agreed between the Parties, of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.
- C.C.10 Subcontracting**
- 10.1 Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.
- 10.2 The Supplier must ensure that Subcontractors specified in the Contract (if any) perform that part of the Services specified in the Contract. The Supplier must not subcontract any part of its obligations under the Contract, or replace approved Subcontractors, without prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- 10.3 At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.
- 10.4 The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.
- 10.5 The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).
- C.C.11 Delivery and Acceptance**
- 11.1 The Supplier must provide the Goods and/or Services as specified in the Contract and meet any requirements and standard specified in the Contract.
- 11.2 The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in the Contract and advise the Customer when it will be able to do so.
- 11.3 Any Goods must be delivered free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and any standard specified in the Contract.
- 11.4 The Customer may reject the Goods and/or Services within ten (10) Business Days after delivery or such longer period specified in the Contract ("Acceptance Period"), if the Goods and/or Services do not comply with the requirements of the Contract.
- 11.5 If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).
- 11.6 If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable), the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.
- 11.7 If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.
- C.C.12 Licences Approvals and Warranties**
- 12.1 At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.
- 12.2 The Supplier must provide the Customer with all relevant third party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.
- 12.3 To the extent permitted by laws and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.
- C.C.13 Specified Personnel**
- 13.1 The Supplier must ensure that the Specified Personnel set out in the Contract (if any) perform the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- 13.2 At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace

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any Specified Personnel that the Customer reasonably considers:

- a) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer
- b) is not a fit and proper person, or
- c) is not suitably qualified to perform the Services.

13.3 Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.

C.C.14 Liability of the Supplier

14.1 The Supplier will indemnify the Customer for any damage claim, cost or loss resulting from any negligent or wilful breach of its obligations or representations under the Contract by the Supplier or its officers, employees, agents or Subcontractors.

14.2 The Supplier's obligation to indemnify the Customer will reduce proportionally to the extent that the Customer has contributed to the claim, cost or loss.

14.3 Where the Supplier is a member of a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002 (ACT)*, or any corresponding Commonwealth, State, Territory or legislation that limits civil liability arising from the performance of their professional services, and where that scheme applies to the Goods and/or Services delivered under the Contract, the Supplier's liability under this clause shall not exceed the maximum amount specified by that scheme or legislation.

14.4 The Supplier will maintain adequate insurances for the Contract and provide the Customer with proof when reasonably requested.

C.C.15 Termination or Reduction for Convenience

15.1 In addition to any other rights either Party has under the Contract,

- a) the Customer acting in good faith, may at any time, or
- b) the Supplier, acting in good faith, may notify that it wishes to,

terminate the Contract or reduce the scope or quantity of the Goods and/or Services by providing a Notice to the other Party.

15.2 If the Supplier issues a Notice under this clause, the Supplier must comply with any reasonable directions given by the Customer. The Contract will terminate, or the scope will be reduced in accordance with the Notice, when the Supplier has complied with all of those directions.

15.3 If the Customer Issues a Notice under this clause, the Supplier must stop or reduce work in accordance with the Notice and comply with any reasonable directions given by the Customer.

15.4 In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The Customer will pay the Supplier for Goods and/or Services accepted in accordance with C.C.11 [Delivery and

Acceptance] and the Contract before the effective date of termination or reduction.

15.5 If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.

15.6 Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.

C.C.16 Termination for Cause

16.1 The Customer may issue a Notice to immediately terminate or reduce the scope of the Contract if:

- a) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract
- b) the Customer rejects the Goods and/or Services in accordance with C.C.11 [Delivery and Acceptance] and the Goods and/or Services are not remedied as required by the Notice of rejection
- c) the Supplier breaches a material term of the Contract and the breach is not capable of remedy
- d) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier, or
- e) subject to the Customer complying with any requirements in the *Corporations Act 2001 (Cth)*, the Supplier:
 - i. is unable to pay all its debts when they become due
 - ii. if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001 (Cth)*, or
 - iii. if an individual – becomes bankrupt or enters into an arrangement under *Part IX or Part X of the Bankruptcy Act 1966 (Cth)*.

16.2 Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.

C.C.17 Supplier Payments

17.1 If the Supplier is required to submit an invoice to trigger payment, the invoice must be a Correctly Rendered Invoice.

17.2 The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.

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- 17.3 Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.
- 17.4 If the Supplier owes any amount to the Customer in connection with the Contract, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.
- C.C.18 Dispute Resolution**
- 18.1 For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (a) to (e) of this clause sequentially:
- a) both Contract Managers will try to settle the dispute by direct negotiation
 - b) if unresolved within five (5) Business Days, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution. The date the dispute Notice is issued will be the date of the Notice ("Notice Date")
 - c) if the proposed solution is not accepted by the other Contract Manager within five (5) Business Days of the Notice Date, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation
 - d) failing settlement within twenty (20) Business Days of the Notice Date, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within thirty (30) Business Days of the Notice Date or such other period as agreed by the Parties, and
 - e) If the dispute is not resolved within sixty (60) Business Days of the Notice Date, either the Supplier or the Customer may commence legal proceedings or, by agreement, continue the mediation process for a period agreed by the Parties.
- 18.2 Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant Party and act in good faith to genuinely attempt to resolve the dispute.
- 18.3 The Supplier and the Customer will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.
- 18.4 Despite the existence of a dispute, the Supplier will continue their performance under the Contract unless requested in writing by the Customer not to do so.
- 18.5 This procedure for dispute resolution does not apply to action relating to C.C.16 [Termination for Cause] or to legal proceedings for urgent interlocutory relief.
- C.C.19 Transition In**
- 19.1 The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.
- C.C.20 Transition Out**
- 20.1 If the Contract expires or is terminated under C.C.16 [Termination for Cause] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.
- C.C.21 Compliance with Law and Policy**
- 21.1 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with all laws applicable to the performance of this Contract and warrants that it will not cause the Customer to breach any laws.
- 21.2 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with any Commonwealth policies relevant to the Goods and/or Services.
- 21.3 The Supplier agrees to provide such reports and other information regarding compliance with applicable law and Commonwealth policy as reasonably requested by the Customer or as otherwise required by applicable law or policy.
- 21.4 If the Supplier becomes aware of any actual or suspected breach of the requirements set out in 21.A to 21.J below, or any other applicable law or Commonwealth policy, it must:
- a) immediately report it to the Customer and provide a written report on the matter within three (3) Business Days unless otherwise set out in these Terms, and
 - b) comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.
- 21.A Access to Supplier's Premises and Records**
- A.1 The Supplier must maintain and ensure its Subcontractors maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.
- A.2 The Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's or its Subcontractor's premises, personnel, computer systems, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any review of the Supplier's or the Customer's performance under the Contract, including in connection with a request made under the *Freedom of Information Act 1982* (Cth) or an audit or review by the Australian National Audit Office.
- A.3 Unless the access is required for an urgent purpose, the Customer will provide reasonable prior notice to the Supplier.
- A.4 If requested by the Supplier, the Customer will reimburse the Supplier's substantiated reasonable

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- cost for complying with the Customer's request, unless the access is required for the purpose of a criminal investigation into the Supplier, its officers, employees, agents or Subcontractors.
- A.5 The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the Customer. All Commonwealth records, including any held by Subcontractors, must be returned to the Customer at the conclusion of the Contract.
- 21.B *Privacy Act 1988* (Cth) Requirements**
- B.1 In providing the Goods and/or Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and Subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the Customer would breach an Australian Privacy Principle as defined in that Act.
- 21.C Notifiable Data Breaches**
- C.1 If the Supplier suspects that there may have been an Eligible Data Breach in relation to any Personal Information held by the Supplier as a result of the Contract, the Supplier must:
- immediately report it to the Customer and provide a written report within three (3) Business Days, and
 - carry out an assessment in accordance with the requirements of the *Privacy Act 1988* (Cth).
- C.2 Where the Supplier is aware that there has been an Eligible Data Breach in relation to the Contract, the Supplier must:
- take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any individual to whom the Personal Information relates
 - take all other action necessary to comply with the requirements of the *Privacy Act 1988* (Cth), and
 - take any other action as reasonably directed by the Customer.
- 21.D Personal Information**
- D.1 The Supplier agrees to provide the Customer, or its nominee, relevant information (including personal information) relating to the Supplier, its officers, employees, agents or Subcontractors, for the purposes of preventing, detecting, investigating or dealing with a fraud or security incident relating to a Contract.
- D.2 When providing personal information of a natural person under this clause, the Supplier warrants it will have obtained the consent of or provided reasonable notification to the person in accordance with the *Privacy Act 1988* (Cth).
- D.3 Nothing in these clauses limits or derogates from the Supplier's obligations under the *Privacy Act 1988* (Cth).
- 21.E Confidential Information**
- E.1 The Supplier agrees not to disclose to any person, other than the Customer, any Confidential Information relating to the Contract or the Goods and/or Services, without prior written approval from the Customer.
- E.2 This obligation will not be breached where:
- the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation), or
 - the Supplier is required by law, an order of the court or a stock exchange to disclose the relevant information, but any such request must be reported by Notice to the Customer without delay and the text of the disclosure provided in writing to the Customer as soon as practicable.
- E.3 The Customer may at any time require the Supplier to arrange for its officers, employees, agents or Subcontractors to give a written undertaking relating to nondisclosure of the Customer's Confidential Information in a form acceptable to the Customer.
- E.4 The Customer will keep any information in connection with the Contract confidential to the extent it has agreed in writing to keep such specified information confidential.
- E.5 The Customer will not be in breach of any confidentiality agreement if the Customer discloses the information for the purposes of managing the Contract or if it is required to disclose the information by law, a Minister or a House or Committee of Parliament, or for accountability or reporting purposes.
- 21.F Security and Safety**
- F.1 When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and Subcontractors are aware of, and comply with, such security and safety requirements.
- F.2 If directed by the Customer, the Supplier and its officers, employees, agents and Subcontractors are required to undertake a security briefing prior to being able to work inside a Commonwealth office, area or facility.
- F.3 The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.
- F.4 The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including the *Criminal Code Act 1995* (Cth)) contains provisions relating to the protection of certain information and sets out the penalties for the unauthorised disclosure of that information.

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21.G Criminal Code

- G.1 The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth).
- G.2 The Supplier must ensure that its officers, employees, agents and Subcontractors engaged in connection with the Contract are aware of the information contained in this clause.

21.H Fraud

- H.1 The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.
- H.2 If an investigation finds that the Supplier or its officers, employees, agents or Subcontractors have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud, the Supplier must reimburse or compensate the Customer in full.

21.I Taxation

- I.1 The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.

21.J Public Interest Disclosure

- J.1 The Supplier must familiarise itself with the *Public Interest Disclosure Act 2013* (Cth) and acknowledges that public officials, including service providers and their Subcontractors under a Commonwealth contract, who suspect wrongdoing within the Commonwealth public sector may raise their concerns under the *Public Interest Disclosure Act 2013* (Cth).
- J.2 Information for disclosers is available at <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure>.

21.K National Anti-Corruption Commission Act 2022 (Cth) Requirements

- K.1 The Supplier acknowledges that in providing the Goods and/or Services to the Customer under the Contract, it is a contracted service provider for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).
- K.2 The Supplier must comply with any reasonable request, policy or direction issued by the Customer and otherwise cooperate with the Customer in relation to any action taken by the Customer required or authorised by the NACC Act.

C.C.22 Notification of Significant Events

- 22.1 The Supplier must immediately issue the Customer a Notice on becoming aware of a Significant Event.
- 22.2 The Notice issued under clause 22.1 must provide a summary of the Significant Event, including the date that it occurred and whether any Specified Personnel or other personnel engaged in connection with the Goods and/or Services were involved.
- 22.3 The Customer may notify the Supplier in writing that an event is to be considered a Significant Event for the purposes of this clause, and where

this occurs the Supplier must issue a Notice under clause 22.1 in relation to the event within three (3) Business Days of being notified by the Customer.

- 22.4 Where reasonably requested by the Customer, the Supplier must provide the Customer with any additional information regarding the Significant Event within three (3) Business Days of the request.

- 22.5 If requested by the Customer, the Supplier must prepare a draft remediation plan and submit that draft plan to the Customer's Contract Manager for approval within ten (10) Business Days of the request.

- 22.6 A draft remediation plan prepared by the Supplier under clause 22.5 must include the following information:

- a) how the Supplier will address the Significant Event in the context of the Goods and/or Services, including confirmation that the implementation of the remediation plan will not in any way impact on the delivery of the Goods and/or Services or compliance by the Supplier with its other obligations under the Contract, and
- b) how the Supplier will ensure events similar to the Significant Event do not occur again, and
- c) any other matter reasonably requested by the Customer.

- 22.7 The Customer will review the draft remediation plan and either approve the draft remediation plan or provide the Supplier with the details of any changes that are required. The Supplier must make any changes to the draft remediation plan reasonably requested by the Customer and resubmit the draft remediation plan to the Customer for approval within three (3) Business Days of the request unless a different timeframe is agreed in writing by the Customer. This clause 22.7 will apply to any resubmitted draft remediation plan.

- 22.8 Without limiting its other obligations under the Contract, the Supplier must comply with the remediation plan as approved by the Customer. The Supplier agrees to provide reports and other information about the Supplier's progress in implementing the remediation plan as reasonably requested by the Customer.

- 22.9 A failure by the Supplier to comply with its obligations under this clause C.C.22 will be a material breach of the Contract. The Customer's rights under this clause C.C.22 are in addition to and do not otherwise limit any other rights the Customer may have under the Contract. The performance by the Supplier of its obligations under this clause C.C.22 will be at no additional cost to the Customer.

C.C.23 Compliance with the Commonwealth Supplier Code of Conduct

- 23.1 The Supplier must comply with, and ensure that its officers, employees, agents and Subcontractors comply with, the Code in connection with the performance of this Contract.

- 23.2 The Supplier must:

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- a) periodically monitor and assess its, and its officers', employees', and agents' compliance with the Code; and
 - b) on request from the Customer, promptly provide information regarding:
 - i. the policies, frameworks or systems it has established to monitor and assess compliance with the Code; and
 - ii. the Supplier's compliance with clause 23.1.
- 23.3 The Supplier must immediately issue the Customer a Notice on becoming aware of any breach of clause 23.1. The Notice must include a summary of the breach, the date that the breach occurred, and details of the personnel involved.
- 23.4 Where the Customer identifies a possible breach of clause 23.1, it may issue the Supplier a Notice, and the Supplier must, within three (3) Business Days of receiving the Notice, either:
- a) where the Supplier considers a breach has not occurred: advise the Customer that there has not been a breach and provide information supporting that determination; or
 - b) where the Supplier considers that a breach has occurred: issue a Notice under clause 23.3 and otherwise comply with its obligations under this clause C.C.23.
- 23.5 Notwithstanding clause 23.4, a Customer may notify the Supplier in writing that it considers that the Supplier has breached clause 23.1, in which case the Supplier must issue a Notice under clause 23.3 and otherwise comply with its obligations under this clause C.C.23.
- 23.6 A failure by the Supplier to comply with its obligations under any part of this clause will be a material breach of the Contract.
- 23.7 Nothing in this clause or the Code limits, reduces or derogates from the Supplier's other obligations under the Contract. The Customer's rights under this clause are in addition to and do not otherwise limit any other rights the Customer may have under the Contract. The performance by the Supplier of its obligations under this clause will be at no additional cost to the Customer.
- 23.8 The Supplier agrees that the Customer or any other Commonwealth agency may take into account the Supplier's compliance with the Code in any future approach to market or procurement process.



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Commonwealth Contract – Services

Commonwealth Contracting Suite Glossary and Interpretation

Glossary

In the Commonwealth Contracting Suite (CCS):

"Additional Contract Terms" means the terms and conditions set out in the section of the Approach to Market, RFQ or the Contract as relevant with the heading 'Additional Contract Terms'.

"Additional DoSO Terms" means the terms and conditions set out in the section of the DoSO with the heading 'Additional DoSO Terms'.

"Approach to Market" or **"ATM"** means the notice inviting Potential Suppliers to participate in the relevant procurement.

"Business Days" means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place concerned, as defined by the *Corporations Act 2001* (Cth), and also excludes the period between Christmas Day and New Year's Day.

"Closing Time" means the closing time and date as specified in the Approach to Market.

"Commonwealth Contracting Suite" or **"CCS"** means the suite of proprietary documents developed for Commonwealth procurements.

"Commonwealth Procurement Rules" means the legislative instrument issued by the Finance Minister under section 1.05B of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which establishes the framework under which entities govern and undertake their own procurement.

"Commonwealth Supplier Code of Conduct" or **"Code"** means the Commonwealth Supplier Code of Conduct, as published on 1 July 2024, as updated from time to time.

"Confidential Information" means any information that any Party does not wish to be shared outside those involved in the Contract or Standing Offer Arrangement. It can include anything that has been acquired, developed or made available to any of the Parties in the course of the relationship between the Parties. It includes, but is not limited to, information:

- a) specifically identified as confidential in the Contract or DoSO
- b) where disclosure would cause unreasonable detriment to the owner of the information or another party, or
- c) where the information was provided under an understanding that it would remain confidential.

"Conflicts of Interest" means any real or apparent situation where the personal interests of the Supplier, its officers, employees, agents or Subcontractors could improperly influence the Supplier's performance of the Contract or DoSO as relevant.

"Contract" means the documents (specified in the Commonwealth Contract Terms or the Commonwealth Purchase Order Terms as relevant) as executed or amended from time to time by agreement in writing between the Supplier and the Customer.

"Contract Details Schedule" means the section in a Contract issued under the DoSO with the heading 'Contract Details Schedule'.

"Contract Manager" means the 'Contract Manager' for the Customer or Supplier representative (as relevant) specified in the Contract.

"Contract Price" means the maximum contract price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

"Correctly Rendered Invoice" means an invoice that:

- a) is correctly addressed and includes any purchase order number or other Customer reference advised by the Customer's Contract Manager and the name and specified contact details of the Customer's Contract Manager
- b) relates only to the Goods and/or Services that have been accepted by the Customer in accordance with the Contract or a payment or milestone schedule identified in the Contract
- c) is correctly calculated and charged in accordance with the Contract
- d) is for an amount which, together with previously Correctly Rendered Invoices, does not exceed the Contract Price, and
- e) is a valid tax invoice in accordance with the GST Act.

"Customer" means the party specified in the Contract as the Customer.

"Deed of Standing Offer" or **"DoSO"** means the documents (specified in the Commonwealth DoSO Terms) as executed or amended by agreement in writing between the Lead Customer and the Supplier.

Commonwealth Contracting Suite Glossary and Interpretation

"Delivery and Acceptance" means the process by which Goods and/or Services are delivered to the Customer and accepted by the Customer as meeting the terms specified in the Contract.

"DoSO Manager" means the 'DoSO Manager' for the Lead Customer or Supplier representative (as relevant) specified in the DoSO.

"Electronic invoicing" or **"eInvoicing"** means the automated exchange of invoices directly between the Customer and Supplier's software or financial systems via the Peppol network, as long as both Parties are Peppol eInvoicing enabled.

"Eligible Data Breach" means an 'Eligible Data Breach' as defined in the *Privacy Act 1988* (Cth).

"End Date" means the date specified in the Contract or DoSO (as relevant) on which the agreement ceases.

"Fraud" means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means and includes alleged, attempted, suspected or detected fraud.

"General Interest Charge Rate" means the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day.

"Goods and/or Services" means:

- a) the Goods and/or Services and any Material, and
- b) all such incidental Goods and/or Services that are reasonably required to achieve the Requirement of the Customer,

as specified in the Contract and, where relevant, offered under a Standing Offer Arrangement.

"GST" means a Commonwealth goods and services tax imposed by the GST Act.

"GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"Indigenous Procurement Policy" means the procurement connected policy as described at the National Indigenous Australians Agency website <https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy>.

"Intellectual Property Rights" means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are current or future or registered or capable of being registered, including without limitation in relation to, copyright, designs, trade marks (including unregistered marks), business and company names, domain names, databases, circuit layouts, patents, inventions, discoveries, know-how, trade secrets and confidential information, but excluding Moral Rights.

"Lead Customer" means the party specified in the DoSO as the Lead Customer.

"Material" means any material used or brought into existence as a part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

"Moral Rights" means the rights in Part IX of the *Copyright Act 1968* (Cth), including the right of attribution, the right against false attribution and the right of integrity.

"Notice" means an official notice or communication under the Contract or DoSO (as relevant) in writing, from one Contract or DoSO Manager to the other Contract or DoSO Manager (as the case may be), at the postal address, or email address, or facsimile number set out in the Contract or DoSO or as notified by the relevant Party.

"Peppol" means the Pan-European Public Procurement On-Line framework as described at the Australian Taxation Office website <https://softwaredevelopers.ato.gov.au/eInvoicing>.

"Party" or **"Parties"** means (as relevant) the Customer and Supplier specified in the Contract or the Lead Customer and Supplier specified in the DoSO.

"Personal Information" means information relating to a natural person as defined in the *Privacy Act 1988* (Cth).

"Potential Customer" means an Australian Government entity that is identified within the DoSO as being able to use the Standing Offer Arrangement.

"Potential Supplier" means any entity who is eligible to respond to an ATM.

"Pricing Schedule" means a schedule of maximum pricing rates that a Supplier can offer in an RFQ for Goods and/or Services as set out in the DoSO.

"Public Interest Certificate" means a certificate issued under section 22 of the *Government Procurement (Judicial Review) Act 2018* (Cth).

"Referenced Material" means any materials referenced in the ATM, including but not limited to, reports, plans, drawings or samples.

"Request for Quote" or **"RFQ"** means any notice inviting quotations to provide specific Goods and/or Services under the DoSO.

Commonwealth Contract – Services

Commonwealth Contracting Suite Glossary and Interpretation

“Required Capabilities” means:

- a) in the DoSO ATM, the description of the Lead Customer’s required Goods and/or Services. These may be categorised into several descriptions of Required Capabilities.
- b) in the DoSO, the description of the Goods and/or Services that a Supplier is approved to offer.

“Requirement” means the description of the Goods and/or Services in:

- a) for the purposes of the Commonwealth ATM Terms, the section of the Approach to Market with the heading ‘The Requirement’
- b) for the purposes of the Commonwealth Contract Terms, the section of the Contract with the heading ‘The Requirement’, or
- c) for the purposes of the Commonwealth Purchase Order Terms, the Customer’s purchase order or similar ordering document setting out the Goods and/or Services.

“Response” means information provided by a Potential Supplier or Supplier demonstrating their capacity and capability to:

- a) provide the Requirement under the ATM or Request for Quote, or
- b) meet a Required Capability under the DoSO ATM.

“Satisfactory” in relation to the Shadow Economy Policy only, means the Statement of Tax Record meets the conditions set out in Part 6.b of the Shadow Economy Policy or, if the circumstances in Part 6.c of the Shadow Economy Policy apply, the conditions set out in Part 8 of the Shadow Economy Policy.

“Shadow Economy Policy” means the Shadow economy – *Increasing the Integrity of government procurement: Procurement connected policy guidelines March 2019* available at <https://treasury.gov.au/publication/p2019-t369466>.

“Significant Event” means:

- a) any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Supplier or its officers, employees, agents or Subcontractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation, or
- b) any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Supplier or its officers, employees, agents or Subcontractors, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth’s reputation.

“Specified Personnel” means personnel specified in the Contract, or who are accepted by the Customer in accordance with clause C.C.13 [Specified Personnel].

“Standing Offer Arrangement” means the DoSO arrangement, any Contract that is executed under the DoSO and any other document that applies to it.

“Standing Offer Details” means the section of the DoSO with the heading ‘Standing Offer Details’.

“Statement of Requirement” means the section of the Approach to Market with the heading ‘Statement of Requirement’.

“Statement of Tax Record” means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at <https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting-an-STR>.

“Statement of Work” means the section or schedule of the Contract (as the case may be) with the heading ‘Statement of Work’.

“Subcontractor” means an entity contracted by the Supplier to supply some or all of the Goods and/or Services required under the Contract.

“Supplier” means a party specified in the Contract or the DoSO as the Supplier.

“Valid” in relation to the Shadow Economy Policy only, means the Statement of Tax Record is valid in accordance with Part 7.e of the Shadow Economy Policy.

Commonwealth Contract – Services

Commonwealth Contracting Suite Glossary and Interpretation

Interpretation

In the Commonwealth Contracting Suite, unless stated otherwise:

- a) If any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning
- b) words in the singular include the plural and words in the plural include the singular
- c) the words 'including', 'such as', 'particularly' and similar expressions are not used as and are not intended to be interpreted as words of limitation
- d) a reference to dollars is a reference to Australian dollars
- e) a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision
- f) clause headings are for reference only and have no effect in limiting or extending the language of the terms to which they refer, and
- g) the following clause references used in Commonwealth Contracting Suite documents refer to that section or part of the relevant CCS document listed in the table below:

Clause Reference	Section / Part	CCS Document
A.A.[x]	Statement of Requirement	CCS Approach to Market (ATM)
A.B.[x]	Commonwealth Approach to Market (ATM) Terms	
A.C.[x]	Additional Contract Terms	
C.A.[x]	Statement of Work	Commonwealth Contract
C.B.[x]	Additional Contract Terms	
C.C.[x]	Commonwealth Contract Terms	
		<i>NOTE: Where relevant, this also forms part of a Contract formed under a DoSO.</i>
P.C.[x]	Commonwealth Purchase Order Terms	Commonwealth Purchase Order Terms
D.A.[x]	CCS DoSO ATM	CCS Deed of Standing Offer (DoSO)
D.B.[x]	Commonwealth DoSO ATM Terms	
D.C.[x]	DoSO ATM Response Form	
D.D.[x]	CCS DoSO	
D.D.3(x)	Additional DoSO Terms	
D.E.[x]	Commonwealth DoSO Terms	
R.A.[x]	Schedule 1 - Statement of Work	CCS DoSO RFQ and Contract
R.B.[x]	Schedule 2 - Additional Contract Terms	
R.C.[x]	Schedule 3 - Supplier's Response Form	
R.D.[x]	Contract Details Schedule	

Commonwealth Contract – Services

Contract Signing Page

The Parties agree that by signing this Commonwealth Contract – Services, they enter into a Contract comprising:

- a) Additional Contract Terms (if any)
- b) Statement of Work
- c) Commonwealth Contract Terms
- d) Commonwealth Contracting Suite Glossary and Interpretation
- e) Contract Annex 1 – Supplementary Information (if any).

EXECUTED as an Agreement

Signed for and on behalf of the Commonwealth of Australia as represented by Department of Foreign Affairs and Trade ABN 47 065 634 525 by its duly authorised delegate in the presence of

Signature of witness s 22(1)(a)(ii)

Signature of delegate s 22(1)(a)(ii)

Name of witness (print) s 22(1)(a)(ii)

Cindy Rose

Asia

A/g First Assistant Secretary, Office of Southeast Southeast Asia Regional and Mainland Division

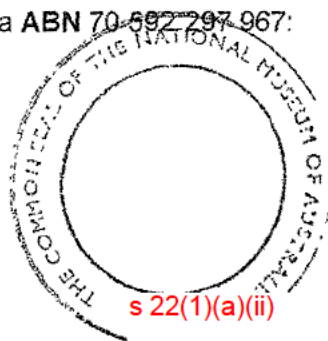
23 Dec 2024

Date:

Executed by National Museum of Australia ABN 70 692 297 967:

The common seal of the National Museum of Australia was hereunto affixed with the authority of Council

Date of Affixing 20/12/2024



s 22(1)(a)(ii)

s 22(1)(a)(ii)

Signature (Council member/Director/Deputy Director/Assistant Director)

Signature (Council member/Director/Deputy Director/Assistant Director)

KATHERINE McMAHON

s 22(1)(a)(ii)

Name

Name