Additional Terms

# Purpose

This document includes additional terms which supplement the Master Services Agreement, Comprehensive Terms and work order in accordance with clause 3 of the Master Services Agreement and item 45 of the work order.

In accordance with clause 3 of the Master Services Agreement, these additional terms take precedence over the Master Services Agreement, Comprehensive Terms and the work order (including any other attachments to the work order) to the extent of any inconsistency.

# Stages

The parties acknowledge and agree that:

### the services described in the work order, including Schedule 1 to these additional terms, represent the first stage of the requirement required by the buyer;

### subsequent stages of the buyer’s requirement will be:

#### agreed by the parties as an amendment to the work order, based on the pricing set out in the seller’s response to the RFQ (or lower pricing agreed by the parties); or

#### negotiated by the buyer with another service provider at the buyer’s sole discretion.

The seller acknowledges that nothing in this work order represents a guarantee that the seller will be engaged for additional stages of the buyer’s requirement.

# Assistance to buyer

The seller must provide information and recommendations to the buyer, and as required by the buyer.

The seller must assist the buyer to:

### select suitable software and hosting platform for the myGov update;

### negotiate terms suitable to the buyer with the software and hosting vendors of the selected software and hosting platforms (whether or not the seller had recommended the software and hosting platform ultimately procured by the buyer); and

### ensure the buyer has contractual arrangements in place with the seller, software vendor, and hosting platform vendor, which include licence and usage rights that meet the buyer’s objectives for the myGov update as identified in the work order.

# Using the agile methodology to provide the deliverables

The parties acknowledge and agree that an agile methodology will be used in the performance of this work order as described in Schedule 2. The agile methodology is designed to provide the parties flexibility in developing the user stories.

The seller must:

### cooperate with the buyer to develop sprint plans for approval by the buyer; and

### comply with any governance arrangements required by the buyer.

The seller remains at all times responsible for delivering and achieving acceptance of the user stories, within a timeframe required by the buyer, and within the maximum price specified in the work order or notified by the buyer.

The seller agrees that payment for the deliverables is subject to the buyer’s acceptance of the deliverables, including any user stories in a deliverable, in accordance with this work order.

Despite clauses 4.3 and 4.4, the buyer may agree to alternative approaches for seller responsibility during the early stages of the project (for example, the seller’s responsibility may be specified by reference to the skills and availability of the personnel provided).

# Compliance with buyer licence restrictions

The seller must comply with any licence and usage restrictions applicable to the buyer in software and products made available to the seller by the buyer for the purposes of providing the deliverables.

The seller must, where requested by the buyer, provide assistance in the resolution of any support issues arising in respect of third party software made available by the buyer.

# Additional collaboration and cooperation with the buyer and other service providers requirements

This clause 6 is in addition to the seller’s obligations under clause 6 of the Master Services Agreement.

The seller must, in the performance of its obligations under this work order:

### fully cooperate with the buyer’s personnel and other providers appointed by the buyer who supply the same, similar or other, products to the seller; and

### use its best efforts to coordinate its activities so as to support and facilitate, in the buyer’s best interests, the timely and efficient completion of all work and other activities to be performed for the buyer by any person,

at no additional cost to the buyer and in the most efficient, effective and timely manner as possible, as required to achieve the requirements of this work order.

The seller must respond to reasonable requests for information, assistance, or support, from other providers, including as may be requested by the buyer.

# Buyer can rely on RFQ representations

The seller acknowledges that the buyer has entered into this work order on the basis of the representations made by the seller in its response to the Request For Quote (**RFQ**) that lead to this work order.

The seller agrees that any and all representations made in its response to the RFQ form part of this work order and can be relied upon by the buyer.

# Additional personnel protections

In addition to the rights of the buyer to request replacement personnel specified in clause 9 of the Comprehensive Terms, the buyer is not obliged to make payments for any specified personnel who:

### the buyer has requested be removed, after the date in the billing period in which the request was made; or

### do not have the relevant skills or qualifications specified for that person in this work order, for any period under this work order.

# Seller must comply with plans

* 1. The seller must comply with any plans required to be provided under this work order, as approved by the buyer.

# Transfer of buyer data overseas

* 1. The seller must ensure that buyer data is stored in, and is not provided or transferred outside of, Australia, without the buyer’s prior written consent, provided that:

### access by the buyer of buyer data outside of Australia will be deemed express written consent by the buyer; and

* 1. The seller must provide all reasonable information about where any buyer data is stored, and the manner in which any buyer data is protected, upon request by the buyer.
	2. Buyer data includes any data relating to the buyer.

# Security

* 1. Without limiting clause 10 of the Master Services Agreement and clause 15 of the Comprehensive Terms, the seller must:

### ensure that its personnel and subcontractors are aware of and comply with the buyer’s security requirements in respect of the work order;

### ensure that its personnel and subcontractors undertake any security checks, clearances or accreditations as required by the buyer;

### notify the buyer of any changes to circumstances which may affect the seller’s capacity to provide the services in accordance with the buyer’s security requirements;

### provide all information requested by the buyer about the measures it has taken to protect buyer material (or other measures it could take to protect buyer material) at all times from unauthorised access or use by a third party or misuse, damage or destruction by any person (including through botnet and denial of service attacks and any other phishing emails or related activates, trojan, worm, or malware) and conduct any testing reasonably required by the buyer in order to determine whether those measures are, or are likely to be, effective;

### use any specific tools or other methodologies the buyer specifies to protect buyer material (e.g. to block certain categories of emails); and

### ensure that seller personnel are appropriately trained to a standard that is no less rigorous than accepted industry standards for the type of services that are to be provided under this work order in cyber security risks and risk management (including in relation to botnet and denial of service attack, phishing emails, trojans, worms, malware, and other related activities and risks) and, as requested, provide evidence to the buyer of the types of training it requires seller personnel to undertake.

* 1. The seller must not, and must ensure that its personnel do not:

### remove buyer material or allow buyer material to be removed from buyer or seller premises otherwise than as required by, and in accordance with, this work order in respect of the provision of the services;

### use buyer material for purposes other than those directly related to the provision of the services;

### sell, lease, assign rights in or otherwise exploit or dispose of any buyer material;

### make buyer material available to any third party other than approved subcontractors and then only to the extent necessary to enable the subcontractors to provide its part of the services; or

### allow any person who does not have the appropriate level of security clearance to access buyer material,

without the buyer’s prior written approval.

* 1. If buyer provides the seller with an additional security requirement under clause 15 of the Comprehensive Terms, the seller must comply with all such security procedures or other security requirements, in accordance with that requirement and as soon as reasonably practicable, and having regard to the nature of the requirement.
	2. If any requirement under clause 11.2 requires the seller to change its normal procedures or be subject to any additional material expenses, the parties will consult and negotiate in good faith to agree to a variation to set out the work order price payable for the variation.
	3. The seller’s compliance with the ISM and the PSPF will not relieve the seller from its responsibility to comply with its other obligations pursuant to this work order.

**IRAP Certification**

* 1. The seller must comply with any recommendation made by IRAP assessors (including to implement security features and functionality to the services to address any gaps identified during the process) and report on compliance to the buyer. The seller must comply with any IRAP requirements or recommendations (including any made in the IRAP assessment – letter of compliance), as updated from time to time.

## Without limiting clause 11.6, if at any time during the term of the work order, the data centre regions used for providing the requirement are not IRAP certified, or are likely to lose IRAP certification, or there is a change to the services which might influence the effectiveness of the implemented ISM controls, then the seller must

* + 1. promptly notify the buyer;
		2. do all things necessary to retain, obtain or re-obtain that IRAP certification without delay; and
		3. on request by the buyer, provide any information in relation to any investigation or IRAP certification process (including to provide updates on the implementation of security features and functionality to close any gaps identified by the IRAP assessor(s), and any outcomes and information regarding the seller’s compliance with the process).

## The buyer may, at its discretion, require the seller to undertake further IRAP assessments at any time during the term of the work order. If the buyer makes this requirement, the seller must comply with clauses 11.5 and 11.6 within a timeframe acceptable to the buyer.

1. The requirement

# General scope

The buyer requires the provision of the deliverables and services described in this work order to plan, design, develop, implement, operate and support the myGov update, that complies with the functionality specified in this work order.

The requirements for the myGov update will be delivered by the seller in stages (with user stories and sprints within each stage) as described in this work order. The seller must ensure that the stages completed under the work order comply with the functional and non-functional requirements described in this work order and the product backlog to be used for the agile methodology, which cannot be changed for a stage except in accordance with the variation process in clause 24 of the Master Services Agreement.

Each stage has a set of user stories which must be delivered in order to deliver the myGov update in accordance with this work order. The seller must deliver the myGov update and the applicable services which meets all the requirements specified in a stage and this work order. The requirements for each stage must be delivered by the seller, to meet the acceptance criteria and other requirements of the work order, in the order they have been specified in the work order.

# Service categories

The buyer requires the following categories of services for the delivery of the myGov update:

### [to insert from DTA requirements];

### services necessary to discover, commence and design the myGov update, including to deliver to the buyer and finalise various plans in relation to the myGov update, including a high level design and implementation plan for the solution.

For future stages (as incorporated into this work order by variation to the work order in accordance with clause 24 of Master Services Agreement, the buyer may require the following services:

### services necessary to build, test and implement the solution for use by internal buyer users and a pilot subset of additional external buyer users;

### services necessary for the seller to gather and collate feedback from users and other stakeholders on the myGov update, which will be used to inform the development of the detailed design of the myGov update solution;

### services necessary to build, deliver, configure, test, implement and support the solution, including through the implementation of a series of tasks to deliver further iterations of the myGov update until the full myGov update is completed;

### services necessary to operate and provide ongoing support for the myGov update; and

### services necessary to transition the myGov update to the buyer or another entity.

The parties acknowledge that the ongoing viability of the overall project to develop the myGov update is highly dependent upon the successful achievement of the outcomes for each previous stage, and upon other dependencies and factors which may not be known by the parties at the commencement date.

The products and services to be provided by seller will be agreed in accordance with the processes described in the work order.

The services described in the work order include any services, functions or responsibilities that a person in the information and communication technology industry (after considering vendor and customer views) would reasonably consider to be necessary or incidental to the services or the proper performance or provision of the services.

The seller must perform and provide the services:

### as specified in the work order;

### to meet all timeframes and delivery requirements (including dates for achievement of milestones) in this work order;

### with due skill and care to the standard that would be expected of an experienced and professional supplier of similar services and any standards specified in the work order;

### to comply with any industry standards or international standards specified in the work order or otherwise applicable to the seller’s business as an IT service provider; and

### in accordance with all:

#### laws applicable to seller or seller’s business as an IT service provider; and

#### in accordance with any directions given by buyer from time to time, provided those directions are not inconsistent with this work order.

1. Agile Methodology

# Use of Agile Methodology to deliver the Services

This clause 1 of Schedule 2 applies to the use of the agile methodology for the delivery of agreed stages.

A work order will contain, or require the development of, the required user stories and sprints agreed for the relevant stage, with a buyer personnel designated as the product owner for each user story. The work order will set out, or describe a process for agreeing and documenting in writing, the:

### functional and non-functional requirements included in each user story to be delivered in a stage;

### any deliverables to be provided (or updated) by the seller which are associated with each user story and stage;

### the acceptance criteria (which may be required to achieve ‘done’ in a sprint) that will be used by the buyer to determine whether or not the functional and non-functional requirements for that user story have been delivered in accordance with this work order; and

### the sprint plans that will be used to deliver all of the user stories for the stage within the agreed number of sprints.

The seller is also responsible for the overall management of the delivery of all agreed services using the agile methodology. These will include the seller:

### managing and participating in the agreed governance arrangements for the services (if any);

### managing the agreed change management processes;

### providing the required reporting to the buyer; and

### preparing any necessary management plans for the conduct of the project, including details of how the services will be provided and managed by the seller, roles and responsibilities of the parties, timelines (including milestone dates) and governance arrangements.

The seller is responsible for ensuring that, before each sprint has commenced:

### the buyer has approved the user stories that are included in that sprint; and

### the seller has confirmed that the number and size of the user stories included in that sprint are achievable within the time period allocated for that sprint in the work order.

The parties acknowledge that the buyer’s priorities, and the order for implementation of user stories, may change over the term of the work order. In addition, the buyer’s requirements for the user stories may change, and/or the buyer may no longer require some user stories, and/or buyer may wish to introduce new user stories. The parties will use the change management process specified in clause 4 of this Schedule 2 to agree on any changes to the user stories.

The parties have agreed that use of the agile methodology will not affect the seller’s other contractual obligations, including its responsibility to meet the applicable milestones.

Immediately upon go-live for any release of a deliverable (or any part of the project), the seller must provide support services: These services include the seller providing on-going operation, maintenance and support for all components of the project as released, as a managed service.

# Sprints and Sprint Management

Each sprint will have a sprint plan which will be agreed by the parties using the process specified in the applicable work order. The sprint plan will set out:

### which user stories from the product backlog are included in that sprint;

### which additional user stories are candidates to be included in the sprint over and above the baselined sprint plan;

### the product owner for each user story; and

### entry and exit criteria (i.e. acceptance criteria) to be used for each user story.

Without limiting the seller’s obligations under this work order, if a buyer dependency occurs, the sprints may be reordered to take the associated delay into account.

The seller must manage the sprints using the mechanism described in the work order (including this Schedule 2).

The buyer must approve any changes to an agreed sprint plan, or the user stories and any other items which are subsequently added to the product backlog.

# Charges and agile methodology

This clause 3 of Schedule 2 applies to a stage if specified in the work order.

The parties acknowledge and agree that the charges agreed under the work order for a stage comprise both fixed charges and flexible charges. All charges are subject to acceptance by buyer of deliverables and milestones, and no charges are payable in respect of:

### user stories that are in the product backlog; or

### user stories for which all associated deliverables have not been accepted by buyer.

**Fixed Charges**

The parties acknowledge and agree that fixed charges are payable to the seller upon achievement of an applicable milestone.

**Flexible Charges**

The parties acknowledge and agree that:

### flexible charges are payable to the seller for product backlog items which have met the definition of done in accordance with the applicable sprint plan; and

### no flexible charges are payable for a done item until a progress certificate has been issued by the buyer in relation to that done item.

For clarity, no flexible charges (or any other part of the work order charges) are payable in respect of any items in the product backlog unless and until they are completed in a sprint and the buyer issues a progress certificate. No flexible charges are payable for product backlog items included in the fixed charge for a milestone.

The seller must calculate the flexible charges to be invoiced for a sprint on the basis of:

### the product backlog items specified in a sprint plan agreed with the product owner for that sprint, including any variation to the sprint plan agreed using the applicable change control process specified clause 4 of this Schedule 2;

### the number of product backlog items that are done as a proportion of the total planned for the sprint;

### completion of each done product backlog item as agreed with the product owner (and issue of a progress certificate for all done product backlog items); and

### the progress certificate issued by the buyer for done product backlog items.

The seller must only invoice the buyer for flexible charges calculated in accordance with clause 3.6 of this Schedule 2.

# Change management process

The buyer may agree to a change in the user stories in the product backlog without a formal work order variation, by the authorised buyer representative and the authorised seller representative by signing a ‘change request’ in accordance with this clause 4 of Schedule 2. For clarity, all other proposed changes to this work order must be made in accordance with clause 24 of the Master Services Agreement.