



TransGrid

Conditions for Supply of Services

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

and

Supplier
ACN ### ##

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

PART A: Quotation Conditions

1. Lodging Quotations

What to provide: In order to provide a quote for the supply of Works, the Supplier must return to TransGrid: (1) a completed copy of the 'Returnable Schedules' issued by TransGrid, including the Quotation Form and any Schedule of Rates and (2) any other relevant attachments to the Quotation Form (collectively, a "Quotation"). The "Quotation Form" means the form provided by TransGrid, using which the Supplier submits a binding quote for the supply of Goods.

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

2. Complying Quotations

2.1 Initial quotation

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

2.2 Alternative quotations

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

3. Acceptance of Quotation

TransGrid is not bound to accept any Quotation and is not in any circumstances responsible for any costs incurred by the Supplier in preparing and submitting a Quotation. TransGrid reserves the right to accept a Quotation on an item by item basis. The Quotation is deemed to be accepted on the date that TransGrid places a Purchase Order with the Supplier.

4. Supplier's Obligation to Inform Itself

- 4.1.1 Any quantity of materials specified in any Schedule of Rates issued with the Quotation is estimated. TransGrid does not guarantee the accuracy of any such quantities. TransGrid relies on the Supplier to exercise its expertise and advise TransGrid as to the quantities of materials required to carry out the Works.
- 4.1.2 The Supplier must use all best endeavours to inform itself in relation to the Works and any Specifications, including by reasonable request for further information from TransGrid prior to submitting a Quotation. The Supplier must ensure that any Quotation is based on the current and accurate Specifications.
- 4.1.3 TransGrid does not warrant that the TransGrid Information (as defined at clause 16.1.1) provided for another Quotation, regardless of its similarity in subject matter, will be valid or applicable to this request for quotation and the Supplier relies upon any alternative information at its own risk

PART B: Order Conditions

5. SUPPLY OF WORKS

5.1 Supply

The Supplier must:

- (a) perform any Works specified in the accepted Quotation and Specification;
- (b) ensure that the Works are supplied in accordance with the Contract, in conformance with the Specifications and in compliance with all Laws;
- (c) pay any fees required in order to ensure the Works conform with all Laws and with the orders, directions or requirements of Local and other Authorities; and
- (d) if so requested by the TransGrid and within a reasonable time after such request, demonstrate at the Supplier's own expense that compliance with the requirements of clause (c) have been met.

5.2 Supply Schedule

- 5.2.1 The Supplier will specify in writing, and the Supplier must meet, a reasonable time by which the Supplier must submit to TransGrid a schedule for the performance and completion of the Works.
- 5.2.2 The Supplier must carry out the Works in accordance with the schedule agreed pursuant to clause 5.2.1.

6. COMPLETION

6.1 Practical Completion

6.1.1 "Practical Completion" is the stage in the performance of the Works when:

- (a) the Works are complete except for minor omissions and minor defects:
 - (i) that do not prevent the Works from being reasonably capable of being used for their intended purpose;
 - (ii) in relation to which TransGrid determines that the Supplier has reasonable grounds for not promptly rectifying them; and
 - (iii) rectification of which will not prejudice the convenient use of the Works;
- (b) any testing specified in the Specifications has been carried out and passed; and
- (c) any documents and other information required under the Contract that, in TransGrid's opinion, are essential for the use, operation and maintenance of the Works have been supplied to TransGrid.

6.1.2 The Supplier will complete the Works to Practical Completion by the Date for Practical Completion. The Supplier will provide written notice to TransGrid when it believes, in good faith, that it has fulfilled its obligations under the Contract (notwithstanding any obligations in relation to the Defects Liability Period).

6.1.3 TransGrid will do all things necessary to ascertain whether Practical Completion has been reached.

6.1.4 The "Date of Practical Completion" means the date, as determined by TransGrid, when the Supplier has fulfilled all its obligations under the Contract except those in relation to Defects Liability Period.

6.2 Defects Liability Period

6.2.1 The "Defects Liability Period" commences on the Date of Practical Completion and, unless specified otherwise in the Contract, expires 12 months following the Date of Practical Completion.

6.2.2 During the Defects Liability Period, TransGrid may direct the Supplier to rectify any omission or defect existing at Practical Completion or becoming apparent prior to the expiration of the Defects Liability Period. Such rectification will be at the Supplier's own cost and will be conducted with all due diligence so

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as to remedy the damage or defect by repairing, replacing or renewing the damaged or defective portions of the Works so that those portions comply with the Specifications.

- 6.2.3 If the Supplier fails to do anything which by this clause 6.2 the Supplier is required to do, TransGrid may proceed to do the thing at the Supplier's risk and expense but without prejudice to any other rights that TransGrid may have against the Supplier arising out of such failure on the part of the Supplier.
- 6.2.4 The Supplier will not be responsible for any defects or damage arising out of faulty materials, workmanship or design provided by TransGrid or arising out of improper usage by TransGrid. If it becomes necessary for the Supplier to replace, renew, repair, modify or otherwise make good any damaged or defective work, the provisions of this clause 6.2 will apply to the work as if it had been the subject matter of the Contract in the first place.

6.3 Completion

- 6.3.1 The Works are deemed to be completed upon the expiry of the Defects Liability Period or rectification of the defects arising prior to expiry of the Defect Liability Period, whichever is later.

7. RISK AND TITLE

The risk and ownership in all materials and other things delivered to the Site for incorporation in the Works will pass to TransGrid upon such delivery and the Supplier indemnifies TransGrid against any claims for damage to the Works, materials and other things until Practical Completion.

8. DELAY

8.1 Delay

- 8.1.1 As soon as practicable after becoming aware of any matter which is likely to change or which has changed the scope or timing of the performance of the Works, the Supplier must give written notice to TransGrid detailing the circumstances and extent or likely extent of the change or delay.
- 8.1.2 The Supplier must specify any TransGrid dependencies that must be met in order to perform the Works. In the event that TransGrid anticipates that there will be a significant delay to the performance of any of its dependencies as specified in the Quotation, TransGrid will, as soon as practicable, notify Supplier in writing of the anticipated period of the delay and give details of the likely impact. The Supplier will, acting reasonably, negotiate and agree any changes to the Quotation arising out of such delay, and the parties will agree any such changes in writing in a change request.

8.2 Liquidated Damages for Delay in reaching Practical Completion

- 8.2.1 If the Supplier fails to reach Practical Completion by the Date for Practical Completion, the Supplier will be indebted to TransGrid for liquidated damages at the rate stated in Schedule 3 for every day after the Date for Practical Completion, including the Date for Practical Completion or the date the Contract is terminated, whichever first occurs.
- 8.2.2 If, after the Supplier has paid or TransGrid has deducted liquidated damages, the time for Practical Completion is extended, TransGrid will repay to the Supplier any liquidated damages paid or deducted in respect of the period up to and including the new Date for Practical Completion.

8.3 Limit on Liquidated Damages

- 8.3.1 The Supplier's liability for liquidated damages is limited to the amount stated in Schedule 3.

9. CHANGE MANAGEMENT

9.1 Variation

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

9.2 Acceleration of the Works

- 9.2.1 TransGrid may, at any time prior to the Date for Practical Completion, by notice in writing to the Supplier, request the Supplier provide a proposal to accelerate the achievement of Practical Completion of all or part of the Works.
- 9.2.2 TransGrid must specify the date by which TransGrid wants Practical Completion of the Works to be achieved.
- 9.2.3 Within 7 days of TransGrid's request the Supplier must provide:
- (a) advice on whether the accelerated program is achievable;
 - (b) the measures the Supplier believes are necessary to achieve the accelerated program;
 - (c) any additional fees payable by TransGrid to enable the Supplier to carry out the accelerated program.

10. SUPPLIER'S OBLIGATIONS

10.1 Responsibility for Works and TransGrid property

- 10.1.1 The Supplier must, during the progress of the Works:
- (d) properly cover up and protect the Works and all materials and other items entrusted or delivered to the Supplier by TransGrid for or in relation to the Works from damage by exposure to the weather; and
 - (e) take every reasonable and timely precaution to prevent damage to or loss of the Works from any cause.
- 10.1.2 During the period commencing on the Commencement Date and continuing up to and including the Date of Practical Completion, the Supplier is liable for all damage to or loss of the Works and notification in writing by the Supplier to TransGrid that the Works have reached Practical Completion.
- 10.1.3 If TransGrid requires, in the case of any particular damage or loss, the Supplier must make good that damage or loss in the most complete and substantial manner at the Supplier's sole cost and to the reasonable satisfaction of TransGrid.
- 10.1.4 All documents or materials provided by TransGrid to the Supplier for the purposes of the Contract must be returned to TransGrid in good order and condition after the Works have been carried out. The Supplier will be responsible for any loss or destruction of, damage to, or inappropriate or unauthorised disclosure of, any such documents or materials while in the Supplier's possession and prior to the return thereof to TransGrid.

10.2 Professional Standard and Quality Assurance Requirements

10.2.1 The Supplier must carry out the Works:

- (a) in a diligent, timely manner and to the standard of skill and care expected of a Supplier experienced in delivering the type of Works being performed pursuant to this Contract; and
- (b) with new and unused materials of the best or approved qualities for their respective uses, unless otherwise specified by TransGrid.

10.2.2 Unless otherwise stated in the Specification, the Supplier must provide everything necessary or usually supplied for the satisfactory completion of the Works, whether or not such thing is mentioned in the Specification or drawings.

10.2.3 The Supplier must comply with all reasonable requirements of TransGrid in relation to or associated with carrying out the Works on the Site.

10.3 Knowledge of TransGrid Requirements

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

10.4 Personnel

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

10.5 Discrepancies in Information

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

10.6 Alterations to Approved Documents

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

10.7 TransGrid Materials

10.7.1 The Supplier must protect and keep safe and secure all materials and documentation provided by TransGrid to the Supplier.

10.7.2 Upon termination or expiry of the Contract, the Supplier must promptly return to TransGrid those materials and documentation and certify that all such materials and documentation has been deleted or destroyed.

10.8 Country of Manufacture

The country of manufacture of any materials supplied for incorporation in the Works must not be changed from that stated in the Contract without the prior written approval of TransGrid.

10.9 Co-operation by the Supplier

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

10.10 Supplier's relationship with TransGrid

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

10.11 Conflict of Interest

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

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10.12 TransGrid Business Ethics

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

10.13 Environment

The Supplier must comply with, and must ensure that each of its employees, contractors and subcontractors involved in carrying out the Works complies at all times with all applicable environmental Laws, codes of practice and guidelines, authorisations and Specification requirements in the performance of its obligations under this Contract.

10.14 Work Health and Safety

The Supplier must comply with, and must ensure that each of its employees, agents, contractors and subcontractors involved in carrying out the Works, complies at all times with:

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

10.15 Security of Premises

The Supplier must:

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

10.16 Supplier’s Authorised Representative

The person named on the Quotation will be responsible, on behalf of the Supplier, for all aspects of the delivery of the Works and has the legal power to bind the Supplier in respect of any matters arising in connection with the Works. Any substituted Supplier representative must be notified promptly in writing to the TransGrid.

10.17 Compliance with Modern Slavery Laws

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

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

10.17.2 The Supplier must:

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

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

11. SUPPLIER PERFORMANCE

11.1 Key Performance Indicators

At the commencement of the Works, TransGrid may establish a set of Key Performance Indicators ("KPIs") against which the Supplier's performance will be monitored. The KPIs assessed by TransGrid may include, but are not limited to:

- (a) safety performance against applicable WHS Laws and TransGrid's Site-specific safety requirements;
- (b) environmental performance against applicable environmental Laws, regulations, codes of practice, guidelines, authorisations and Site-specific requirements;
- (c) quality assurance performance;
- (d) timeliness of delivery;
- (e) quality of materials and adherence to the Specification;
- (f) quality of record keeping and documentation associated with the Works; and
- (g) any other matters as TransGrid sees fit.

11.2 KPI reporting

- 11.2.1 TransGrid may, from time to time, provide the Supplier with a written report reflecting the Supplier's performance against any KPIs for the Works ("**KPI Report**"). TransGrid may direct the Supplier to provide a response to the KPI Report. The Supplier may request a copy of the KPI Report where KPIs have been established for the Works.
- 11.2.2 TransGrid reserves all rights in respect of the use of the KPI Reports and the Supplier's response to the KPI Reports in evaluating future tender responses, invitations to tender or calls for expression of interest by TransGrid.

12. TERMS OF PAYMENT

12.1 Payment

- 12.1.1 **Payment terms.** The Supplier is entitled to claim and be paid the Fees in accordance with the payment terms specified in the Quotation or, if no payment terms are specified, monthly in arrears for 100% of the value of the Works carried out in the prior calendar month, as certified by TransGrid.
- 12.1.2 **Pre-payment.** Where the Supplier requires payment prior to the carrying out of the Works, TransGrid may ask for a surety equal to the amount of the pre-payment. The surety must be in the form of an approved, unconditional undertaking given by a financial institution approved by TransGrid. The surety described in this clause 12.1.2 will be released in accordance with the milestones set out in the Specifications or, if not expressly stated in the Specifications, within 30 days of TransGrid's final acceptance of the Works.
- 12.1.3 **Invoicing.** In all cases the Supplier must submit by email to TransGrid a detailed invoice for Works carried out. It is mandatory for all Supplier invoices to include the TransGrid Purchase Order number. Any invoices received from a Supplier which do not reference a valid Purchase Order will be rejected.

TransGrid reserves its right not to pay any Supplier who undertakes Works without a valid Purchase Order. Invoices must be emailed to the Accounts Payable Team at Accounts.Payable@transgrid.com.au.

- 12.1.4 **Payment of Accounts.** TransGrid must pay an invoice by the end of the calendar month following the month in which the Supplier issues the invoice. If payment is not made within the time provided for in the terms of payment the matter can be taken up with TransGrid's Procurement Officer named on the Purchase Order or by writing to procurement.enquiries@transgrid.com.au. Specific complaints in respect to overdue payments may be taken up with TransGrid's Accounts Payable Team at Accounts.Payable@transgrid.com.au
- 12.1.5 **Method of payment.** Payments pursuant to the Contract will be made by TransGrid drawn on a bank in New South Wales by Electronic Funds Transfer or BPAY to a nominated Australian bank account of the Supplier.

12.2 Goods and Services Tax

- 12.2.1 The tendered rates and prices do not include any Australian GST.
- 12.2.2 In the event that the Supplier is required to pay, in accordance with the relevant GST legislation, any Australian GST on any Works carried out under the Contract, TransGrid will pay to the Supplier the amount of GST properly payable provided the Supplier has issued TransGrid with a valid tax invoice. The Supplier must notify TransGrid within seven days if the Supplier ceases to be GST registered. The Supplier agrees to issue tax invoices promptly and in accordance with the relevant legislation and regulations that apply from time to time governing the issue of such tax Invoices.

12.3 Payment of Wages and Allowances

- 12.3.1 **Statements of wages and allowances paid or unpaid.** Before payment of Fees to the Supplier by TransGrid under the Contract, TransGrid may require from the Supplier reasonable evidence that all employees of the Supplier engaged in carrying out the Works have been paid in full all amounts due to them as wages and allowances of every kind required to be paid under an industrial award, industrial agreement, an award of a Court, certified by a Court or an agreement approved by TransGrid and to the latest date at which such wages and allowances are due. If any wages or allowances remain unpaid and TransGrid is given reasonable evidence of the details and amounts of such unpaid wages or allowances, TransGrid will pay the Fees to the Supplier, but sufficient amounts to satisfy such unpaid wages and allowances may be withheld from that payment or any other payment then or thereafter due to be made to the Supplier until reasonable evidence is supplied that all wages and allowances have been paid.
- 12.3.2 **Failure of Supplier to pay wages and allowances.** If the Supplier fails to pay the wages or allowances of an employee, and upon reasonable evidence of a judgement of a Court of competent jurisdiction in favour of the employee, TransGrid may pay the amount of such judgement to the employee concerned, and that amount may be deducted from other amounts due to the Supplier or recovered as a debt due to TransGrid by the Supplier.

13. TRANSGRID'S OBLIGATIONS

13.1 Provide Information

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

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

13.2 Appoint a Representative

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

14. INSURANCE

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

15. INDEMNITY AND LIABILITY

15.1 Infringement of Intellectual Property Rights

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

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

15.2 Limitation of Liability

With the exception of clauses 15.3 and 15.4, the Supplier’s liability for all claims, demands or proceedings under this Contract whether in contract, or in tort, or breach of statutory duty or otherwise or under any indemnity will be capped at [the amount of the cap must be based on a risk assessment which should be provided to Procurement prior to the tender documentation being let.] and will be reduced proportionately to the extent that any act or omission of TransGrid caused or contributed to the loss.

15.3 Damage to persons and property

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

15.4 Environment, and Work Health and Safety

The Supplier will indemnify TransGrid against all claims, liabilities, losses, damages, fines, costs and expenses suffered or incurred arising from or relating to any act or omission by the Supplier resulting in a breach of clauses 10.13 and 10.14.

15.5 Exclusion of Consequential Loss

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

15.6 Time for Notification of Claims

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

16. INFORMATION SECURITY MANAGEMENT

16.1 Confidentiality

- 16.1.1 The Supplier acknowledges it may receive, as part of a Quotation, Personal Information and proprietary, confidential information from TransGrid (“**TransGrid Information**”). The Supplier agrees that it must handle the TransGrid Information in accordance with this clause 16.1 at all times.
- 16.1.2 The Supplier must not access or use the TransGrid Information, unless it is needed for the preparation of the Quotation or the performance of the Works.
- 16.1.3 The Supplier must not disclose the TransGrid Information except to the extent necessary to perform the Works or comply with any statutory requirements or government policy.
- 16.1.4 The Supplier must promptly report to TransGrid any actual or suspected loss, damage, unauthorised access or misuse of the TransGrid Information.
- 16.1.5 The Supplier must not, without the prior written consent of TransGrid, at any time issue any statement or communication or make any representation directly or indirectly in connection with any supply or proposed supply under the Contract to any person or entity who is not a party to the Contract.

16.2 Use and Return of TransGrid Information

- 16.2.1 The Supplier must return or destroy any TransGrid Information, including copies, immediately upon request by TransGrid.
- 16.2.2 The Supplier agrees it will only use the TransGrid Information for the purpose of providing a Quotation.
- 16.2.3 The Supplier is responsible for compliance by its employees, subcontractors, consultants or agents with all the confidentiality obligations under this Contract, and is liable for any breach of such obligations by the Supplier or any of its employees, subcontractors, consultants or agents.

16.3 Data Protection and Privacy

- 16.3.1 The Supplier must take all reasonable steps to protect any Personal Information obtained in the course of performing the Works in accordance with all Australian privacy laws, including the *Privacy Act 1988* (Cth) and must provide all reasonable assistance to ensure TransGrid complies with all Australian privacy laws.
- 16.3.2 In respect of any of the Data, the Supplier must not (i) host Data, (ii) transfer Data (other than to TransGrid), (iii) permit the transfer of Data outside of Australia, (iv) permit access to the Data by any third-party without TransGrid’s consent.

17. INSPECTION OF RECORDS

17.1 Records

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

17.2 Access

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

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17.3 Audit

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

18. TERMINATION

18.1 Termination for convenience

- 18.1.1 The TransGrid may terminate the whole or any part of the performance of the Contract at any time, by written notice addressed to the Supplier.
- 18.1.2 The Supplier must after receipt of a notice under clause 18.1.1, cease work under the Contract in accordance with the directions of TransGrid.
- 18.1.3 As soon as practicable after ceasing work under this clause, the Supplier must submit to TransGrid a statement of the amount of the Fee (and any approved reimbursable expenses) claimed by the Supplier to be payable for Works carried out to the earlier of:
- (a) the date of cessation of performance under the Contract; and
 - (b) the date by which the Supplier was required to cease work under the Contract.

The statement must be accompanied by supporting information as reasonably required by TransGrid.

18.2 Termination generally

- 18.2.1 A party may terminate the Contract immediately in writing if the other party:
- (a) commits a fundamental or material breach of the Contract, including a sufficiently serious breach of clause 10.13 and 10.14;
 - (b) indicates (by its words or conduct) that it intends not to perform its obligations under the Contract in the future;
 - (c) suffers an Insolvency Event;
 - (d) commits a breach of clause 16 and the warranty at clause 15.1;
 - (e) commits a breach of any term of the Contract and fails to remedy that default within 10 days after being requested to do so by the first mentioned party; or
 - (f) commits a breach of any term of the Contract after having been requested on two previous occasions to remedy other breaches of the same term of the Contract.
- 18.2.2 In the case of any other default, TransGrid may terminate this Contract by written notice to the Supplier if the Supplier fails to remedy the default within 14 days from the date of service of a notice by TransGrid on the Supplier specifying the relevant default.

18.3 Supplier's Continuing Liability

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

18.4 Effect of Termination

- 18.4.1 Termination of this Contract by either party is without prejudice to any accrued rights for remedies of each party.
- 18.4.2 The Supplier must, on or as soon as practicable after the expiration or termination of this Contract, deliver to TransGrid all material brought or required to be brought into existence as part of, or for the purpose of,

performing the Works, including but not limited to documents, equipment, information and data stored by any means, but the Supplier may retain a copy of such material for its internal records.

- 18.4.3 The Supplier acknowledges that harm occasioned to a person, to the environment, or to the TransGrid's reputation, is loss for which damages are not an adequate remedy. Accordingly, without prejudice to any other right of the TransGrid to terminate the Contract, a sufficiently serious breach of clause 10.13 or 10.14 of the Order Conditions will constitute a fundamental breach for which the TransGrid may terminate this Contract in accordance with clause (a).
- 18.4.4 In the event of a fundamental breach as detailed in clause (a) of the Order Conditions, the Supplier will be liable to reimburse the TransGrid for all costs reasonably incurred by the TransGrid in addressing the breach including, but not limited to, any fines, compensation, judgments, legal fees and cost of third party experts/inspectors.

18.5 Adjustment of the Fee on Termination

- 18.5.1 Upon termination of the Contract (in whole or in part) pursuant to clause 18.1, TransGrid will pay the aggregate of the amount payable in accordance with clause 18.1.3 and additions or deductions in accordance with this Contract in full and final satisfaction of any claim the Supplier has or may have.
- 18.5.2 Upon termination of this Contract by TransGrid pursuant to clause 18.2, TransGrid will pay the Supplier for the Works performed by the Supplier as at the date of termination, or taking into account any adjustments and deductions for loss or damage suffered, or reasonably likely to be suffered by TransGrid as a consequence of breach by the Supplier. TransGrid may recover any short-fall from the Supplier as a debt due and payable.
- 18.5.3 Upon termination of this Contract by the Supplier pursuant to clause 18.2, TransGrid will pay the Supplier for the Works performed by the Supplier as at the date of termination in full and final satisfaction of any claim the Supplier has or may have.

18.6 Survival

Any indemnity and any obligation of confidence under this Contract is independent and survives termination of this Contract. Any other term by its nature intended to survive termination of this Contract survives that termination, including clauses 8, 10, 15, 18 and **Error! Reference source not found..**

19. DISPUTE RESOLUTION

19.1 Dispute resolution process

- (a) A party must not start court proceedings in respect of a dispute or difference arising out of, or in connection with, this Contract (**Dispute**) unless it has first complied with this clause 19.
- (b) Notwithstanding the foregoing, nothing in this clause prohibits a party from seeking urgent interlocutory relief.

19.2 Dispute Notice

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

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

19.3 Escalation procedure

- (a) If a Dispute Notice is issued by a party, each party will appoint a senior representative, who must meet as soon as reasonably practicable and endeavour to resolve the Dispute in good faith.

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- (b) In the event that the Dispute is not resolved as a result of the negotiations between the parties in clause (a) within 7 Business Days of a Dispute Notice being received by the other party (or such other period as is agreed between the parties' representatives), a senior executive of each party must meet as soon as reasonably practicable and endeavour to resolve the Dispute in good faith.
- (c) In the event that the senior executives of each party are unable to resolve the Dispute within 7 Business Days of meeting, then either party may commence court proceedings in relation to the Dispute.

20. GENERAL

20.1 Subcontracting

- 20.1.1 The Supplier must not subcontract this Contract in whole or in part, or allow a subcontractor of the Supplier to subcontract the Works (or any part thereof) without the prior written approval of TransGrid (not to be unreasonably withheld).
- 20.1.2 Any written request by the Supplier to subcontract the Works or any part thereof must include the particulars of the work to be subcontracted and the name and address of the proposed subcontractor. The Supplier must provide to TransGrid other information that TransGrid reasonably requests, including the proposed subcontract document without pricing.
- 20.1.3 An approval given by the TransGrid permitting the Supplier to subcontract any portion of the Contract does not relieve the Supplier from its obligations and liabilities pursuant to this Contract.

20.2 Assignment

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

20.3 Personal Property Securities Act

The Supplier agrees that the terms of this Contract may constitute one or more security interests for the purpose of the *Personal Property Securities Act 2009* (Cth) ("**PPSA**") and that:

- (a) to perfect any such security interest, TransGrid may register a financing statement(s) on the Personal Property Securities Register;
- (b) the Supplier will have no rights under sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA;
- (c) the application of Part 4.3 (other than sections 123, 124, 126, 128, 129(1), 133, 134(1) and 135) of the PPSA is contracted out of if that Part would apply by virtue of section 116(2) of the PPSA;
- (d) the Supplier waives its right to receive notice of a verification statement under section 157 of the PPSA; and
- (e) the Supplier must, promptly on request by TransGrid, provide any such information and execute and deliver any such documents as TransGrid may reasonably require to protect the security interests granted to TransGrid by the Supplier under or in relation to this Contract.

20.4 Notices

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

20.5 Precedence

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

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

20.6 Governing law

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

PART C: Definitions

21. Definitions

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

Commencement Date	means the commencement date of the Works specified in the Quotation.
Contract	means, collectively, Parts A to D, the Specifications, any other document incorporated by reference and, once accepted by TransGrid in accordance with clause 3, the Quotation.
Data	means includes, but is not restricted to TransGrid's load data less than 30 days old, Personal Information, TransGrid Information, and all material (excluding intellectual property, and including but not limited to information and documents) created for the purposes of submitting a Quotation carrying out the Works.
Date for Practical Completion	means the date for practical completion specified in the Quotation, subject to any extensions of time granted by TransGrid.
Fee	means the fee specified in the Quotation.
Insolvency Event	means any one or more of the following events occurring in respect of a party: <ul style="list-style-type: none">(i) a resolution is passed for the winding up of that party (other than for the purposes of reconstruction or amalgamation, which, in the case of a party, is on terms which have been previously approved in writing by the other party);(ii) a liquidator, provisional liquidator or receiver or receiver and manager, voluntary administrator, or administrator of a deed of company arrangement is appointed to all or any part of the property of that party;(iii) a receiver, receiver and manager, voluntary administrator or an administrator of a deed of company arrangement, is appointed to, or a mortgagee takes possession of, all or any part of the business or assets of that party;(iv) that party makes any composition or arrangement or assignment with or for the benefit of its creditors;(v) that party or any creditor appoints a voluntary administrator or a resolution is passed for that party to execute a deed of company arrangement;(vi) that party ceases, or threatens to cease to carry on its business; or(vii) that party becomes unable to pay its debts as and when they become due.
Intellectual Property Rights	means patents, copyright, registered and unregistered designs, knowhow, trade secrets, other proprietary rights and any right to apply for registration of any such rights.
Law	means any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction and includes any industry codes of conduct.
Modern Slavery	has the meaning given in the Modern Slavery Law.

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

22. Interpretation

In this Contract, unless the contrary intention appears:

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

Schedule 1 : Specifications

The documents appended to this Schedule 1 are collectively the **Specifications** for the purposes of the Contract.

Schedule 2 : Insurance Requirements

The Supplier must obtain the relevant insurance as outlined in this Schedule 2.

OR

TransGrid does not require the Supplier to obtain specific insurance for this engagement.