



RTA LEGAL BRANCH REGISTRATION C6257

**INTELLIGENT TRANSPORT SYSTEMS (ITS) COMPONENT DESIGN,
MANUFACTURE AND SUPPLY MASTER AGREEMENT**

VERSION 1

NOTE: THIS IS A MASTER AGREEMENT WHICH CAN COVER MULTIPLE SUPPLIES PERFORMED BY THE SAME SUPPLIER. HOWEVER IT IS ONLY APPROPRIATE FOR ITS COMPONENT DESIGN, MANUFACTURE AND SUPPLY INCLUDING CERTAIN 3RD PARTY WARRANTY SERVICES (IF APPLICABLE).

[NOTICE: All specific \$values/numbers/performance criteria etc indicated in bold are indicative only and should be reviewed by the officer preparing the contract and approved by the Section Manager (Direct Report to []) to ensure that they are appropriate for the specific requirements of the project.]

OPERATIONS STAFF ARE NOT PERMITTED TO MAKE ANY CHANGES TO BODY OF CONTRACT WITHOUT LEGAL ADVICE. ONLY THE PURCHASE ORDER SHOULD BE COMPLETED BY OPERATIONS STAFF.

CONTRACT DETAILS

PARTIES

1. **ROADS AND TRAFFIC AUTHORITY OF NEW SOUTH WALES**, of 260 Elizabeth Street, Surry Hills, New South Wales (RTA); and
2. **C&F INDUSTRIAL ELECTRONICS**, ABN 91 088 848 793, of 55 Birch Street, Bankstown NSW 2200 (**Supplier**).

COMMENCEMENT DATE

01 May 2006

T E R M

4 CONSECUTIVE YEARS FROM THE COMMENCEMENT DATE, PROVIDED THAT THE RTA MAY (AT ITS OPTION) EXTEND THE TERM FOR A FURTHER PERIOD OF 12 MONTHS BY PROVIDING THE SUPPLIER WITH 1 MONTH'S WRITTEN NOTICE PRIOR TO EXPIRY OF THE INITIAL 4-YEAR PERIOD.

RTA'S REPRESENTATIVE

Gilbert Malepa, Traffic Services Manager Sydney

SUPPLIER'S REPRESENTATIVE

Michael Walicki, Managing Director

INSURANCE POLICIES

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING	COMMENTS (STATE IF INSURANCE IS NOT REQUIRED)
i	<p>Broadform Public and Products Liability effected with an approved insurer as defined in Definitions and Notes clause 1 below.</p> <p>*If products are not involved in performance of the Services, it will be acceptable not to obtain Products Liability.</p>	<p>\$20 million for any single occurrence and unlimited in the aggregate as to the number of occurrences</p> <p>The total aggregate liability during any one period of insurance for all claims arising out of the Supplier's Products shall not exceed \$20 million.</p>	<p>From time this Agreement is entered to completion of the Term including any warranty/maintenance/service period.</p>	<p>(a) lists the Supplier and all subcontractors for their respective rights, interests and liabilities as named insureds.</p> <p>(b) lists the RTA as an additional named insured as defined in Definitions and Notes clause 2 below.</p> <p>(c) a cross liability and waiver of subrogation clause as defined in Definitions and Notes clause 3 below.</p> <p>(d) Liability arising out of the use of hoists, cranes, unregistered vehicles, boilers and pressure vessels.</p> <p>(e) is governed by the law of New South Wales and subject to Australian jurisdiction as defined in Definitions and Notes clause 4 below.</p>	

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING	COMMENTS (STATE IF INSURANCE IS NOT REQUIRED)
ii	Workers Compensation effected with an approved insurer as defined in Definitions and Notes clause 1 below.	As required by the laws of each relevant State and Territory.	From time this Agreement is entered to completion of the Term including any warranty/ maintenance/ service period.	To cover all persons directly or indirectly engaged in performance of the Services under this Agreement for loss, damage, claims and all direct and associated costs and expenses arising under any statute relating to workers or accident compensation or at common law.	
iii	Fire and Extraneous Perils including Accidental Damage, Burglary, Theft and Transit Insurance (or similar Industrial Special Risks Insurance) whilst in the care, custody and control of the Supplier.	\$1M for any single occurrence and at least \$3M in the aggregate as to the number of occurrences.	From time this Agreement is entered to completion of the Term including any warranty/ maintenance/ service period.	<ul style="list-style-type: none"> (a) lists the Supplier and all subcontractors for their respective rights, interests and liabilities as named insureds. (b) lists RTA as an additional named insured as defined in Definitions and Notes clause 2 below. (c) a cross liability and waiver of subrogation clause as defined in Definitions and Notes clause 3 below. (d) liability arising out of potential causes of damage including but not limited to Accidental, Burglary, Theft, Fire and Natural Causes. (e) provides for a loss sub-limit of [TBA] on any single occurrence of burglary or theft. (f) is governed by the law of New South Wales and subject to Australian jurisdiction as defined in Definitions and Notes clause below. 	

Definitions and Notes:

1. Approved insurer means:

- (a) an Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia; or
- (b) Lloyds Underwriters; or
- (c) if there is any placement of the risk overseas, a related general insurance company in Australia which is approved by the APRA and who has accepted the insurance transfer; or
- (d) if there is any placement of the risk overseas, and does not apply to items (b) and (c) above, the following actions/documentation need to take place and be provided to RTA:



- (1) The Supplier's Finance Committee or appropriate finance personnel of the Supplier, must undertake a full financial risk assessment of the insurer/s being proposed for insurance where the following points must be achieved:
 - (i) the financial rating of the insurer by independent financial advisers must have credit rating of at least "A" Standard & Poors (S & P) or the equivalent rating by the Moody's Investment Service or A M Best;
 - (ii) The Supplier's Insurance Brokers' Financial Committee or appropriate financial personnel of the Insurance Broker, must have its own report and approve the dealing with the Approved Insurer in addition to point (i) above; or
- (e) a Treasury Managed Fund insurance scheme with the NSW State Government; or
- (f) the Comcover insurance scheme for the Australian Federal Government.
2. RTA as an additional named insured for liability arising out of the Supplier's activities. This extension includes liability:
 - (a) For injury to any RTA employee;
 - (b) Arising from work undertaken away from the Supplier's premises;
 - (c) For damage to the RTA's property not in the Supplier's physical or legal control.
3. Cross Liability and Waiver of Subrogation Clause

Cross liability clause means the insurer agrees to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured and for the purpose of which the insurer accepts the term "insured" as applying to each of the persons comprising the insured as if a separate policy of insurance has been issued to each of them (subject always to the overall insured sum).
4. Insurances to be subject to Australian jurisdiction and law of New South Wales

All insurances held by the Supplier to provide that the insurer consents to the jurisdiction of all States and Territories of Australia and is subject to the law of New South Wales
5. The Supplier may rely on existing Master Certificates of Currency of relevant policies of insurance approved by the RTA, instead of producing fresh project specific Certificates of Currency for such policies.

NOTICES

1. To the RTA:

Attention: Chris Ayo
Office held: Bid Development and Procurement Manager
Address: 129a Orchardleigh Street
Yennora NSW 2161
Facsimile: 02 8814 2770

2. To the Supplier:

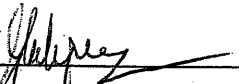
Attention: Michael Walicki
Office held: Managing Director
Address: 55 Birch Street
Bankstown NSW 2200
Facsimile: 02 9791 9499

Note: Contractual notices under clause 31.7(a) are not permitted to be sent by facsimile.


EXECUTION

Date of execution: 1 May 2006

SIGNED for and on behalf of **THE ROADS AND TRAFFIC AUTHORITY OF NEW SOUTH WALES** by its authorised delegate in the presence of



Signature of witness



Signature of delegate

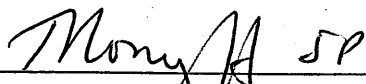
Gilbert Malepa

Name of witness (print)

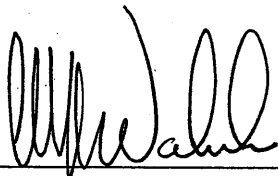
Peter Crosby

Name of delegate (print)

SIGNED by Michael John Walicki as authorised signatory for **C&F Industrial Electronics** in the presence of



Signature of witness 2002 0 3375



Signature of authorised signatory

Toni Morozoff

Name of witness (print)

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY, MASTER AGREEMENT

COPY
12 MAR 2010
Sent to:



12 March 2010

SENDER TO KEEP
001639306099
LIFT & PEEL

Messrs Cornelius Verhoeks, Managing Director
Daniel Dreon, Director
C&F Industrial Electronics Pty Ltd, ABN 91 088 848 793
55 Birch Street, Bankstown NSW 2200

Dear Sirs:

NOTICE OF EXTENSION OF TERM

**Agreement on Intelligent Transport Systems' Component Design, Manufacture and Supply,
RTA Legal Branch registration C6257.**

The above agreement between RTA and C&F commenced on 01 May 2006 for a term of 4 consecutive years extensible at RTA's option, on 1 month's notice, for a further period of 12 months.

In application of clause 4 of the aforementioned agreement, notice is given hereby of extension of the term for a further period of 12 months until 30 April 2011 inclusive

Yours sincerely


Gilbert Malepa
Traffic Services Manager Sydney

Roads and Traffic Authority

Sydney Road Services, 129a Orchardleigh Street, Yennora NSW 2161 | PO Box 778 Guildford NSW 2161
T 02 9794 4710 | F 02 9794 4894 | E Gilbert_Malepa@rta.nsw.gov.au

www.rta.nsw.gov.au | 13 22 13

GENERAL TERMS AND CONDITIONS

1. DICTIONARY AND INTERPRETATION	3
2. STRUCTURE	14
3. NEW PURCHASE ORDERS	15
4. TERM	16
5. GENERAL	16
6. SUPPLIER'S OBLIGATIONS	17
7. PROJECT MANAGEMENT	19
8. SUPPLY TIMETABLE	21
9. VARIATIONS	24
10. CONTRACT PRICE	26
11. INVOICES AND PAYMENTS	26
12. TITLE AND RISK	30
13. SUPPLIER PERSONNEL	30
14. SUB-CONTRACTING	31
15. ACCESS TO SITES	32
16. TESTING AND ACCEPTANCE	33
17. DOCUMENTATION	36
18. WARRANTY SERVICES	36
19. WARRANTIES AND REPRESENTATIONS	37
20. EXCLUSIONS AND LIMITATIONS	40
21. INSURANCE AND INDEMNITY	41
22. INTELLECTUAL PROPERTY RIGHTS AND SOURCE CODE	43
23. LICENCE OF SUPPLIER & 3rd PARTY SOFTWARE AND SOURCE CODE	46
24. KNOW-HOW AND METHODS	47
25. LICENCE BACK	47
26. SUPPORT, UPDATES & NEW RELEASES	48
27. PERFORMANCE	50

28. TERMINATION ON BREACH	50
29. CONSEQUENCES OF TERMINATION OR EXPIRY	51
30. CONFIDENTIALITY AND PRIVACY	52
31. GENERAL	55



GENERAL TERMS AND CONDITIONS

1. DICTIONARY AND INTERPRETATION

1.1 In this Agreement:

Acceptance Date means the date the RTA issues the Notice of Acceptance to the Supplier.

Acceptance Tests means the tests developed (following reasonable consultation with the Supplier) and conducted by the RTA to test a Product to ensure that it complies with the applicable Performance Criteria and Scope of Works.

Acceptance Testing Period means the period of time required for Acceptance Testing, as specified in the Purchase Order.

Act means the Copyright Act 1968 (Cth).

Agreement means:

- (a) the Contract Details;
- (b) General Terms and Conditions;
- (c) Purchase Orders; and
- (d) Attachments.

Business Day means a day other than a Saturday, Sunday or public holiday in Sydney.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Commencement Date means the commencement date specified in the Contract Details.

Condition Precedent means a condition listed under the heading Conditions Precedent in the Purchase Order.

Confidential Information means all Information disclosed to the Recipient by the Discloser or any Related Entity or representative of the Discloser for or in connection with this Agreement including:

- (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Discloser or any of its Related Entities;
- (b) information derived partly or wholly from the Information including without limitation any calculation, conclusion, summary, computer modelling; and
- (c) trade secrets and information which is capable of protection at law or equity as confidential information,

whether the Information was disclosed:

- (d) orally, in writing or in electronic or machine readable form;
- (e) before, on or after the date of this Agreement;
- (f) as a result of any discussions between the parties concerning or arising out of this Agreement; or
- (g) by the Discloser, any of its representatives, any of its Related Entities, any representatives of its Related Entities or by any third person,

but excludes the Excluded Information.

Contract Price for each Purchase Order means the fixed total price for the Products and, if applicable, the Services, as specified in that Purchase Order as varied, as permitted, under the Purchase Order or clause 9 (**Variations**).

Controller has the same meaning it has in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cth).

CPI means the Consumer Price Index (All Groups, Sydney) published from time to time by the Australian Bureau of Statistics.



Customised Software means software (including source program listings and Documentation), and all related know how, techniques and ideas, developed by the Supplier for the RTA under this Agreement. Customised Software includes all software provided or to be provided to the RTA under this Agreement which is not clearly stated in this Agreement to be Supplier Software, Systems Software or Third Party Software.

Defect means:

- (a) a failure of the Product to meet the Scope of Work and/or Performance Criteria; and/or
- (b) any part of the Product that:
 - (i) causes an error message to be displayed by the Product;
 - (ii) results in the Product doing something that it was not designed to do; and/or
 - (iii) results in the Product not doing something that it was designed to do.

Department means the State of New South Wales, represented by a Department of State, or a Department of the Parliament of New South Wales or an administrative unit thereof.

Discloser means the party disclosing Confidential Information.

Document includes:

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device.

Documentation for each Purchase Order or in respect of Existing Materials means designs, models, drafts, charts, user manuals, operating manuals and technical manuals, functional specification, flow charts, diagrams and listings, whether in electronic form or otherwise, and any other Document which is necessary or useful for the effective manufacture, assembly, installation, operation, use and maintenance of the Product.



Due Date for Completion for a Purchase Order means the date specified in the applicable Scope of Works by which the Product must be Supplied to the RTA, as varied or extended under clause 9 (Variations) or clause 8 (**Supply Timetable**).

Enhancement Services means additional services and supplies set out in a Purchase Order which relate to a Product, Services or Documentation.

Excluded Information means Information:

- (a) which is in or becomes generally known to the public other than through breach of this Agreement or an obligation of confidence owed to the Discloser or any Related Entity of the Discloser;
- (b) which the Recipient can prove by contemporaneous written documentation was already known to it at the time of disclosure in connection with this Agreement (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);
- (c) which was developed by the Recipient independently of its disclosure in connection with this Agreement and is not Information developed by the Recipient in the course of performing this Agreement; or
- (d) which the Recipient acquires from a source other than the Discloser or any Related Entity or Representatives of the Discloser where such source is entitled to disclose it without an obligation of confidence.

Existing Materials means the Products delivered or to be delivered by the Supplier to the RTA before the Commencement Date set out in Attachment E.

Force Majeure Event means acts of God, war, flood, fire, explosion, civil disobedience, labour disputes or delays of third parties (other than subcontractors) over which a party has no reasonable control.

GST means any goods and services tax, consumption tax, value added tax or any similar tax imposed by any law of the Commonwealth of Australia or any State or Territory (whether currently in force or coming into force after the date of this Agreement).

GST Law means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other act or regulation relating to the imposition or administration of GST.



Hardware for each Purchase Order means the equipment and components specified in the applicable Scope of Works including any other equipment and components to be used with the Software and/or Services and includes in the case of Existing Materials equipment and components supplied as part of the Existing Materials.

Information means all information relating to or developed in connection with:

- (a) the business, technology or other affairs of the Discloser or any Related Entity of the Discloser;
- (b) any Services or Products or this Agreement;
- (c) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including without limitation, software, manufacturing processes or other information embodied in drawings or specifications) and Intellectual Property Rights owned or used by, or licensed to, the Discloser or a Related Entity of the Discloser.

Infringement Claim means any claim which would, if true, constitute an infringement of the warranty in clause 22.2(a) (**Intellectual Property warranty**).

Insolvent means in relation to any person (including a corporation or individual):

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has had a Controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other party to this Agreement); or
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or



- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Installation means the provision of assembly, installation, system testing and implementation services for each Purchase Order at a nominated Site in accordance with the applicable Supply Timetable, Scope of Work and this Agreement.

Intellectual Property Rights includes, without limitation, Moral Rights, copyright, trade mark, design, patent, semiconductor or circuit board layout rights, trade, business or company names, rights in confidential information or other proprietary rights, or any rights to registration of such rights whether created before or after the date of this Agreement and whether created in Australia or elsewhere.

Key Personnel for each Purchase Order means the persons specified as key personnel in the Purchase Order.

Licence Terms means the terms attached as Attachment B.

Liquidated Damages for each Purchase Order means the liquidated damages payable by the Supplier to the RTA as set out in the Purchase Order.

Milestone means a stage specified in a Supply Timetable at which specified Products must have been completed, specified Services or parts of an Installation must have been completed, specified results achieved or specified conclusions reached.

Moral Right includes rights of attribution, of integrity, of no false attribution, moral rights within the meaning of the Act and other rights in the nature of moral rights;



New Release of any Software means software produced primarily to extend, alter or improve the Software by providing additional functionality or performance enhancement (whether or not defects in the software are also corrected) while still retaining the original designated purpose of that software.

Notice of Acceptance for each Product means the notice issued under clause 16.3 (**RTA's Notice of Acceptance**).

Operating Environment for each Purchase Order means the technical operating environment of the RTA as set out in the applicable Scope of Work.

Payment Terms for each Purchase Order means the payment terms as set out in that Purchase Order.

Performance Criteria for each Purchase Order means the applicable performance criteria specified in that Purchase Order.

Products for each Purchase Order or in respect of Existing Materials means the Software, Services, Hardware (including spare parts) and Standard Products delivered or to be delivered by the Supplier to the RTA.

Proposal means a proposal or revised proposal under clause 3 (**New Purchase Orders**).

Proposed Variation is defined in clause 9.1 (**Proposed Variations**).

Purchase Order means a project order substantially in the form of Attachment A executed by the RTA and the Supplier.

Purchase Order Commencement Date for each Purchase Order means the date specified in the applicable Scope of Works.

QA Specifications means the general specifications referred to in the Purchase Order, the particular specifications referred to in the Scope of Works and the RTA's quality assurance specifications developed as policy documents for adoption and use with contracts and provided or made available to the Supplier from time to time.

Receiver includes a receiver or receiver and manager.

Recipient means the recipient of Confidential Information.



Related Entity has the meaning it has in the Corporations Act.

Representative of a party includes an employee, agent, officer, director, auditor, adviser, partner, consultant, joint venturer or sub-contractor of that party.

Reporting Period for each Purchase Order means the period specified in that Purchase Order.

Requested Services and Products means the services and/or products described in a Supply Request.

RTA Personnel means managers, employees, sub-contractors and agents of the RTA.

RTA Software for each Purchase Order means the software owned by or licensed to the RTA stated in the applicable Scope of Works to be RTA Software.

RTA's Representative means the authorised representative of the RTA which, at the Commencement Date, is the person specified in the Contract Details and the most recent replacement notified to the Supplier.

Scope of Works for each Purchase Order means the scope of works set out in that Purchase Order.

Services for each Purchase Order means all services (including design, modification, development, manufacture, assembly, installation, testing, implementation, documentation, project management, training and other services) to be provided by the Supplier under that Purchase Order including those set out by task and activity in the Supply Timetable and Scope of Works and the Enhancement Services and Warranty Services.

Site for each Purchase Order means each of the locations specified in the applicable Scope of Works, which may be varied or updated from time to time by notice in writing from the RTA.

Software for each Purchase Order means the:

- (a) Systems Software;
- (b) Customised Software;
- (c) Supplier Software; and



(d) Third Party Software,

as specified in the applicable Scope of Work, and in the case of Existing Materials as specified in Attachment E, and includes any Update or New Release of that Software accepted by the RTA but does not include RTA Software.

Source Code Materials has the meaning specified in clause 23.4.

Standard Products means the latest version or release of the Products set out in the price list in Attachment D which the Supplier makes available to its customers generally from time to time, without any modification, customisation, configuration or enhancement.

Supplier Personnel means partners, employees, sub-contractors and agents of the Supplier, including any Key Personnel.

Supplier's Representative means the authorised representative of the Supplier which, at the Commencement Date, is the person specified in the Contract Details, and includes any replacement of that person whose nomination is approved by the RTA, such approval not to be unreasonably withheld.

Supplier Software for each Purchase Order means the software stated in the applicable Scope of Works to be Supplier Software, and in the case of Existing Materials means the software stated in Attachment E to be Supplier Software, and includes any software supplied or developed by the Supplier as a modification to a generally available version of that software.

Supply means delivery.

Supply Request means a request by the RTA made in accordance with clause 3.2 (**Supply Requests**).

Supply Timetable for each Purchase Order means the timetable and plan set out in that Purchase Order's list of Milestones.

Systems Software for each Purchase Order or in respect of Existing Materials means all programs, packages, routines and subroutines, including the operating system, database management systems, transaction processor, network and communications software, advanced development facility, compilers, assemblers and interpreters, and performance and tuning software which are to control the operation of the Hardware and to operate in conjunction with the Supplier Software and Customised Software and which are supplied or approved in writing by the Supplier.



Tax means any tax, levy, charge, impost, duty (including but not limited to stamp or transaction duty), fee, deduction, any interest, fine or penalty charge that is assessed, levied, imposed or collected by any governmental body (whether currently in force or coming into force after the date of this Agreement) and, for the avoidance of doubt, includes GST.

Tax Invoice has the meaning given to it in the GST Law.

Term means the term specified in the Contract Details.

Third Party Software for each Purchase Order means the third party software procured by the Supplier (including any modifications) as specified in the applicable Scope of Works, and in the case of Existing Materials means the third party software specified in Attachment E, licensed to the RTA under clause 23, and includes the Systems Software.

Update in respect of any Software means software which has been produced primarily to overcome defects in, or to improve the operation of, that Software.

Warranty Period for each Purchase Order means the period specified in that Purchase Order, and in the case of Existing Materials the period specified in Attachment E, commencing on the date the Notice of Acceptance is issued, during which the Product complies with the applicable Scope of Works and Performance Criteria.

Warranty Services means the services required to be provided by the Supplier under clause 18.1(a) (**Performance of Warranty Services**).

1.2 In this Agreement, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words which are gender neutral or gender specific include each gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- (d) an expression importing a natural person includes a company, partnership, joint venture, association, corporation or other body corporate and a government agency;
- (e) a reference to a thing (including, but not limited to, a chose-in-action or other right) includes a part of that thing;



- (f) a reference to a clause, party, schedule, attachment or annexure is a reference to a clause of this Agreement or party, schedule, attachment or annexure to this Agreement and a reference to this Agreement includes a schedule, attachment or annexure to this Agreement;
- (g) a reference to a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a rule of an applicable stock exchange and is a reference to that law as amended, consolidated or replaced;
- (h) a reference to a document includes all amendments or supplements to that document, or replacements or novations of it;
- (i) a reference to a party to a document includes that party's successors and permitted assigns;
- (j) an agreement on the part of two or more persons binds them jointly and severally; and
- (k) a reference to an agreement, other than this Agreement, includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing.
- (l) Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the previous Business Day.
- (m) Headings are for convenience only and do not affect the interpretation of this Agreement.
- (n) This Agreement may not be construed adversely to a party because of that party's preparation of this Agreement.
- (o) A term or expression starting with a capital letter:
 - (i) which is defined in this Dictionary, has the meaning given to it in this Dictionary; and
 - (ii) which is defined in the *Corporations Act* but is not defined in this Dictionary, has the same meaning as in the *Corporations Act*.

1.3 In the case of any inconsistency the following priority prevails to the extent of the inconsistency:

Priority	Document Type
1.	Terms and Conditions
2.	Contract Details
3.	Purchase Order - Scope of Works
4.	Purchase Order - sections other than the Scope of Works
5.	Attachments (other than the Purchase Orders)

Where there is an amending document, it has the same priority as the Document Type it amends.

2. STRUCTURE

2.1 Master Agreement

This Agreement sets out the terms on which the Supplier will perform services and supply products to the RTA in relation to electrical and electronic components for intelligent transport systems from time to time. Details of the services and products to be supplied by the Supplier in respect of particular Products will be set out in Purchase Orders entered into pursuant to this Agreement.

2.2 Purchase Orders

Each Purchase Order is incorporated into this Agreement when agreed in accordance with clause 3.

2.3 Existing Materials

Without limiting the provisions of clauses 22 and 23 in respect of the assignment and licensing of Intellectual Property Rights in the Products and the provision of source code, the Supplier will, on or by the Commencement Date, deliver to the RTA all Existing Materials.



3. NEW PURCHASE ORDERS

3.1 Product Orders

From time to time, the RTA may issue to the Supplier, as preferred supplier of the Standard Products, a Purchase Order for one or more Standard Products. The RTA may order Standard Products from other supplier(s) if this Agreement or a Purchase Order is terminated or suspended in accordance with this Agreement. The Supplier will sign and return to the RTA any such Purchase Order(s) issued by the RTA within 5 days of receipt. The Supplier agrees:

- (a) to supply the Standard Products the subject of such executed Purchase Order in accordance with the terms of that Purchase Order; and
- (b) that the Contract Price will be calculated in accordance with the charges for such Standard Products as set out in Attachment D (subject to adjustment on the basis of fluctuation in exchange rates in accordance with the method set out in Annexure B of Attachment A).

3.2 Supply Requests

The RTA may from time to time request the Supplier to perform new services and/or supply products and other Products in relation to Products (“**Supply Request**”).

3.3 Proposal

On receiving a Supply Request, the Supplier must within the time frame agreed with the RTA (or failing agreement as soon as reasonably practicable):

- (a) submit a proposal to the RTA for the Requested Services and Products (“**Proposal**”);
or
- (b) if Supplier is unable to provide the Requested Services and Products, give written notification to RTA, including reasons, that it cannot provide the Requested Services and Products.

Where the Requested Services and Products involve (in the opinion of the RTA, acting reasonably) minor modification, customisation, configuration or enhancement of Standard Products, the Supplier agrees that the price for the Requested Services and Products included in the Proposal will be calculated in accordance with the charges for such Standard Products as set out in Attachment D (subject to adjustment in accordance with clause 11.7 and with Annexure B of Attachment A) plus an amount approved by RTA for the relevant Enhancement Services.



Where the Requested Services and Products involve (in the opinion of the Supplier, acting reasonably) major modification, customisation, configuration or enhancement of Standard Products, or completely new products, the Supplier will provide the RTA with the price for the Requested Products and Services in the Proposal. If the RTA accepts the Proposal in accordance with clause 3.5 (**Execution of Purchase Order**) the Requested Products will become Standard Products for the purposes of this Agreement and the price list in Attachment D will be updated accordingly.

3.4 Changes to Proposal

Where RTA requests changes to the Proposal, the Supplier must prepare and submit a revised Proposal to the RTA incorporating all changes reasonably requested by the RTA.

3.5 Execution of Purchase Order

If the RTA accepts a Proposal, the parties agree to execute a Purchase Order on the terms set out in the Proposal.

4. TERM

4.1 Agreement

This Agreement commences on the Commencement Date and subject to clause 29.4 (**Expiry of Agreement prior to Purchase Order**) continues for the Term unless terminated earlier in accordance with this Agreement.

4.2 Purchase Order

Each Purchase Order commences on the Purchase Order Commencement Date and continues until expiry of the Warranty Period under that Purchase Order, unless terminated earlier in accordance with this Agreement.

5. GENERAL

5.1 Supply of Products and Services

The Supplier agrees to Supply all Products and perform the Services to provide a fully operational Product as prime contractor to the RTA in accordance with each Purchase Order, including the applicable Scope of Works, Performance Criteria and Supply Timetable.



5.2 Payment of Contract Price

The Supplier agrees to provide Services in accordance with the price specified for such Services in the Purchase Order or if no such price is specified then in accordance with the RTA-approved price for the relevant Enhancement Services, and the RTA agrees to pay the Contract Price set out in the Purchase Order.

5.3 Conditions Precedent

- (a) The obligations of the parties under a Purchase Order do not commence unless and until each Condition Precedent (if any) applicable to that Purchase Order has been satisfied or waived by the RTA.
- (b) The Supplier must use its best endeavours to cause each Condition Precedent to be met. The RTA may terminate a Purchase Order by notice to the Supplier if any Condition Precedent has not been met or waived by the RTA by the date specified or such other date as the parties may agree in writing.

6. SUPPLIER'S OBLIGATIONS

6.1 The Supplier must:

- (a) **Act with Diligence** - supply all Products and perform all Services in accordance with this Agreement in a diligent and competent manner and with all reasonable skill and care;
- (b) **Comply with Requirements** - ensure that each Product satisfies the applicable Scope of Works and Performance Criteria;
- (c) **Provide Resources** - provide, manage and maintain sufficient resources including human resources, equipment and facilities to enable it to fulfil its obligations under this Agreement;
- (d) **Project Management** - project manage the Supply of each Product in accordance with clause 7;
- (e) **Assume Responsibility** - assume prime contractor and project management control for the Supply of each Product including but not limited to:
 - (i) accepting responsibility for all sub-contracted services;
 - (ii) procuring modifications of Third Party Software; and
 - (iii) the responsibilities set out in the applicable Scope of Works;

- (f) **Grant a Licence** - licence, or procure a licence from third parties, for the RTA to use, reproduce and adapt all Supplier Software and Third Party Software in accordance with clause 23 (**Licence of Supplier and Third Party Software and Source Code**);
- (g) **Assign IP** - assign to the RTA all Intellectual Property Rights in all Products in accordance with clause 22.1 (**Intellectual Property Rights in Products**);
- (h) **Secure moral rights waivers or consents** – to the extent the Supplier is able at law, the Supplier must secure the waiver of each Moral Right held by any person relating to any material provided to the RTA under this Agreement. The Supplier must, in relation to all material to be provided to or used by the RTA under this Agreement, secure the genuine written consent from each relevant person to all uses of that material by the RTA permitted by this Agreement, including uses which would, in the absence of such consent, constitute an infringement of one or more Moral Rights of a person;
- (i) **Hardware** - supply all Hardware to the RTA on the terms of this Agreement;
- (j) **Comply with Laws** - comply with any laws applicable to the Supply of each Product and the Services;
- (k) **Remove Packaging** - remove packaging material and other by-products associated with the Supply of each Product at each Site at its own expense;
- (l) **No Security Interest** - supply each Product free from any security interest;
- (m) **Co-operate** – co-operate fully with the RTA and any other party engaged by the RTA;
- (n) **Warranty Services** – provide the Warranty Services for each Product;
- (o) **Documentation** – provide Documentation for each Purchase Order in accordance with clause 17;
- (p) **Enhancement Services** – on request by the RTA, provide Enhancement Services for the price approved by the RTA and in accordance with the terms and conditions agreed by the parties;
- (q) **Products** – provide the Products for each Purchase Order in accordance with the applicable Scope of Works and the Supply Timetable;

- (r) **Scope of Works** – otherwise comply with and perform work set out in each Scope of Works; and
- (s) **Comply with RTA policies** – comply with all applicable RTA policies and QA Specifications including G10 Traffic Control, G24 Occupational Health and Safety General (Non Construction Works and Services) and G35 Environmental Protection (Management Plan).

6.2 Co-operation with Third Parties

The Supplier must fully co-operate with all other contractors as the RTA may engage, co-ordinate and integrate any Products and Services it supplies with the services carried out by each such other contractor and carry out the Services so as to avoid interfering with, disrupting or delaying the services carried out by each other contractor.

7. PROJECT MANAGEMENT

7.1 Project management services

In performing each Purchase Order, the Supplier must ensure that the following project management services, as a minimum, are efficiently performed:

- (a) management of the Supplier's activities specified in the Supply Timetable;
- (b) Supply of the Product in accordance with the Supply Timetable;
- (c) monitoring of progress and informing the RTA of each potential delay and of solutions to overcome that delay, in accordance with clause 8 (**Supply Timetable**);
- (d) controlling and rectifying any Product deficiencies;
- (e) status reporting to the RTA's Representative in accordance with clause 7.2 (**Progress Reports**) and as agreed from time to time; and
- (f) preparation for and participation in scheduled quality assurance and audit check points and procedures as set out in this Agreement, the Supply Timetable and as agreed between the parties.



7.2 Progress Reports

If required in a Purchase Order, at the end of each Reporting Period from the Purchase Order Commencement Date, the Supplier must provide to the RTA's Representative a written report on the progress made in that Reporting Period in relation to the development and Delivery of the Product (**Progress Report**). A Progress Report must:

- (a) provide a narrative report outlining progress for the Reporting Period including (without limitation) Milestones reached, progress in the Supply of the Product and Services performed by the Supplier;
- (b) detail any failure or anticipated failure to meet a Milestone in accordance with the Supply Timetable and matters that could affect the timely achievement of Milestones; and
- (c) set out recommendations for avoiding or minimising failures to achieve Milestones.

7.3 Reports do not vary Supply Timetable

A Progress Report provided by the Supplier does not have the effect of varying the Supply Timetable or any of the Supplier's responsibilities under the Purchase Order or this Agreement, which can occur only under clause 9.5 (**Acceptance or Rejection**).

7.4 Reports belong to RTA

- (a) All Progress Reports generated by the Supplier in respect of this Agreement are the exclusive property and confidential information of RTA. The Supplier may retain a copy for internal purposes only.
- (b) The Supplier hereby assigns and must procure that the Supplier Personnel assign to the RTA:
 - (i) any and all copyright that the Supplier and the Supplier Personnel are entitled to in Progress Reports as an assignment of future copyright under s197 of the Act and in equity; and
 - (ii) all Intellectual Property Rights (other than copyright) that the Supplier and the Supplier Personnel are entitled to in Progress Reports, without need for further assurance.

8. SUPPLY TIMETABLE

8.1 Compliance with Supply Timetable

If specified in a Purchase Order, the Supplier must:

- (a) begin Installation at the nominated Site on the date specified in the Supply Timetable and carry out the Installation at each Site expeditiously and in accordance with the Supply Timetable; and
- (b) achieve each Milestone by the date or within the period specified in the Supply Timetable.

8.2 Notification of delay

If any event or circumstance occurs which the Supplier considers may render it unable to meet any Milestone or the Due Date for Completion, it must notify the RTA's Representative as soon as practicable and may request an extension of time.

8.3 Supplier Delays

- (a) If the Supplier fails or notifies the RTA under clause 8.2 that it may fail to meet a Milestone for any reason other than:
 - (i) a failure by the RTA to perform its obligations under this Agreement or the Purchase Order; or
 - (ii) subject to compliance with clause 31.6 (**Force Majeure**), a Force Majeure Event,

then the RTA is under no obligation to grant an extension of time for the achievement of that Milestone, but may in its absolute discretion grant an extension of time.

- (b) If no extension of time is granted by the RTA in its absolute discretion for failure to meet a Milestone, then:
 - (i) other than as set out in paragraph (ii) below, there is no change in the obligations and rights of either party; and



- (ii) the Supplier must:
 - A. increase numbers or average skill or experience level of Supplier Personnel in order to meet the Milestone, at no extra cost to RTA;
 - B. as soon as practicable issue a Progress Report under clause 7.2 (**Progress Reports**); and
 - C. inform the RTA of any solutions and strategies (if any) to overcome, manage and/or minimise the delay or failure, to the extent reasonably possible.

8.4 Delay caused by the RTA

- (a) The Supplier is entitled to an extension of time under a Supply Timetable if:
 - (i) it is or will be delayed in meeting the Due Date for Completion;
 - (ii) it claims the extension of time in accordance with clause 8.4(d);
 - (iii) it has promptly notified the RTA's Representative in writing of any delay in accordance with clause 8.2 (**Notification of delay**); and
 - (iv) the cause of the delay is:
 - A. directly attributable to the RTA, the RTA's Representative or an employee, officer, consultant, agent or contractor of the RTA (not including the Supplier and any person for whom the Supplier is responsible);
 - B. a change in the law;
 - C. a direction by a public authority (other than a direction issued because of a wrongful act or omission by the Supplier or a person for whom the Supplier is responsible or a direction which would not have been given if the Supplier had complied with this Agreement); or
 - D. a delay by a public authority which is not caused or contributed to by the Supplier or a person for whom the Supplier is responsible or which would not have occurred if the Supplier had complied with this Agreement or the Purchase Order.

- (b) Even if the Supplier has met all the other requirements of clause 8.4(a), the Supplier is not entitled to an extension of time if it would have been delayed anyway by a cause not listed in clause 8.4(a)(iv).
- (c) In determining whether the Supplier is or will be delayed in meeting the Due Date for Completion regard shall not be had to:
 - (i) whether the Supplier can reach the Due Date for Completion without an extension of time; or
 - (ii) whether the Supplier can, by committing extra resources or incurring extra expenditure, make up the time lost.
- (d) In order to be eligible for an extension of time under this clause 8.4, the Supplier must make a written claim to the RTA's Representative within 14 days of the start of the delay. The written claim must include details of the delay and its cause or causes and, if possible, the number of days extension required. If the notice does not include details of the number of days extension claimed, the Supplier must provide them in writing as soon as practicable.
- (e) The RTA's Representative must grant an extension of time if the Supplier is entitled to an extension in accordance with this clause 8.4. The period of the extension will be the period which the RTA's Representative deems to be reasonable having regard to the period claimed by the Supplier. The RTA's Representative must give reasons if the extension granted is shorter than the period claimed.
- (f) The RTA's Representative must write to the Supplier with a determination of an extension of time claim within 7 days after receipt of the Supplier's notice setting out the number of days claimed.
- (g) The RTA's Representative may extend the Due Date for Completion for any reason at any time whether or not the Supplier is entitled to it or has claimed it. Notice of an extension granted under this clause must be in writing.
- (h) The Supplier may not claim for any losses or costs incurred by the Supplier by reason of or as a result of or arising from a delay caused by the RTA or the RTA's Representative or the exercise by the RTA's Representative of the power to grant or allow any extension of time under this clause 8.4 unless the need for the extension of time was due to any act or omission on the part of the RTA, the RTA's Representative or the employees, professional consultants or agents of the RTA other than such acts or omissions required by, or reasonably incidental to, the performance of an obligation by the RTA under this Agreement.



- (i) The Supplier must use its best efforts to mitigate any loss it suffers or costs it incurs in the event of a delay contemplated by this clause 8.4.

8.5 Failure to notify

If the Supplier does not notify the RTA of a potential delay in accordance with clause 8.2 (**Notification of delay**), then:

- (a) no extension of time will be made (unless by RTA under clause 8.4(g));
- (b) the Supplier must perform its obligations under each Supply Timetable, as applicable; and
- (c) no principle of law or equity (including the “prevention principle”) shall apply if such principle might make the date for achievement of an obligation uncertain or an agreed compensation unenforceable.

9. VARIATIONS

9.1 Proposed Variations to Purchase Orders

If the RTA wishes to vary a Supply Timetable, Scope of Works or the Performance Criteria or any other aspect of a Purchase Order, the RTA may issue a written request that the Supplier submit a written proposal setting out the details of the proposed variation (the **Proposed Variation**) and provide information to the RTA to enable it to consider the response to a Proposed Variation. Upon receipt by the Supplier of such a request, the Supplier must promptly provide the Proposed Variation or requested information.

9.2 Supplier Proposed Variations

If the Supplier becomes aware of any circumstances which indicate that a Proposed Variation is required in order for the RTA to achieve its objectives as identified in this Agreement, the Supplier must promptly notify the RTA of those circumstances, in which case the RTA may issue a written request to the Supplier to provide a Proposed Variation under clause 9.1 (**Proposed Variations**).

9.3 Contents of Proposed Variation

A Proposed Variation should specify in relation to each proposed variation:



- (a) any amendments which are to be made to the applicable Contract Price, Products, Services, Supply Timetable, Scope of Works or the Performance Criteria with a detailed explanation as to why the amendments are necessary;
- (b) the time within which a response to the proposal is required (**Response Time**), provided that such time must be reasonable having regard to the operational requirements of the RTA and the complexity of the subject matter of the proposal; and
- (c) any other relevant matters.

9.4 Price Adjustments in Proposed Variation

Any adjustment of the Contract Price proposed in a Proposed Variation must:

- (a) if the adjustment increases the price, be based on the actual direct costs which are reasonably and necessarily incurred as a result of the variation and may include a reasonable profit allowance; or
- (b) if the adjustment reduces the price, be based on the allowance made in the price for the item or items which are to be varied, including a reasonable profit allowance,

and any alteration of the price on the basis of fluctuation in exchange rates, must be in dealt with in accordance with the method set out in Annexure B of Attachment A. For the avoidance of doubt, any variation of the Contract Price is inclusive of all Taxes, freight, insurance, landing, other expenses and charges which may be incurred.

9.5 Acceptance or Rejection

- (a) The RTA must notify the Supplier whether or not the Proposed Variation is accepted or rejected within five Business Days after receipt of it.
- (b) If the Proposed Variation is accepted, the Purchase Order (including Contract Price, Supply Timetable, Scope of Works and the Performance Criteria) are deemed to be amended to incorporate the accepted variations from the date on which the RTA notifies the Supplier that it accepts the Proposed Variation.



- (c) If the Proposed Variation is rejected, the Supplier must perform its obligations in accordance with the unchanged Purchase Order (including Contract Price, Supply Timetable, Scope of Works and Performance Criteria).
- (d) Any decision to accept or reject a Proposed Variation will only be binding on the RTA if made with the written approval of the RTA's Representative.
- (e) This clause 9 (**Variations**) sets out the only procedure in which a variation in any Contract Price is possible.

9.6 Variation and waiver of the General Terms and Conditions

A provision of the General Terms and Conditions of this Agreement or a right created under it, may not be varied or waived except in writing, signed by the parties.

10. CONTRACT PRICE

10.1 Contract Price

The Supplier must Supply each Product and the Services for the applicable Contract Price inclusive of all Taxes, freight, insurance, landing, other expenses and charges which may be incurred. The Contract Price may not be varied by the Supplier other than in accordance with clause 9 (**Variations**).

10.2 Invoice for Contract Price

The Supplier may invoice the RTA for the Contract Price in accordance with the applicable Payment Terms and this clause 10 (**Contract Price**).

11. INVOICES AND PAYMENTS

11.1 Payment

Unless the Purchase Order specifies otherwise, the RTA must pay undisputed amounts in a correctly rendered invoice within 30 days after receipt of that invoice. For the avoidance of doubt, the RTA is not obliged to pay to the Supplier any amount unless it has received a correctly rendered invoice in respect of that amount. Where the RTA considers that an invoice is not correctly rendered the RTA will issue to the Supplier within 10 Business Days after receipt of the invoice a notice setting out the reasons why the RTA considers that the invoice is not correctly rendered and identifying any amounts which are in dispute.



11.2 Invoice

For the purposes of this Agreement, an invoice is not correctly rendered unless:

- (a) the invoice is a Tax Invoice;
- (b) the amount claimed in the invoice is due for payment;
- (c) the amount specified in the invoice is correctly calculated in accordance with this Agreement and Attachment D;
- (d) the invoice includes a unique reference number and is set out in a manner that identifies the Services and Products which the invoice covers and itemises each amount claimed to a level of detail satisfactory to the RTA acting reasonably (and in any event, no less than the level of detail provided in the Scope of Works);
- (e) the invoice is accompanied by documents that adequately demonstrate to the RTA any Services that were performed, Products supplied and the basis on which the amounts are claimed; and
- (f) the invoice is addressed to RTA's Representative and identifies this Agreement.

11.3 Amounts due to the RTA

Each amount payable by the Supplier to the RTA under an indemnity, warranty, reimbursement, rebate or refund obligation, or default event under this Agreement is a debt due and payable to the RTA on demand. Any demand must attach any relevant verifying documentation and, if the amount payable is a taxable supply, must be a Tax Invoice. The Supplier must pay or credit the amount to the RTA, at the RTA's option, within 30 days after issue of the demand or the time otherwise set out in this Agreement.

11.4 Payment of amounts due to third parties

The RTA may (but is not obliged to) pay an amount owing by the Supplier to a third party who has supplied services or goods to the Supplier in connection with this Agreement where:

- (a) the time for payment has passed;



- (b) the RTA reasonably considers that supply to the RTA of goods or services may be adversely affected by the non-payment; and
- (c) the RTA has first given the Supplier not less than 5 Business Days notice that it intends to make the payment.

Where the RTA makes such a payment, the Supplier must pay or credit the amount to the RTA in accordance with clause 11.3 (**Amounts due to the RTA**).

11.5 Set Off Rights

Without prejudicing any other rights available to the RTA, the RTA is entitled to set off against any amount due for payment by it to the Supplier any amount payable by the Supplier to the RTA (including any Liquidated Damages) if the RTA has notified such amount to the Supplier and the Supplier is unable to satisfy the RTA (acting reasonably) why such amount should not be set off.

11.6 Payment does not affect other obligations

Payment of money under clause 11.1 (**Payment**) is not evidence:

- (a) that the RTA accepts any Product or any Product or Services under this Agreement;
- (b) of any waiver by or estoppel against the RTA in relation to any right or action which the RTA may have at any time against the Supplier;
- (c) that the Supplier has carried out its obligations in accordance with this Agreement; or
- (d) or the value of any of the Products or Services.

11.7 Review of Standard Products' Prices

The Supplier may review the Standard Products' Prices (Attachment D) on each anniversary of the date of the Agreement, in accordance with the variation in the CPI during the most recent 12 month period for which figures are published and available.



11.8 GST

- (a) Words defined in *A New Tax Systems (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause 11.8.
- (b) All amounts payable by the RTA to the Supplier under this Agreement are expressed as GST inclusive amounts unless otherwise specified.
- (c) The Supplier must be registered for the purposes of the GST unless before entering into this Agreement the Supplier has notified the RTA that the Supplier is not required to be registered for GST.
- (d) The Supplier must notify the RTA if it ceases to be registered for GST or if it ceases to comply with any of the requirements or any taxation ruling issued by a taxation authority relating to Tax Invoices.
- (e) If the Supplier does not include its Australian Business Number on its invoices, the RTA will withhold tax from payments in accordance with the *A New Tax System (Pay As You Go) Act 1999* (Cth).
- (f) If a supply made by a party (**Supplying Party**) under this Agreement is subject to GST then, unless the amount payable for that supply is GST-inclusive, the recipient of that supply agrees to pay to the Supplying Party an additional amount (**Additional Amount**) equal to the Amount of the Consideration for the supply multiplied by the prevailing GST rate.
- (g) The Additional Amount is payable at the same time as the consideration for the supply to which the Additional Amount relates.
- (h) Amount of the Consideration means:
 - (i) the amount of any payment for a supply; and
 - (ii) in relation to non-monetary consideration, the GST-exclusive market value of that consideration.
- (i) If any party is owed any Additional Amount under this Agreement by the other party, the first party must provide a Tax Invoice to the other party for that amount.

12. TITLE AND RISK

12.1 Transfer of Title

An item of Hardware becomes the property of the RTA on the earlier of the final payment date for the relevant item of Hardware and the applicable Acceptance Date.

12.2 Loss or damage

The risk of loss of or damage to each item of Hardware passes to the RTA on the later of the final payment date for the relevant item of Hardware and the applicable Acceptance Date.

12.3 Replacement of Software Media.

The Supplier must, within 24 hours of notification by the RTA, replace at its cost any lost or damaged Software or Documentation storage or carrying media (where such media is received by the RTA in a damaged state). In other cases, the Supplier must replace that media at RTA's cost within 24 hours of a written request from the RTA.

13. SUPPLIER PERSONNEL

13.1 Supplier's Representative

- (a) The Supplier must ensure that the Supplier's Representative takes all project responsibility for delivery of Services to supervise and manage the Supply of each Product, in accordance with this clause 13.1 (**Supplier's Representative**).
- (b) The Supplier must ensure that the Supplier's Representative:
 - (i) supervises the Supplier Personnel and the performance of the work that the Supplier Personnel are required to perform under this Agreement; and
 - (ii) is the principal point of contact for the RTA; and
- (c) If the Supplier wishes to replace the Supplier's Representative, it must give the RTA at least 10 Business Days' notice and must ensure that any replacement meets the other requirements of this clause 13.1.



13.2 Supplier Personnel

Where Supplier Personnel may be required, while performing the Services or Supplying a Product, to:

- (a) enter secure areas in the RTA's buildings or places; and/or
- (b) have access to, or be responsible for the physical custody of, official, secret, sensitive or commercial information, or documents or valuable assets (including the RTA Confidential Information (as defined in clause 30.1)) belonging to the RTA or a third party, the Supplier must ensure that such Supplier Personnel must observe all of the RTA's security and safety requirements and any other security and safety requirements notified to it from time to time including without any limitation signing a deed of confidentiality in the form required by the RTA.

13.3 RTA approval

The RTA may require that only Supplier Personnel who have been approved by the RTA are engaged in performing some or all of the Services. The RTA may at any time on reasonable grounds and without liability withdraw, limit or suspend its approval of a member of Supplier Personnel. If the RTA does so, it must notify the Supplier's Representative (giving reasons) and the Supplier must propose another person for approval within a reasonable time if required by the RTA and without inconvenience or cost to the RTA.

14. SUB-CONTRACTING

14.1 Approval of sub-contractors

- (a) Subject to (c) the Supplier may only sub-contract part of the Services or Supply of Products under this Agreement :
 - (i) with the written consent of the RTA; and
 - (ii) on such conditions as the RTA may impose.
- (b) The RTA is not liable for refusing consent under this clause.



- (c) The consent of the RTA is not required in respect of an exempt sub-contractor. An exempt sub-contractor is one who does not perform any part of the subcontract on a site occupied by the RTA

14.2 Responsibility for sub-contractors

- (a) The Supplier is responsible for ensuring the suitability of a sub-contractor for the work proposed to be carried out and that the work performed by the sub-contractor meets the requirements of this Agreement.
- (b) The Supplier is liable to the RTA for the acts, omissions, defaults and negligence of all sub-contractors which cause loss or damage to the RTA or which place the Supplier in breach of this Agreement, and their employees and agents, as fully as if they were the acts, defaults or negligence of the Supplier or the employees or agents of the Supplier.
- (c) The RTA may at any time and without liability withdraw, limit or suspend its approval of Supplier's sub-contractor. If the RTA does so, it must notify the Supplier (giving reasons) and the Supplier must propose another sub-contractor for approval within a reasonable time if required by the RTA and without inconvenience or additional cost to the RTA.

15. ACCESS TO SITES

15.1 RTA to provide access

- (a) The RTA grants to the Supplier a non-exclusive licence to enter and access Sites specified in the Scope of Works from the dates specified in the applicable Supply Timetable for the sole purpose of allowing the Supplier to meet its obligations under this Agreement.
- (b) Under no circumstances does the Supplier have, or will the Supplier be taken to have, any proprietary rights or estate in land of any kind in or to any Site or any other RTA branch or office.



15.2 No access

- (a) The RTA may, at any time and for any period, refuse any member of the Supplier Personnel or any subcontractor, or any employee or agent or either of them, access to any or all Sites where that person is in breach of:
 - (i) in the case of sub-contractors, any conditions imposed on that sub-contractor under clause 14.1(a)(ii) (**Approval of Sub-contractors**); or
 - (ii) in the case of the Supplier Personnel, any of the procedures or obligations set out in clause 13.2 (**Supplier Personnel**).
- (b) If it is appropriate and practicable, the RTA must give the Supplier prior written notice of the refusal of access under paragraph (a) to allow the Supplier to vacate the Site(s).
- (c) If the RTA exercises its rights under paragraph (a) to deny access to a member of the Supplier Personnel, then the Supplier must take all reasonable steps to have that member of the Supplier Personnel replaced without cost to the RTA or impact on the applicable Supply Timetable.

16. TESTING AND ACCEPTANCE

16.1 Testing by RTA

- (a) The Supplier acknowledges and agrees that the RTA requires the Acceptance Testing Period to conduct each round of Acceptance Tests under this clause 16.
- (b) The RTA will carry out the Acceptance Tests to determine whether a Product satisfies the applicable Scope of Works and Performance Criteria
- (c) On request by the RTA, the Supplier will provide, at reasonable cost to the RTA, the assistance necessary to enable the RTA to carry out the Acceptance Tests. Such assistance shall commence and end on dates and times agreed between the Supplier and the RTA.



16.2 Successful Acceptance Tests

To meet the Acceptance Tests, a Product must exhibit the level of functionality, backward and forward compatibility and phases, resilience, reliability and performance as detailed in the applicable Scope of Works and Performance Criteria and must be free of Defects.

16.3 RTA's Notice of Acceptance

- (a) If the Acceptance Testing reasonably demonstrates to the RTA that a Product complies with this Agreement the RTA will issue a Notice of Acceptance to the Supplier.
- (b) The RTA does not accept any part of a Product until it has issued a Notice of Acceptance.
- (c) If the Acceptance Tests have not been completed by the Due Date for Completion through the fault of the Supplier or a Product, a Product is deemed to have failed the applicable Acceptance Tests.

16.4 Failure to pass

- (a) If the RTA is not satisfied that a Product has passed the Acceptance Tests it will advise the Supplier of the reason for the failure and set a new date upon which the RTA will carry out further Acceptance Tests on the same terms as the initial Acceptance Tests (**Notice of Failure**). Upon receipt of a Notice of Failure the Supplier will do all that is necessary at its cost to remedy the failure specified in the Notice of Failure.
- (b) If a Product fails the second round of Acceptance Tests the RTA may:
 - (i) issue a second Notice of Failure and the parties will repeat the process outlined in paragraph (a); or
 - (ii) proceed in accordance with clause 16.4(c).
- (c) If a Product fails the third round of Acceptance Tests, the RTA may (in its sole discretion):



- (i) by notice to the Supplier accept parts of the Product for a reduction in the Contract Price agreed by the parties. The RTA may reject the Product in accordance with paragraph (iii) if the parties have not agreed on the reduction in Contract Price within 10 Business Days after the RTA has given the notice referred to in this clause;
 - (ii) accept the Product “as is” subject to the Supplier completing, at its own cost, a set of procedures (eg “work-around”) required by the RTA to make the Product comply with this Agreement; or
 - (iii) reject the Product and immediately terminate the Purchase Order under clause 29.3.
- (d) In the event that the RTA is not satisfied that a Product has passed the Acceptance Tests by the Due Date for Completion the Supplier will pay the RTA the applicable Liquidated Damages in accordance with clause 16.4(e) for the period commencing on the day after the applicable Due Date for Completion and ending on:
- (i) the Acceptance Date;
 - (ii) the date the RTA accepts parts of a Product under clause 16.4(c)(i);
 - (iii) the date the RTA accepts a Product “as is” under clause 16.4(c)(ii); or
 - (iv) the date of termination of the Purchase Order or Agreement by the RTA
- (whichever is the earlier). Liquidated Damages are payable by the Supplier within 30 days of receipt of an invoice issued by the RTA under clause 11.3.
- (e) The parties acknowledge and agree that the Liquidated Damages:
- (i) have been discussed and negotiated between the parties; and
 - (ii) represent a genuine pre-estimate of the loss that the RTA is likely to suffer as a result of the Supplier failing to meet the applicable Due Date for Completion.

16.5 Rejection of Product

If the RTA rejects a Product under clause 16.4(c)(iii) (**Failure to Pass**):



- (a) the Contract Price for the rejected Product is not payable; and
- (b) in addition to any other rights which the RTA may have under this Agreement, the Supplier must refund any part of the Contract Price referable to that part of the Product rejected which the RTA has paid, within 30 Business Days of the rejection.

16.6 No deemed acceptance

The RTA's:

- (a) failure to:
 - (i) issue a Notice of Failure; or
 - (ii) complete the applicable Acceptance Tests within the Acceptance Testing Period; and/or
- (b) use of a Product outside the testing environment,

is not to be taken as a deemed acceptance of the Product and does not waive any rights that the RTA has under this clause 16 or otherwise.

17. DOCUMENTATION

The Supplier at no additional cost must provide two copies of the Documentation to the RTA and a reasonable number of additional copies of the Documentation requested by the RTA from time to time in writing. The charges for additional copies of the Documentation beyond the initial two copies required by this clause must be fair and reasonable.

18. WARRANTY SERVICES

18.1 Performance of Warranty Services

For each Purchase Order and in respect of all Existing Materials, the Supplier must:

- (a) during the applicable Warranty Period at no cost to the RTA and in a timely and professional manner correct any Defect in any Product notified to it in accordance with the applicable Performance Criteria, to ensure that the Products conform to the applicable Performance Criteria and Scope of Works; and



- (b) warrant the applicable Warranty Services to the same extent as the Products.

However, where the Supplier establishes that a Defect has arisen as a result of changes made to a Product by the RTA, not authorised by the Supplier or not made in accordance with instructions from the Supplier, the RTA must pay the Supplier for the rectification of that Defect at a price agreed between the RTA and the Supplier.

18.2 Continuous Warranty Period

Each Warranty Period excludes any period during which the relevant Product fails to satisfy or conform to the applicable Scope of Works or Performance Criteria and the Supplier agrees that for each Purchase Order and in respect of all Existing Materials:

- (a) it will continue to supply Warranty Services during such period; and
- (b) the remainder of the Warranty Period will commence from the date the Product is rectified in order to satisfy or conform to the applicable Scope of Works Purchase Order or Performance Criteria.

18.3 Failure to Provide Warranty Services

If the Supplier does not undertake the Warranty Services in accordance with the applicable Performance Criteria, the RTA may perform or have performed those activities at the cost of the Supplier.

19. WARRANTIES AND REPRESENTATIONS

19.1 Supplier's awareness

For each Purchase Order, the Supplier acknowledges and agrees that:

- (a) it has evaluated all technical aspects of the applicable Supply Timetable, Performance Criteria and Scope of Works and has the technical expertise to Supply the Products;
- (b) the technical information (including, without limitation, the Scope of Works) supplied by the RTA is for explanatory purposes only and does not relieve the Supplier of its obligations to Supply the Products;



- (c) it has obtained all information necessary to enable it to understand the RTA's Scope of Works and to supply a solution to fulfil those requirements;
- (d) it has satisfied itself as to the availability and suitability of labour and the resources to provide all services and equipment required under this Agreement;
- (e) it has satisfied itself of the nature and difficulty of the work to be provided under this Agreement;
- (f) it has satisfied itself that it is able to complete the work to a professional standard; and
- (g) it has obtained all consents and all waivers referred to in clause 6.1(h).

19.2 Product Warranties

For each Purchase Order and in respect of all Existing Materials, the Supplier represents and warrants that:

- (a) during the Warranty Period, the Supplier will, at its expense:
 - (i) maintain the Product free from Defects, faults and omissions in design, materials, workmanship and installation;
 - (ii) ensure that the Product satisfies the applicable Scope of Works and Performance Criteria; and
 - (iii) ensure that the Product is compatible and interoperable with the Operating Environment,

and the RTA will, at no cost to the Supplier, arrange for Products the subject of Warranty Services to be taken to the Supplier's premises, provided that if this is not practicable, the Supplier's liability for Warranty Services in accordance with this clause 19.2(a) will be limited to the cost of having such work effected at the Suppliers' premises;

- (b) the Software is owned by or has been procured by the Supplier under valid licences from the Software manufacturer or other owners and the Supplier is not now, nor will be, during the term of this Agreement, in default under any licence and it will access and use, and ensure that its employees, agents and contractors access and use, RTA Software strictly in accordance with any conditions as the RTA may notify to the Supplier in connection with such access and use;



- (c) the Documentation provided under clause 17 (**Documentation**) is sufficient to enable an experienced information technology professional or engineer to install and maintain the Product and enable the RTA Personnel to make full and proper use of the Product;
- (d) the Hardware is and will be free from any charge or encumbrance at the time title passes to the RTA under clause 12.1 (**Transfer of Title**);
- (e) the Hardware and any additional hardware approved by the Supplier:
 - (i) will enable operation of the Software in accordance with the applicable Scope of Works and Performance Criteria; and
 - (ii) will operate in the Operating Environment without any drop in the performance or functionality,provided that such Hardware and additional hardware complies with the manufacturer's specifications;
- (f) any additions or modifications to the Product provided by or approved by the Supplier will comply with the warranties set out in paragraphs (b), (c), (d) and (e) and will operate with any Updates and New Releases so as to meet the Scope of Works and the applicable Performance Criteria, provided such additions or modifications to the Product comply with the manufacturer's specifications;
- (g) any products recommended or otherwise specified by the Supplier for use by the RTA in conjunction with the Product, are sufficient and appropriate to enable the Product and the Supplier to meet the Performance Criteria; and
- (h) each Product will accord with its description and will meet all specifications and requirements applicable to it under this Agreement.

19.3 Notification of non-compliance

The Supplier must, as soon as practicable after becoming aware of any matter which is likely to impact upon its ability to comply with this clause 19, give written notice to the RTA detailing such matter and its likely impact on the Supplier's ability to comply with this clause 19.



19.4 Remedy of defects

If a Product or other Product does not comply with the warranties in clause 19.2, in addition to any other remedies the RTA may have, the RTA may require the Supplier, at the Supplier's expense to provide to the RTA, within 30 Business Days of RTA's request, a modified version of the Product or Product which remedies the defect and complies fully with the warranties in clause 19.2; the Supplier must comply with the RTA's request.

19.5 Interpretation

Nothing in this clause 19 shall be construed to limit any other rights or remedies which the RTA may have under this Agreement. This clause 19 applies in addition to all other rights or remedies.

20. EXCLUSIONS AND LIMITATIONS

20.1 RTA's Liability

Subject to clause 20.3 (**No limitation**), the aggregate limit of any RTA liability to the Supplier under or in respect of this Agreement or relating to its subject matter for each Purchase Order, whether in contract, tort (including negligence), statute or any other cause of action is limited to payment of the applicable Contract Price. In no event will the RTA be liable under or in respect of this Agreement or relating to its subject matter for any indirect, special, economic or consequential loss or damage or loss of revenue, profits, goodwill, bargain or opportunities or loss or corruption of data or loss of anticipated savings incurred or suffered by the Supplier regardless of the cause of action (including negligence) and whether or not the RTA was aware or should have been aware of the possibility of such loss or damage.

20.2 Supplier's liability

- (a) Subject to clause 20.3 (**No limitation**), the maximum liability of the Supplier, whether for breach of this Agreement or in tort (including negligence) or for any other common law or statutory cause of action arising in relation to this Agreement for each Purchase Order, is limited to 120% of the Contract Price and in addition to any other rights which the RTA may have under this Agreement, all additional expenses and costs incurred by the RTA above the Contract Price in relation to the removal of the Product and the selection, development and installation of replacement Product which complies with the applicable Scope of Works and the Performance Criteria.



- (b) Subject to clause 20.3 and to the RTA's right to claim for losses of the type referred to in clause 20.2(a), the Supplier shall not be liable to the RTA for loss of profits or any indirect or consequential loss arising from negligence or breach of contract.

20.3 No limitation

Nothing in this Agreement limits or excludes:

- (a) liability that cannot by law be limited or excluded;
- (b) the liability of either party in respect of personal injury, death or real or tangible property loss or damage;
- (c) liability of a party in respect of a breach of clause 30 (**Confidentiality**); or
- (d) the Supplier's liability under clause 22 (**Intellectual Property Rights**).

21. INSURANCE AND INDEMNITY

21.1 Insurance

Before the Commencement Date, the Supplier must obtain, on terms approved by RTA (such approval not to be unreasonably withheld) and thereafter maintain, the policies of insurance listed in the Contract Details on the terms, for the risks specified and for the periods set out in the Contract Details.

21.2 Evidence of insurance

The Supplier must provide proof that the policies of insurance required to be obtained under this Agreement (including by subcontractors) have been effected and are current at all times during the period of insurance stated in the Contract Details. As proof of compliance the Supplier must provide Certificates of Currency to the RTA in the form specified in **Attachment C**.

21.3 Supplier notification

The Supplier must notify the RTA within two Business Days of:



- (a) the cancellation of any of the policies of insurance required under this Agreement; and/or
- (b) the variation or reduction in the limits of coverage of such insurance policies.

21.4 Failure to provide evidence of insurances

If the Supplier does not comply with clause 21.1, the RTA may, but is not obliged to, effect the relevant insurances and may:

- (a) recover the cost of doing so as a debt due from the Supplier; or
- (b) deduct the premiums payable for the relevant insurances from amounts payable to the Supplier.

21.5 Subcontractor's professional indemnity insurance

Without limiting the operation of RTA's requirements under clause 14.1, for consent to subcontract, if the Supplier subcontracts services which require the exercise of skill and judgment the Supplier must ensure that its subcontractor obtains, on terms approved by RTA, such approval not to be unreasonably withheld, and thereafter maintains professional indemnity insurance as specified in the Contract Details.

21.6 Claims

The Supplier must:

- (a) notify the RTA as soon as possible after any event occurs that may give rise to a claim under any policy referred to in clause 21.1;
- (b) ensure the RTA is kept fully informed about each of those claims; and
- (c) ensure that all its subcontractors take all steps required to enable the Supplier to comply with this clause.



21.7 Supplier Indemnity

Subject to the exclusion and limitation provisions of clause 20.3 the Supplier indemnifies the RTA against all expenses, losses, damages and costs that it may sustain or incur as a result, whether directly or indirectly of any:

- (a) breach of this Agreement by the Supplier (and even if the RTA exercises a right to terminate this Agreement as a result of that breach); or
- (b) negligence of the Supplier, its personnel, agents or subcontractors.

22. INTELLECTUAL PROPERTY RIGHTS AND SOURCE CODE

22.1 Intellectual Property Rights in Products

All Products (other than Supplier Software and Third Party Software), and the copyright in them, are the sole and exclusive property of the RTA. The Supplier assigns and must procure that the Supplier Personnel assign to the RTA with effect from creation:

- (a) all copyright in Products forming part of Existing Materials;
- (b) all copyright in those Products created on or after the Commencement Date as an assignment of future copyright under s197 of the Act and in equity; and
- (c) all Intellectual Property Rights (other than copyright) that may exist in all Products without need for further assurance.

22.2 Supply of source code

- (a) At no cost to the RTA the Supplier must, on or by the Commencement Date, provide the source code for all the Customised Software forming part of the Existing Materials.
- (b) At no cost to the RTA the Supplier must provide the source code for all the Customised Software created on or after the Commencement Date within a reasonable time prior to the period scheduled for Acceptance Testing by the parties and must provide an updated copy of the source code for the Customised Software to the RTA within two weeks of completing any modifications to the source code.



- (c) The Supplier warrants that the source code provided to the RTA under clauses 22.2(a) and (b) will contain everything necessary to enable an experienced programmer to maintain, amend and enhance the Customised Software without reference to the Supplier. Nevertheless, if requested by the RTA, the Supplier must assist the RTA with any such amendment or enhancement of the Customised Software. The Supplier must cure promptly any default under this clause 22.2(c) after notice from the RTA.

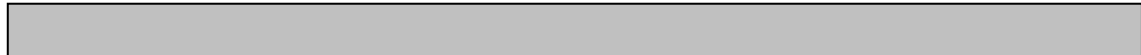
22.3 Intellectual Property warranty

- (a) The Supplier warrants that:
 - (i) it has not infringed and will not infringe the Intellectual Property Rights of any person in providing the Products or the Services or otherwise performing this Agreement; and
 - (ii) the Products, and their use, do not infringe and will not infringe the Intellectual Property Rights of any person.
- (b) The RTA and the Supplier will keep each other fully informed of all suspected or actual Infringement Claims.

22.4 Intellectual Property Indemnity

The Supplier must (either directly itself or by procuring sub-contractors to do so):

- (a) at the RTA's request and sole option:
 - (i) defend at no cost to RTA, all Infringement Claims (and the RTA agrees to provide reasonable assistance in respect to any such Infringement Claims); or
 - (ii) provide, at no cost to the RTA, all reasonable assistance required by the RTA to defend any Infringement Claim; and
- (b) indemnify the RTA against all costs (on a solicitor and own client basis and whether incurred by or awarded against RTA) that the RTA may sustain or incur as a result of any and all Infringement Claims; and
- (c) satisfy any settlement of or judgement given in any Infringement Claim.



22.5 Other Remedies

- (a) Without limiting any other rights the RTA may have, if, as a result of any Infringement Claim, the RTA is prevented from using a Product or other Product or any of their component parts, the Supplier must, at the RTA's option and at the Supplier's cost:
- (i) promptly procure for the RTA, on reasonable commercial terms, the right to use the Product, Product or component part (as applicable) as contemplated under this Agreement free of any claim or liability for infringement;
 - (ii) promptly procure for the RTA other equipment or software that complies with the applicable Performance Criteria and Scope of Works; or
 - (iii) promptly modify the Product or component part (as applicable) so that it ceases to infringe those rights (while still complying with the Scope of Works, Performance Criteria and all other applicable specifications and requirements).
- (b) Without limiting any other rights the RTA may have, if the Supplier has not complied with paragraph (a) within 30 Business Days after prevention of use of a Product or component part (as applicable), the Supplier must, at the RTA's option:
- (i) accept return of the Product and any other material acquired under this Agreement the use of which is detrimentally affected by any return of anything under this clause 22.5(b)(i); and
 - (ii) return to the RTA the applicable Contract Price and all other amounts paid by the RTA in relation to the Product and related Services and anything returned by the RTA under clause 22.5(b)(i); and
 - (iii) pay the difference between the applicable Contract Price and the reasonable extra expenses incurred (together with any loss sustained by the RTA) in procuring from other sources hardware, software and services substantially similar to the Product and anything returned by the RTA under clause 22.5(b)(i).

23. LICENCE OF SUPPLIER AND THIRD PARTY SOFTWARE AND SOURCE CODE

23.1 Grant of Licence

For each Purchase Order and in respect of all Existing Materials, the Supplier grants, and will ensure that relevant third parties grant, the RTA:

- (a) a licence to:
 - (i) use the Supplier Software and Third Party Software; and
 - (ii) sub-license the right to use the Supplier Software and Third Party Software to its agents and contractors;

in accordance with licence terms agreed by the RTA in writing prior to the delivery of relevant Existing Materials or execution of the applicable Purchase Order; or

- (b) in the event that there are no licence terms agreed in writing as envisaged by clause 23.1(a), a royalty free, irrevocable, non-exclusive, worldwide, perpetual licence to use the Supplier Software and Third Party Software in accordance with the Licence Terms and this clause 23.

23.2 Commencement of Licence

The licence granted under clause 23.1 commences:

- (a) in relation to Supplier Software and Third Party Software forming part of the Existing Materials, on the date of delivery of the relevant Existing Materials to the RTA;
- (b) in relation to those parts of the Supplier Software and Third Party Software existing prior to or on the Commencement Date, on the applicable Purchase Order Commencement Date; and
- (c) in relation to those parts of the Supplier Software and Third Party Software created after the applicable Purchase Order Commencement Date, immediately upon the creation or making of those parts of the Supplier Software and Third Party Software.



23.3 Licence fee

Any licence fees for the Supplier Software and Third Party Software are included in the Contract Price.

23.4 Source Code

If required by the RTA, for each Purchase Order, the Supplier must cause to be provided to the RTA a current copy of the:

- (a) source code for the Supplier Software and the Third Party Software; and
- (b) documentation that contains everything necessary to enable a reasonably skilled information technology professional or engineer to maintain such Software without reference to the Supplier,

Above items (a) and (b) together, are defined as "**Source Code Materials**". The Supplier grants to the RTA a perpetual, irrevocable, paid-up, non-exclusive licence to use, copy and modify the Source Code Materials and to allow its contractors to exercise those rights to enable the RTA to continue using, supporting and maintaining the Product.

24. KNOW-HOW AND METHODS

Subject to the Supplier's obligations of confidentiality under clause 30 (**Confidentiality and Privacy**), nothing else in this Agreement affects the ownership of, or restricts the Supplier's ability to re-use, any know-how, skills or methods which the Supplier owns as at the Commencement Date or develops in performing its obligations under this Agreement.

25. LICENCE BACK

25.1 Licence for the purposes of this Agreement

The RTA grants to the Supplier a paid-up, non-exclusive licence to exploit the Intellectual Property Rights in:

- (a) the Products assigned to the RTA pursuant to clause 22 (excluding Existing Materials) for the term and only to the extent necessary for the Supplier's provision of Services and delivery of Products in accordance with this Agreement.



(b) those Existing Materials identified in Attachment E as being subject to a licence-back to the Supplier, for use for purposes which do not conflict with the RTA's interests (as reasonably determined by the RTA).

25.2 Licence where the RTA ceases to sell the Products

If during the Term the RTA notifies the Supplier in writing that the RTA no longer intends to sell Products to third parties, then the RTA will grant to the Supplier, with effect on and from the date of such notification, a perpetual, worldwide, irrevocable, paid-up, non-exclusive licence to exploit the Intellectual Property Rights in the Products assigned to the RTA in accordance with clause 22.

26. SUPPORT, UPDATES & NEW RELEASES

26.1 Supplier must notify the RTA of Updates

Where an Update or a New Release for any Software becomes available, the Supplier must promptly notify the RTA of the specifications for that Update or New Release.

26.2 Provision of Updates and New Releases

- (a) The Supplier must, at no additional cost to the RTA, provide the RTA with a copy of all Updates at the time specified in the Scope of Works and, if no time is specified there, promptly after that Update becomes available.
- (b) If requested by the RTA, the Supplier must provide New Releases to the RTA as and when they become available, at a price to be agreed between the RTA and the Supplier which shall be no less favourable than the price paid by any other customer of the Supplier.

26.3 Supplier must demonstrate Updates

If the RTA requests, the Supplier must demonstrate the extent to which the Update or New Release will:

- (a) perform the functions in accordance with the applicable Scope of Works and Performance Criteria; and
- (b) continue to interoperate and be compatible with the other parts of the relevant Product.



26.4 RTA not obliged to use Updates

The RTA is not obliged to accept or use any Updates or New Releases. If the RTA elects not to accept an Update of Software within 3 months of it being made available, the Supplier is not liable for any loss the RTA suffers as a result of a Defect in respect of that Software, which is remedied by the Update unless the Update would not perform in accordance with the applicable Scope of Work or Performance Criteria or is not compatible with the Product then in use.

26.5 Supplier must maintain Current Version

If the RTA decides not to accept an Update which complies with the applicable Scope of Works and/or Performance Criteria, the Supplier must continue to provide maintenance and support for the version of the relevant Software used by the RTA at that time for a period of one year commencing on the date which the RTA declines the Update.

26.6 RTA accepts Update

- (a) Where the RTA accepts an Update or New Release, this Agreement applies in all respects to the Update or New Release to the extent it is incorporated in or replaces the Software.
- (b) The Supplier must not install an Update or New Release without the RTA's consent in writing.
- (c) The Supplier must provide each Update or New Release in a format and on a medium which allows ready installation and operation of the Update or New Release in the Operating Environment.

26.7 Application of Licence Terms and Source Code Provisions

The terms and conditions of this Agreement including the terms of licence and the provisions in relation to the supply of source code in clauses 22 and 23 will apply to any Updates or New Releases provided by the Supplier under this clause 26.



27. PERFORMANCE

27.1 Performance in accordance with the applicable Scope of Works and Performance Criteria

For each Purchase Order, the Supplier will:

- (a) correct any Defect in a Product notified to it in accordance with the applicable Performance Criteria, to ensure that the Product continues to meet the applicable Scope of Works and Performance Criteria; and
- (b) introduce Updates from third party suppliers in a timely manner so that the Product continues to perform in accordance with the applicable Scope of Works and Performance Criteria.

28. TERMINATION ON BREACH

28.1 Termination by the RTA for breach

The RTA may immediately terminate this Agreement in whole or as it relates to one or more Purchase Orders, by notice to the Supplier if the Supplier:

- (a) **Breach of Agreement** - breaches any of its obligations under this Agreement, or any guarantee or indemnity and fails to remedy the breach within 60 Business Days of receiving notice from the RTA requiring the breach to be remedied;
- (b) **Wrongful Assignment** - assigns its rights otherwise than in accordance with this Agreement;
- (c) **Insolvency** - becomes Insolvent; or
- (d) **Change in Beneficial Ownership** - undergoes any change (unless the RTA consents to such change) in who (i.e. which person or group of persons) has effective control of the Supplier. For the purposes of this clause 28.1(d), a person or group of persons has effective control of the Supplier where that person or group of persons:
 - (i) controls (directly or indirectly) more than half of the voting power exercisable at a general meeting of shareholders of the Supplier;

- (ii) holds equitable or legal interests in (or execution of options to acquire such interests in) more than fifty percent (50%) of the outstanding voting capital in the Supplier; or
- (iii) controls the decision making power of the Supplier.

28.2 Termination by Supplier for breach

The Supplier may terminate a Purchase Order by notice to the RTA if the RTA fails to pay any undisputed amount due to the Supplier within 2 months of the RTA's receipt of notice from the Supplier of the failure to pay such amount. The Supplier may not terminate this Agreement or a Purchase Order other than in accordance with the foregoing.

28.3 Continuation

Where this Agreement is terminated by the RTA, the RTA may terminate any or all Purchase Orders then on foot. Where this Agreement is terminated only in relation to one or more Purchase Orders, the Supplier must continue to perform this Agreement in respect of any other Purchase Orders which have not been terminated.

29. CONSEQUENCES OF TERMINATION OR EXPIRY

29.1 Termination by RTA for breach

If this Agreement is terminated by the RTA under clause 28.1 (**Termination by the RTA for breach**) (whether in full or as it relates to one or more Purchase Orders), then without limiting any other rights the RTA may have:

- (a) **Retention of Access to Product** - the RTA may, by notice in writing to the Supplier, elect to retain access to and use of the Product; and
- (b) **Payment of outstanding amounts only** - the RTA is liable under this Agreement to pay only for Products delivered, accepted and retained by RTA at its election.

29.2 Expiry or termination

On expiry or termination of this Agreement or as it relates to a particular Purchase Order for any reason, then without limiting any other rights the RTA may have, the Supplier must:



- (a) if the RTA has elected to retain access to and use of the Product, provide all necessary assistance as required by the RTA to facilitate ongoing use of the Product;
or
- (b) if the RTA has elected not to retain access to and use of the Product, provide reasonable assistance in the transition to an alternative product,

subject to payment by the RTA for such assistance provided by the Supplier as Enhancement Services.

29.3 Termination or expiry of a Purchase Order

Where this Agreement is terminated or expires only in relation to a Purchase Order, the remedies and obligations of the Supplier under this clause 29 apply in so far as they relate to the expired or terminated Purchase Order.

29.4 Expiry of Agreement prior to Purchase Order

Subject to clause 28.3, where this Agreement expires or is terminated before expiry of the term of a Purchase Order under clause 4.2 (**Purchase Order**) this Agreement will continue in so far as it relates to that Purchase Order until expiry or termination of the Purchase Order.

30. CONFIDENTIALITY AND PRIVACY

30.1 Ownership of Information

The Supplier acknowledges that:

- (a) the RTA owns all Intellectual Property Rights in:
 - (i) RTA Software and Information and materials disclosed by or on behalf of the RTA or developed for the RTA concerning this Agreement or the Services;
 - (ii) all reports issued by the Supplier under this Agreement and the contents of those reports; and
 - (iii) all data (if any) entered into RTA's systems; and



- (b) the Information and materials referred to in clause 30.1(a) are Confidential Information of the RTA.

30.2 Disclosure of Confidential Information

The Recipient must not disclose the Discloser's Confidential Information to any person except:

- (a) its representatives, legal advisers, auditors and other consultants of the Recipient requiring it for the purposes of this Agreement (or to enable the Recipient to obtain professional advice in relation to this Agreement);
- (b) with the consent of the Discloser;
- (c) if the Recipient is required to do so by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the Recipient or by a stock exchange; or
- (d) if the Recipient is required to do so in connection with legal proceedings relating to this Agreement or other agreement between the parties.

30.3 Permitted Disclosures

If the Recipient discloses Confidential Information under clause 30.2(a) or (b) (**Disclosure of Confidential Information**) then:

- (a) it must use its best endeavours to ensure that persons receiving the Confidential Information from it do not disclose the information except in the circumstances permitted in clause 30.2 (**Disclosure of Confidential Information**);
- (b) the Discloser may at any time require the persons receiving the Confidential Information to give written undertakings relating to the non-disclosure of Confidential Information and the Recipient must arrange for all such undertakings to be given promptly; and
- (c) the Recipient must reserve the right to demand immediate delivery of all documents or other materials containing or referring to that Confidential Information which is in its possession, power or control or in the possession, power or control of the third party who has received Confidential Information from it under clause 30.2(a) or (b) (**Disclosure of Confidential Information**).



30.4 Use of Confidential Information

The Recipient must not use the Discloser's Confidential Information except for the purpose of exercising the Recipient's rights or performing its obligations under this Agreement or any other agreement between the parties.

30.5 Return of Confidential Information

On the Discloser's request, the Recipient must immediately deliver to the Discloser or destroy all documents or other materials containing or referring to the Confidential Information which are:

- (a) in its possession, power or control; or
- (b) in the possession, power or control of persons who have received Confidential Information from the Recipient under clause 30.2(a) or (b),

except to the extent that:

- (c) the Recipient requires the Confidential Information for the purpose of performing its obligations or exercising its rights under this Agreement or other agreement between the parties; or
- (d) the Recipient is otherwise entitled to retain the Confidential Information.

30.6 No disclosure of terms of this Agreement

Except as otherwise agreed or required by law, any regulatory authority or stock exchange, neither party may disclose the terms of this Agreement to any person other than its employees, accountants, auditors, financial advisers or legal advisers on a confidential basis.

30.7 Publicity

The Supplier may only make press or other announcements or releases about this Agreement and the transactions related to it:

- (a) with the express, written approval of the RTA; or



- (b) as required to be made by law or the rules of a stock exchange provided that the Supplier gives the RTA as much prior notice as is reasonably practicable and the opportunity to review and comment on the form and text of the disclosure before the disclosure is made.

30.8 Compliance with Privacy Requirements

Notwithstanding the balance of this clause 30, the Supplier must

- (a) comply with the RTA's privacy policy (and each specific privacy policy of the RTA in relation to the collection and/or handling of personal or private information relating to third parties including the obtaining of any necessary consents to its use by the RTA or by third parties) as notified in writing to Supplier from time to time as if it were bound by that policy;
- (b) comply with the Privacy Act 1988 (Cwlth), the Privacy and Personal Information Protection Act 1998 (NSW) and all other applicable privacy laws and such other data protection laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information, as if it were regulated by those laws;
- (c) comply with any reasonable direction of the RTA in relation to the means of compliance with such laws, codes or privacy policy; and
- (d) co-operate with the RTA in the resolution of any complaint alleging a breach of such laws, codes or privacy policy.

31. GENERAL

31.1 Assignment and Novation

- (a) If after the applicable Acceptance Date, the RTA requests the Supplier to do so, the Supplier must assign to the RTA the benefit of all manufacturer's warranties and/or service warranties granted to the Supplier by suppliers and licensors of the applicable Products and any Services without need for further consideration.
- (b) The Supplier must not assign its rights under this Agreement without the prior written consent of the RTA.



- (c) The Supplier must not consult with any other person or body for the purposes of entering into an arrangement which will require novation of this Agreement without first consulting the RTA.
- (d) Subject to paragraph (e), the RTA may assign this Agreement in whole or in part by notice in writing to the Supplier, only with the prior consent of the Supplier, which must not be unreasonably withheld or delayed.
- (e) Notwithstanding paragraph (d), the RTA may novate this Agreement, in whole or in part, without the consent of the Supplier to any Department, to any other body created by or under a statute or ministerial direction of the State of New South Wales for the purpose of administering the functions or discharging the role of the RTA as described in this Agreement or to any public sector agency within the meaning given to that term in regulation 18 of the *Public Sector Management (Goods and Services) Regulation 2000*. The Supplier must execute all documents necessary to give effect to such a novation.

31.2 Severability

If any part or provision of this Agreement is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remainder of this Agreement will continue to operate.

31.3 Cumulative Rights

The rights, powers and remedies of a party under this Agreement are cumulative with the rights, powers or remedies provided by law independently of this Agreement.

31.4 Further Assurances

Each party must, at its own expense, do everything reasonably necessary to give full effect to this Agreement.

31.5 Survival

Clauses 11 (**Invoices and Payments**), 17 (**Documentation**), 19 (**Warranties and Representations**), 20 (**Exclusions and Limitations**), 21 (**Insurance and Indemnity**), 22 (**Intellectual Property Rights**), 23 (**Licence of Supplier and Third Party Software and Source Code**), 25 (**Customised Software**), 29 (**Consequences of Termination or Expiry**), each licence granted to the RTA under this Agreement (except where expressly stated not to survive) and clause 30 (**Confidentiality and Privacy**) and any other clause which by its nature is intended to survive termination or expiry of this Agreement, survive termination or expiry of this Agreement.



31.6 Force Majeure

- (a) A party does not breach this Agreement and is not liable to any other party for a delay or failure to perform an obligation resulting from a Force Majeure Event. The party affected by the Force Majeure Event is granted a reasonable extension of time to perform the obligation, if:
- (i) it notifies the other party as soon as reasonably practicable of the Force Majeure Event and of the period for which it expects performance of its obligations to be delayed or prevented; and
 - (ii) it takes all reasonable steps to avoid or limit the effects of Force Majeure Event, including without limitation:
 - A. submitting a written proposal to the other party identifying any variations to the applicable Supply Timetable which they reasonably consider are necessary as a result of the Force Majeure Event; and
 - B. on acceptance or approval of those recommendations, commence to implement those strategies.
- (b) If a delay or failure to perform a party's obligations due to a Force Majeure Event beyond that party's reasonable control exceeds 60 Business Days, or if the RTA reasonably considers that the Force Majeure Event will not cease within 60 Business Days, then, at the RTA's discretion:
- (i) the RTA may suspend this Agreement or the relevant Purchase Order(s) in writing, for a period determined by the RTA acting reasonably; or
 - (ii) the RTA may terminate this Agreement or the relevant Purchase Order(s), provided that the RTA will not terminate this Agreement or the relevant Purchase Order(s) unreasonably.

31.7 Notices

- (a) A notice under clause 8 (**Supply Timetable**), clause 9 (**Variations**), clause 28(**Termination on breach**), clause 31.1 (**Assignment and novation**), clause 31.6 (**Force majeure**) or clause 31.10 (**Dispute resolution**) or any other notice claiming or relating to a breach, repudiation, purported termination or variation of this Agreement must be in writing and must be delivered to or sent by prepaid certified post (airmail if posted to or from a place outside Australia) to the address of the addressee specified in the Contract Details or sent to any other address the addressee requests.



- (b) A notice, consent, request or any other communication under this Agreement other than one referred to in (a) must be in writing and must be left at the address of the addressee, or sent by prepaid post (airmail if posted to or from a place outside Australia) to the address of the addressee or sent by facsimile to the facsimile number of the addressee specified in the Contract Details or any other address or facsimile number the addressee requests.
- (c) A notice, consent, request or any other communication is deemed to be received:
 - (i) if by delivery, when it is delivered;
 - (ii) if a letter, the earlier of the date of receipt and three Business Days after posting (seven, if posted to or from a place outside Australia); and
 - (iii) if a facsimile, the earlier of the time of receipt and the next Business Day after the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient.

31.8 Entire Agreement

This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes any previous understandings or agreements on that subject matter. Without limiting the foregoing, all terms of the Supplier that may otherwise apply to the provision of Products or Services under this Agreement are hereby excluded.

31.9 Non-Solicitation of Personnel

During this Agreement and for 12 months after termination or expiry, neither party may solicit for employment, or independently contract for the services of, any employee of the other who is involved in the performance of the respective party's obligations under this Agreement.

31.10 Dispute Resolution

- (a) The parties must attempt to settle by negotiation any dispute in relation to this Agreement (**Dispute**) in accordance with this clause before resorting to external dispute resolution processes.



- (b) If the Dispute is not resolved by the RTA's Representative and the Supplier's Representative within 5 Business Days of being referred to them, the parties must within a further 5 Business Days agree on:
- (i) a process to resolve the Dispute through independent expert determination;
 - (ii) the procedure and timetable for any exchange of documents and other information in relation to the Dispute;
 - (iii) procedural rules and timetable for the conduct of the independent expert determination; and
 - (iv) a procedure for selection and compensation of those who effect the independent expert determination.
- (c) If the Dispute has not been resolved within 30 Business Days of the parties agreeing on a process for resolving the Dispute under clause 31.10(b), or if the parties have not agreed on such process in the timeframe stated in that clause, then either Party, by notice, may terminate the dispute resolution process and may commence court proceedings relating to the Dispute.
- (d) The exchange of information or documents or the making of any offer of settlement under this clause is for the purpose of attempting to settle the Dispute and is provided or made on a "without prejudice" basis.
- (e) Notwithstanding the existence of a Dispute, the Supplier and the RTA must continue to perform its obligations under this Agreement.
- (f) A party may commence court proceedings relating to any Dispute at any time if that party is seeking urgent interlocutory relief.
- (g) Nothing in this clause 31.10 affects a party's right to terminate this Agreement under clause 28.

31.11 Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.



ATTACHMENT A

PURCHASE ORDER (CLAUSE 3)

PARTIES

This Purchase Order is issued pursuant to the provisions of the ITS Component Design, Manufacture and Supply Master Agreement between:

ROADS AND TRAFFIC AUTHORITY OF NEW SOUTH WALES, of 260 Elizabeth Street, Surry Hills, New South Wales (RTA); and

[SUPPLIER'S NAME] ABN [*insert ABN*] of [*insert address, telephone number, fax number*] (**Vendor**).# insert name

QUOTATION REFERENCE AND PURCHASE ORDER

[Insert a quotation reference, and a reference for this Purchase Order.]

PURCHASE ORDER COMMENCEMENT DATE

[Insert date from which this Purchase Order will take effect.]

CONDITIONS PRECEDENT

[Specify condition and date by which it must be satisfied.

This refers to conditions which must be met after issue of the Purchase Order but before it becomes effective. If not relevant, state NIL.]

REPORTING PERIOD FOR PROGRESS REPORTS: (Weekly/Fortnightly/Monthly)

[Empty box for reporting period details]

ACCEPTANCE TESTING PERIOD

[Specify number of Business Days required by the RTA to undertake Acceptance Testing]
Business Days.

PRODUCTS AND SERVICES

See Annexure A (Scope of Works)

CONTRACT PRICE

Item's Code	Product/Service	Unit of Measure	Unit Price (AUD) (Inc GST)	Quantity	Total Price (AUD) (Inc GST)
T O T A L					

PAYMENT TERMS

Payment of the Contract Price is to be made within 30 days of receipt of a correctly rendered Tax Invoice which the Supplier is entitled to issue as follows:

[Nominate milestones which can be assessed objectively as completed.]

M I L E S T O N E S				
No.	Description	\$	% of Total	Date
T O T A L				

LIQUIDATED DAMAGES

(For delay in meeting the Due Date for Completion (clause 16.4(d))

(X% of the Contract Price per week (to a maximum of Y% of the Contract Price)].

[Choose X to result in Y% being reached if contract completion is delayed by approximately Z% of contract duration.]

WARRANTY PERIOD

_____consecutive months from Acceptance Date.

ANNEXURES A (SCOPE OF WORKS) AND B (PRICE ADJUSTMENT) FORM PART OF THIS PURCHASE ORDER.

SIGNED by or on behalf of the
RTA's Representative

.....
Signature

.....
Name

.....
Date

SIGNED by or on behalf of the
Supplier's Representative

.....
Signature

.....
Name

.....
Date



ANNEXURE A OF PURCHASE ORDER. SCOPE OF WORKS

**Due Date for
Completion**

Services *[insert a general description of the Services (if applicable),
including whether design services are required or whether
an existing design will be used]*

HARDWARE

**SUPPLIER
SOFTWARE**

**THIRD PARTY
SOFTWARE**

**SYSTEM
SOFTWARE**

SPECIFICATIONS *[Indicate whether an existing design will be used or a new
(Customised design must be created)
software, hardware,
requirements, etc)*

**OPERATING
ENVIRONMENT**

TRAINING

**Approved
Subcontractors** *[Insert names of any subcontractors approved to provide
Services under this Purchase Order or insert "Not
applicable"]*

SITES

**Place where
Services are to be
provided.**

**Standards or special
Regulatory
Requirements.**

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

ANNEXURE B OF PURCHASE ORDER

PRICE ADJUSTMENT

If a Product's price is subject to fluctuation of the AUD/USD exchange rate, the price invoiced to the RTA will be adjusted with the following method:

P_i = Price of the component, invoiced in AUD by the Supplier to RTA.

P_q = Price of the component in AUD, quoted in the Supplier's tender or Supply Request to RTA.

$P_{\%}$ = Percent part of P_i which is paid in USD by the Supplier to its vendor.

X_t = Reserve Bank of Australia's AUD/USD exchange rate current at 5pm on the day of Supplier's tender or the day the Standard Product is placed on the price list, as the case may be.

X_i = Reserve Bank of Australia's AUD/USD exchange rate current at 5pm on the day of Supplier's invoice.

$$P_i = P_q \times \left(\frac{100 - P_{\%}}{100} + \frac{P_{\%} \times X_t}{100 \times X_i} \right)$$

Example:

Price tendered for the component: AUD 450.00 when the exchange rate AUD/USD was 0.7025

The Supplier pays 20% of the above price in USD.

The Supplier invoices the component to RTA when the exchange rate AUD/USD is 0.8836

The price invoiced to RTA: $450 \times \left(\frac{100 - 20}{100} + \frac{20 \times 0.7025}{100 \times 0.8836} \right) = \mathbf{AUD\ 431.55}$

ATTACHMENT B. LICENCE TERMS

SUPPLIER SOFTWARE AND THIRD PARTY SOFTWARE

[These terms apply to the Supplier Software and Third Party Software unless the Supplier has provided alternative licence terms which have been reviewed and agreed by the RTA]

The Licence Terms contained in this Attachment B form part of the “ITS Component Design, Manufacture and Supply Master Agreement” (**Agreement**) executed between the RTA and the Supplier on *[insert date]*.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Attachment, words and expressions have the meaning stated in this Agreement.

1.2 A reference to “Supplier Software and Third Party Software”, “New Release” or “Update” in this Agreement includes a reference to any part of that Supplier Software and Third Party Software, New Release or Update, respectively.

2. SCOPE OF LICENCE

2.1 The licence granted by the Supplier to the RTA under clause 23.1(b) of this Agreement is subject to the terms contained in this clause 2.

2.2 The RTA may:

- (a) install, store and distribute the Supplier Software and Third Party Software in and in connection with Products and over its internal systems and network;
- (b) use, copy, modify, adapt, maintain and enhance the Supplier Software and Third Party Software;
- (c) at no cost to the RTA or third parties, allow third parties access to, and the right to use the Supplier Software and Third Party Software to provide services to third parties, including but not limited to the provision of outsourcing services, development services and support and maintenance services;
- (d) at no cost to the RTA or third parties, allow third parties access to, and the right to use the Supplier Software and Third Party Software to provide services to the RTA, including but not limited to the provision of outsourcing services, development services and support and maintenance services; and
- (e) at no cost to the RTA or third parties, use the Supplier Software and Third Party Software for the benefit of third parties, including without limitation for the purposes of providing management or other services to third parties.

2.3 These Licence Terms apply to:

- (a) the Supplier Software and Third Party Software as modified or enhanced; and
- (b) all New Releases and Updates obtained by the RTA under this Agreement.

2.4 These Licence Terms do not apply to the Customised Software.

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

EXECUTED by the parties as an agreement

Date of execution: _____

SIGNED for and on behalf of **THE ROADS
AND TRAFFIC AUTHORITY OF NEW
SOUTH WALES** by its authorised delegate
in the presence of

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

SIGNED by Michael John Walicki as
authorised signatory for **C&F Industrial
Electronics** in the presence of

Signature of witness

Signature of authorised signatory

Name of witness (print)

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

ATTACHMENT C

CERTIFICATE OF CURRENCY (PROJECT-SPECIFIC)

BROADFORM PUBLIC & PRODUCTS LIABILITY INSURANCE

Contract Document Number:	
RTA:	Roads and Traffic Authority of New South Wales
The Supplier	
General Description of the Services	
Contract Period:	
Commencement of the Services	

Policy No.

This is to certify this Policy covers the Insured for work undertaken for and on behalf of the RTA and Others as described below.

Specifically, the policy (subject to the attached standard policy terms and conditions):

1. Covers the Supplier's liability arising from bodily injury or damage caused by any act or omission of the Supplier, its employees and vicarious liability for Subcontractors or agents;
2. Indemnifies the Supplier's subcontractors Yes/No#
see note below;
3. Includes RTA as an additional named insured for liability arising out of the Supplier's activities. This extension includes liability:
 - for injury to any RTA employee;
 - arising from work undertaken at and away from the Supplier's premises;
 - for damage to the RTA's property not in the Supplier's physical or legal control;
4. Includes a cross liability clause operates as if there was a separate policy of insurance covering each of the insured;
5. Covers liability arising out of the use of hoists, cranes unregistered vehicles, boilers and pressure vessels;
6. Covers property of the RTA whilst in the Supplier's legal and physical control limited to \$.....any one occurrence;
7. Agrees to waiver of subrogation clause against any Insured where they are indemnified by the policy;
8. Provides a limit of indemnity of not less than:

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

Public - \$20,000,000 for any single occurrence and unlimited in the aggregate to the number of occurrences.

Products - \$20,000,000 for any single occurrence and total aggregate liability during any one period of insurance for all claims arising out of the Supplier's products.

9. Is subject to the following excess \$..... each and every occurrence or series of occurrences arising out of the one event which the Supplier is required to pay.

10. Is current for the period to.....

11. Protects the interest of the Supplier for the business activity of:

.....
.....
.....

Signed: Insurance Company Stamp:

Dated:

Note:

If Subcontractors are not covered under this insurance as per item 2 above, Suppliers are responsible to obtain a separate set of Certificates of Currency from Subcontractors as evidence of Subcontractor's insurance covers.

The following COC's are deemed to be acceptable:

- (a) RTA's printed COC as above, signed and stamped by the insurer;*
- (b) RTA's printed COC as above, signed and stamped by the insurance broker with a written authority from the respective insurer/s;*
- (c) Insurer issuing their own COC which incorporates all the RTA extensions as listed above.*

CERTIFICATE OF CURRENCY (PROJECT-SPECIFIC)

NSW WORKERS' COMPENSATION INSURANCE

Contract Document Number:	
RTA:	Roads and Traffic Authority of New South Wales
The Supplier	
General Description of the Services	
Contract Period:	
Commencement of the Services	

This is to certify that this Policy covers the Insured for work undertaken for and on behalf of the RTA and others described below.

Policy No.

Specifically, the policy

1. Protects the interests of the Supplier for the business activity of:

.....
.....
.....

2. Covers liability for death or injury to persons employed by the Supplier arising under legislation or at common law

3. Is current for.....to.....

Signed: Insurance Company Stamp:

Dated:

Note: *The following COC's are deemed to be acceptable:*

- (a) *RTA's printed COC as above, signed and stamped by the insurer;*
- (b) *Insurer issuing their own COC which incorporates all the RTA extensions as listed above.*

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

CERTIFICATE OF CURRENCY (PROJECT-SPECIFIC)

**FIRE AND EXTRANEIOUS PERILS INCLUDING ACCIDENTAL DAMAGE, BURGLARY, THEFT
AND TRANSIT INSURANCE**

Contract Document Number:	
RTA:	Roads and Traffic Authority of New South Wales
The Supplier	
General Description of the Services	
Contract Period:	
Commencement of the Services	

This is to confirm that we have received complete copies of the above contract documents, annexure and technical specifications. We certify that the Fire and Extraneous Perils including Accidental Damage, Burglary, Theft and Transit Insurance Policy No..... issued by Insurance Company provides indemnity in accordance with the standard insurance clauses and annexure attached thereto.

Specifically the policy:

1. Protects the interests of:

Supplier
Subcontractors

2. Includes RTA as an additional named insured

3. Includes a cross liability clause

operates as if there was a separate policy of insurance covering each of the insured

4. Contains a waiver of subrogation clause waiving

all rights, remedies or relief to which the insurer might become entitled by way of subrogation

5. Provides a sum insured/limit of indemnity of replacement / reinstatement value \$..... limit any one loss/location.

ITS COMPONENTS DESIGN, MANUFACTURE AND SUPPLY. MASTER AGREEMENT

- 6. Attached is a copy of the policy wording.
- 7. Is current for the period to.....
- 8. Is subject to the following excess \$..... which the Supplier is required to pay.
- 9. Protects the interests of Supplier for the business activity of
.....
.....
.....

Signed..... Insurance Company Stamp.....

Dated.....

Note: The following COC's are deemed to be acceptable:

- (A) ***RTA's printed COC as above, signed and stamped by the insurer;***
- (B) ***RTA's printed COC as above, signed and stamped by the Insurance Broker with a written authority from the respective insurer/s;***

Insurer issuing their own COC which incorporates all the RTA extensions as listed above.

ATTACHMENT D

STANDARD PRODUCTS' PRICES

[Include Standard Products' price matrix, specifying details of those components which are sensitive to AUD/USD exchange rate, including details for variables P_q , $P_{\%}$ and X_t in Annexure B of Purchase Order.]

ATTACHMENT E. EXISTING MATERIALS

THERE IS NO THIRD-PARTY SOFTWARE SUPPLIED UNDER THIS AGREEMENT
(Clause 23.1).

Continued on next page.

ATTACHMENT E (CONTINUED). EXISTING MATERIALS

F I R M W A R E						
SIGN TYPE	FILENAME	VERSION	DATE CREATED	PRIOR FILENAME	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
ASCII	A003091H	1H	3/11/2003	A003091G	SIGN - VMS - 9-CHARACTER 3-LINE - ASCII	N/A
ASCII	AC011029	29	20/10/2005	AC011028	SIGN - COLOUR - 2005 10-CHARACTER 1-LINE - ASCII	N/A
ASCII	RA072-02	N/A	24/6/1905	RA072-01	SIGN 2002 (STANDARD) 7-CHARACTER 2-LINE - ASCII	N/A
ASCII	RA072-03	N/A	2002	RA072-02	SIGN 2002 7-CHARACTER 2-LINE - ASCII	N/A
ASCII	RA074-01	N/A	2002	RA072-02	SIGN 2002 7-CHARACTER 4-LINE - ASCII	N/A
ASCII	RA21101	N/A	2002	RA18-15A	SIGN 2002 11-CHARACTER 2-LINE - ASCII	N/A
ASCII	RA21801	N/A	2002	RA18-15A	SIGN 2002 18-CHARACTER 2-LINE - ASCII	N/A
ASCII	RA30903A	N/A	2002	RA93-02	SIGN - FLOOD - VMS 3x9 - SOLAR PANEL VERSION - ASCII	N/A
ASCII	RA31815A	N/A	2002	RA18-15	SIGN 2002 18-CHARACTER 3-LINE - ASCII	N/A
ASCII	RA3181HB	N/A	1/8/2003	RA3181GB	SIGN 2002 (BOOMGATE & TRAFFIC CONTR) 18-CHARACTER 3-LINE - ASCII	N/A
GRAPHICS	G002181D	1D	28/5/2003	G002181C	GRAPHICS MODULE (VMS - STANDARD) 18-CHARACTER 3-LINE	N/A
GRAPHICS	G102181A	1A	3/4/2003	RG21805S	GRAPHICS MODULE (VMS - SHT 3 SIGN ID) 18-CHARACTER 2-LINE	N/A
GRAPHICS	G003091D	1D	3/5/2003	G003091C	GRAPHICS MODULE (VMS - STANDARD) 9-CHARACTER 3-LINE	N/A
GRAPHICS	G003151G	1G	12/7/2003	G003151F	GRAPHICS MODULE (VMS - STANDARD) 15-CHARACTER 3-LINE	N/A
GRAPHICS	G003182G	2G	8/7/2004	G003181G	GRAPHICS MODULE (VMS - STANDARD) 18-CHARACTER 3-LINE	N/A
GRAPHICS	G103181A	1A	2/2/2004	RTAGS401	GRAPHICS MODULE (VMS - FACILITY SWITCH 4-MSG) 18-CHAR 3-LINE	N/A
GRAPHICS	G104131C	1C	5/12/2003	G104131B	GRAPHICS MODULE (VMS - JENOLAN) 13-CHARACTER 4-LINE	N/A
GRAPHICS	G004181H	1H	2003	G004181E	GRAPHICS MODULE (VMS - STANDARD) 18-CHARACTER 4-LINE	N/A
GROUP C	C100001R	1R	17/5/2004	C100001Q	GROUP CONTROLLER - MASTER - CITYLINK	N/A
GROUP C	GC30A	A	2003	GC29A	GROUP CONTROLLER - MASTER - STANDARD	N/A
GROUP C	GS14	N/A	2001	GS13	GROUP CONTROLLER - SLAVE - STANDARD	N/A
MIB	698-G2	G2	23/5/2000	698-G1	INTERFACE BOARD - MODEM	N/A
MVMS	MR03091Z	1Z	29/7/2004	MR03091J	VMS - MOBILE	N/A
VSLs	S120401D	1D	24/11/2003	S120401C	VSLs (LED) - SPLIT ANNULUS (CITYLINK)	N/A
VSLs	VSLSB41D	1D	6/2/2004	VSLSB41C	VSLs (LED) - STANDARD FOR TYPES A2R/B/C/C5R/D	N/A
VSLs	VSLSCS06	6	5/5/2003	VSLSCS05	VSLs (LED) - FIXED MESSAGE - 70 km & 100 km	N/A



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
750-GP32	PROCESSOR BOARD GP32 (PLUG-IN PCB FOR PCB839)	YES
PCB-630	DRIVER BOARD - FIBRE-OPTIC	NO
PCB-631	OSCILLATOR - LCD MASTER	NO
PCB-632	LAMP DRIVER - LOW VOLTAGE	NO
PCB-633	POWER SUPPLY BOARD - PROCESSOR	NO
PCB-634	PROCESSOR - FIBRE-OPTIC	NO
PCB-639	CAPACITOR BOARD - VSLS	NO
PCB-655-FULL Rev 1	LED BOARD - VMS TYPE C (FULLY LOADED)	NO
PCB-656-FULL Rev 1	LED BOARD - VMS TYPE B (FULLY LOADED)	NO
PCB-680	LED BOARD - ASCII 200 mm 5x7	YES
PCB-681	DRIVER BOARD - ASCII 200 mm 5x7	NO
PCB-685 Rev 0	INVERTER BOARD - VMS SINGLE DRIVER	NO
PCB-688 Rev 1	POWER SUPPLY BOARD - PROCESSOR	YES
PCB-689(5R) Rev 0	LED BOARD - VMS TYPE A 8x5 (FULLY LOADED)	YES
PCB-690 Rev 0	DRIVER BOARD - VMS TYPE C 8x4	YES
PCB-691 Rev 0	DRIVER BOARD - VMS TYPE B 8x4	YES
PCB-693 Rev 1	PROCESSOR BOARD - MAIN	YES
PCB-693 Rev 2	PROCESSOR BOARD - MAIN	NO
PCB-694 Rev 0	DRIVER BOARD - VMS 8x1	YES
PCB-695 Rev 0	DRIVER BOARD - VMS TYPE A 8x2	YES
PCB-698 Rev 1	INTERFACE BOARD - MODEM	YES
PCB-699 Rev 2	LIGHT - SENSOR BOARD - DUAL	YES



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
PCB-731	RED CROSS / GREEN ARROW 300 mm	NO
PCB-732	DISC - AMBER 300 mm	NO
PCB-733	RED CROSS / GREEN ARROW 200 mm	NO
PCB-734	DISC - AMBER 200 mm	NO
PCB-736 Rev 0	DRIVER BOARD - VMS TYPE A 8x4	NO
PCB-738	LED BOARD - VSLS TYPE D - 3-RING ANNULUS	NO
PCB-739-12V	CONTROL MODULE - EXTERNAL ANNULUS 12V	NO
PCB-739-24V	CONTROL MODULE - EXTERNAL ANNULUS 24V	NO
PCB-742	LED BOARD - VSLS TYPE A 4x8	NO
PCB-743	DRIVER BOARD - VSLS TYPE A 4x8	NO
PCB-745	LED BOARD - VSLS TYPE D - 3-RING ANNULUS	NO
PCB-748	EXPANSION BOARD - RAM	YES
PCB-749	PROCESSOR BOARD - MAIN	NO
PCB-753	CONNECTOR BOARD - T - DYNAMIC ARROW	NO
PCB-754	TEST BOARD - PIXEL - DYNAMIC ARROW	NO
PCB-770	DISPLAY BOARD (1/2) DYNAMIC ARROW 400 mm	NO
PCB-775	CONNECTOR BOARD - MULTI-T	NO
PCB-776	TEST BOARD - MULTI-PIXEL	NO
PCB-780	RMS CONVERTER - VSLS	NO
PCB-781-(8X8)	LED BOARD - VSLS TYPE B 8x8	YES
PCB-782	DRIVER BOARD - VSLS TYPE D 8x4	YES
PCB-798	PIXEL BOARD - ALPHANUMERIC 320 mm	YES



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
PCB-799	DRIVER BOARD - ALPHANUMERIC 320 mm	YES
PCB-800	LED BOARD - DUAL - DIMMER / FLASHER MODULE	YES
PCB-801	LED BOARD 85 mm 5x7 ASCII	YES
PCB-802	DRIVER BOARD 85 mm 5x7 ASCII	YES
PCB-805 Rev 1,2,3	TEST BOARD - PIXEL	NO
PCB-807	DISC - CONSPICUITY - AMBER 120 mm	NO
PCB-810	LED BOARD - VSLS TYPE B - 3-RING ANNULUS	NO
PCB-811	DRIVER BOARD - VSLS TYPE B - 3-RING ANNULUS	NO
PCB-813 Rev 0	DRIVER BOARD - VMS 200 mm 8x5	YES
PCB-814	TEST BOARD - READBACK PIXEL	NO
PCB-819(5R) Rev 1	LED BOARD - VMS 200 mm 8x5	YES
PCB-820	INTERFACE MODULE - ANNULUS	NO
PCB-823	LED BOARD - VSLS TYPE D - 3-RING ANNULUS	NO
PCB-825 Rev 1	CONNECTOR BOARD - T	YES
PCB-831AG	ARROW BOARD - LUS 600 mm - 3x2 GREEN	NO
PCB-831AR	ARROW BOARD - LUS 600 mm - 3x2 RED	NO
PCB-831BG	ARROW BOARD - LUS 600 mm - 3x3 GREEN	NO
PCB-831BR	ARROW BOARD - LUS 600 mm - 3x3 RED	NO
PCB-831C	ARROW BOARD - LUS 600 mm - 3x4x2 RED/GREEN	NO
PCB-832	DISPLAY BOARD - VMS 70 mm	YES
PCB-833	DRIVER BOARD - VMS 70 mm	YES
PCB-834	DISPLAY BOARD - VMS 150 mm	YES



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
PCB-835	DRIVER BOARD - VMS 150 mm	YES
PCB-836	LED BOARD - VSLS TYPE C 8x8	YES
PCB-837	DRIVER BOARD - LED (VSLS B,C,D + MODEL SIGN) 8x4	YES
PCB-838 Rev 0	LIGHT-SENSOR BOARD - SINGLE	YES
PCB-839	GRAPHICS PROCESSOR - FAST - VMS	NO
PCB-842	LED BOARD - VSLS TYPE D 8x8	YES
PCB-847	LED BOARD - VSLS TYPE A - 2-RING ANNULUS	NO
PCB-848	DRIVER BOARD - VSLS 2-RING ANNULUS	NO
PCB-849	LED BOARD - VSLS TYPE C - 5-RING ANNULUS	NO
PCB-850	DRIVER BOARD - VSLS 5-RING ANNULUS	NO
PCB-851	DISC - CONSPICUITY - AMBER 70 mm	NO
PCB-852	DISC - CONSPICUITY - AMBER 200 mm	NO
PCB-853	BUFFER BOARD - SIGN DATA	YES
PCB-855 Rev 0	INVERTER BOARD - VMS - SINGLE-DRIVER	YES
PCB-862	PROCESSOR BOARD - SLAVE GRAPHICS	YES
PCB-863	PROCESSOR BOARD - MASTER GRAPHICS	YES
PCB-865	SIGN - RTA NO ENTRY - TYPE B	NO
PCB-866(4)-FULL	LED BOARD - VMS - FULLY LOADED, 4 LEDS PER CLUSTER	YES
PCB-868	DRIVER - HIGH CONTRAST - VMS TYPE B - 5-ROW	NO
PCB-871	DRIVER - HIGH CONTRAST - VMS TYPE C - 5-ROW	NO
PCB-872	DRIVER - CONSPICUITY - AMBER 250mm - 12V	NO
PCB-873AG	ARROW BOARD - LUS 900 mm - 4x4 GREEN	NO



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
PCB-873AR	ARROW BOARD - LUS 900 mm - 4x4 RED	NO
PCB-873BG	ARROW BOARD - LUS 900 mm - 4x3 GREEN	NO
PCB-873BR	ARROW BOARD - LUS 900 mm - 4x3 RED	NO
PCB-873C	ARROW BOARD - LUS 900 mm - 6x5x2 RED/GREEN	NO
PCB-874	LUS BOARD WITH FAULT DETECTION - 24V - 300 mm RED/GREEN	NO
PCB-887	LED BOARD - COLOUR - 150mm - ASCII	YES
PCB-888	DRIVER BOARD - COLOUR - 150mm - ASCII	YES
PCB-890	LIGHT SENSOR - SLAVE - VMS	YES
PCB-891	POWER-SUPPLY BOARD - DC-IN - VMS	YES
PCB-892	LIGHT-SENSOR BOARD - VMS	YES
PCB-893	SWITCH BOARD - BATTERY - VMS	YES
PCB-895	FEEDBACK BOARD - VMS - 20 mm	YES
PCB-PH2201 Rev 2	FLASHER BOARD - CONSPICUITY	NO
PCB-PH2812	OPTO-ISOLATOR BOARD - RS422-TTL	YES
PCB-PH2813 Rev 0	CONVERTER - S232 TO RS485 MD R	YES
PCB-PH3006 Rev 2	RELAY MODULE	YES
PCB-PH3011 Rev 0	OPTO-ISOLATOR - 4-CHANNEL	YES
PCB-PH3013	CONVERTER - TTL - 240/24 V AC	YES
PCB-PH3015	CURRENT-SENSE MODULE	YES
PCB-PH3017	DIVIDER - PASSIVE VOLTAGE	YES
PCB-PH3032	SUPPRESSOR - TRANSIENT	YES
PCB-PH3033	FILTER - EMI	YES



ATTACHMENT E (CONTINUED). EXISTING MATERIALS

PRINTED CIRCUIT BOARD ASSEMBLIES		
C O D E	D E S C R I P T I O N	IP licenced back to Supplier (clause 25.1)
PCB-PH3034	TRANSIENT SUPPRESSOR - RS485	YES
PCB-PH3037 Rev 0	DIFFERENTIAL- AMPLIFIER MODULE	YES
PCB-PH3201	FLASHER BOARD - CONSPICUITY - LED-BASED	NO
PCB-PH3208	SWITCH MODULE - TTL-MOSFET - ISOLATED	YES
PCB-PH3209	LIGHT DETECTOR - MULTI-ACTIVATION - LUS/TRAFFIC LIGHT	NO
PCB-PH3250	LED DRIVER - CONSTANT CURRENT - 10-CHANNEL WITH OE CONTROL	YES
PCB-PH3300	TRANSIENT SUPPRESSOR - RS485 2-WIRE	YES
PCB-PH3506 Rev 0	REGULATOR BOARD - 5V	YES
PCB-PH3508	VOLTAGE REGULATOR	YES
PCB-PH3510	CONVERTER - DC SINGLE TO DC DUAL	YES
PCB-PH3511	CONVERTER DC-DC 15A 150W	YES
PCB-PH3702	PROCESSOR BOARD - GP32	YES
PCB-PH3809	CONVERTER - DUAL - RS232 (DCE/FEMALE) TO TTL	YES
PCB-PH3811 Rev 1	PORT - MODEM - TTL WITH FIVE CONTROL LINES - RS232 (DB9M)	YES
PCB-PH3813	PORT - LAPTOP - TTL WITH SIX CONTROL LINES - RS232 (DB9F)	YES
PCB-PH3814 Rev 0	CONVERTER - TTL TO FULL RS232	YES
PCB-PH3817	CONVERTER - RS232-RS422 MULTIDROP	YES
PCB-PH3850	DUART MODULE	NO

