



Request for Tender

For the provision of consultancy services for Smarter Irrigation for Profit Phase II:

Review of existing and planned broadacre irrigation research,
development, and extension (RD&E) – desk top study

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1. Background

1.1 Cotton Research and Development Corporation (CRDC) overview

The Cotton Research and Development Corporation (CRDC) is a corporate Commonwealth entity under the *Public Governance, Performance and Accountability 2013 Act* (PGPA Act) and is an agency in the Agriculture and Water Resources portfolio.

CRDC was established as a statutory authority under the *Primary Industries Research and Development 1989 Act* (PIRD Act) for the purpose of enhancing the performance of the Australian cotton industry and community through investing in research, development and extension activities. CRDC is funded by the Australian Government and cotton producers. Cotton is a major Australian agricultural export contributing approximately \$2 billion in export value annually.

CRDC's planned outcome is: *Adoption of innovation that leads to increased productivity, competitiveness and environmental sustainability through investment in research and development that benefits the Australian cotton industry and the wider community.*

The core responsibilities of CRDC (PIRD Act s 3 Objects) are to:

Make provision for the funding and administration of research and development relating to primary industries with a view to:

- i. increasing the economic, environmental and social benefits to members of primary industries and to the community in general by improving the production, processing, storage, transport or marketing of the products of primary industries;
- ii. achieving the sustainable use and sustainable management of natural resources;
- iii. making more effective use of the resources and skills of the community in general and the scientific community in particular;
- iv. supporting the development of scientific and technical capacity;
- v. developing the adoptive capacity of primary producers;
- vi. improving accountability for expenditure on research and development activities in relation to primary industries;

CRDC has one ministerially declared representative organisation, Cotton Australia Limited. CRDC, in consultation with Cotton Australia, work together to inform, review and consult with the Australian cotton industry:

- to consider the Annual Report;
- reviewing Industry priorities for RD&E investments; and
- report on CRDC's performance against the R&D Plan and Annual Operational Plan.

CRDC is governed by a board of directors appointed for their expertise and is led by an Executive Director who manages the day-to-day operations of the organisation.

1.2 CRDC and Smarter Irrigation for Profit Phase 2

CRDC is the lead agency for the Australian Government funded Rural Research and Development for Profit project, Smarter Irrigation for Profit Phase 2 (SIP2).

SIP2 is funded by the Australian Government Department of Agriculture, Water and the Environment, as part of its Rural R&D for Profit program, round four, in conjunction with CRDC, Dairy Australia, Sugar Research Australia, Grains Research and Development Corporation, AgriFutures Australia, CSIRO, University of Melbourne, University of Southern Queensland, Deakin University, Tasmanian Institute of Agriculture, NSW DPI, Agriculture Victoria and Gwydir Valley Irrigators Association. Supporting partners include farmer groups and commercial irrigation providers.

The objective of SIP2 is to improve the profit of over 4,000 irrigators. It has 14 sub-projects covering three main components:

- Development of new irrigation technologies including new sensors, advanced analytics to improve irrigation scheduling and strategies to reduce water storage evaporation.
- Cost effective, practical automated irrigation systems for cotton, rice, sugar and dairy.
- Closing the irrigation productivity yield gap for cotton, rice, dairy, sugar and grains irrigators through a network of 46 farmer led optimised irrigation sites and key learning sites located on commercial farms across Australia.

More information about SIP2 is available from <https://smarterirrigation.com.au/>

2. Invitation to submit an Expression of Interest

2.1 Statement of Requirement

CRDC is seeking Expressions of Interest from suitably qualified consultants or parties to conduct a high-level review of existing and planned broadacre irrigation research, development, and extension (RD&E) activities focusing on technologies to support automation of irrigation. The review to include recommendations for future Australian broadacre irrigation RD&E investment and suggestions for collaborative RD&E partnerships between public, industry, and private sector irrigation RD&E organisations, investors, and agtech.

Background

Smarter Irrigation for Profit Phase 1 found participating farmers from the dairy, cotton, sugar, and rice industries could achieve a 10-20 percent improvement in water productivity through adoption of new and existing precision irrigation technologies.

However, evaluation research conducted as part of SIP2 identified significant barriers to farmers adopting both passive (map guided, remote control irrigation) and active (autonomous) precision

irrigation technologies. These barriers were lack of trust in the technology, concerns about reliability, cost, availability of service support, level of new skills required and capacity of the technology to plug into existing software and equipment. An additional barrier was the perception among many extensive irrigation farmers that precision technology is not for them.

Despite these barriers the potential for precision irrigation technologies to provide a step change in improved water productivity as well as labour saving benefits justifies continuing investment. The challenge is identifying RD&E activities with a clear 'value' proposition that include consideration of how the technologies will be implemented and supported.

Collaborative partnerships between researchers, investors, end users and the commercial agtech sector have the potential to address some of these barriers by providing an opportunity for the different stakeholders to have input into the design and implementation of the technology.

Whilst SIP2 has a strong emphasis on collaborative research with over 40 optimised irrigation and key learning sites there is significant interest in how to facilitate stronger collaborative partnerships at the research initiation phase.

Purpose

The purpose of this activity is to gain a better understanding of existing national and international broadacre irrigation RD&E activities being conducted by industry, research organisations and the commercial agtech sector, including the potential for linkages and collaborative partnerships. The outputs will build a wider understanding of where Smarter Irrigation for Profit Phase 2 RD&E sits in a national and international context and will be used to inform future investment in broadacre irrigation RD&E by both public and private sector investors, including the establishment of collaborative partnerships.

Scope of Work and Deliverables

Scope

For the purposes of this review broadacre irrigation refers to irrigation for crops, fibre and pasture as opposed to viticulture and horticulture. The majority of broadacre irrigation systems in Australia are pressurised or gravity fed. There is a small area of sub-surface drip, mainly experimental.

The areas of irrigation research and development covered by this review should be confined to the integrated sensing, data capture, analytics, and decision support components that underpin automated and autonomous irrigation. This includes RD&E that supports the integration of technologies as well as technology solutions that can be adopted incrementally and are compatible with existing irrigation technology.

The scope should not be confined to research institutions but include the commercial and ag tech sector landscape.

2.2 Eligibility to carry out the review

Consultants and/or parties associated with Smarter Irrigation for Profit Phase 1 and/or Phase 2 are eligible to apply.

2.3 Project outputs and deliverables

The successful party or parties will be expected to deliver against all the following outputs within the agreed timeframe:

1. A visual technology map of the different components of Australian broadacre automated irrigation systems covering five areas:
 - sensing (in situ and remote),
 - communications networks,
 - control systems,
 - data analytics,
 - machine learning/algorithm decision support.

The technology map to be supported by tables listing the main public and private sector participants in RD&E activities addressing the different components.

2. A report that includes:
 - A high-level review of national and international research and development, and innovation activities relevant to Australian broadacre irrigation across the five areas of automated irrigation systems. The review to encompass public, industry and commercial sector funded RD &E. The review should not be a definitive list of existing research rather a summary of current RD&E across the five focus areas, the knowledge gaps being addressed, the intended outcomes and their potential impact on irrigation productivity. The R&D activities can be relevant at a whole of farm or bay scale.
 - Observations on the strengths and weaknesses of public and private sector Australian irrigation RD&E within the context of international irrigation research.
 - Recommendations for future Australian broadacre irrigation RD&E investment targeting existing irrigation RD&E knowledge and technology gaps. The recommendations should focus on strategies and technologies that have the potential to support significant improvements in irrigation automation and include commentary on the likely 'value' proposition and level of current 'market failure'. Recommendations can include short term/readily adoptable opportunities as well as blue sky – step change solutions, or processes to facilitate identifying blue sky solutions.
 - Suggestions for collaborative RD&E partnerships between public, industry, and private sector irrigation RD&E organisations, investors, and agtech.

- Suggestions for mechanisms to support pro-active engagement between research organisations, end-users and agtech.
3. A bibliography of relevant material that can be shared
 4. A database (spreadsheet) of key contacts

2.4 Resource allocation

The indicative amount: Up to \$60,000

Sources: It is expected the review will draw on diverse material – existing papers, conference presentations, websites, reports, and studies. It is assumed it will be necessary to contact people and organisations.

The successful party or parties will be expected to work closely with the SIP2 Project Manager and members of the SIP2 Project Management Committee.

The timeline is negotiable however the preference is for the final work to be completed by early June.

2.5 Project timetable

Target date	Action	Responsible
February 2021	Start-up meeting to review the deliverables, their timing, and the expectations with respect to the analysis.	Successful party or parties; SIP2 project management team.
April 2021	Draft review of national and international research and development, and innovation activities relevant to Australian broadacre irrigation completed and provided to SIP2 management team for feedback.	Successful party or parties; SIP2 project management team.
May 2021	Draft final report completed and provided to SIP2 project team for feedback and comment.	Successful party or parties; SIP2 project management team.
June 2021	Final report completed	Successful party or parties

3. Submission

3.1 Proposal requirements

Expressions of Interest must address the following:

1 Methodology	Provide a detailed description of the proposed approach and methodology for undertaking the project and addressing each of the deliverables in the Terms of Reference.
2 Reporting	Provide an outline of the proposed table of contents and/or layout of the final report.
3 Experience and qualifications	<p>Provide details of the names, roles, qualifications, relevant experience, and knowledge of all personnel to be allocated to the project – including:</p> <p>Knowledge and skills</p> <ul style="list-style-type: none"> • Knowledge and understanding of precision irrigation technologies relevant to broadacre irrigation in Australia • Experience in designing and implementing collaborative RD&E partnerships • Experience in situational analysis and RD&E priority setting <p>Project delivery</p> <ul style="list-style-type: none"> • Demonstrated ability to work collaboratively with a range of agriculture stakeholders including researchers, RDCs, research organisations, government agencies, commercial and private sector service providers, and farmers. • Extensive connections across private and public sector irrigation RD&E nationally and internationally • A demonstrated capacity to effectively communicate project outcomes <p>Include current references which would demonstrate the experience of both the organisation and personnel nominated for involvement in the project.</p>
4 Capacity and resources	Provide project management details to demonstrate capacity to commence and manage the project within the required timeframe.
5 Pricing	<p>Provide a costing and payment schedule for the proposal, including basis for pricing (e.g. number of days each of the personnel is expected to work on the project).</p> <p>The CRDC consultancy agreement will be a fixed price contract, with payments made on achievement of agreed milestones.</p>

3.2 Conflict of interest

Expressions of Interest are required to include any actual or perceivable conflict of interest that exists at the time of lodging the tender. The successful consultant will be required to advise CRDC

in writing of any changes in conflicts of interest at the time of contracting the services with CRDC or at any time during the term of the agreement when a conflict occurs. The CRDC Annual Report lists our stakeholders, directors, staff and research partners and may be helpful in determining if you have a conflict of interest. The CRDC Annual Report is available on our website at <https://www.crdc.com.au/about-Us> under the Corporate Publications page.

3.3 Confidentiality

The successful consultant will be required to sign a confidentiality agreement with CRDC and must keep confidential all information, documents, data and software that is provided by CRDC or its research partners for the purpose of undertaking the project activities.

3.4 Professional indemnity and public liability insurance

Details of professional indemnity and public liability insurance must be provided at commencement of services.

3.5 CRDC consultancy agreement

CRDC will contract with the successful Tenderer using the CRDC Services Agreement (refer to Attachment 1) which is based on the standard Commonwealth Contract Terms.

3.6 Criteria for selection

CRDC will evaluate the Expressions of Interest on the basis of the following criteria:

- degree of understanding of the project demonstrated in the proposal
- suitability of the methodology proposed for undertaking the project and meeting each of the requirements of the Terms of Reference
- demonstrated experience in conducting similar projects
- qualifications and skills of the proposed project personnel
- capacity and resources of the consultant to deliver within timeframe
- cost effectiveness and value for money.

The applications will be assessed by the Smarter Irrigation for Profit Phase II Program Steering Committee, excluding any members who apply. The committee may also negotiate with applicants/groups if required to develop an integrated project. The committee will make a recommendation to CRDC as the Manager of the Smarter Irrigation for Profit project for investment.

3.7 CRDC rights

Without limiting its rights at law or otherwise, the CRDC reserves the right in its absolute discretion at any time to:

- cease to proceed with, or suspend the Expression of Interest process
- alter timing of the Expression of Interest process
- vary the Expression of Interest structure
- vary any time or date specified in the Expression of Interest
- require additional information or clarification from the organisation submitting an Expression of Interest
- request a new Expression of Interest
- reject any Expression of Interest received after the closing date
- reject any Expression of Interest that does not comply with the requirements as described in this document.

- publish the names of the successful Tenderer.

3.8 Conditions of lodgement

The respondent agrees, by lodging an Expression of Interest, that it is bound by these conditions:

- All Expression of Interest documents become the property of CRDC upon lodgement
- It warrants that all information in the Expression of Interest is accurate and complete
- That it will keep confidential any confidential information provided by CRDC in connection with the Expression of Interest
- That it will make any inquiries relating to the Expression of Interest process only through the contact details provided
- That pursuant to the Privacy Act 1988 (Cth) it will be bound by the Australian Privacy Principles in respect of any act done or practice engaged in by the respondent in connection with this Expression of Interest process.

3.9 CRDC contact

Requests for further information or clarification in relation to this Request for Tender should be directed to: SIP2 Project Leader Cathy Phelps, Email: cathy.phelps@bigpond.com.au; Mobile: 0439 555 001

Please register your interest and any requests for further information or clarification in relation to this Request for Tender via email only to cathy.phelps@bigpond.com.au

By registering your interest, we can ensure you are updated with answers to all requests for further information or clarification received by CRDC.

Expressions of Interest are to be submitted to CRDC by 5pm on Friday 22 January 2021 via email to grants@crdc.com.au with the subject heading - *Review of existing and planned broadacre irrigation research, development, and extension (RD&E) – desk top study*



Attachment 1: CRDC Services Agreement

Services Agreement

between

**Cotton Research and Development Corporation
(CRDC)**

and

**[Service Provider/Consultant]
(Supplier)**

This is an agreement between the Cotton Research and Development Corporation (CRDC) and the Supplier as listed in section 2. Details, on the terms of:

1. the Definitions
2. the Details
3. the Terms and Conditions
4. any Other documents forming part of this agreement (which may also be attached).

1. Definitions

The following definitions apply to this agreement;

Agreed Expenses has the meaning given to it in clause 2.7.

Contract Manager means the managers appointed by each party to manage this agreement and listed in clauses 2.1 and 2.2.

CRDC means the Cotton Research and Development Corporation.

End Date is the date this agreement ceases to operate.

FBT means Fringe Benefit Tax.

GST and **GST Law** have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Notice means a written document, in English, provided to either Party in accordance with clause 3.9.

Party and **Parties** mean the parties to this agreement that have signed this agreement.

Services means the supply of services by the Supplier as set out in clause 2.4 and in accordance with the timetable set out in clause 2.5.

Start Date is the date this agreement commences to operate.

Statement of Requirement means the scope of work detailed in *section 2.1* in the Expression of Interest or Request for Tender.

Supplier means the service provider or consultant that has agreed to undertake the Services in accordance with their Tender.

Tax Invoice has the same meaning as in the GST Law.

Tender means the authorised tender document submitted to CRDC for the Services.

2. Details

2.1. CRDC

Name	Cotton Research and Development Corporation
Australian Business Number (ABN)	71 054 238 316
Address	PO Box 282

	2 Lloyd Street Narrabri NSW 2390
Contract Manager	[name]
Telephone	02 6792 4088
E-mail	research@crdc.com.au

2.2. Supplier

Entity Name	
Australian Business Number (ABN)	
Address	
Contract Manager	
Telephone	
E-mail	

2.3. Term of Agreement

Unless terminated earlier, the term of this agreement is:

- a. Start date: [Enter Start Date]
- b. End date: [Enter end Date]

2.4. Supply of Services (the “Services”)

The Supplier will provide the following Services in accordance with the Tender dated [Tender Date] being:

- 2.4.1. .
- 2.4.2. .
- 2.4.3. including:
 - a.
 - b.
- 2.4.4.
- 2.4.5.

2.5. Timetable

Target date	Action	Responsible

- (a) Domestic travel expenses for attending at offices, not being the Suppliers offices, for the purpose of undertaking the performance review, such as airfares, hire cars, car mileage (based on ATO annual rates), taxis, accommodation, and meals.
- (b) Other expenses as approved by CRDC before they are incurred.

Milestone	Fee A\$
2.7.1 Signed services agreement: (0%)	\$
2.7.2 Task/Output 1: (0%) - -	\$
2.7.3 Task/Output 2: (0%) - -	\$
2.7.4 Task/Output 3: (0%) - -	\$
2.7.5 Final Report accepted by CRDC by [date]: (0%)	\$

2.8. Liability Cap

The liability cap for the agreement is:

- (a) Contract Fee AUD \$0.00
- (b) Agreed Expenses AUD \$0.00

Agreed Expenses, other than mileage, must be supported with tax invoices or receipts in accordance with the GST rules.

2.9. Standard hourly rates for additional services

The standard hourly rates for additional services will be:

- Principle / Partner \$
- Manager \$
- Team Member \$
- Clerical \$
- Trainer \$
- Other (specify) \$

2.10. Insurances

The Supplier and any Sub-contractor must arrange and maintain with a reputable insurance company for the Term of the Agreement:

- (a) a public liability policy of insurance to the value of at least \$10 million in respect of each claim;
- (b) a professional indemnity insurance policy to the value of at least \$2 million in respect of each claim; and
- (c) workers' compensation insurance as required by all relevant laws of Australia relating to workers' compensation.

3. Terms and Conditions

3.1. Background:

The CRDC requires the provision of certain Services. The Supplier has fully informed itself on all aspects of CRDC's requirements and has responded representing that it is able to meet the Statement of Requirement.

3.2. Definitions:

Terms used in this agreement have meanings as set out in section 1.

3.3. Relationship of the Parties:

Neither party is the employee, agent, officer or partner of the other party nor, by virtue of this agreement, authorised to bind or represent the other party.

The Supplier must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the CRDC.

In all dealings related to this agreement, the parties agree to:

- (a) communicate openly with each other and cooperate in achieving this agreement's objectives; and
- (b) act honestly and ethically; and
- (c) comply with reasonable commercial standards of fair conduct; and
- (d) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces; and
- (e) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

3.4. Conflict of Interest:

The Supplier has either declared any real or perceived conflicts of interest that might arise; or states that no conflicts of interest exist, or are anticipated, relevant to the performance of its obligations under this agreement.

If any conflict or potential conflict arises during this agreement Term, the Supplier will immediately notify the CRDC and comply with any reasonable Notice given to the Supplier by the CRDC in relation to the conflict. As soon as practicable, any verbal advice must be followed by written confirmation.

3.5. Precedence of Documents:

This agreement is comprised of:

- (a) *Additional Contract Terms* (if any); and
- (b) *CRDC Services Agreement*;

If there is ambiguity or inconsistency between documents comprising this agreement, the document appearing higher in the list will have precedence.

This agreement may be signed and dated by the parties on separate, but identical, copies. All signed copies constitute one (1) contract.

3.6. Governing Law:

The laws of the State of New South Wales apply to this agreement.

3.7. Entire Agreement:

This agreement represents the Parties' entire agreement in relation to the subject matter, at the time this agreement was entered. Anything that occurred before the making of this agreement shall be disregarded (unless incorporated into this agreement in writing). However, the Supplier represents that the claims made in its Tender were correct when made and remain correct.

The Parties agree that no agreement or understanding varying or extending this agreement will be legally binding upon either Party unless in writing and signed by both Parties.

If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

3.8. Survival:

All Additional Contract Terms (if any), plus Clauses 3.15 *Liability of the Supplier*, 3.18 *Supplier Payments*, 3.21 *Transition Out*, 3.23 *Compliance with Commonwealth Laws and Policies* survive termination or expiry of this agreement.

3.9. Notices:

A Notice is deemed to be effected:

- (a) if delivered by hand - upon delivery to the relevant address;
- (b) if sent by registered post - upon delivery to the relevant address; or
- (c) if transmitted electronically - upon actual delivery as evidenced by a delivery receipt by the addressee.

A Notice received after 5.00 pm, or on a day that is not a working day in the place of receipt, is deemed to be effected on the next working day in that place.

3.10. Assignment:

The Supplier may not assign any rights under this agreement without the CRDC's written consent. To seek consent, the Supplier must provide the CRDC with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.

The Notice is declined if the CRDC gives a Notice that the request is declined, or does not provide a Notice to the Supplier giving consent to the requested assignment within twenty-eight (28) calendar days of receiving the Notice seeking consent.

3.11. Subcontracting:

Subcontracting any part of, or the entire Supplier's obligations under this agreement, will not relieve the Supplier from any of its obligations under this agreement.

The Supplier must ensure that Subcontractors (if any) perform that part of the Services that CRDC has agreed (in writing) with the Supplier. Unless otherwise agreed by the CRDC (in writing) the Supplier must not subcontract any part of its obligations under this agreement. The Supplier must ensure that Subcontractors (if any) are not replaced without the prior written consent of the CRDC. The CRDC's written consent will not be unreasonably withheld.

The Supplier must make available to the CRDC the details of all Subcontractors engaged to provide the Services under this agreement. The Supplier acknowledges that the CRDC may be required to publicly disclose such information.

The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under this agreement, imposes on the Subcontractor the same obligations that the Supplier has under this agreement (including this requirement in relation to subcontracts). A copy of the subcontract must be provided to CRDC within twenty-eight (28) calendar days of the subcontract being signed by the parties.

At the CRDC's request, the Supplier, at no additional cost to the CRDC, must promptly remove from involvement in this agreement any Subcontractor that the CRDC reasonably considers should be removed.

3.12 Delivery and Acceptance:

The Supplier must provide the Services as specified in clause *2.4 Supply of Services*. Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and meet any requirements and standard specified in clause *2.4 Supply of Services*, *2.5 Timetable* and clause *3.1 Proposal Requirements* of the Expression of Interest or Request for Tender.

The Supplier must promptly notify the CRDC if the Supplier becomes aware that it will be unable to provide all or part of the Services and advise the CRDC when it will be able to so.

The CRDC may reject the Services within **fourteen (14)** calendar days after delivery or such longer period specified in this agreement at clause *2.7 Fees, agreed Expenses and Payment*, if the Services do not comply with the requirements of this agreement ("Acceptance Period").

If during the Acceptance Period circumstances outside the CRDC's reasonable control cause a delay in the CRDC's evaluation of the compliance of the Services with this agreement, the CRDC may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).

If the CRDC does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable) the CRDC will be taken to have accepted the Services, though the CRDC may accept the Services sooner.

If the CRDC rejects the Services, the CRDC must issue a Notice clearly stating the reason for rejection and the remedy the CRDC requires. No payment will be due for rejected Services until their acceptance.

3.13 Licences, Approvals and Warranties:

At no cost to the CRDC, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Services.

To the extent permitted by laws and for the benefit of the CRDC, the Supplier consents, and must use its best endeavours to ensure that each author of reports, from the Supplier to the CRDC, consent in writing to the use by the CRDC of the reports, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or moral rights.

3.14 Specified Personnel:

The Supplier must ensure that the Specified Personnel set out in *Clause 2.6 Specified Personnel* (if any) are suitably qualified and experienced to perform the Services that they undertake. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the CRDC. The CRDC's written consent will not be unreasonably withheld.

At the CRDC's reasonable request, the Supplier, at no additional cost to the CRDC, must as soon as reasonably practicable replace any Specified Personnel that the CRDC reasonably considers:

- (a) is not performing the Supplier's obligations under this agreement to the standard or within the timeframe reasonably required by the CRDC;
- (b) is not a fit and proper person; or
- (c) is not suitably qualified to perform the Services.

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

3.15 Liability of the Supplier:

The Supplier will indemnify the CRDC and its officials against any claim, loss or damage arising in connection with any negligent or wilful breach of the Supplier's obligations or representations under this agreement.

The Supplier's obligation to indemnify the CRDC and its officials will reduce proportionally to the extent that any act or omission, on the part of the CRDC or its officials contributed to the claim, loss or damage.

The Supplier's liability under this clause shall not exceed the maximum applicable amount that applies to the claim loss or damage under a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002 (ACT)*, or any corresponding State, Territory or Commonwealth legislation, that limits the civil liability of members of particular professions arising from the performance of their professional services, where the Supplier is a member of that scheme, and where that scheme applies to the Services delivered under this agreement.

The Supplier will maintain adequate insurances for this agreement and provide the CRDC with proof when reasonably requested.

3.16 Termination or Reduction for Convenience:

In addition to any other rights either party has under this agreement,

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

terminate this agreement or reduce the scope or quantity of the Services by providing a Notice to the other Party.

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

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

In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The CRDC will pay the Supplier for Services accepted in accordance with *clause 3.12 Delivery and Acceptance* and *clause 2.4 Supply of Services* before the effective date of termination or reduction.

If the CRDC issues a Notice under this clause, the CRDC will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the CRDC. The cost of providing redundancy to employees of the Supplier, or employees of the subcontractor, are not reasonable costs unless the Tender states that the Supplier will be recruiting new staff to perform the Services.

Under no circumstances will the total of all payments to the Supplier exceed the Liability Cap at clause 2.8. The Supplier will not be entitled to loss of anticipated profit for any part of this agreement not performed.

3.17 Termination for Cause:

The CRDC may terminate this agreement in whole or in part if:

- (a) the Supplier does not deliver the Services as specified in this agreement, or notifies the CRDC that the Supplier will be unable to deliver the Services as specified in this agreement;
- (b) the CRDC rejects the Services in accordance with *clause 3.12 Delivery and Acceptance* and the Services are not remedied as required by the Notice of rejection;
- (c) the Supplier breaches a material term of this agreement and the breach is not capable of remedy;
- (d) the Supplier does not remediate a material breach of this agreement which is capable of remediation within the period specified by the CRDC in a Notice of default issued to the Supplier; or
- (e) the Supplier:
 - (i) is unable to pay all its debts when they become due;
 - (ii) if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001* (Cth); or
 - (iii) if an individual – becomes bankrupt or enters into an arrangement under *Part IX* or *Part X* of the *Bankruptcy Act 1966* (Cth).

Termination of a Contract under this clause does not change the CRDC's obligation to pay any correctly rendered Tax Invoice.

3.18 Supplier Payments:

If the Supplier is required to submit an invoice to trigger payment, the invoice must be a correctly rendered Tax Invoice.

The Supplier must promptly provide to the CRDC such supporting documentation and other evidence reasonably required by the CRDC to substantiate performance of this agreement by the Supplier.

Payment of any invoice is payment on account only, and does not substantiate performance of this agreement.

If the Supplier owes any amount to the CRDC in connection with this agreement, the CRDC may offset that amount, or part of it, against its obligation to pay any correctly rendered invoice.

3.19 Dispute Resolution:

For any dispute arising under this agreement both the Supplier and the CRDC agree to comply with

(a) to (d) of this clause sequentially:

- (a) both Contract Managers will try to settle the dispute by direct negotiation;
- (b) if unresolved, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution;
- (c) if the proposed solution is not accepted by the other Contract Manager within five (5) business days, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by

direct negotiation;

- (d) failing settlement within a further ten (10) business days, the CRDC will, without delay, refer the dispute to an appropriately qualified mediator selected by the CRDC or, at the CRDC's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within fifteen (15) business days of the request.

Representatives for the Supplier and the CRDC must attend the mediation. The nominated representatives must have the authority to bind the relevant party and act in good faith to genuinely attempt to resolve the dispute.

The CRDC and the Supplier will each bear their own costs for dispute resolution and will equally share the costs of a mediator.

If the dispute is not resolved within thirty (30) business days after mediation commences, either the Supplier or the CRDC may commence legal proceedings.

Despite the existence of a dispute, the Supplier will (unless requested in writing by the CRDC not to do so) continue their performance under this agreement.

This procedure for dispute resolution does not apply to action relating to clause 3.17 [*Termination for Cause*] or to legal proceedings for urgent interlocutory relief.

3.20 Transition In:

The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Services from any outgoing supplier to the Supplier.

3.21 Transition Out:

If this agreement expires or is terminated under clause 3.17 *Termination for Cause* the Supplier must comply with any reasonable directions given by the CRDC in order to facilitate the smooth transition of the provision of the Services to the CRDC or to another supplier nominated by the CRDC.

3.22 Compliance with Laws:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in any jurisdiction in which any part of this agreement is performed.

3.23 Compliance with Commonwealth Laws and Policies:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with all Commonwealth laws and policies relevant to the Services.

If the Supplier becomes aware of any actual or suspected breach of the requirements set out in clauses A to F below, it must:

- (a) immediately report it to the CRDC and provide a written report on the matter within five (5) business days; and
- (b) comply with any reasonable directions by the CRDC in relation to any investigation or further reporting of the actual or suspected breach.

- A. **Access to Supplier's Premises and Records:** The Supplier must maintain proper business and accounting records relating to the supply of the Services and performance of this agreement.

The Supplier agrees to provide to the CRDC, or its nominee, access to the Supplier's, or its

Subcontractor's premises, personnel, documents and other records, and all assistance reasonably requested, for any purpose associated with this agreement or any review of the Supplier's or the CRDC's performance under this agreement, including (but not limited to) in connection with a request made under the *Freedom of Information Act 1982* (Cth) or audit or review by the Australian National Audit Office.

The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the CRDC. All Commonwealth records, including any held by Subcontractors, must be returned to the CRDC at the conclusion of this agreement.

- B. **Privacy Act 1988 (Cth) Requirements:** In providing the Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the CRDC would breach an Australian Privacy Principle (APP) as defined in that Act.
- C. **Confidential Information:** Other than information available in the public domain, the Supplier agrees not to disclose to any person, other than the CRDC, any confidential information relating to this agreement or the Services, without prior written approval from the CRDC. This obligation will not be breached where the Supplier is required by law or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

The CRDC may at any time require the Supplier to arrange for its employees, agents or subcontractors to give a written undertaking relating to nondisclosure of the CRDC's confidential information in a form acceptable to the CRDC.

The CRDC will keep any information in connection with this agreement confidential to the extent it has agreed in writing to keep such specified information confidential. The CRDC will not be in breach of any confidentiality agreement if the CRDC is required to disclose the information by law, a Minister or a House or Committee of Parliament.

- D. **Security and Safety:** When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the CRDC or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and subcontractors are aware of, and comply with, such security and safety requirements.

The Supplier must ensure that all information, material and property provided by the CRDC for the purposes of this agreement is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the CRDC.

The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including, but not limited to, the *Crimes Act 1914*) contains provisions relating to the protection of prescribed official information and sets out the penalties for the unauthorised disclosure of that information.

- E. **Criminal Code:** The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth). The Supplier must ensure that any subcontractor engaged in connection with this agreement is aware of the information

contained in this clause.

- F. **Fraud:** For the purposes of this clause, Fraud means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means.

The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.

If an investigation finds that the Supplier or its employees have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud by an employee or subcontractor, the Supplier must reimburse or compensate the CRDC in full.



4. Acceptance of Agreement

Signed for and on behalf of the
CRDC by:

Signed for and on behalf of the
Supplier by:

Signatory

Signatory

Print name

Print name

Position of signatory

Position of signatory

Date:_____

Date:_____