

## Part 3 – Conditions of Contract

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**HUON VALLEY  
COUNCIL**

**Professional Services Agreement for**

**RFQ 017 Cygnet Structure Plan**



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## Item Schedule

1.	Council	<p>Huon Valley Council</p> <p>ABN: 77 602 207 026</p> <p>Email: hvc@huonvalley.tas.gov.au</p> <p>Phone: (03) 6264 0300</p>
2.	Consultant	<p>[[Insert name of Consultant] ]</p> <p>ABN [[ABN of Consultant]]</p> <p>Fax: [ [Fax no] ]</p> <p>Email: [[Email address]]</p> <p>Phone: [[Phone no]]</p>
3.	Reimbursable Expenses	<p>Not Applicable – the Fee is a Lump Sum all inclusive (of the Consultants travel/car/accommodation expenses) Fee.</p>
4.	Insurance requirements	<p>Public Liability Insurance - \$10 million (minimum)</p> <p>Professional Indemnity Insurance - \$5 million (minimum)</p>
5.	Commencement Date	<p>On signing of this Agreement</p>

6.	End Date	30 June 2025 (unless extended by subsequent written agreement).
7.	Council's Representative	Rong Zheng (Program Manager – Strategic Land Use) and any other person as may be advised by the Huon Valley Council in writing
8.	Consultant's Representative	[Insert names and positions of staff members] and any other person as may be approved by the Council in writing
9.	Fee	\$ _____ (GST Exclusive) Paid within 30 calendar days of delivery of the Report
10.	Deliverable Services	Performance and Completion of the Objectives and Project Tasks specified in Annexure A (Specification of the Services) and delivery of the final Report, addressing both the Objectives and Project Tasks, to Council on or before the End Date.

## Date

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[Insert Date]

## Parties

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**Huon Valley Council** ABN 77 602 207 026 of 40 Main Street, Huonville, TAS, 7109 (**Council**)

The person specified in Item 1 of the Schedule (**Consultant**)

## Background

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Pursuant to a Request for Quotation process, the Council sought submissions from suitably qualified parties for performance of the Services.

The Consultant submitted a Quote for the Services, and the Council accepted it.

The Consultant agrees to perform the Services on the terms in this Agreement.

## Agreed Terms

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### 1. Definitions and Interpretation

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#### 1.1 Definitions

In this agreement:

- 1.1.1 **Agreement** means this agreement and includes the Schedule and the Annexures.
- 1.1.2 **Annexure** refers to an Annexure to this agreement and includes Part 1 & 2 of the Request for Quote.
- 1.1.3 **Authorisation** includes any authorisation, agreement, approval, licence, permit, consent, qualification, accreditation, registration, certificate, declaration or exemption and any renewal and variation of them by or with a Governmental Agency.
- 1.1.4 **Background Intellectual Property** means Intellectual Property Rights in the Deliverables which were not specifically created as part of the Services (including the pre-existing Intellectual Property Rights of the Consultant and Intellectual Property Rights of third parties).
- 1.1.5 **Clause** refers to a clause of this agreement.
- 1.1.6 **Commencement Date** means the date specified in Item 5 of the Schedule.

- 1.1.7 **Confidential Information** means any documentation or information of a confidential nature supplied by either of the parties to the other in connection with this agreement and includes all scientific, technical, manufacturing, performance, sales, financial, commercial, contractual or marketing information possessed by each party, but specifically excludes any documentation or information which has been previously published or otherwise disclosed to the general public or is required to be disclosed by Law.
- 1.1.8 **Consultant** means the person or persons, corporations whose Quote is accepted by the Council, including the executors or administrators, successors and assignments of such person or persons, corporation or corporations specified in Item 2 of the Schedule.
- 1.1.9 **Consultant's Representative** means the person specified in Item 8 of the Schedule.
- 1.1.10 **Council** means the Council specified in Item 1 of the Schedule.
- 1.1.11 **Council's Representative** means the person specified in Item 7 of the Schedule.
- 1.1.12 **Data** means information directly or indirectly relating to this agreement and/or the Services.
- 1.1.13 **Deliverables** means all documents, equipment, software, information and Data produced as part of the Services and supplied to the Council as part of the Services.
- 1.1.14 **Fee** means the fee payable by the Council for the Services, which is to be determined and reviewed in the manner set out in Item 9.
- 1.1.15 **Force Majeure Event** means an event beyond the reasonable control of the parties which precludes a party from performing on time an obligation under this agreement. Such circumstances include:
- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster; and
  - (b) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution.
- 1.1.16 **Governmental Agency** means any government or any government, semi-governmental, administrative, fiscal or judicial body, commission, authority, tribunal, agency or entity including any self-regulatory organisation established under statute or any stock exchange.
- 1.1.17 **Intellectual Property Rights** includes property and rights in respect of or in connection with copyright (including future copyright and rights in the nature of or analogous to copyright), know-how, trademark, service mark, design, inventions (including patents), business or company names, or other proprietary rights, or any rights to registration of such rights (including all renewals and extensions) whether created before or on or after the agreement.

- 1.1.18 **Law** means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, order, rule or subordinate legislation.
- 1.1.19 **Notice** means a notice, demand, consent, approval or communication under this agreement.
- 1.1.20 **Recipient** refers to a party who receives a supply pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 1.1.21 **Reimbursable Expenses** means the expenses, if any and if applicable, specified in Item 3 of the Schedule.
- 1.1.22 **Reportable Incident** means any accident, injury, property or environmental damage or any potential breach of any Law that occurs during or as a result of this agreement.
- 1.1.23 **Schedule** refers to the Schedule of this agreement.
- 1.1.24 **Services** means those services which the Consultant is to perform under this agreement, more specifically set out in Item 10 of the Schedule.
- 1.1.25 **Supplier** refers to a party who supplies under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 1.1.26 **Term** means the period starting on the Commencement Date and finishing on the End Date, unless this agreement is terminated earlier in accordance with clause 12 of this agreement.
- 1.1.27 **Variation** means any change to the Services including any addition, increase, decrease, omission, deletion to or from the Services which must be documented in writing in accordance with clause 5. |

## 1.2 Interpretation

In this agreement, unless the context otherwise requires:

- 1.2.1 headings do not affect interpretation;
- 1.2.2 singular includes plural and plural includes singular;
- 1.2.3 a reference to a party includes its executors, administrators, successors and permitted assigns;
- 1.2.4 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 1.2.5 a reference to this agreement includes any schedules and annexures to this agreement;
- 1.2.6 an agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;



- 1.2.7 an agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- 1.2.8 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 1.2.9 a provision is not construed against a party only because that party drafted it;
- 1.2.10 an unenforceable provision or part of a provision may be severed, and the remainder of this agreement continues in force, unless this would materially change the intended effect of this agreement;
- 1.2.11 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- 1.2.12 an expression defined in the *Corporations Act 2001 (Cth)* has the meaning given by that Act at the date of this agreement;
- 1.2.13 an expression defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* has the meaning given by that Act at the date of this agreement.

## **2. Engagement of Consultant**

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- 2.1 The Council engages the Consultant who accepts the engagement for the Term to perform the Services on the terms and conditions of this agreement.
- 2.2 The parties acknowledge that nothing in this agreement creates or infers a relationship between the parties of partnership or employer/employee.

## **3. Invoicing and Payment**

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### **3.1 Payment of the Fee**

The Council will pay to the Consultant the Fee for the supply of the Services.

### **3.2 Payment Terms**

- 3.2.1 The Consultant will issue a tax invoice to the Council within seven days of the completion of the Services.
- 3.2.2 Payment of the Fee and any Reimbursable Expenses, if applicable, will be due within 30 days after the Council receives a correctly rendered tax invoice from the Consultant.
- 3.2.3 A tax invoice is correctly rendered when it:
  - 3.2.3.1 describes the Services provided and the period to which the Services relate;
  - 3.2.3.2 displays the terms of payment of the Fee described in the tax invoice;

- 3.2.3.3 displays the Council's purchase order number (if relevant);
- 3.2.3.4 displays the terms of payment of the Reimbursable Expenses and attaches receipts for all the Reimbursable Expenses (if applicable);
- 3.2.3.5 is addressed to the Council's address as specified in this agreement; and
- 3.2.3.6 set out in reasonable detail the manner and basis of the calculation of the Fee and Reimbursable Expenses (if applicable), including the component of GST.

### 3.3 **Effect of payment**

A payment of all or part of the Fee is not an acceptance of the Services or a waiver of a right or action of the Council.

## 4. **Standard and Scope of Services**

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- 4.1 The Consultant represents and warrants to the Council that:
  - 4.1.1 all actions and conditions required to be taken, fulfilled and done by it in order to enable it to enter into, exercise its rights and perform its obligations under this agreement have been done; and
  - 4.1.2 all Authorisations required for its entry into, exercise of its rights under, and performance of its obligations under this agreement have been obtained.
- 4.2 The Consultant must provide the Council with the Services in the manner and at the times or within the timeframe specified in Item 6 of the Schedule.
- 4.3 The Consultant must:
  - 4.3.1 perform the Services with all the skill, care and diligence to be expected from a qualified, competent and experienced provider of services similar to the Services;
  - 4.3.2 devote such of its time and ability as is appropriate and reasonably necessary for the proper and timely performance of the Services;
  - 4.3.3 comply with all Authorisations and all applicable Laws, accepted industry standards, specifications and procedures in the performance of the Services and its obligations under this agreement; and
  - 4.3.4 comply with any reasonable requests of the Council, whether in relation to the manner of the performance of the Services or otherwise.
- 4.4 The Consultant must supply at its own expense all plant, equipment and facilities required for the performance of the Services and maintain them in a safe and good working condition.

- 4.5 The Consultant must keep the Council fully and regularly informed as to all matters affecting or relating to the Services and must provide to the Council any information reasonably requested by the Council to monitor the performance of the Consultant's obligations under this agreement.
- 4.6 The Consultant must promptly notify the Council of a Reportable Incident within 24 hours of the incident taking place. The Consultant must provide a report to the Council's Representative giving complete details, including results of investigations into its cause, and any recommendations or strategies for prevention in the future.
- 4.7 Times for the fulfilment of the Consultant's obligations under this agreement are essential terms of this agreement.

## **5. Variation to Services**

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- 5.1 The Council may, by written notice to the Consultant, request a Variation to the Services. This may consist of a direction to the Consultant to change the character, quality, scope and/or extent of the Services.
- 5.2 Subject to clause 5.5, the Consultant must not carry out a Variation unless and until the Council provides to the Consultant a written Variation and the Variation is valued.
- 5.3 A Variation is valued as follows:
  - 5.3.1 where the Variation can be valued by the application of rates accepted by the Council - by the application of those rates; or
  - 5.3.2 where there are no relevant rates - the Council's Representative and the Consultant's Representative may, by agreement, determine a reasonable value.
- 5.4 If the Council gives the Consultant a written instruction that a matter is so urgent that the Consultant should proceed with the Variation before it is valued, the Consultant may proceed with the Variation and the Variation must be valued afterwards by the Council's Representative and the Consultant's Representative.
- 5.5 If the Council's Representative and the Consultant's Representative are unable to reach agreement under clauses 5.3.2 or 5.4, the matter will be resolved under clause 14 (Dispute Resolution).
- 5.6 No Variation invalidates this agreement irrespective of the character or value of the Variation.
- 5.7 All Variations must be in writing and signed by the Council's Representative.

## **6. Consultant's Staff**

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- 6.1 The Consultant acknowledges that the Council enters into this agreement on the basis of the skills, reputation, qualifications, experience and knowledge of the Consultant's Staff and that the Services must be performed only by the Consultant's Staff.

- 6.2 The Consultant may request in writing that the Council approve further people as Consultant's Staff.
- 6.3 The Council may, in its absolute discretion, give (conditionally or unconditionally) or withhold such approval.
- 6.4 The Consultant is responsible for the performance of the Services by Consultant's Staff and will not be relieved of its obligations or liabilities under this agreement.
- 6.5 The Consultant is responsible for labour management and industrial relations in respect of the provision of the Services by the Consultant's Staff.
  - 6.5.1 The Council does not bear or accept any additional costs as a result of the impact of any industrial dispute on the performance of the Services.
  - 6.5.2 In the event of an industrial dispute, the Consultant must take all reasonable steps to ensure the continuation of the Services without adverse impact on the Council.

## **7. Insurance**

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- 7.1 During the Term, the Consultant must maintain all insurances required by Law and this agreement, including:
  - 7.1.1 public liability insurance for the amount of \$10,000,000.00 of the Schedule in respect of any one incident arising during or in consequence of the performance of the Services. The insurance policy must bear an endorsement from the insurer acknowledging the indemnities given by the Consultant under this agreement;
  - 7.1.2 Professional Indemnity Insurance of \$5,000,000.00
- 7.2 The Consultant must produce evidence of those insurances to the Council upon request.
- 7.3 The Consultant must not allow any act or omission which would make any policy of insurance void or unenforceable.
- 7.4 The Consultant must ensure that its subcontractors (so long as they have been approved by the Council) comply with this clause.

## **8. Ownership of Intellectual Property Rights and Deliverables**

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- 8.1 The Consultant warrants that the Deliverables will not infringe the Intellectual Property Rights of any person. The Consultant fully indemnifies the Council against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party against the Council alleging that the Deliverables infringe any such Intellectual Property Rights.
- 8.2 The Consultant hereby assigns to the Council all future copyright and all other rights of a like nature in the Deliverables throughout all countries of the world to the intent that such rights will, upon their creation, vest in the Council.

- 8.3 Subject to clause 8.4, title to all Intellectual Property Rights in the Deliverables (other than copyright vesting in the Council under clause 8.2), will be assigned to the Council upon its creation.
- 8.4 Council grants the Consultant a non-exclusive, royalty free licence to copy, use and reproduce the Deliverables, specifically the Report, for its own internal purposes excluding any commercialisation of that Report for any other third party or client of the Consultant.
- 8.5 The Consultant must do all such things and execute all such forms and documents as are necessary to permit or facilitate the performance of the transactions contemplated by this clause.

## **9. Indemnity and Exclusion of Liability**

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- 9.1 The Consultant agrees to indemnify and to keep indemnified the Council and its employees, officers, agents and contractors against all actions, costs, claims, charges, penalties, demands, expenses and damages whatsoever which may be brought or made or claimed against them, or any of them, in connection with the Consultant's performance or purported performance of its obligations under this agreement, a breach by the Consultant of any term of this agreement, a wilful, unlawful or negligent act or omission of the Consultant and any claim, action or proceeding by a third party against the Council or its employees, officers, agents and contractors caused or contributed to by the Consultant.
- 9.2 The indemnity in the above clause shall be reduced proportionally to the extent to which the Council directly contributed to the event giving rise to the claim for indemnity.
- 9.3 The Consultant must perform the Services at its own risk in all things and releases the Council and its employees, officers, members agents, and contractors from all claims, actions, proceedings, costs, expenses, losses, suffering and liabilities incurred by the Consultant or its employees, agents, subcontractors, third parties, and customers which arise from the performance of the Services.

## **10. Non-Performance by Consultant**

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If the Consultant breaches a provision of this agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so, the Council may:

- 10.1 suspend any or all payment of the Fee until the breach is remedied; and/or
- 10.2 remedy the breach itself whether by the use of the Council's employees or other consultants and deduct the cost of remediation from any Fee due to the Consultant; and/or
- 10.3 terminate this agreement in accordance with clause 12.1 (Termination by Council); and/or
- 10.4 pursue any other legal remedies available to the Council.

## 11. Force Majeure

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- 11.1 If a Force Majeure Event causes delay or failure by a party to perform its obligations under this agreement:
- 11.1.1 neither party is liable for such delay or failure; and
  - 11.1.2 all obligations of a party under this agreement are suspended until the Force Majeure Event ceases to apply.
- 11.2 A party which is, by reason of a Force Majeure Event, unable to perform any obligation or condition required by this agreement must:
- 11.2.1 notify the other party as soon as possible giving:
    - 11.2.1.1 reasonably full particulars of the Force Majeure Event;
    - 11.2.1.2 the date of commencement of the Force Majeure Event and an estimate of the time required to enable it to resume full performance of its obligations; and
    - 11.2.1.3 where possible, the means proposed to be adopted to remedy or abate the Force Majeure Event;
  - 11.2.2 use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure Event as soon as possible;
  - 11.2.3 resume performance as soon as possible after termination of the Force Majeure Event or after the Force Majeure Event abates to an extent which permits resumption of performance;
  - 11.2.4 notify the other party when the Force Majeure Event terminates or abates to an extent which permits resumption of performance; and
  - 11.2.5 notify the other party when resumption of performance occurs.
- 11.3 If a delay or failure under this clause exceeds 30 days, the Council may immediately terminate this agreement by written notice to the Consultant. In such circumstances, the Council will be liable to the Consultant only in respect of the Fees properly owing up to the date of termination in respect of the Services (or part thereof) performed until the Force Majeure Event. Without limiting the effect of this clause, the Council will not be liable to compensate the Consultant for loss of potential profits or other consequential loss incurred by the Consultant arising from termination by the Council pursuant to this clause.

## 12. Termination

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### 12.1 Termination by Council

- 12.1.1 The Council may immediately terminate this Agreement by giving notice to the Consultant if the Consultant:
- 12.1.1.1 ceases to carry on business or becomes otherwise unable to perform its obligations under this Agreement; or

12.1.1.2 breaches a material or essential term of this Agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so; or

12.1.1.3 becomes an externally administered body corporate or an insolvent under administration; or

12.1.1.4 becomes insolvent or bankrupt.

12.1.2 In such circumstances, the Council will be liable to the Consultant only in respect of the Fees properly owing up to the date of termination in respect of the Services (or part thereof) performed to that time. Without limiting the effect of this clause, the Council will not be liable to compensate the Consultant for loss of potential profits or other consequential loss incurred by the Consultant arising from termination by the Council pursuant to this clause.

## 12.2 Termination by Consultant

The Consultant may immediately terminate this agreement if the Council breaches a material term of this Agreement and fails to remedy the breach within a reasonable time after receiving notice requiring it to do so.

## 12.3 Accrued rights and remedies

Termination of this agreement under this clause does not affect any accrued rights or remedies of either party.

## 13. Confidential Information and Right to Information

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13.1 Each party agrees that it will not use any Confidential Information of the other party or allow any Confidential Information of the other party to be used for any purpose, except for the purposes of and in the manner contemplated by this agreement, and agrees that it will:

13.1.1 keep confidential;

13.1.2 take reasonable steps to ensure that the party's officers and employees do not disclose to a third party;

13.1.3 maintain proper and secure custody of; and

13.1.4 not use or reproduce in any form; any Confidential Information belonging to the other party. Any departure from a party's obligations pursuant to this clause may only be with the written consent of the other party or as required by law or the terms of this agreement.

13.2 The Consultant consents to any disclosures made as a result of the Council complying with its obligations under the *Right to Information Act 2009 (Tas)*, subject to any legally required consultation.

13.3 Unauthorised disclosure of any Confidential Sections constitutes a breach of a party's obligations under this agreement.

## 14. Dispute Resolution

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### 14.1 General

- 14.1.1 A party must not commence court proceedings (except for urgent equitable or injunctive relief) in respect of a dispute under this agreement, unless it first attempts to resolve the dispute by negotiation and mediation under this clause.
- 14.1.2 A party claiming that a dispute has arisen under this agreement must give written notice to the other party specifying the nature and details of the dispute.
- 14.1.3 On receipt of that notice by the other party, the parties must negotiate in good faith to resolve the dispute within 30 business days.

### 14.2 Mediation

- 14.2.1 If the parties are unable to resolve the dispute within 30 business days, a party may refer the dispute for mediation under the mediation rules of the Resolution Institute (ACN 008 651 232, Level 1 & 2, 13-15 Bridge Street, Sydney NSW 2000) to:
  - 14.2.1.1 a mediator who is independent of the parties and agreed by the parties; or
  - 14.2.1.2 if the parties are unable to agree a mediator within five business days, a mediator nominated by the Chair of the Resolution Institute or the Chair's designated representative.
- 14.2.2 The role of a mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a decision that is binding on a party unless that party has agreed in writing.
- 14.2.3 Any information or documents disclosed by a party under this clause:
  - 14.2.3.1 must be kept confidential; and
  - 14.2.3.2 may not be used except to attempt to resolve the dispute.
- 14.2.4 Each party must bear its own mediation costs. The parties must bear equally the costs of any mediator.

### 14.3 Performance

If possible, each party must perform its obligations under this agreement during negotiations and mediation proceedings.



## 15. Subcontracting and Assigning

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- 15.1 The Consultant must not assign or subcontract this agreement or any right or obligation under it without the prior written consent of the Council, which may be granted or withheld in the Council's absolute discretion.
- 15.2 With any application for such consent, the Consultant must provide all information required by the Council, including evidence that the proposed assignee or subcontractor is capable of performing the Services to be assigned or subcontracted.
- 15.3 Unless otherwise agreed in writing by the Council, no such assignment or subcontract relieves the Consultant from any liability under this agreement or at Law in respect of the performance or purported performance of this agreement and the Consultant is responsible for the acts and omissions of any assignee or subcontractor or any assignee's or subcontractor's employees and agents as if they were the acts or omissions of the Consultant.
- 15.4 For the purpose of this clause, if the Consultant is a company, an assignment of this agreement includes any change in the beneficial ownership of the share capital of the Consultant, or the resignation, death or appointment of any director of the company, which alters the effective control of the Consultant.

## 16. Miscellaneous

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### 16.1 Variation

This agreement may be varied only in writing signed by each party.

### 16.2 Entire Agreement

This Agreement:

- 16.2.1 constitutes the entire Agreement between the parties about its subject matter; and
- 16.2.2 supersedes any prior understanding, agreement, condition, warranty, indemnity or representation about its subject matter.

### 16.3 Waiver

A waiver of a provision of or right under this Agreement must be in writing signed by the party giving the waiver and is effective only to the extent set out in the written waiver.

### 16.4 Exercise of power

- 16.4.1 The failure, delay, relaxation or indulgence by a party in exercising a power or right under this agreement is not a waiver of that power or right.
- 16.4.2 An exercise of a power or right under this agreement does not preclude a further exercise of it or the exercise of another right or power.

16.5 **Survival**

Each indemnity, obligation of confidence and other term capable of taking effect after the expiration or termination of this agreement, remains in force after the expiration or termination of this agreement.

16.6 **Further action**

Each party must do all things necessary to give full effect to this agreement and the transactions contemplated by this agreement.

16.7 **Governing law**

16.7.1 This agreement is governed by the law in Tasmania.

16.7.2 The parties irrevocably submit to the exclusive jurisdiction of the courts in Tasmania.

16.8 **Ombudsman**

The Consultant acknowledges that the *Ombudsman Act 1978 (Tas)* empowers the Ombudsman to investigate matters in the public interest. The Consultant must ensure compliance with all obligations arising under that Act and all applicable Laws.

16.9 **Work Health and Safety**

In complying with its obligations pursuant to this agreement, the Consultant agrees to:

16.9.1 comply with any environmental requirements of the Council communicated from time to time by the Council to the Consultant;

16.9.2 comply with all requirements of the *Work Health and Safety Act 2012 (Tas)* and any regulations made under it;

16.9.3 comply with any reasonable requests of the Council in relation to the Consultant's performance of its obligations pursuant to this agreement; and

16.9.4 promptly notify the Council of any accident, injury, property or environmental damage of any potential breach of any law (reportable incident) that occurs during or as a result of this agreement. Within 24 hours of a reportable incident, the Consultant must provide a report to the Council's Representative giving complete details, including the results of investigations into its cause and recommendations or strategies for prevention in the future.

16.10 ***Workers Rehabilitation and Compensation Act 1988 (Tas)***

16.10.1 The Consultant and all subcontractors must comply with the *Rehabilitation and Compensation Act 1988 (Tas)* and any regulations made under it.

16.10.2 The Consultant and all subcontractors must maintain workers' compensation insurance at all times during the currency of this agreement

(including the Defects Liability Period) and must produce evidence of the existence of such insurance.

## **17. Goods and Services Tax**

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### **17.1 Consideration does not include GST**

Unless specifically described as 'GST inclusive', any payment or consideration under this agreement does not include GST.

### **17.2 Gross up of consideration**

Where a supply by a Supplier to a Recipient under this agreement is subject to GST (other than a supply specifically described as 'GST inclusive'):

17.2.1 the expressed consideration for that supply must be increased by, and the Recipient must pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and

17.2.2 the Recipient must pay that additional amount at the same time and in the same manner as the expressed consideration.

### **17.3 Reimbursements**

If a payment to a party under this agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with the previous subclause.

### **17.4 Tax invoices**

Notwithstanding any other provision of this agreement, the Recipient need not make any payment for a taxable supply made by the Supplier under this agreement until the Supplier has given the Recipient a tax invoice in respect of that taxable supply.

### **17.5 Adjustments**

If an adjustment event has occurred in respect of a taxable supply made under this agreement, any party that becomes aware of the occurrence of that adjustment event must notify each other party to that taxable supply as soon as practicable, and all of those parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that taxable supply, or any refund of GST (or part thereof), is paid no later than 28 days after the Supplier first becomes aware that the adjustment event has occurred.

## 18. Notices

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- 18.1 A Notice must be:
- 18.1.1 in writing, in English and signed by a person authorised by the sender;  
and
  - 18.1.2 hand delivered or sent by pre paid post to the recipient's address specified in the Schedule, as varied by any Notice given by the recipient to the sender.
- 18.2 A Notice is deemed to be received:
- 18.2.1 if hand delivered, on delivery;
  - 18.2.2 if sent by prepaid post, three business days after posting (or seven business days after posting if posting to or from a place outside Australia);
- 18.3 However if the Notice is deemed to be received on a day that is not a business day or after 5:00pm, the Notice is deemed to be received at 9:00am on the next business day.

## 19. Costs

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Each party must pay its own costs of preparing this agreement and any document required by it.

## **Annexure A      Specification of the Services**

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See: Part 2 (RFQ Document "Specification of the Services"). |

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