



The Crown in Right of the State of New South Wales
acting through Service NSW, an executive agency of the
Department of Customer Service

AND

Placard Pty Ltd

Agreement

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Parties

The Agreement is made between:

The Crown in Right of the State of New South Wales acting through Service NSW, an executive agency of the Department of Customer Service, ABN 37 552 837 401 of McKell Building, 2-24 Rawson Place, SYDNEY NSW 2000 ('the **Department**');

And

Placard Pty Ltd, ABN 46 074 646 343 of Unit 1, 51 Jersey Road, Bayswater VIC 3153 ('the **Supplier**').

Operative Provisions

1. Interpretation

1.1 Definitions

In this Agreement except where a contrary intention appears: **Agreement** means this agreement and includes all Schedules, attachments and annexures.

Annual Order means the means the order placed annually by the Department setting out the number of Consumables to be drawn down by the Department in accordance with clause 13.

Annual Order Period means each 12-month period commencing three months after the Commencement Date for the Term of the Agreement.

Authorisation means an approval, consent, declaration, exemption, notarisation, licence, permit, certificate, waiver or other authorisation, however described, required by any law.

Authorised Representative means any authorised representative of the Department, or the Supplier, as the context requires, as advised from time to time.

Authority means:

- (a) government, government department or government agency;
- (b) governmental, semi-governmental or judicial person (including the Department carrying out any statutory authority or function); or
- (c) other person (whether autonomous or not) who is charged with the administration of a law.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

Card means the card which complies with Schedule 3 (Specifications).

Change of Control means, in relation to a body corporate or entity (the body):

- (a) where an entity that controls the body ceases to control the body; or
- (b) an entity that does not control the body comes to control the body,

but does not include the circumstance where:

- (c) the entity that ceases to control the body under paragraph (a) was, immediately beforehand, a wholly owned subsidiary of a body corporate that controls the body; or
- (d) the entity that comes to control the body under paragraph (b) is, immediately afterward, a wholly owned subsidiary of a body corporate that previously controlled and continues to control the body.

Claim includes any claim, action, demand, proceeding, judgment or order however arising, whether at law or in equity and including:

under or in connection with this Agreement or any other contract, deed or agreement;

- (a) by statute;
- (b) in tort for negligence or otherwise, including negligent misrepresentations;
- (c) in restitution for unjust enrichment,

and includes any notice, order, demand or other official requirement of any Authority.

Commencement Date means the date of commencement of this Agreement as set out in Item 1 of Schedule 1 (Agreement Details).

Consequential Loss means any:

- (a) special damages;
- (b) indirect, incidental or consequential loss; and
- (c) damages that could not have been reasonably supposed to have been in the contemplation of the Parties at the date of the Agreement,

but does not include general damages or any damages that may occur due to a negligent misrepresentation or fraud of a Party.

Confidential Information of a Party means any written or oral information of a technical, business or financial nature, and includes Personal

Information, disclosed to the other Party including its employees or agents, by a disclosing Party (whether orally or in writing), whether before or after the Commencement Date, that:

- (a) is by its nature confidential; or
- (b) is designated as confidential; or
- (c) the other Party knows or ought to know is confidential,

but does not include information which:

- (a) is or becomes public knowledge, other than by breach of this Agreement; or
- (b) is in the lawful possession of the other Party without restriction in relation to disclosure before the date of receipt of the information; or
- (c) is required to be disclosed by law, government policy or legal process.

Conflict of Interest means a situation where the exercise of a person's duty or decision-making is influenced, or may appear to be influenced, by his or her personal interests.

Consumables means the:

- (a) Cards;
- (b) Hologram Ribbon; and
- (c) Printer Ribbon,

or any of them as the context requires.

Control means control as provided in section 50AA of the *Corporations Act 2001* (Cth) except that, in addition, an entity controls a second entity if the first entity would be taken to control the second entity but for subsection 50AA(4).

Delivery Date means the dates for delivery of Goods as set out in Item 7 of 0 (Agreement Details) or as contained in the relevant Draw Down Notice.

Delivery Point means the delivery point of the Goods as set out in Item 6 of 0 (Agreement Details) or as contained in the relevant Draw Down Notice.

Department Authorised Courier means a courier authorised by the Department to pick up Goods from the Supplier and whose details have been notified to the Supplier by the Department.

Department Ordering Authority means the person or persons (which may include third parties) appointed by the Department from time to time to place Draw Down Notices under this Agreement and whose details have been notified to the Supplier by the Department.

Department Representative means the person appointed as the representative of the Department, as set out in Item 3 of Schedule 1 (Agreement Details) and, who for the purposes of this Agreement, is an Authorised Representative of the Department.

Department System means DRIVES and any system, including computer systems, owned, operated or controlled by the Department.

Disengagement Period means the period commencing on the earlier of:

- (a) the day after the date on which the Department is entitled to give notice renewing the Term of this Agreement under clause 2.2 as notified to the Department by the Supplier;
- (b) the date on which a party gives the other notice that it wishes to terminate this Agreement; and
- (c) the date on which this Agreement terminates or expires,

and ending when the Department notifies the Supplier that disengagement is completed.

Draw Down Notice means a notice issued by the Department which requires the Supplier to supply Goods to the Department and which complies with clause 13.

DRIVES means the Transport for NSW's Driver and Vehicle System in which data relating to the Consumables is recorded.

Extension means the period of extension specified in Item 2 of [Schedule 1](#) (Agreement Details).

Force Majeure Event means without limiting its generality, any of the following events or occurrences:

- (a) acts of God, including fire, tidal wave, cyclone, earthquake, landslide, mudslide;
- (b) war, revolution or other state of armed hostility of a like nature;
- (c) insurrection, an act of terrorism, civil disturbances or riot;
- (d) collisions or accidents which constitute a major catastrophe, an example being an aircraft crash; or
- (e) state-wide or national industrial disputation that prevents delivery of the Goods.

Goods means the goods to be supplied under this Agreement as set out in **Error! Reference source not found.** (Specification)

Government and Departmental Policies means the policies of the New South Wales Government.

GST law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth), related legislation and any delegated legislation.

Hologram Design means the TfNSW hologram design set out in Schedule 3.

Hologram Ribbon means the ribbon provided by the Supplier under this Agreement and which complies with Schedule 3 (Specifications)

Insolvency Event with respect to the Supplier means:

- (a) insolvency as defined under section 95A of the *Corporations Act 2001* (Cth);
- (b) a winding up order being made;
- (c) an application being made to a court for an order for its winding up;
- (d) an application being made to a court for an order to appoint a controller, administrator,

- receiver and manager, provisional liquidator or liquidator or analogous person to the Supplier or any of Supplier's property, or an appointment of the kind referred to in this paragraph is made (whether or not following a resolution or application);
- (e) the holder of a security interest, or any agent on its behalf, taking possession of any of the Supplier's property;
 - (f) the process of any court or Authority being invoked against the Supplier or any of its property to enforce any judgment or order for the payment of money or the recovery of any property;
 - (g) the Supplier failing to comply with a statutory demand under section 459F(1) of the Corporations Act 2001 (Cth);
 - (h) the Supplier;
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (j) being taken by applicable law to be (or if a court would be entitled or required to presume that the person is) unable to pay its debts or otherwise insolvent.

Intellectual Property Rights means patent, knowhow, copyright, Moral Rights, design, semiconductor or circuit layout rights, trademark, trade, business or company names or other proprietary rights and any rights to registration of such rights, whether created before or after the Commencement Date, in Australia or elsewhere.

Loss means any loss, cost, expense or liability, indirect loss, loss of profit, loss of revenue and damages for loss of opportunity, and includes Consequential Loss.

Minimum Stock Level Requirements means, on any day, a sufficient amount of Goods to meet the Department's forecast requirements for Goods for the three calendar months following that day as set out in the relevant Quarterly Forecast.

Modern Slavery has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.

Modern Slavery Laws means, as applicable, the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Cth).

Modern Slavery Offence has the same meaning as in the *Modern Slavery Act 2018* (NSW).

Modern Slavery Statement means a modern slavery statement as required or volunteered under the Modern Slavery Laws.

Moral Rights means the rights of integrity of authorship and the right not to have authorship falsely attributed, as confined by the *Copyright Act 1968* (Cth), and rights of similar nature, anywhere in the world, whether in existence before or after the Commencement Date.

Personal Information has the meaning given to that term in the Privacy Legislation.

Premises means any of the following:

- (a) a building of any description or any part of it and the appurtenances to it;
- (b) land, whether build on or not; or
- (c) any other structure,

vested in or under the control of the Crown in Right of the State of New South Wales.

Price or **Contract Price** means the price set out in Schedule 2 (Price Schedule).

Printer Ribbon means the printer ribbon supplied by the Supplier under this Agreement which complied with the Specifications set out in Part D of Schedule 3

Privacy Legislation means the *Privacy and Personal Information Protection Act 1998* (NSW), *Health Records and Information Privacy Act 2002* (NSW) and *Privacy Act 1988* (Cth) and includes any directions, regulations, codes of practice and principles made under these Acts.

Quality Criteria means the applicable criteria described in Schedule 3 (Specifications) which are the minimum quality criteria that the Department require in relation to the Goods.

Quarterly Forecast means a forecast of the quantity of Goods which the Department estimates it will issue Draw Down Notices for in the three calendar months following the month in which the forecast was issued.

Schedule means a schedule to this Agreement.

Security Elements means:

- (a) the Cards;
- (b) the Hologram Ribbon; and
- (c) the Hologram Design.

Service Credits means a sum of money calculated in accordance with Schedule 2.

Services means the objectives and performance standards, including the specific service requirements, in relation to the provision of the Goods as set out in Schedule 3 (Specifications).

Staff means the person employed by the Supplier to deliver the Goods under this Agreement, or persons employed by the Department, as the context requires.

Supplier Representative means the person appointed as the representative of the Supplier, as set out in Item 4 of Schedule 1 (Agreement Details), who is for the purposes of this Agreement, an Authorised Representative of the Supplier.

Term means the duration of the Agreement as specified in Item 1 of Schedule 1 (Agreement Details), or the date on which this Agreement is terminated, whichever occurs first, and includes any period of Extension

TfNSW means Transport for New South Wales

Third-Party Supplier means any person who manufactures, distributes or supplies the Goods. At

the Commencement date, the Third-Party Supplier is:

HID Global (the manufacturer of Hologram Ribbon and Printer Ribbon); and

Work Health and Safety (WHS) means all laws, regulations and codes pertaining to health and safety in the workplace including but not limited to the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017*.

1.2 Construction

In this Agreement, except where a contrary intention appears, the following rules apply:

- (a) **Headings.** The table of contents and headings in this Agreement are for convenience only and do not affect the interpretation of this Agreement.
- (b) **Definitions.** If a word or phrase is defined, cognate words and phrases have corresponding definitions.
- (c) **Legislation.** A reference to legislation (including subordinate legislation) is a reference to that legislation as amended, consolidated, re-enacted, or replaced, and includes any subordinate legislation issued under it.
- (d) **Singular.** A reference to a word or expression in the singular form includes a reference to the word or expression in the plural form and vice versa.
- (e) **Persons.** References to 'person' or 'persons' will be taken to include any natural or legal person.
- (f) **Groups.** A reference to a 'group' or 'groups' is a reference to all of them collectively and to any two or more of them collectively and to each of them individually.
- (g) **Gender.** A reference to a gender includes a reference to other genders and each of them.
- (h) **Day, month and year.** References to 'day' refer to a calendar day, references to 'month' refer to a calendar month, and a 'year' has a corresponding meaning.
- (i) **Business Day.** References to 'Business Day' refer to a weekday, excluding days which are gazetted as a public holiday in the State of New South Wales.
- (j) **Public Holiday.** References to 'Public Holiday' mean any day which is gazetted a public holiday in the State of New South Wales.
- (k) **Monetary amounts.** Money references are references to Australian currency unless otherwise stated.
- (l) **Time limits.** Where any time limit under this Agreement falls on a Saturday, Sunday or Public Holiday in the State of New South Wales then that time limit will be deemed to have expired on the next Business Day.
- (m) **Grammatical forms.** Where a word or a phrase is given a defined meaning any

other part of speech or other grammatical forms of that word have, unless the context of that word otherwise requires, a corresponding meaning.

- (n) **Rules of construction.** No rule of construction operates to the detriment of a Party only because that Party was responsible for the preparation of this Agreement or any part of it.
- (o) **Joint obligations.** Where a person is comprised of more than one person, each obligation of the person will bind those persons jointly and severally and will be enforceable against them jointly and severally.
- (p) **Reconstitution of a Party.** A reference to a person or a body which has ceased to exist or has been reconstituted, amalgamated or merged, or other functions of which have become exercisable by any other person or body in its place, will be taken to refer to the body established or constituted in its place by which its said functions have become exercisable.

2. Term

2.1 Term of the Agreement

This Agreement commences on the Commencement Date specified in Item 1 of Schedule 1 (Agreement Details) and, subject to this Agreement, will continue for the Term.

2.2 Extension period

- (a) The Department may extend the Term of this Agreement for a further period or periods ending not later than the Extension date provided in Item 2 of Schedule 1 (Agreement Details) by providing a minimum of thirty (30) days' notice in writing.
- (b) By agreement in writing, the Parties may vary the period of the Extension options in Item 2 of Schedule 1 (Agreement Details), provided that the total period of all extensions does not exceed the Extension.

2.3 Holding Over

If the Department continues to purchase Goods from the Supplier after expiry of the Term, then unless the parties have specifically agreed other terms in writing signed by both parties and subject to the provisions of clauses 18 and 19, that supply will be deemed to be governed by the terms of this agreement and may be terminated by either party on 30 days' notice, provided that the Supplier must fulfil all orders made prior to the date of termination.

3. Engagement of the Supplier

In consideration of the Supplier agreeing to supply the Goods and perform the Services in accordance with this Agreement, the Department will pay the Price contained in Schedule 2 (Price Schedule.)

4. The Supplier's obligations

4.1 Provision of Goods and Services

The Supplier must perform its obligations under the Agreement:

- (a) diligently, with a high degree of skill and care and to the best of its knowledge and expertise;
- (b) in the manner provided in Schedule 2 (Specifications);
- (c) in accordance with reasonable instructions and directions given by the Department from time to time; and
- (d) in conformity with relevant laws.

4.2 Responsibilities of Supplier

The Supplier must:

- (a) use all reasonable efforts to inform itself of the ongoing requirements of the Department in providing the Goods; and
- (b) regularly consult and meet with the Department in order for the Department to inspect, discuss, or assess the provision of the Goods.
- (c) comply with the service levels set out in the schedules; and
- (d) prior to performing any of its obligations under this Agreement, enter into the DRIVES agreement with Transport for NSW and comply with all its obligations under that agreement.

4.3 Discrepancies in information

If the Supplier considers that information, documents, or other particulars made available to it by the Department are inadequate or contain errors or ambiguities, the Supplier must notify the Department as soon as practicable.

4.4 Supplier's Staff

The Supplier must ensure that all Staff it engages in connection with the provision of the Goods are appropriately qualified, competent, and experienced in the provision of the type of Goods required under this Agreement.

5. Time of the essence

Time is of the essence in relation to all of the Supplier's obligations under this Agreement.

6. Supply and delivery of Goods

6.1 Supply of Goods

The Supplier will supply the Goods in accordance with this Agreement and as set out in the relevant Draw Down Notice.

6.2 Delivery of Goods

- (a) The Supplier will deliver the Goods to the Delivery Point by the Delivery Date set out in Item 7 of Schedule 1 (Agreement Details) or as specified in the relevant Draw Down Notice.
- (b) Unless agreed otherwise in writing by the Department, delivery of the Goods will not be complete until an Authorised Representative of the Department signs a written acknowledgement of delivery ('Acknowledgement of Delivery').

6.3 Late delivery

Subject to the provisions of clause 27, if any Goods are not made available for delivery by the Delivery Date the Department may, as its sole remedy other than its right to terminate under clause 19 either:

- (a) claim a Service Credit; or
- (b) within 20 Business Days of the Delivery Date, cancel the applicable Draw Down Notice and require the Supplier to refund any of the Contract Price paid by the Department in respect of those Goods not Delivered to the Department.

Service Credits are payable by the Supplier within 30 days of receipt of an invoice from the Department for the Service Credits payable.

6.4 Rejection of Goods

- (a) The Department reserves the right to reject Goods that are defective or do not comply with the relevant Standards Association of Australia.
- (b) The Department must promptly inform the Supplier of the rejection of any Goods.
- (c) Once informed by the Department of the rejection of any Goods, without prejudice to the Department's rights otherwise arising under this Agreement or in law, the Supplier must, as directed by the Department:
- (d) replace, without cost to the Department, the rejected Goods with Goods that conform in all respects to the requirement of this Agreement and the relevant Draw Down Notice; or
- (e) issue a credit note or refund any payment for the rejected Goods; and
- (f) promptly remove the rejected Goods from the Delivery Point at the Supplier's expense.

6.5 Ownership and risk in Goods

- (a) Goods that the Department notifies are rejected in accordance with clause 6.4 ('Rejection of Goods') are held by the Department at the Supplier's own risk.
- (b) Subject to 6.5(a) above, title to the Goods and risk in relation to the Goods passes to

the Department on delivery to the Delivery Point in accordance with this Agreement.

Elements are stored, handled and delivered securely to the Department.

6.6 Replacement of Goods

- (a) The Supplier will replace all Goods that:
- i. are damaged;
 - ii. are of poor quality; or
 - iii. not delivered to the correct Delivery Point.
- (b) Goods are to be replaced within the timeframe notified in writing by the Department.

- (b) The Supplier must ensure that each Card is individually numbered with a unique sequential card number so that each Card can be tracked from the time it is manufactured and that each package of Cards, roll of Printer Ribbon and roll of Hologram Ribbon detailed in Schedule 3 is also identified by a unique sequential barcode applied in accordance with Schedule 3 which enables each Card, package of Cards, Hologram Ribbon and Printer Ribbon to be tracked throughout the supply chain.

6.7 Quality of Goods

All Goods supplied by the Supplier must be:

- (a) of a high quality
- (b) supplied in a secure manner;
- (c) unless otherwise agreed, new when delivered to the Delivery Point;
- (d) fit for their intended purpose;
- (e) meet the Schedule 3 Specifications;
- (f) meet or exceed the Quality Criteria in Schedule 3; and
- (g) compliant with all relevant legislation, product standards, and codes.

- (c) The Supplier must:
- i. comply with, and must procure that the Third-Party Suppliers comply with:
 - a. the applicable procedures set out in Schedule 3 that are specified as applying to them in relation to the storage and transportation of Security Elements; and
 - b. all reasonable directions given by the Department in relation to the storage and transportation of Security Elements

until the relevant Security Elements, or Goods of which the relevant Security Elements form part, are delivered and accepted by the Department; and

6.8 Stock levels

The Supplier must ensure it has on hand at the Supplier's location (or can procure within 21 days) at least enough Goods to satisfy the Minimum Stock Level Requirements.

- (a) The quantity of Goods required to be held under clause 6.8(a) will be reduced:
- i. if the Department Representative agrees in writing that a lower amount may be held and then only in accordance with that written authority;
 - ii. temporarily, where the Goods held are required to meet Draw Down Notices, provided that the Goods are replenished as soon as practicable but at least within 30 Business Days of each such reduction to meet the Minimum Stock Level Requirements; or
 - iii. in consultation with and as agreed between the parties to ensure that stock levels are eliminated in an orderly manner as Goods are phased out or replaced or where this Agreement is terminated or expires.

- ii. maintain during the Term accreditation under ISO 9001:2015 and comply with ISO 27001:2013 or relevant higher standard in relation to the systems, processes and facilities in place to manage the supply of the Goods.

- (d) The Supplier must ensure that any person who manufactures or handles any Security Element:

- (i) does not manufacture any of those products for, or supply any of those products to, any person other than a Third-Party Supplier, the Supplier or the Department;
- (ii) does not manufacture or supply any of those products for any reason other than to supply the Department with Goods in accordance with this Agreement; and
- (iii) notifies the Department if any person other than the Supplier, the Department or another Third-Party Supplier asks that person to manufacture or supply any of those products for any purpose other than supplying Goods to the Department in accordance with this Agreement.

- (e) The Supplier must comply with:

- (i) the procedures set out in Schedule 3 to track Goods and the Security Elements throughout the supply chain; and

6.9 Security and Supply Chain

- (a) The Supplier acknowledges that the Security Elements are security-sensitive and agrees to take all steps set out in this agreement to ensure that all Security

- (ii) all reasonable directions given by the Department to enable the Department to track Goods and the Security Elements throughout the supply chain.
- (f) The Supplier must procure that all Third-Party Suppliers who manufacture or handle Security Elements comply with the procedures set out in Schedule 3 to track Security Elements
- (g) The Supplier must submit reports to the Department and procure that Third-Party Suppliers submit reports to the Supplier or the Department in accordance with Schedule 3.

6.10 Orders placed with Third-Party Suppliers

The Supplier must provide the Department with:

- (a) written notice of each Third-Party Supplier agreement entered into and each order placed by the Supplier with a Third-Party Supplier, within three Business Days of that agreement being entered into or that order being placed;
- (b) written confirmation that the Goods ordered have been received by the Supplier, within three Business Days of the Consumables being received; and
- (c) immediate written notice if three Business Days have elapsed beyond the contracted delivery date of Goods and the Goods ordered have not been received by the Supplier.

6.11 Details of notices

- (a) The notice referred to in clause 6.10(a) must include the following details:
 - (i) the job title of the person who placed the order or signed the Third-Party Supplier agreement;
 - (ii) the date on which the order was placed, or the Third-Party Supplier agreement entered into;
 - (iii) the description and quantity of any Goods ordered;
 - (iv) if there are any unique identifiers for the order and/or Goods, the range of those identifiers;
 - (v) the expected date for receipt of any order by the Supplier; and
 - (vi) any other details reasonably requested by the Department except details relating to price and confidential information belonging to Third-Party Suppliers which the Supplier is not entitled to disclose to the Department.
- (b) The confirmation referred to in clause 6.10(b) must include the following details:
 - (i) the date the order was received by the Supplier;

- (ii) any variations in the description or quantity of the order received by the Supplier compared to what was originally ordered;
- (iii) if applicable, any variations in the range of unique identifiers for the order and/or the products including Card numbers or barcodes; and
- (iv) any other details reasonably requested by the Department except details relating to price and confidential information belonging to Third-Party Suppliers which the Supplier is not entitled to disclose to the Department

7. Work Health and Safety

The Supplier and its Staff must comply with all directions, procedures, and policies relating to WHS applying to the Department's premises and facilities.

8. Other performance obligations

8.1 Staffing

- (a) The Supplier must ensure sufficient Staff is employed to satisfy the Supplier's obligations under this Agreement.
- (b) The Supplier must ensure that Staff complete background screening checks as required by the Department. Any Staff that handle, store or otherwise come into contact with any Security Elements (Authorised Staff) must not have had a conviction recorded against them in relation to an offence in any jurisdiction which carries a possible custodial sentence of more than one year during the prior 10 years unless the Department has been notified of the relevant offence and has approved the person notwithstanding that offence.
- (c) The Department acting reasonably may by notice to the Supplier require the Supplier to cancel the authorisation of any Authorised Staff for the reasons stated in the notice and:
 - (i) in the case of breaches of security, confidentiality requirements or privacy obligations, the Supplier must as soon as possible authorise another person of suitable ability and qualifications; or
 - (ii) in any other case, after receipt of that notice, the Supplier will have 48 hours in which to investigate the matters stated in the notice, discuss its findings with the Department and resolve any problems with the person the subject of the notice. If, following that period, the Department requests cancellation of the authority of that person, the Supplier must, as soon as practicable but in any event within 10 Business Days, cancel that person's authority and as soon as possible

authorise another person of suitable ability and qualifications.

- (d) The Department may authorise certain of the Authorised Staff who are employees of the Supplier to access particular Department Systems for the sole and exclusive purpose of supplying Goods, tracking Goods and otherwise complying with the Supplier's obligations under this Agreement.

Such access may be conditional and any access not in accordance with any conditions imposed by the Department is unauthorised and prohibited.

- (e) The Supplier must:
- (i) ensure only those Authorised Staff authorised by the Department under clause 8.1(d) to access a Department System access that system;
 - (ii) not act on or through any Department System so as to damage, interfere with or disrupt any Department System, data, software or any users of a Department System;
 - (iii) comply with, and ensure its Authorised Staff comply with, the terms set out in Annexure A Schedule 3 as though the Supplier were the "Recipient" for the purposes of Schedule 3 in relation to the Supplier's access to and use of DRIVES; and
 - (iv) comply with, and ensure its Representatives comply with, all reasonable directions given by the Department relating to access to the Department Systems and any access to Department premises for the purposes of performing their obligations under this agreement.
- (f) Where applicable, the Supplier must ensure that all Staff deployed at the Delivery Points:
- (i) where responsible for delivering Goods, are physically capable of doing so and have been trained to undertake hazardous manual tasks in a safe manner;
 - (ii) are appropriately trained in WHS and follow WHS laws; and
 - (iii) are informed of and comply with relevant Government and Departmental policies.

8.2 Staff induction

The Supplier must, at its own cost, induct and train all Staff involved with the supply and delivery of the Goods, including in relation to compliance with WHS laws.

8.3 No employment relationship

The Supplier's Staff are not, by virtue of this Agreement, an employee, partner or agent of the Department.

8.4 Compliance

- (a) The Supplier must, in performing its obligations under the Agreement:
- (i) comply with the following NSW Government policies, codes, guidelines and standards, to the extent applicable to the supply of the Goods:
 - a. the NSW Procurement Policy Framework published on <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>;
 - b. NSW Government Supplier Code of Conduct published on <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>;
 - c. the NSW Government Small and Medium Enterprise and Regional Procurement Policy published on <https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>;
 - d. the NSW Government Aboriginal Procurement Policy <https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>;
 - e. the Worst Forms of Child Labour Convention, 1999 (ILO Convention 182) ensuring that the Services have not been produced using "worst forms of child labour" as defined.
 - (ii) comply with any modifications, updates, amendments and replacements to any applicable laws, at no additional cost to the Department;
 - (iii) comply with any modifications, updates, amendments and replacements to any NSW Government policies, codes, guidelines and standards that:
 - a. reflect any change in laws; or
 - b. apply generally to entities that supply goods of the same nature as the Goods,at no additional cost to the Department, provided that the Department notifies the Supplier in writing of any changes and provided that the Supplier will not be required to comply with any such changes that are material (without first agreeing and executing a written variation to this Agreement); and
 - (iv) comply with any modifications, updates, amendments and replacements to any NSW Government policies, codes, guidelines and standards that do not otherwise fall within paragraph (iii), and the parties agree that:

- a. they must enter into good faith discussions to agree an equitable adjustment to prices otherwise payable by the Department under this Agreement, to reflect the increased cost of the Supplier to comply with such modifications, updates, amendments or replacements;
 - b. where such modifications, updates, amendments or replacements affect the Supplier's other customers, only a proportion of the Supplier's increased costs must be reflected in the increased price, based on the number and usage of the Supplier's affected customers; and
 - c. any increased prices will only be effective once documented in an executed variation to this Agreement.
- (b) The Supplier may seek the written guidance of the Department on how the Supplier may comply with an applicable NSW Government policy. The Supplier will not be in breach of paragraph (a) if it complies with the then-current written guidance provided by the Department in respect of an applicable NSW Government policy. The Department may amend or revoke any written guidance it has provided to the Supplier under this paragraph (b), by written notice to the Supplier.

8.5 Modern Slavery

Compliance

- (a) The Supplier warrants that, as at the date of its execution of this Agreement, neither the Supplier, any entity that it owns or controls or, to the best of its knowledge, any subcontractor of the Supplier, has been convicted of a Modern Slavery Offence.

Information

- (b) The Supplier must:
 - (i) comply with the Modern Slavery Act 2018 (Cth) and associated regulatory requirements (for example, annual reporting requirements and NSW Procurement Board directions), and agrees to cooperate in any Modern Slavery audit undertaken by the Department or the NSW Audit Office and providing reasonable access to the Department's/Audit Office's auditors to interview the Supplier's staff, provided that such audit takes place no more than once every 12 months; and
 - (ii) notify the Department in writing as soon as it becomes aware of:

- a. a material change to any of the Information it has provided to the Department in relation to Modern Slavery; and
 - b. any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or those of any entity that it owns or controls).
- (c) The Supplier may provide any Information or report requested by the Department in the form of a previously prepared statement or re-purposed report, for example a statement provided in response to a similar request for information from another Australian public sector agency or refer the Department to its publicly available Modern Slavery Statement, provided that such statement or report provides generally the same information as that sought by the Department.

Modern Slavery due diligence

- (d) The Supplier must take reasonable steps to ensure that Modern Slavery is not occurring in the operations and supply chains of the Supplier and any entity that it owns or controls.

Response to Modern Slavery incident

- (e) If the Supplier becomes aware of any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls), the Supplier must take reasonable steps to respond to the occurrence in accordance with any internal Modern Slavery strategy and procedures of the Supplier and any relevant Code of Practice/Conduct or other guidance issued by the Anti-slavery Commissioner or (if the Department notifies the Supplier that it requires the Supplier to comply with the relevant NSW Procurement Board Code/guidance) by the NSW Procurement Board.
- (f) Any action taken by the Supplier under paragraph (e) will not affect any rights of the Department under this Agreement, including its rights under paragraph (g).

Termination on ground of Modern Slavery

- (g) Without limiting any right or remedy of the Department under this Agreement or at law, the Department may terminate this Agreement, upon written notice, with immediate effect and without any requirement to pay compensation in respect of such termination, on any one or more of the following grounds:
 - (i) the Supplier has failed to disclose to the Department, prior to execution of this Agreement, that the Supplier, or any entity owned or controlled by the Supplier, has been convicted of a Modern Slavery Offence;
 - (ii) the Supplier, or any entity owned or controlled by the Supplier, is convicted of a Modern Slavery

- Offence during the term of this Agreement;
- (iii) in the Department's reasonable view, the Supplier has failed to notify the Department as soon as it became aware of an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls);
 - (iv) in the Department's reasonable view, the Supplier has failed to take reasonable steps to respond to an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls); and
 - (v) in the Department's reasonable view, the Supplier has otherwise committed a substantial breach (including multiple minor (non-trivial) breaches) of any of paragraphs (a) to (c).

8.6 Audit

- (a) The Department is entitled without charge to inspect the Goods held by the Supplier and the records and accounts of the Supplier relating to the performance of this agreement at any reasonable time.
- (b) The Department may appoint an independent Third-Party to audit the Supplier's records between the hours of 9am and 5pm on any Business Day upon giving the Supplier 24 hours' notice. If the audit indicates that:
 - (i) the Supplier has overcharged the Department in relation to this agreement;
 - (ii) any Goods or Security Elements have been lost, stolen, misplaced or are otherwise unaccounted for; or
 - (iii) the Supplier has failed to maintain sufficient records to determine whether any events referred to in clause 8.5(b) have occurred,

then the audit will be at the cost of the Supplier, otherwise it will be at the cost of the Department.

- (c) All independent auditors must prior to conducting an audit, execute a confidentiality deed with the Supplier on reasonable terms.
- (d) The Supplier must procure that the Department or an independent auditor appointed by the Department may audit the records of any Third-Party Supplier at any reasonable time during the relevant Third-Party's business hours upon giving 24 hours' notice.
- (e) If an audit is conducted under clause 8.6(d):
 - (i) by the Department then the Department agrees to enter into a confidentiality agreement on terms

reasonable to the Department with the relevant Third-Party Supplier;

- (ii) by an independent auditor, then the independent auditor must enter into a confidentiality agreement with the relevant Third-Party Supplier on reasonable terms; and
 - (iii) the Supplier will use best endeavours to ensure the relevant Third-Party Supplier enters into the agreements referred to in clause 8.6(e)(i) and (ii).
- (f) The Supplier must provide, and must procure that all Third-Party Suppliers provide the Department and any independent auditor appointed under clause 8.6 with reasonable access to all relevant books, books of account, computer and electronic records and other materials and information necessary for the independent auditor to carry out the audits referred to in clauses 8.6(b), (c), (d) and (e); and
 - (g) Any over-payment or shortfall identified by an audit under clause 8.6 must be paid by, or to, the Department (as the case may be) within 30 days of the Supplier receiving a copy of the written audit report and an invoice from the Department.
 - (h) If it is practicable to do so, the Supplier, at its cost, must promptly take all steps necessary to track, locate and deliver to the Department any lost, stolen, misplaced or otherwise unaccounted Goods or Security Elements identified under an audit conducted under clause 8.6.
 - (i) The Supplier must, at its cost, rectify its record keeping process if an audit indicates that it has failed to maintain sufficient records to determine whether any events referred to in clause 8.6(g).

9. Subcontractors and Third-Party Suppliers

9.1 Effect of subcontracting

The Supplier acknowledges that where it subcontracts any of its obligations under this Agreement:

- (a) the Supplier is not relieved of any of its obligations or liabilities under this Agreement;
- (b) the Supplier is liable for the acts, defaults and neglect of any subcontractor or any employee or agent of the subcontractor as fully as if they were the acts, defaults, or neglect of the Supplier; and
- (c) the Supplier will be responsible for ensuring the suitability of any subcontractor for the work proposed to be carried out.

9.2 Terms and conditions

The Supplier must ensure that each subcontractor is aware of and bound by all of the terms and conditions of this Agreement relevant to the subcontractor's role in the supply of the Goods.

9.3 No contractual relationship with subcontractors

Nothing in this Agreement creates any contractual relationship between the Department and any subcontractor of the Supplier.

9.4 Replacement of subcontractors

- (a) This clause 9.4 does not apply to Third-Party Suppliers.
- (b) The Department may direct the Supplier to replace a subcontractor on reasonable grounds. Within three Business Days of receiving written notice directing the removal of a sub-contractor, the Supplier must provide the Department with written options outlining how the Supplier proposes to replace the sub-contractor.
- (c) The Department will then notify the Supplier of the Department 's preferred course of action in relation to the replacement following which the Supplier must comply with the Department 's directions.
- (d) The Department is under no circumstances liable to compensate the Supplier, or a subcontractor replaced under clause 9.4 if the sub-contractor is replaced for an act or omission that, if performed by the Supplier, would enable the Department to terminate this Agreement.

9.5 Approval of Third-Party Suppliers

- (a) The Supplier may only enter into agreements with Third-Party Suppliers with the prior written consent of the Department which must not be unreasonably withheld or delayed. The Department by its entry into this Agreement, consents to those Third-Party Suppliers engaged by the Supplier or engaged by other Third-Party Suppliers at the date of this Agreement.
- (b) The Supplier must, in the case of entities who are Third-Party Suppliers at the Commencement Date use best endeavours to ensure that, and, in the case of entities who become Third-Party Suppliers after the Commencement Date must ensure that, each Third-Party Supplier who manufactures or handles a Security Element confirms in writing to the Department within 20 Business Days of the Commencement Date or within 20 Business Days of becoming a Third-Party Supplier that it will:
 - (i) not manufacture or supply Security Elements for or to any person other than another Third-Party Supplier, the Supplier or the Department and then only for the purpose of supplying the Department with Goods in accordance with this Agreement; and

- (ii) if requested by the Department, continue to supply those Security Elements to the Department following termination or expiry of this Agreement.

9.6 Replacement of Third-Party Suppliers

- (a) The Department may direct the Supplier to replace a Third-Party Supplier where the Third-Party Supplier:
 - (i) has breached the terms of the written confirmation provided under clause 9.5(b);
 - (ii) has caused the Supplier to breach any term of this agreement;
 - (iii) does anything, or omits to do anything that it is required to do under an agreement with the Supplier or a Third-Party Supplier, which compromises the security of any Security Element or Goods; or
 - (iv) does anything or omits to do anything that it is required to do under an agreement with the Supplier or a Third-Party Supplier, which compromises any of the Department's Intellectual Property Rights.
- (b) The Department may also direct the Supplier to replace a Third-Party Supplier on other reasonable grounds.
- (c) Within five Business Days of receiving written notice directing the removal of a Third-Party Supplier, the Supplier must provide the Department with written options outlining how the Supplier proposes to replace the Third-Party Supplier. The Department will then notify the Supplier of the Department's preferred course of action in relation to that replacement following which the Supplier must comply with the Department's directions.
- (d) Where the Department directs the Supplier to replace a Third-Party Supplier under clause 9.6(a), the Supplier must not increase the Price except in accordance with Schedule 2 (Price Schedule).
- (e) Where the Department directs the Supplier to replace a Third-Party Supplier under clause 9.6(b), the Supplier may pass on the cost of terminating the Third-Party Supplier after providing evidence of that cost to the Department that is satisfactory to the Department acting reasonably. If the Department directs the Supplier to replace a Third-Party Supplier under clause 9.6(b), then the Supplier:
 - (i) will be relieved of liability for failing to comply with its obligations under this agreement to the extent that the failure results directly from the requirement to find a replacement of the Third-Party Supplier; and
 - (ii) must use reasonable endeavours to find appropriate alternative arrangements as soon as possible

and to minimise the costs of replacing the Third-Party Supplier.

9.7 Third-Party Supplier Agreements

The Supplier must, for all Third-Party Supplier agreements ensure that:

- (a) each Third-Party Supplier agreement includes an obligation on the Third-Party Supplier to enter into a novation agreement in accordance with the terms set out in clause 9.8;
- (b) no Third-Party Supplier agreement or any other arrangement with a Third-Party Supplier contains a term or terms preventing the Third-Party Supplier from supplying any of the Goods directly to the Department if this Agreement is terminated or expires;
- (c) no Third-Party Supplier agreement or any other arrangement with a Third-Party Supplier contains any provision which causes the Supplier or the Department to incur additional expense as a result of the novation of the Supplier's rights and obligations under the Third-Party Supplier agreement to the Department. In particular, the Supplier must ensure that the price payable by the Department under the novated agreement is no higher than the price at which the relevant Goods were supplied to the Supplier prior to the novation;
- (d) no Third-Party Supplier agreement or any other arrangement with a Third-Party Supplier requires the Supplier to acquire Goods for more than:
 - (i) 5 million Photocards; or
 - (ii) the sum of all Goods ordered annually,
 - (iii) whichever is the greater; and
- (e) no Third-Party Supplier has the right to terminate a Third-Party Supplier agreement by reason of its novation to the Department.

9.8 Novation of Third-Party Supplier Agreements

- (a) If the Department is entitled to terminate this Agreement under clause 19, then it may issue a termination notice to the Supplier under clause 19 which requires the Supplier, within 20 Business Days of the date of the notice, to enter into and procure that one or more Third-Party Suppliers enters into a novation agreement or agreements with the Department on terms reasonably acceptable to the Department under which the Supplier's rights and obligations under a Third-Party Supplier agreement which relate to the supply of Goods to the Department are novated to the Department and, subject to clause 9.8(b), the Supplier must enter into such an agreement or agreements.
- (b) The parties agree that any novation agreement entered into under clause 9.8

will not be effective until this Agreement has been terminated.

- (c) The Department may procure that one or more Third-Party Suppliers enters into an agreement to supply Goods to the Department after the Term and the Supplier agrees that it will not in any way directly or indirectly hinder or prevent any Third-Party Supplier from entering into such an agreement.

9.9 Parties' obligations

Upon novation of the Supplier's rights and obligations under any Third-Party Supplier agreement to the Department:

- (a) the Supplier must:
 - (i) comply with all reasonable directions from the Department to enable Third-Party Suppliers to deliver the Goods and provide the Services directly to the Department;
 - (ii) provide any assistance to the Department reasonably necessary to give legal or practical effect to that novation (including, as necessary, ongoing administration); and
 - (iii) provide the Department with a copy of the Third-Party Supplier agreement; and
- (b) the Department must thereafter perform all of the obligations of the Supplier under that agreement that are novated to the Department.

9.10 Notification of termination or expiry

The Supplier must immediately notify the Department if any Third-Party Supplier agreement is:

- (a) terminated or expires; or
- (b) likely, in the Supplier's reasonable opinion, to be terminated or to expire in the following three calendar months.

9.11 Confidential information

If a term of this agreement requires the Supplier to provide, or requires the Supplier to procure that a Third-Party Supplier provides, information to the Department that is confidential information belonging to a Third-Party Supplier then:

- (a) the Department agrees to enter into a confidentiality agreement with that Third-Party Supplier on terms acceptable to the Department acting reasonably; and
- (b) the Supplier agrees to use best endeavours to ensure the Third-Party Supplier enters the agreement referred to in clause 9.11(a).

The Supplier acknowledges that a Third-Party Supplier's failure of delay in entering into a confidentiality agreement under this clause 9.11 does not relieve the Supplier from complying with its obligation to supply that Third-Party Supplier's information to the Department.

10. Record keeping obligations

10.1 Supplier to keep Records

- (a) The Supplier must keep the following true and particular records:
 - (i) financial records, in accordance with Australian Accounting Standards;
 - (ii) records of all Goods supplied under this Agreement and relevant Draw Down Notice;
 - (iii) all associated Records including supporting materials used to generate and substantiate payments in respect of Goods supplied under this Agreement; and
- (b) The Supplier must retain financial records for a period of seven (7) years after the Term of the Agreement.
- (c) The Supplier must do everything necessary and/or reasonably requested by the Department to enable the Department to comply with applicable laws, including the State Records Act 1998 (NSW), in relation to the Records.

10.2 Reporting

- (a) The Supplier must submit reports to the Department and procure that Third-Party Suppliers submit reports to the Department in accordance with Schedule 3 (Specifications).
- (b) The Supplier must report to the Department any loss, theft or attempted theft of any Goods as soon as the Supplier becomes aware of such an occurrence. If the loss, theft or attempted theft occurred prior to the delivery of the Goods to the Department, the Supplier must, within five Business Days of making a report under this clause, provide the Department with written details of how the Supplier will ensure the occurrence is not repeated.
- (c) The Supplier must report to the Department any loss, unauthorised access, modification or disclosure of information (or reasonable suspicion of such), including of Personal Information, by the Supplier, its staff or Third-Party Supplier, either inadvertently or as consequence of a compromise in security within 24 hours of its identification.

10.3 Audit Report requirement

If requested by the Department, the Supplier must provide to the Department an independent audit report in accordance with Australian Auditing Standards, certifying that all payments are in accordance with this Agreement.

10.4 Exercise of rights

- (a) The rights under this clause 10 may be exercised by the Department at any time during the Term or in the seven (7) year period following the Term.
- (b) The Department will be solely responsible for the costs in exercising its rights under this clause 10.

11. Variation

- (a) This Agreement must not be varied except by written agreement of the Parties.
- (b) Any variation to this Agreement will, once settled, be attached as an .

12. Pricing

12.1 Price for Goods

- (a) The Price for the Goods are contained in Schedule 2 (Price Schedule).
- (b) The Price for each Good includes all costs associated with the Good, including packaging, transport, insurance, loading unloading and storage costs, up to the point of delivery of that Good, including unloading the Good at the Delivery Point.
- (c) The Price for each Good is fixed for the period specified in Schedule 2 (Price Schedule).
- (d) If applicable, the details of any increase in Price in accordance with the Consumer Price Index, are set out in Schedule 2 (Price Schedule).

13. Ordering and Payment

13.1 Annual Order

- (a) Subject to clause 13.1(e), the Department must place an Annual Order with the Supplier within 2 weeks of the Commencement Date and each anniversary of the Commencement Date for the Term for the supply of Consumables during the Annual Order Period.
- (b) Each Annual Order must:
 - (i) be in writing; and
 - (ii) specify the quantity of Consumables that the Department requires during the Annual Order Period.
- (c) The Department must place Draw Down Notices for and take Delivery of all Consumables ordered under an Annual Order within four months after the end of the applicable Annual Order Period unless this agreement is terminated or expires during that Annual Order Period in which case clauses 18 or 19 apply. For the avoidance of doubt, Draw Down Notices which are cancelled are not included when calculating whether this obligation has been met.

- (d) Subject to the commitment to issue Draw Down Notices set out in clause 13.1(c), the Department:
 - (i) is not committed to purchase any Consumables the subject of an Annual Order unless and until the Department has issued a Draw Down Notice in respect of them; and
 - (ii) may issue Draw Down Notices for the Consumables ordered under an Annual Order at its discretion
- (e) If the Department takes, or believes it will take, delivery of all of the Consumables ordered under an Annual Order before the end of the Annual Order Period to which the Annual Order relates, the Department may place the next Annual Order early.

13.2 Three-month estimates

- (a) The Department must by the end of the first week in each calendar month provide the Supplier with a Quarterly Forecast.
- (b) The Quarterly Forecasts will be rolling, and each Quarterly Forecast will supersede the previous Quarterly Forecast.
- (c) The Supplier acknowledges that the Quarterly Forecasts are indicative only and, while the Department will use reasonable endeavours to estimate as accurately as possible:
- (d) any Quarterly Forecasts given are not a commitment to purchase the estimated amounts; and
- (e) the Department is not liable for any failure to place any Draw Down Notice in accordance with any Quarterly Forecast.

13.3 Draw Down Notice

The Department Ordering Authority may request periodic supply of Consumables by issuing Draw Down Notices to the Supplier in accordance with this clause 13.

13.4 Contents of Draw Down Notice

A Draw Down Notice must:

- (a) be in writing;
- (b) specify the date on which the Draw Down Notice is issued;
- (c) specify the quantity and description of Consumables to be delivered; and
- (d) specify the date (which must, unless otherwise agreed, be no less than three Business Days from the date of the Draw Down Notice) by which the Consumables to be Delivered under the Draw Down Notice must be made available for Delivery.

13.5 Ordering Authority

A Draw Down Notice may only be issued by the Department Ordering Authority and the Supplier agrees to only act on Draw Down Notices formally issued by the Department Ordering Authority.

13.6 Effect of Draw Down Notices

The parties acknowledge that, subject to the terms of this agreement, the Supplier is obliged to make available for delivery, and the Department is required to take delivery of and pay for, Consumables in accordance with any valid Draw Down Notice issued in accordance with this clause 13.

13.7 Draw Down Notices exceeding Quarterly Forecasts

If the Department issues Draw Down Notices exceeding the Consumables on hand at the Supplier's location, then, subject to the Supplier complying with its obligations under clause 6.8(a), the Supplier is only required to make available for delivery:

- (a) in accordance with the Draw Down Notice, the Consumables on hand at the Supplier's location; and
- (b) if the Consumables referred to in clause 13.7(a) are not sufficient to meet the requirements of the Draw Down Notices, the balance of Consumables required under the Draw Down Notices within 7 days after those Consumables become available to the Supplier but no later than 30 Business Days after the date of the applicable Draw Down Notice.

13.8 Payment

- (a) Subject to this Agreement, the Department will pay the Price contained in Schedule 2 (Price Schedule) within thirty (30) days (exceptions apply for eligible small businesses; further information can be found on: www.smallbusiness.nsw.gov.au) of receipt of a correctly rendered tax invoice.
- (b) If an invoice is found after payment to have been rendered incorrectly, any underpayment, or overpayment will be recoverable by or from the Supplier as the case may be.
- (c) In making payment to the Supplier, under this Agreement, the Department may set off any payment against any amount owing by the Supplier to the Department.
- (d) Payment of an invoice is not evidence of admission of liability or acknowledgement of satisfactory performance but must be taken only as payment on account.

13.9 Tax invoice

- (a) The Department will pay the Price to the Supplier upon receipt of a correctly rendered tax invoice.
- (b) A tax invoice is correctly rendered if it:
 - (i) is sent to the Department in the manner instructed;
 - (ii) prominently displays the words 'Tax invoice';
 - (iii) contain the following information:

- a. the Supplier 's details, including, ABN;
- b. the amount due, excluding GST.
- c. the GST component, if any; and
- d. the total amount due, including GST (if applicable).

13.10 Manner of Payment

The Department will make payments by direct credit to an account notified to it in writing by the Supplier or by such other manner as agreed by the Parties.

14. Goods and Services Tax (GST)

14.1 GST wording

Words defined in the GST law have the same meaning in clauses concerning GST, unless it is clear that a different meaning is intended.

14.2 GST gross-up

If GST is or will be imposed on a Supply made under or in connection with this Agreement, to the extent that the consideration otherwise provided for that Supply under this Agreement is not stated to include an amount in respect of GST on the Supply:

- (a) the consideration otherwise provided for that Supply under this Agreement is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or if the consideration has already been paid or provided, within seven (7) days of receiving a written demand from the Supplier.

14.3 Tax invoices

The right of the Supplier to recover any amount of GST under this Agreement on a Supply is subject to the issuing of the relevant correctly rendered Tax Invoice or adjustment note to the recipient.

14.4 Reimbursements

- (a) If a Party has a Claim under or in connection with this Agreement for a cost on which that Party must pay an amount of GST, the Claim is for the cost plus the amount of GST (except any amount for GST for which that Party is entitled to an input tax credit).
- (b) If an amount under or in connection with this Agreement depends on actual or estimated revenue or a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether or not that amount is separate or included as part of a larger amount).

14.5 Registered for GST

The Supplier must be registered under the GST law at the time of making any Supply under this

Agreement on which GST is imposed, and proof of registration must be promptly provided upon request by the Department.

14.6 Consequences of non-registration

If the Supplier is not registered under the GST law as required under clause 14.5 ('Registered for GST'), the Supplier will not be entitled to receive any additional amount as provided under this clause 14.

14.7 If the Department pays too much

If for any reason the Department pays to the Supplier an amount under this clause 14 that is more than the GST imposed on the Supply, the Supplier must repay the excess to the Department on demand, or the Department may set off the excess against any other amounts due.

14.8 Supply is GST exclusive

Unless otherwise indicated, all consideration for any Supply under this Agreement is exclusive of GST imposed in relation to the Supply.

15. Representatives of the Parties

15.1 Appointment of Representatives

- (a) By the Commencement Date:
 - (i) the Department will appoint a person to be the Department Representative; and
 - (ii) the Supplier will appoint a person to be the Supplier's Representative.
- (b) Both Parties will notify each other in writing of the name and contact details of the person appointed as soon as practicable after any appointment, reappointment or replacement.

15.2 Power and authority of Representatives

The Department Representative and the Supplier's Representative:

- (a) is the agent of the respective Party for the purposes of doing anything under this Agreement; and
- (b) has the authority to make and give, or accept, on the Party's behalf, any approvals, acceptances, directions, notice and other decisions that the Party may make and give, or accept, under this Agreement.

15.3 The Supplier to comply with directions

The Supplier and its Staff must comply with all lawful directions given by the Department's Representative and any Authorised Representative in respect of the supply of Goods or any matter arising under this Agreement.

16. Conflict of Interest

- (a) The Supplier undertakes that at the Commencement date of this Agreement, no Conflict of Interest exists or is likely to arise in the performance of the obligations under this Agreement.
- (b) The Supplier must notify the Department, in writing, immediately upon becoming aware of the existence, or possibility, of a Conflict of Interest.

17. Dispute resolution

17.1 Good faith

Both Parties agree to attempt to resolve any disputes in good faith.

17.2 Escalation process

- (a) Either Party may give written notice of a dispute to the other Party, setting out particulars of the dispute ("Dispute Notice"). Each Party must follow this dispute resolution process before starting arbitration or court proceedings (except for urgent injunctive or declaratory relief).
- (b) Within 10 Business Days of a party receiving a Dispute Notice, the parties must meet and try to resolve the dispute in good faith.
- (c) If the parties are unable to resolve the dispute within that period, a senior executive of each party must meet and try to resolve the dispute in good faith within 10 Business Days or such other agreed period of the meeting referred to in clause (b).

17.3 Referral of dispute

If the dispute remains unresolved, the parties may agree to resolve it by mediation administered by the Australian Disputes Centre in accordance with its Commercial Mediation Guidelines.

17.4 Continuance of performance

Despite the existence of a dispute, the Parties must continue to perform their respective obligations under this Agreement, to the extent practical to do so.

17.5 Summary of urgent relief

Nothing in this clause prevents either party from instituting court proceedings to seek urgent injunctive, interlocutory, or declaratory relief in respect of a dispute.

18. Termination for the Department's convenience

18.1 Termination for convenience

The Department may, in its sole discretion, terminate this Agreement in whole or in part by giving fourteen (14) days' written notice, with the effect from the date stated in the notice and without the need to give reasons.

18.2 Obligations on termination for convenience

- (a) When the Department issues a notice under clause 18.1 ('Termination for convenience') the Department will pay the Supplier any unpaid Price for Goods delivered up to the date of termination less any pre-paid amounts and any unavoidable reasonable costs incurred by the Supplier that are directly attributable to the termination if these amounts are substantiated to the satisfaction of the Department; and
- (b) The Department will not, in any circumstance, be liable for any Consequential Loss suffered by the Supplier as a result of the termination of this Agreement under this clause 18.

19. Termination for cause

19.1 Termination for default

- (a) the Department may terminate this Agreement by notice in writing to the Supplier if:
 - (i) an Insolvency Event occurs;
 - (ii) the Supplier fails to remedy, to the satisfaction of the Department, a material breach of this Agreement (which in the reasonable opinion of the Department is able to be remedied), within the time specified in that notice and the Supplier has not satisfied the Department on being required to show cause that termination is not warranted;
 - (iii) the Supplier commits a breach of this Agreement, provided that any such failure was not contributed to, or caused by the actions of the Department;
 - (iv) proceedings or investigations are commenced or threatened by the Independent Commission Against Corruption or similar public body against the Supplier;
 - (v) in the Department's view, a Conflict of Interest exists for the Supplier that prevents the proper performance of the material obligations of this Agreement and cannot be managed; or
 - (vi) the Supplier commits or acts or does anything that is contrary to prevailing community standards, or is otherwise regarded by the Department as unacceptable, or which brings the reputation of the Supplier and/or the Department into disrepute and, as a consequence, the Department believes that its continued association with the Supplier will be prejudicial or detrimental to the reputation of the Department.

- (b) Termination will come into effect immediately after the issue of a notice under this clause 19.1, or within such other time as set out in that notice.

20. Obligations on termination

20.1 Department's obligations if Agreement is terminated or expires

- (a) Where the Agreement is terminated under clause 19.1:
 - (i) the Department will pay the Supplier for any Goods supplied and delivered up to the date of termination, less any pre-paid amounts.
 - (ii) the Department has the option to purchase some, or all of the Goods held by the Supplier or Goods that the Supplier is contractually committed to purchase from Third-Party Suppliers; and
 - (iii) if the termination for breach of clause 19.1(a)(iii) is trivial, the Department must purchase Goods held by the Supplier and Goods that the Supplier is contractually committed to purchase from Third-Party Suppliers up to the amount in the most recent Annual Order less the amount of Goods already purchased by the Department under that Annual Order.
- (b) Where the Agreement expires or is terminated under clause 18.1:
 - (i) the Department will pay the Supplier for any Goods supplied and delivered up to the date of termination or expiry, less any pre-paid amounts; and
 - (ii) the Department will purchase the Goods held by the Supplier and Goods that the Supplier is contractually committed to purchase from Third-Party Suppliers up to the amount in the most recent Annual Order less the amount of Goods already purchased by the Department under that Annual Order.

20.2 Consequential Loss and mitigation

- (a) The Department will not, in any circumstance, be liable for any Consequential Loss suffered by the Supplier as a result of the termination of this Agreement.
- (b) the Supplier must do everything reasonably possible to prevent or otherwise mitigate any losses resulting to the Supplier from the termination.

20.3 Disengagement

- (a) During the Disengagement Period, the Supplier must do all things reasonably required of the Supplier by the Department

to ensure there is a smooth and efficient transfer of responsibility for the provision of the Goods from the Supplier to any other person the Department nominates.

- (b) The obligation in clause 20.3(a) includes, but is not limited to, providing all information in respect of Third-Party Suppliers that is reasonably necessary to enable a smooth transition.
- (c) This clause 20.3 is without prejudice to the Supplier's other obligations under this Agreement.

20.4 Transition out plan

- (a) The Supplier must develop, in consultation with the Department, a transition out plan for the orderly transition of the obligations to provide the Goods to the Department or the Department's nominee on termination or expiry of this Agreement. The parties must meet to develop the transition out plan within six (6) months of the Commencement Date, so that an initial transition out plan is developed within that period, and the parties must review the transition out plan each year on the anniversary of the Commencement date of the Agreement.
- (b) The parties must meet to review and finalise the transition out plan, in light of circumstances than applicable, not less than six (6) months prior to the scheduled expiry of the Term.
- (c) The transition out plan must set out the obligation to be performed by each party in connection with the orderly transition of the obligation to provide the Goods to the Department or its nominee.

20.5 Other Supplier Obligations

Where the Agreement is terminated under clause 18 or 19:

- (a) Supplier must at its cost promptly destroy and procure the destruction of all Security Elements in the Supplier's possession of control or in the possession or control of a Third-Party Supplier; and
- (b) the Supplier acknowledges that TfNSW will require the DRIVES agreement to terminate and the Supplier agrees to comply with any termination obligations in the DRIVES agreement.

21. Warranties

21.1 General

As at the Commencement Date, the Supplier:

- (a) makes the representations and warranties set out in clause 21.2 ('the Supplier's representations and warranties') for the benefit of the Department; and
- (b) acknowledges that the Department has entered into this Agreement relying on those representations and warranties.

21.2 The Supplier's representations and warranties

The Supplier makes the following representations and warranties:

- (a) it has the legal right and power to enter into this Agreement;
- (b) it has or will acquire the requisite technology to enable it to perform all of its obligations under this Agreement;
- (c) it will ensure that its Staff has the necessary skills and expertise to perform those obligations of the Supplier that are allocated to it by the Supplier; and
- (d) all Insurance policies are and will be in place in accordance with the requirements of this Agreement.
- (e) all documents or agreements to which the Supplier is a Party, and all facts known or thought to be known to the Supplier which are material to this Agreement, and which have or might have the effect of varying this Agreement, have been disclosed to the Department; all information provided to the Department by the Supplier in relation to this Agreement is true and complete in all material respects as at the Commencement Date and is not, by the omission of information or otherwise, misleading;
- (f) no litigation, arbitration, Claim, dispute or administrative proceeding is current or pending or, to the Supplier's knowledge, threatened against the Supplier which has not been disclosed to the Department either prior to the Commencement Date or during its currency under this Agreement and which is material to the provision by the Supplier of the Goods;
- (g) The Supplier has obtained and relied on appropriate legal, financial and other advice as to matters specified in this Agreement; and
- (h) The Supplier has no professional or contractual obligations that, as at the date of this Agreement or during the Term, will create a Conflict of Interest with its obligations to provide the Goods.

21.3 Warranties in relation to Goods supplied

The Supplier makes the following representations and warranties in respect of any Goods supplied under this Agreement:

- (a) it has the right to sell and transfer title to the Goods to the Department;
- (b) the Goods are packed appropriately to ensure their safe delivery;
- (c) the Goods are new when delivered to the Department at the Delivery Point;
- (d) the Goods are fit for their intended purpose;
- (e) the Goods conform to the description, mode number and sample (if any) provided by the Supplier;

- (f) the Goods are free from defects including any defect in installation; and
- (g) the Goods are of merchantable quality and conform to any legally applicable standards.

21.4 Third-Party warranties

- (a) Where the Supplier supplies Goods that have been procured from third parties, the Supplier, to the extent permitted by Law, assigns to the Department the benefits of any warranties given by those parties.
- (b) If the benefit of any such warranty is not assignable to the Department, the Supplier will do all things necessary to ensure that the Department otherwise receives the benefit of any such warranty. The Supplier must provide the Department any reasonable assistance it requires to receive the benefit of such warranties.
- (c) Assignment of any Third-Party warranties is in addition to the warranties offered directly by the Supplier under this Agreement and does not relieve the Supplier from the obligation to comply with the Supplier's own warranties.

21.5 Reliance

The Supplier acknowledges that the Department has entered into this Agreement in reliance on the representations and warranties in this clause 21.

21.6 The Department's representations and warranties

The Department represents and warrants that:

- (a) each Authorisation required in relation to:
 - (i) the execution, delivery or observance and performance by the Department of;
 - (ii) the validity and enforceability of; and
 - (iii) the transactions contemplated by,

this Agreement has been obtained or effected and is in full force and effect; and

- (b) this Agreement is valid, binding and enforceable in accordance with its terms.

22. Indemnities

22.1 Indemnity by the Supplier

- (a) The Supplier will indemnify and hold harmless the Department and its employees and agents from and against any Claim, Loss, damage or liability arising from any suit, action or proceeding where such loss, damage or liability was caused by any wilful, unlawful or negligent act or omission of the Supplier, its employees or agents or subcontractors in the performance of obligations arising under this Agreement.

- (b) The indemnity in this clause 22.1(a) will be reduced to the extent that the Loss is caused by the neglect, fraud, dishonesty or reckless act of the Department or its Staff.

23. Insurances

23.1 Insurances requirements

Without limiting the Supplier's obligations under this Agreement, the Supplier must, at its own expense, maintain with a reputable insurance company throughout the Term those insurances in the amount of not less than the insured amount as specified in Item 5 of 0 (Agreement details).

23.2 Evidence of policies

The Supplier must, before the Commencement Date and upon request at any time during the Term, provide the Department with acceptable proof of currency and coverage for the insurances referred to in this clause 23.

23.3 Subcontractors

Despite any other provision of this Agreement, the Supplier must use reasonable endeavours to ensure that its subcontractors, agents and providers are insured as required by this clause 23, as is appropriate, given the nature of the services or work to be performed by them, as if they were the Supplier.

23.4 Periods of Insurance

The Supplier must ensure that all insurances referred to in this clause 23 are in force by the Commencement Date and are maintained throughout the Term of this Agreement.

23.5 The Department's insurance

The Supplier must not knowingly do anything that may invalidate any insurance policy held by the Department and/or any indemnity to which the Department may be entitled from the New South Wales Treasury Managed Fund.

24. Intellectual Property

- (a) The Supplier acknowledges that the Department owns or has a licence to use all Intellectual Property Rights, including copyright, in the Hologram Design.
- (b) The Department grants the Supplier the right to sub-license to the Third-Party Supplier who manufactures the Hologram Ribbon from time to time in accordance with this agreement, the right to use the Hologram Design for the sole purpose of manufacturing the Hologram Ribbon for supply to the Department under this Agreement.
- (c) Title to and Intellectual Property Rights in any material created in the course of performing the obligations under this Agreement, other than Intellectual Property Rights in material which existed prior to this Agreement, will vest in the Department.

- (d) The Supplier must notify the Department in writing of any pre-existing Intellectual Property Rights relating to the supply of Goods.
- (e) The Supplier hereby grants to the Department a perpetual, free, non-exclusive licence in respect of any pre-existing intellectual property, authorising the Department to use the Goods in all or any of the ways contemplated by the Parties.
- (f) The Supplier warrants that the supply of the Good and Services and the Department's use of the Goods and Services as contemplated under this Agreement does not infringe any person's Intellectual Property Rights.

25. Confidentiality

25.1 Non-disclosure of Confidential Information

Subject to clause 25.2 ('Exceptions'), the Party to which Confidential Information is given must not:

- (a) disclose Confidential Information directly or indirectly in any form to anyone else; or
- (b) use or make a copy of any Confidential Information except to perform any of its obligations under this Agreement or in relation to any of the transactions contemplated by it.

25.2 Exceptions

Clause 25.1 ('Non-disclosure of Confidential Information') does not prevent the disclosure of Confidential Information by a Party:

- (a) to its Staff, if disclosure is required to enable the Party to carry out its obligations under this Agreement.
- (b) if it is with the prior written consent of the disclosing Party; or
- (c) to the extent required by any law.

25.3 Disclosure by a Party

- (a) The Parties must ensure that their Staff and any other persons to whom Confidential Information is disclosed, keep the Confidential Information in confidence.

25.4 Use of Confidential Information

The Parties

- (a) must use the Confidential Information solely for the purposes of carrying out their obligations under this Agreement and for no other purpose;
- (b) must not permit the Confidential Information to be copied or reproduced without the express prior written permission of the disclosing Party, except for such copies or reproductions are reasonably required to carry out its obligations under this Agreement;

- (c) must take all necessary precautions to prevent loss, unauthorised access to, copying, misuse, modification or disclosure of the Confidential Information;
- (d) must comply with any of the disclosing Party's reasonable directions about the safekeeping and storage of Confidential Information; and
- (e) must comply with the applicable requirements of the State Records Act 1998 (NSW) in relation to Personal Information.
- (v) must ensure that Personal Information held by it, or a Third-Party provider is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse;
- (vi) take such steps as are reasonable in the circumstances to detect any loss, unauthorised access, use, modification or disclosure of Personal Information.

25.5 Return of Confidential Information

Within seven (7) days of the termination of the Agreement, the Supplier must, as directed by the Department:

- (a) deliver to the Department all Records, documents and other materials containing, recording or referring to Confidential Information which are in its possession, power or control;
- (b) ensure that any person who receives the Confidential Information returns the Confidential Information (in any form in which it is held) to the Department; and/or
- (c) after delivering of the Confidential Information to the Department, delete or destroy all copies of the Confidential Information retained including on the Supplier's computer systems in a manner such that the Confidential Information cannot be retrieved.
- (b) The Supplier agrees to comply with such reasonable direction as to privacy measures as the Department advises the Supplier in writing from time to time.
- (c) The Supplier must immediately notify the Department in writing upon becoming aware of any of the following:
 - (i) any breach of this clause 26;
 - (ii) receiving a privacy complaint; or
 - (iii) a likely or actual data breach in relation to the loss, misuse, improper access to or disclosure of Personal Information.
- (d) The Supplier, before it makes any notification, announcement or publication (Notification) concerning a Data breach under the Privacy Act 1988 (Cth) must give the Department two Business Days prior written notice of such Notification (including a copy of the proposed Notification) and consider all reasonable requests from the Department, made during that two Business Day period to change the content of the Notification.

25.6 Notification of breach

A Party must immediately notify the other Party in writing upon becoming aware of any breach of this clause 25.

26. Privacy

- (a) In carrying out its obligations under this Agreement the Supplier;
 - (i) must ensure that its Staff receive annual training on its privacy obligations and comply, with the Privacy Legislation as if it were an agency bound by the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*; and
 - (ii) provide such assistance as may be reasonably required by the Department in the resolution of any complaint alleging an interference with privacy or a contravention of the Privacy Legislation arising from the action or inaction of the Supplier or Third-Party Supplier;
 - (iii) the Supplier must comply, and ensure that its Staff comply, with Privacy Legislation; and
 - (iv) do all that is reasonably necessary on its part to enable the Department to comply with the Privacy Legislation;
- (e) The Supplier acknowledges and agrees that the Department has undertaken to and will notify Transport for NSW, in addition to any other relevant Third-Party such as the NSW Privacy Commissioner and NSW Police, of any privacy/data breach that poses a risk to the safety or security of any of the Confidential Information, DRIVES or the information contained in DRIVES.

27. Force Majeure

27.1 Notice and suspension of obligations

- (a) If a Party to this Agreement is affected or likely to be affected by a Force Majeure Event, that Party must immediately give the other prompt written notice of that fact, including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;

- (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it.
- (b) Except for the payment of money, the obligations under this Agreement of the Party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event for so long as the Force Majeure Event continues.

27.2 Effort to overcome

A Party claiming a Force Majeure Event must use reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible.

27.3 Termination

The Department reserves the right to terminate this Agreement with fourteen (14) days' notice, if a Force Majeure Event continues for more than thirty (30) days.

28. Change of Control

The Supplier must give the Department written notice immediately after the Supplier becomes aware of a Change of Control.

29. Publicity

The Supplier must not make any public announcement or releases relating to this Agreement without prior written approval from the Department.

30. Notices

30.1 General

Any notice, demand, certification, or other communication in this Agreement:

- (a) must be given in writing and in the English language; and
- (b) may be given by an Authorised Representative of the Parties.

30.2 Method of service

In addition to any means authorised by law, any communication may be given by:

- (a) being personally served on a Party;
- (b) being left at the Party's current address for service;
- (c) being sent to the Party's current address for service by pre-paid ordinary mail or if the address is outside Australia, by pre-paid airmail; or
- (d) being sent by email with the Party's consent to that Party's electronic address.

30.3 Address for service

The addresses and facsimile numbers for service are set out in Item 8 of Schedule 1 (Agreement Details).

30.4 Service by post

A communication given by post will be deemed received:

- (a) if posted within Australia to an Australian address, on the third (3rd) Business Day after posting; and
- (b) in any other case, on the tenth (10th) Business Day after posting.

30.5 Service by email

If a Party to this Agreement has consented to receipt of any notice, demand, certification, or other communication by email, the notice, demand, certification, or other communication will be deemed to have been received when the email is capable of being retrieved by the intended recipient of the email, at an electronic address designated by the recipient.

30.6 Service after hours

If a communication to a Party is received by it:

- (a) after 5.00 pm; or
- (b) on a day which is not a Business Day,

it will be deemed to have been received on the next Business Day.

30.7 Change of notice details

Each of the Parties may by notice in writing to the other change their address for notice as specified in this clause 30 ('Notices').

31. Miscellaneous

31.1 Legal costs

Subject to any express provision in this Agreement to the contrary, each Party must bear its own legal and other costs and expenses relating directly or indirectly to the preparation of, and performance of its obligations under this Agreement.

31.2 Relationship

Neither Party is an employee, agent or partner of the other for any purpose.

31.3 Waiver and exercise of rights

- (a) A right may only be waived in writing, signed by the Party giving that waiver.
- (b) No other conduct of a Party (including a failure to exercise, or delay in exercising the right) operates as a waiver of the right or otherwise prevents the exercise of the right.
- (c) A waiver of a right on one or more occasions does not operate as a waiver of

that right or as an estoppel precluding enforcement of that right if it arises again.

- (d) The exercise of a right does not prevent any further exercise of that right or of any other right.

31.4 Rights cumulative

Subject to any express provision in this Agreement to the contrary, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

31.5 Severability

If any part of this Agreement is void or voidable, then that part is severed from this Agreement without affecting the continued operations of the remainder of the Agreement.

31.6 Operation of indemnities

A Party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.

31.7 Operation of provisions

Clause 10 ('Record keeping obligations'), 17 ('Dispute resolution'), 21 ('Warranties'), (b) ('Indemnities'), 23 ('Insurances'), 25 ('Confidentiality'), 26 ('Privacy'), 31.6 ('Operation of indemnities'), and 31.9 ('Governing law and jurisdiction') survive the expiry or termination of this Agreement.

31.8 Further assurance

Each Party will promptly execute all documents and do all things that any other Party from time to time reasonably requires of it to effect, perfect or complete the provisions of this Agreement and any transaction contemplated by it.

31.9 Governing law and jurisdiction

- (a) This Agreement is governed by and is to be construed in accordance with the law or laws in force in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts that have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

31.10 Assignment

The Supplier must not dispose of or encumber any right under this Agreement without the prior written consent of the Department.

31.11 Inconsistency

In the event of inconsistency between the terms of this Agreement, for the purpose only of resolving the inconsistency, the following order of decreasing priority applies:

- (a) operative provisions of this Agreement;
- (b) Schedules; and
- (c) other attachments (if any).

31.12 Entire Agreement

This Agreement constitutes the entire agreement and understanding between the Parties as to the subject matter of this Agreement. Any prior arrangements, representations or undertakings as to the subject matter of this Agreement are superseded.

31.13 Counterparts

This Agreement may be executed in one or more counterparts, both by electronic or inked signature, each of which will be deemed an original and all of which together will constitute one and the same Agreement. Signed originals may be exchanged in hardcopy, via facsimile, or .pdf file by email and any such form will be deemed an original.

31.14 Piggybacking by other NSW Agencies

If any government agency (as defined in the *Public Works and Procurement Act 1912* (NSW)) or a public body as defined in clause 6 of the Public Works and Procurement Regulation 2014 requires the Supplier to supply the Goods to the agency then the Supplier agrees that it will enter into a separate contract with that government agency or public body on terms provided in this Agreement as though the Department entered into this Agreement on behalf of that government agency or public body, having regard only to necessary changes to reflect that the Goods are to be supplied to the government agency or public body.

Schedule 1 Agreement Details

Item 1. Term

Commencement Date 10 December 2021
Term 2 year

Item 2. Extension

First Extension Period 12 months
Second Extension Period 12 months
Third Extension Period 12 months

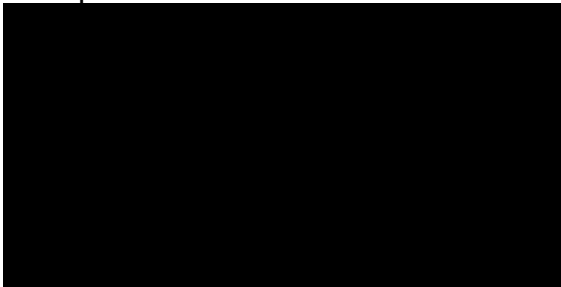
Item 3. Department Representative

Name
Title
Telephone
Address
Email address



Item 4. Supplier Representative

Name
Title
Telephone
Address
Email address



Item 5. Insurance Requirements

Broad Form Public Liability Insurance (incorporating Products Liability Insurance)

Insurance company and policy number
Amount \$20 million

Workers Compensation Insurance (as required by law)

Insurance company and policy number
Amount As required by law

Professional Indemnity Insurance

Insurance company and policy number
Amount \$10 million

Industrial Special Risks coverage including accidental damage, burglary and theft Insurance amount not below

Insurance company and policy number

Amount \$19 million

Marine Cargo coverage including transit amount not below than \$3million

Insurance company and policy number

Amount \$AUD 3 million

Motor Vehicle to be covered under Section 9 - Subcontractors and Third-Party Suppliers

Insurance company and policy number

Amount \$20 million

Item 6. Delivery Points

Newcastle Card Printing Site		
Parkes Card Printing Site		

Item 7. Delivery Date

Item 8. Address for Service

Department

Address:

Card Operations

Service NSW

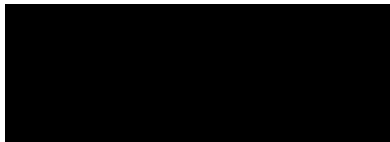
114 Parry Street

Newcastle West NSW 2302

Address:

Card Operations

Service NSW



Attention:

Team Leader – Card Operations

Supplier – Placard Pty Ltd

Address: Unit 1, 51 Jersey Road,

Bayswater, Vic 3153

Attention: Tess Barone

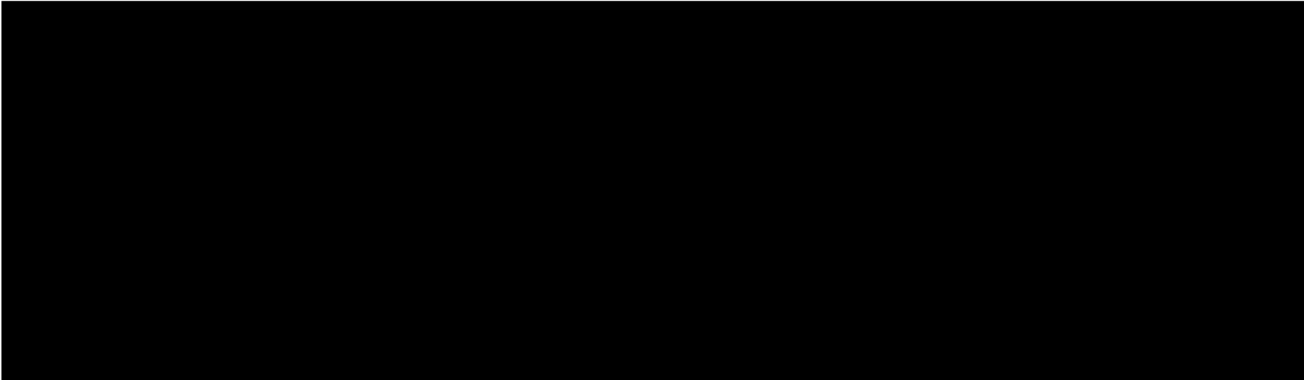
Schedule 2 Price Schedule

Part A - Pricing

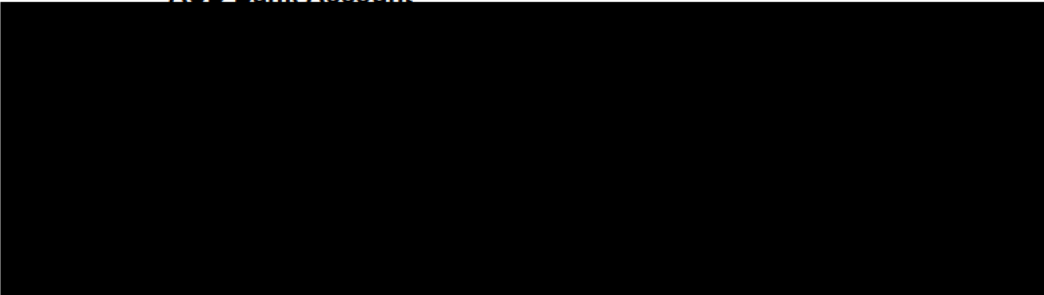


USD Bank Account

Bank Name:	
Bank Address:	
Account Name:	
SWIFT Code:	
Account Number:	



AUD Bank Account



CPI Adjustment

A firm basis for a minimum period of 24 months then subject to variation. Any such variation will be capped in accordance with variations in the Consumer Price Index using the following calculation:

$$OF \times CCPI / OCPI = RF$$

Where:

OF = Original service fee or schedule of rates at commencement of the contract

OCPI = Original CPI available immediately before the commencement of the contract

CCPI = the current CPI available immediately prior to the annual contract anniversary

RF = Revised fee, the revised service fee or revised schedule of rates

Part B – Service Credits

Service Credits are payable by the Supplier at the rate of 1% of the value of the Goods being Delivered for each Business Day which elapses between the Delivery Date and the date on which the Goods are made available for Delivery.

The maximum Service Credit payable in respect of any one Delivery is 10% of the value of Goods to be Delivered.

For example, Supplier must pay the Department a Service Credit of \$100 where Goods worth \$10,000 under this agreement are made available for Delivery on the first Business Day after the relevant Delivery Date.

Schedule 3 Specifications

Part A - Goods and Services to be supplied under this Agreement

The Supplier shall supply the following Goods and perform the Services:

- i. Consumables
 - ii. Services
-

Part B - Card Specifications and Quality Criteria

1. Specifications

General

The Card is multi-layer construction incorporating a green layer of PVC interceding between PVC. The outer sides of the interceding have ultraviolet and micro security markings.

Card Dimensions

The Card stock size complies with ISO ID-1 ex (CR80) dimensions being 53.98x85.6mm and 0.76mm (± 0.08) thickness. Any measurement given from the edge of the Card in relation to the positioning of a design feature should allow a variance of plus minus 1mm.

Magnetic Tape

Magnetic tape lies across the reverse of the Card stock that conforms to ISO 7810 quality and position. The coercivity reading of 2750 and is 12.7mm in width. The tape is positioned approximately 4.40mm (± 1.15 mm) from the top of the card design. The background of the magnetic strip is Sky Blue PMS Colour 291, and the New South Wales logo featured on the magnetic stripe is black, as depicted in the representation set out below. These colours are printed over the top of the silver, giving a slightly metallic tinge to the artwork. Seven New South Wales logos fit along with the magnetic tape either in full or in the compilation as depicted in the representation below. Each New South Wales logo referred to in the previous paragraph is 8mm in diameter. There is a spacing of 4mm between each such logo. The New South Wales logo referred to above sitting 2mm (± 2 mm) from the top and 2mm (\pm) from the bottom of the magnetic strip.

Microprinting

Microtext is printed on the obverse Card. Printed in PMS Blue 291 is repetitive microprint of NEW SOUTH WALES words appearing in two bars. The first of the two bars (above the position of the photo) is 16 lines of text, increasing in font size towards the top of the Card. The top bar is 25mm in length x 5.5mm in height. The bar is positioned 1mm (± 1 mm) from the right-hand Card edge and 30mm above the top of the second bar. The second bar (below the position of the photo) is 18 lines of text, increasing in font size towards the bottom of the Card. The bottom bar is 25mm in length x 6.5 mm in height. The bar commences 1mm (± 1 mm) from the right-hand side Card edge and 1.5mm (± 1 mm) from the bottom Card edge.

Thermal Number

An 8 Digit Card number is printed thermally above the magnetic tape and to the left-hand side of the Card. The number is spaced as 00 000 000. It is printed in font type Ariel 7 and 3mm (plus minus 1mm) from the Card's left-hand edge.

UV Watermark

New South Wales coat of arms is printed as UV on obverse and reverse Card as depicted in the representations set out below in this Part A. Height and length dimensions are taken from the extreme points of the New South Wales coat of arms

Obverse Card Height 26.9mm x Length 39.5mm. Positioned 5.3mm(± 1 mm) from left hand Card edge and 13.6mm(± 1 mm) from bottom Card edge.

Reverse Card - Height 22.01mm x Length 32.3mm. Positioned 5.8mm(±1mm) from left hand Card edge and 13.49mm(±1mm) from bottom Card edge.

2. Quality Criteria

The following are the minimum Quality Criteria required in relation to each Card.

- i. Each Card will conform to the higher of the following quality standards:
The standards set out in the Card Specifications AS2623/1 and /2 and Magnetic Strip Specifications AS 2623/2, ISO 7813 & AS 2805/5 Standards.
- ii. Variations in thickness of the Card must be within the ISO standard
- iii. The image and data on the Card surface must withstand five years of normal usage
- iv. No Card to exhibit significant fading, discolouration or structural deterioration when subjected to sunlight and UV for extended periods; and
- v. No Card to exhibit significant fading, discolouration or structural deterioration when subjected to water and other common chemicals except corrosive chemicals such as trichloroethylene

Part C - Hologram Ribbon Specifications

Each Hologram Ribbon must contain 250 images in the design provided by the Department.

Part D – Printer Ribbon Specifications

Product code YMCKK with colour panels sufficient to print 500 Photocards per ribbon.

Dye – Sublimation Ribbon with the following colour panels YMC (Yellow, Magenta and Cyan) with KK (2 Resin Black Panels).

Part E – Consumables Barcoding and Packaging

Cards

- a) Cards are to be packaged in packages of 500 and shrink wrapped.
- b) The packages of 500 Cards are to be provided in a cardboard tray that is security sealed with Supplier's security tape.
- c) Four trays are to be packed in a security box (total 2000 cards) that is also security sealed
- d) Card packages are to be barcoded and numbered to reflect the contents of the package. The format of the barcode and numbering is RTA10002-nn nnn nnn-mmmm, where:
 - i. RTA10002 is a code that indicates the package includes Cards
 - ii. – is a separator
 - iii. nn nnn nnn is a number representing the first Card in the package, numbering to start from 01 000 000. No number to be repeated
 - iv. – is a separator
 - v. mm mmm mmm is a number denoting the last card in the package, which also verifies the quantity contained in the package

Each type of package is to include barcoding and numbering, and all items within the package to be numbered sequentially.

Hologram Ribbons

Each Hologram Ribbon is to be individually packaged in a transparent re-sealable package and barcoded. A set of 20 Hologram Ribbons are to be held in boxes and the box barcoded. The format of the barcode numbering is RTA10006-nn nnn nnn-mmmm, where

- a) RTA10006 is a code which indicates the package includes holograms
- b) – is a separator
- c) nn nnn nnn is a number representing the first hologram in the package, numbering to start from 01 000 000. No number to be repeated
- d) – is a separator
- e) mmmm is a number denoting the quantity contained in the package

Printer Ribbons

Each Printer Ribbon is to be individually packaged in a coloured re-sealable package and the package barcoded. Sets of 20 Printer Ribbons are to be held in boxes and the box barcoded. The format of the barcode and numbering is RTA10007 nn nnn nnn-mmmm, where

- a) RTA10007 is a code which indicates the package includes ribbons
- b) – is a separator
- c) nn nnn nnn is a number representing the first ribbon in the package, numbering to start from 01 000 000. No number to be repeated
- d) – is a separator
- e) mmmm is a number denoting the quantity contained in the package

Part F – Supplier’s obligations

Standards

The Supplier is certified by Standards Australia as complying with ISO 9001 and must maintain accreditation for the duration of the contract. The Supplier also complies with the latest version of the ISO 27001:2013 standard.

Storage

The Supplier must store Consumables in a secure double-locked premise separate from the general warehouse 24 hours per day video surveillance. Storage will be sufficient to hold 3 months' supply of Consumables and workspace for logistics activities.

Transportation

A fully enclosed vehicle must be used for transportation to the Suppliers from Placard Pty Ltd and Custom Bond Store. The trip should be without stops except due to an accident or to render assistance. The time of departure and arrival to be logged and the route to be varied. A means of communication between the vehicle and base should be available, e.g. 2-way radio or hands-free mobile. Installation of a telematics device on the vehicle shall be highly regarded.

Handling

- a) Receive all Consumables directly from the manufacturers and store in the Supplier's specific secure space.
- b) Procure and stores a minimum of three months' supply of Consumables as per the quarterly forecasts.
- c) Enter all Consumables supplied into DRIVES and logistics systems using an additional specialised barcode system (includes Card, Printer Ribbons and Hologram barcoding) provided by the Supplier and following the process outlined in the Consumables Management Process (Attachment 1) supplied by TfNSW.
- d) Printer Ribbons and Hologram Ribbons are removed from the Third-Party Suppliers' cartons, bagged and barcoded labelled as individual items.
- e) All Printer Ribbons are bagged with a cleaning card and swab supplied by the Supplier.
- f) Individually bagged Printer Ribbons and Hologram Ribbon are counted and boxed into the specified quantities of 20 per box, and boxes are then barcoded for content.
- g) Receive request from the Department’s Authorised Courier and stage consignment ready for pickup as required.
- h) Enter dispatch information into the DRIVES system.
- i) Provide all electronic systems to carry out the items above.
- j) Provide all necessary reports and carry out tracking as required.

DRIVES and logistics system

The Supplier will be provided the Consumables Management Process guide which will detail the process to enter relevant information into the DRIVES and logistic system. The Consumables Management Process may change from time to time during the Term of the Agreement, to which the Consumables Management Process will be updated accordingly.

Part G – HID Global’s obligations

HID Global will manufacture and store Hologram Ribbon at its Hong Kong Plant. This plant is ISO 9001 and ISO 27001 certified and HID Global must apply at least the following security management procedures:

- a) Gate Check at the HID Hong Kong plant entrances.

The entrance to the plant premises has a security control room with 24-hour security guards.

HID Global employees are required to show the corporate ID cards to the security guards to enter into the plant.

Visitors are required to make the designated registration to enter into the premises.

The entrance is also equipped with sensor system that shall prevent unauthorized persons from entering into the premises.

b) Production floor security management

When security products are produced, the production floor is fully monitored and taped by video cameras.

c) Security products and wastes management

A unique order number is assigned to every production lot and the unique order number is used to record production amount of the security products at each production process.

Unfinished products or raw materials delivered to the HID plant from vendors to be used to produce security products shall be received by receiving department under the surveillance of the authorized personnel and shall be stored in the highly secured exclusive warehouse for the security products.

Unfinished (semi-finished) security products shall be stored in the highly secured exclusive warehouse for the security products. No unfinished security products shall be left on the production floor whenever a production process is finished.

Finished (completed) security products shall be stored in the highly secured exclusive warehouse for the security products.

Any wastes or rejection yielded in each production process of the security products shall be scrapped after shredded. Such wastes or rejection shall also be stored in the exclusive warehouse before they are actually scrapped.

d) Security products shipping procedure

The security products shall be moved out from the exclusive warehouse and loaded to the exclusive truck under the surveillance of the authorized personnel when they are shipped out from the Hong Kong plant.

e) Shipment from HID Global to Placard Pty Ltd direct:

Holographic and Printer Ribbons collected from HID Global in a dedicated enclosed truck by forwarder. All items palletised with all identification on boxes facing in and plastic shrink-wrapped.

Goods consolidated at Airport by nominated forwarder for Air/Sea Freight direct from Hong Kong to Melbourne.

Nominated forwarder delivers dedicated enclosed truck from Melbourne Airport to Placard Pty Ltd Warehouse.

Part H – Placard’s obligations

Placard’s manufacture and storage of the Card at their site at Bayswater must conform with the following security requirements:

- a) Placard is an accredited manufacturer of credit cards and must conform to Visa, Mastercard, American Express and China Union Pay certification criteria (both quality and security). These regulations involve a secure site that is manned during hours of operation by an armed guard.
- b) All staff, upon employment must undergo a security check and whilst onsite must carry upon their person an access card with photographic ID, name and a card which provides for selective access to allocated areas of the production site. An electronic register must be kept of all staff passing through each access point.
- c) Placard Pty Ltd must have a fully documented quality management system in place, certified by Lloyds Register Quality Assurance, which complies with ISO 9001:2015 and ISO 27001.
- d) Outline of Production Management System

The manufacturing facility at Bayswater is entirely closed within an outer shell building. All entrance into the facility is via a photo id proximity card that is registered to each staff member. Access to various sections of

the plant is limited to those who are required to work in the respective areas. These areas include the warehouse, art and prepress department, printing, bureau, store and vault.

e) Production System

The following process relates to the production of Cards and not necessarily to all cards created at Placard Pty Ltds. All production processes are undertaken by trained staff and are in full view of security cameras.

i. Manufacturing

Core stock is ordered from Overseas and generally takes 10-12 weeks to arrive in Bayswater. Core stock relates to white and green PVC plastic sheets and clear overlay film. These three materials are received and stored in the warehouse.

The unique magnetic tape is ordered locally and upon receipt is stored in the secure vault.

Upon receiving direction to produce a volume of Cards, the sales department creates a job bag that is logged into the manufacturing planning schedule and allocated a suitable amount of Core stock.

Once the white sheets have been printed with UV arid microtext, they are collated with a green internal sheet and outer overlay sheets and pinned with magnetic tape. The magnetic tape is registered for use outside of the vault and is returned upon completion of the current job. Once the sheets have completed the lamination process, they are treated as a secure item. In this instance, security relates to the transfer of the sheets and thereafter Cards from one process area to another. Laminated sheets must be transferred directly to die cutting and through Quality Control.

Reject Cards are counted and diarised for shredding. Shredding is conducted in the presence of two staff members who sign on collection of the Cards from the vault and register the complete destruction of the same volume of Cards.

ii. Bureau

The Cards are individually numbered and encoded in the Placard Pty Ltds' bureau. Until the scheduled bureau processing time, the licence Cards remain in the vault. Bureau staff will sign on collection of the Cards, which are transported via secure trolley. As the Cards are numbered, they are bundled with a rubber band into 100's. When five bundles fill a tray, the operator initials the completed numbers on a worksheet. From this period onwards, the Cards are audited by way of individual numbers.

At the end of each shift, the work sheet is signed over to the incoming operator and all completed trays are logged into the vault.

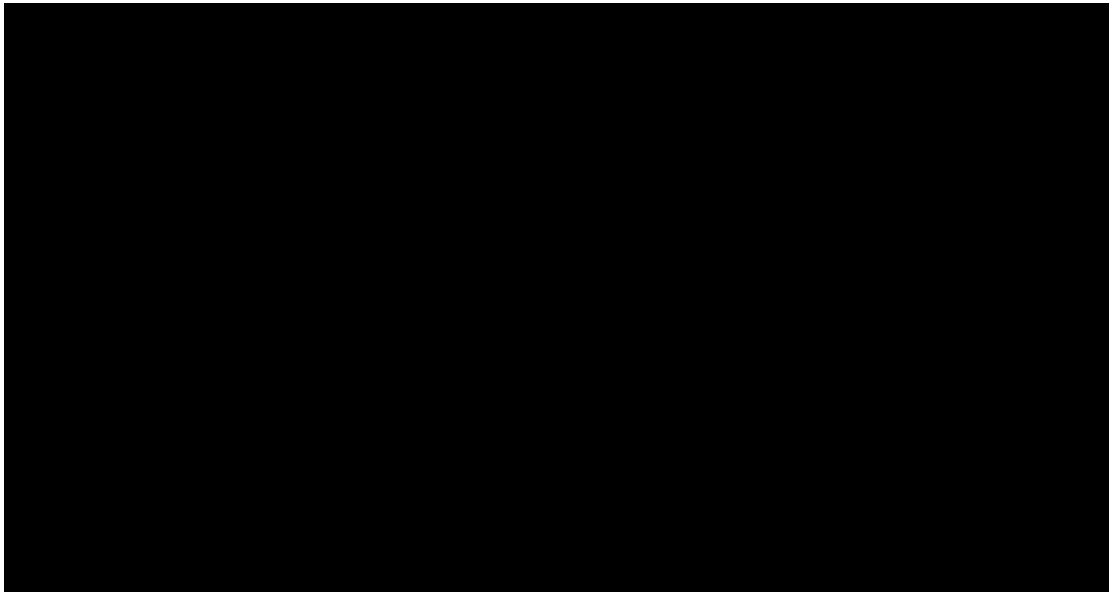
iii. Packaging

Shrink wrapping, packing and labelling takes place in the vault in full view of security cameras.

Each 500 bundle is individually shrink wrapped and a pre-printed barcode label is attached to its corresponding bundle, tray and carton.

iv. Delivery

Once the entire order is packed and labelled a courier is booked under the condition that the Cards be transported in an enclosed truck which will travel directly to the Department's, location(s). At the time of pick up, the courier signs the dispatch note that is then sent to the Department's purchasing department for confirmation of en-route delivery.



a) Consumables tracking

- i. Third-Party Suppliers must inform the Supplier when any shipment is made of Security Elements advising shipping date and anticipated delivery date to Third-Party Supplier or Supplier
- ii. Third-Party Suppliers must inform the Supplier when any shipment is received of Security Elements
- iii. Third-Party Suppliers must inform the Supplier when any shipment of Security Elements is not received within three days of its intended receipt date.
- iv. The Supplier must maintain records of all deliveries and receipts of Security Elements.
- v. The Supplier must inform the Department when any Security Element is not received within three days of its intended receipt.
- vi. On receipt of Cards, the Supplier must enter the data for each package of Cards, as described in Part F in Schedule 3 (Cards) into DRIVES together with any other relevant details that the Department may require the Supplier to enter from time to time within three Business Days of receipt and forward all details of receipt to the Department.
- vii. On receipt of Printer Ribbons or Hologram Ribbons, the Supplier must package the items enter the data for each package, as described in Part F in Schedule 3 (Printer Ribbons and Hologram Ribbons), into DRIVES together with any other relevant details that the Department may require the Supplier to enter from time to time within three Business Days of receipt and forward all details of receipt to the Department.
- viii. On receipt of a Draw Down Notice from the Department's Ordering Authority, the Supplier must set aside the Consumables ordered and must update DRIVES in accordance with the Department's instructions to reflect the status of the Consumables ordered.

Part K – Reports

The Supplier must submit reports to the Department as follows (and acknowledges that the Department will provide such reports as required to Transport for NSW):

a) Controlled Handling Statement

- (i) Details and content of report

Description of Security Element, date of its receipt and quantity received, quantity on hand, date of forwarding and quantity forwarded.

- (ii) Timing of report

The last Business Day of each quarter.

b) Controlled Ordering Statement

(iii) Details and content of report

For Draw Down Notices, date of receipt of Draw Down Notice from the Department Ordering Authority, Consumables ordered, and quantity ordered.

For orders placed on Third-Party Suppliers, date ordered, description of Consumable, quantity ordered, and date order received by Third-Party Supplier.

c) Timing of report

Last Business Day of each quarter.

The Supplier must procure that each Third-Party Supplier submits reports to the Supplier, in which case the Supplier must pass them to the Department, or to the Department directly as follows:

d) Controlled Manufacturing Statement

(iv) Details and content of report

Description of Security Element quantity of Security Element manufactured, received from other Third-Party Supplier, shipped to Supplier or other Third-Party Supplier, and on-hand.

e) Timing of report

Last Business Day of quarter.

Part L – Performance Measures - Consumables

Measure	Target	Frequency of measurement
1. Faulty Items and Defect Limits	>98% or higher of items supplied in each Consumables category will conform to specifications and quality requirements and be free of fault or defect.	Monthly
2. Enquiry Responses:	<p>100% of enquiries received via phone will be:</p> <p>Responded to same day or next Business Day.</p> <p>100% of enquiries received electronically will be:</p> <p>Responded to within 2 Business Days and</p> <p>Resolved within five Business Days except where the employee is not contactable.</p>	Monthly
3. Dispatch Standards:	100% of scheduled orders to be dispatched (with tracking) by the nominated date.	Monthly
4. Management Reports	100% of supplier reports to be accurate and available promptly to the Department at agreed times	Monthly

Consumables Management Process High Level AS-IS Process Document

VERSION [1.0]

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1 Project Details

1.1 Acronyms / Definitions / Abbreviations

Acronyms, definitions and abbreviations used in this document are:

Term	Definition
AU Post	Australia Post
DL	Driver Licence
DRIVES	Driver and Vehicle System – TfNSW system that stores all the licence and registration information for NSW customers
ID Card	Identity Card
IT	Information Technology
NSW	New South Wales
RL	Rider Licence
SNSW	Service New South Wales
Supplier-1	Vendor who provides repair work in the workshop
Supplier-6	Vendor who supplies the licence cards to printing centres under the existing arrangement
Supplier-7	Vendor who supplies the colour and hologram ribbons to printing centres under the existing arrangement
TfNSW	Transport for NSW
USA	United States of America

1.2 Document Purpose

The purpose of this document is to detail the existing business process surrounding SNSW Licence Cards Printing and to provide:

- A common understanding, for all parties involved, of the as-is business process for:
 - The as-is process for Consumables, such as Colour, Holograms and Card, required to ensure the licence cards are printed and sent in a timely manner.

This document does not propose the solution; it describes a high level as-is process for all the above business process highlighted.

Note: The pictorial maps, processes, process maps and process map description defined in this document is as per the existing process knowledge obtained from one of the TfNSW SMEs. The actual process can slightly differ in reality with the Printing Centres. If there are any changes to these process outlined in this document, it is advised to speak to contacts from the printing centres to confirm the actual processes.

1.3 Background

1.3.1 Consumables Management Process

The Consumables required for printing any licence cards are Cards, Colours and Holograms. These consumables will have to be ordered as and when required and this process displays all the activities performed to maintain consumables so that they are ready to go whenever required without causing any delays in printing licence cards.

The current card printers use three different consumables. These are:

- CR80 cards, with magnetic stripe.
- CMYKK colour print ribbon.
- Holographic print film.

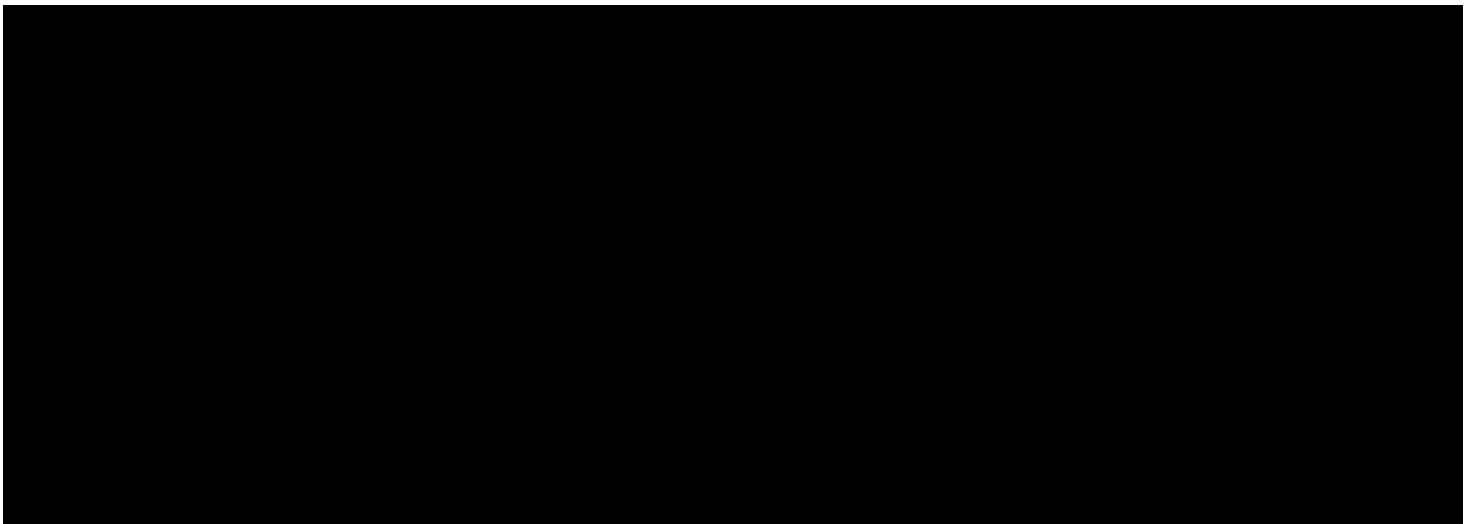
The CR80 cards use a number of security measures to prevent easy manufacture of fraudulent cards. These are:

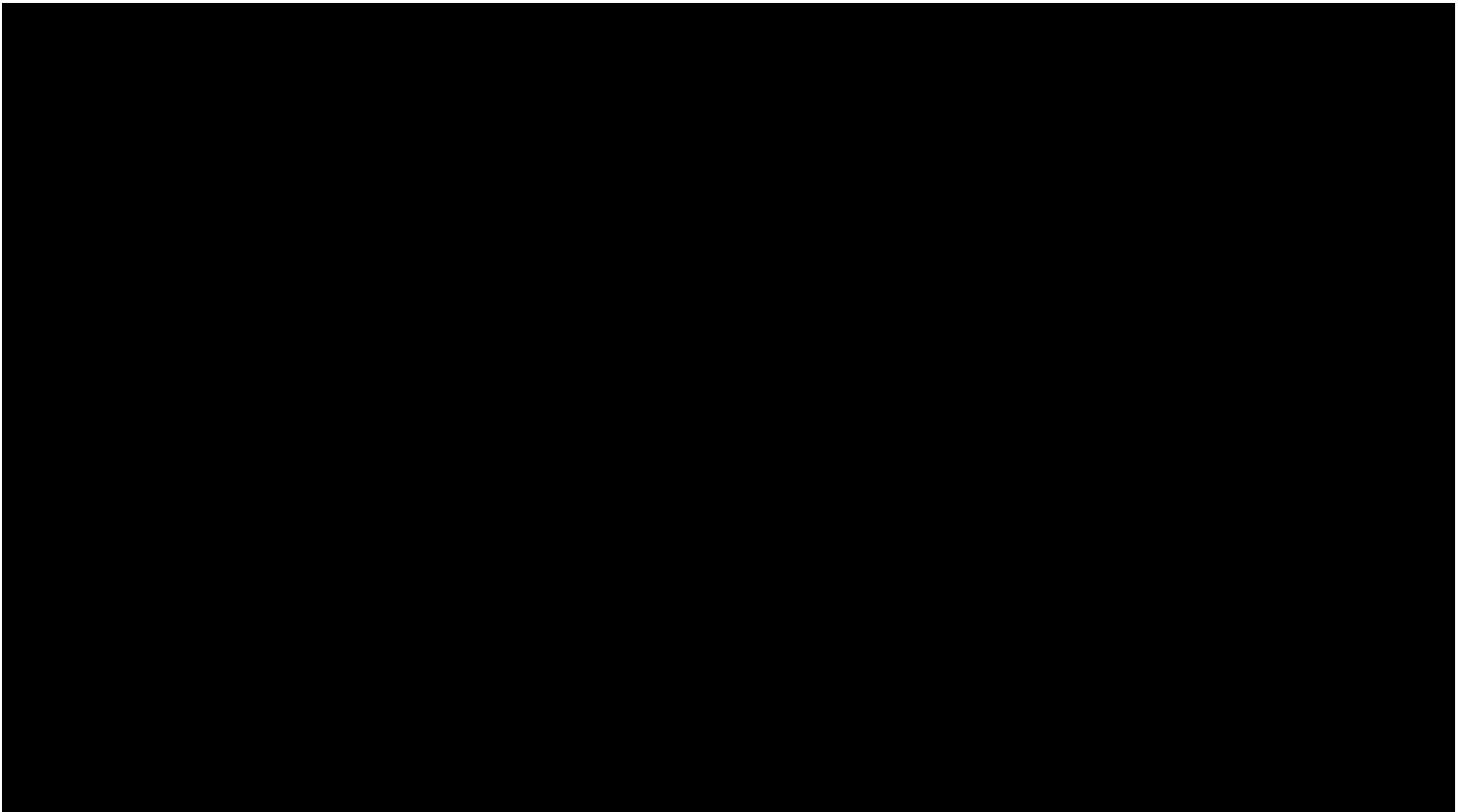
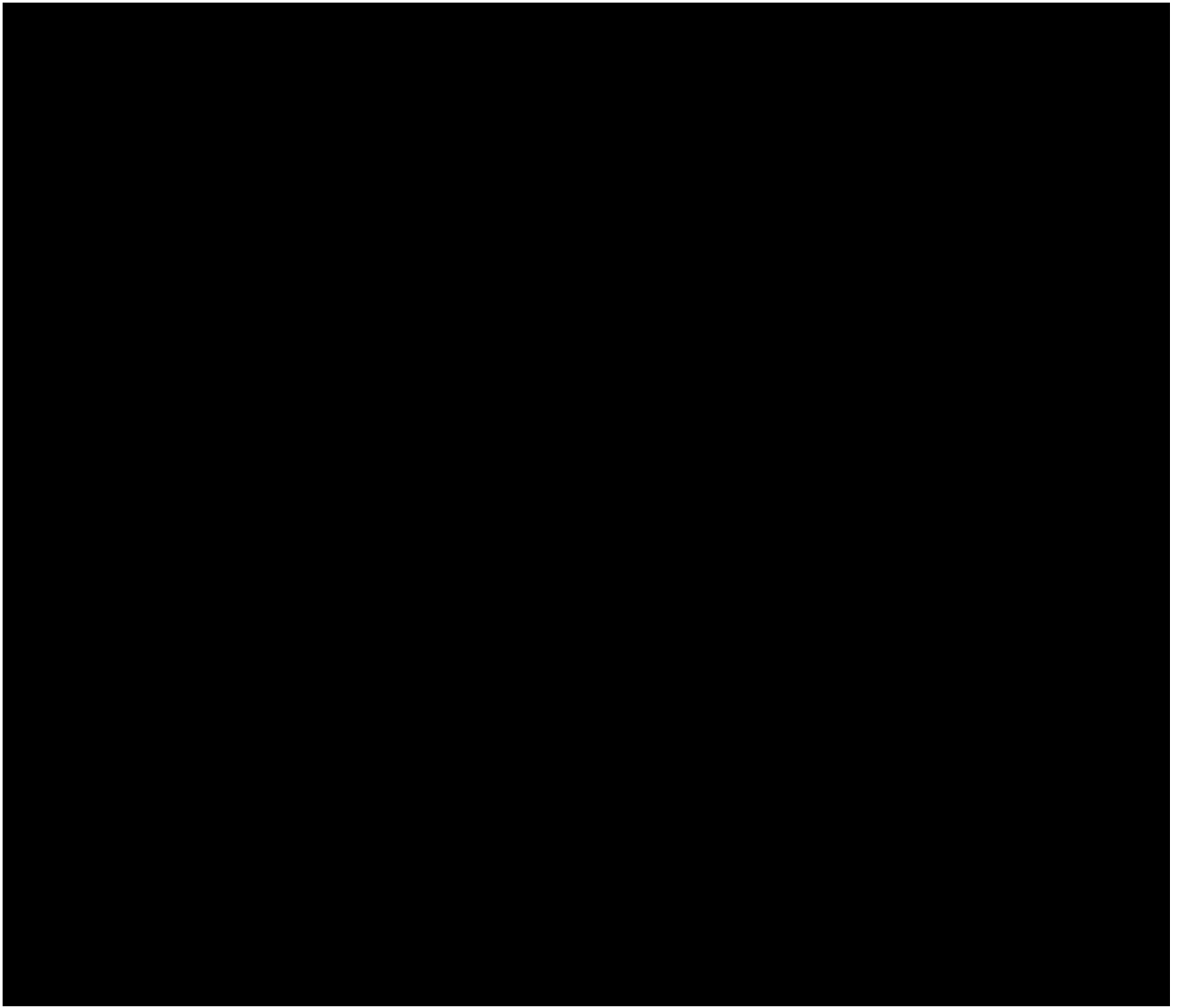
- 3-layer laminated card construction.
- Pre-printed watermarks only visible under ultraviolet light.
- Pre-printed micro text of varying sizes.
- Metallic silver magnetic stripe.
- Stock ID information encoded into magnetic stripe.

Whenever the consumables stock goes below the threshold, then printing centre contacts SUPPLIER-1 to send new stock of these consumables. SUPPLIER-1, indeed contacts its respective vendors: "Supplier-6" for Licence Cards, which comes with licence card number on the back of the card and on the magnetic stripe of the card and "Supplier-7", for supplying colour ribbons and hologram ribbons.

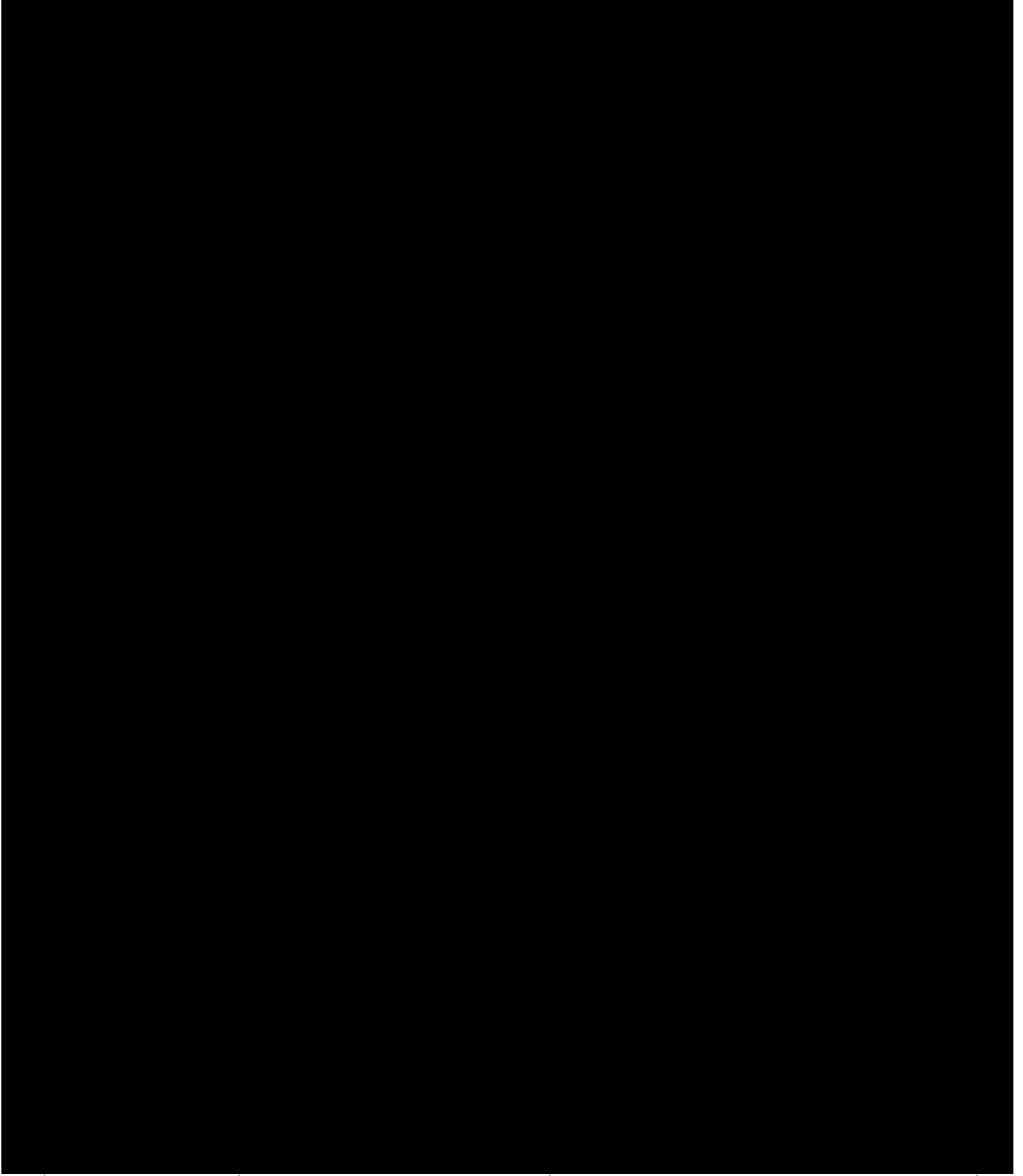
There are various process steps that are followed to make sure that these consumables are securely sourced and received by the printing centre staff and no consumables are lost in transit or stolen. These will be discussed in more detail in the process maps and its description.

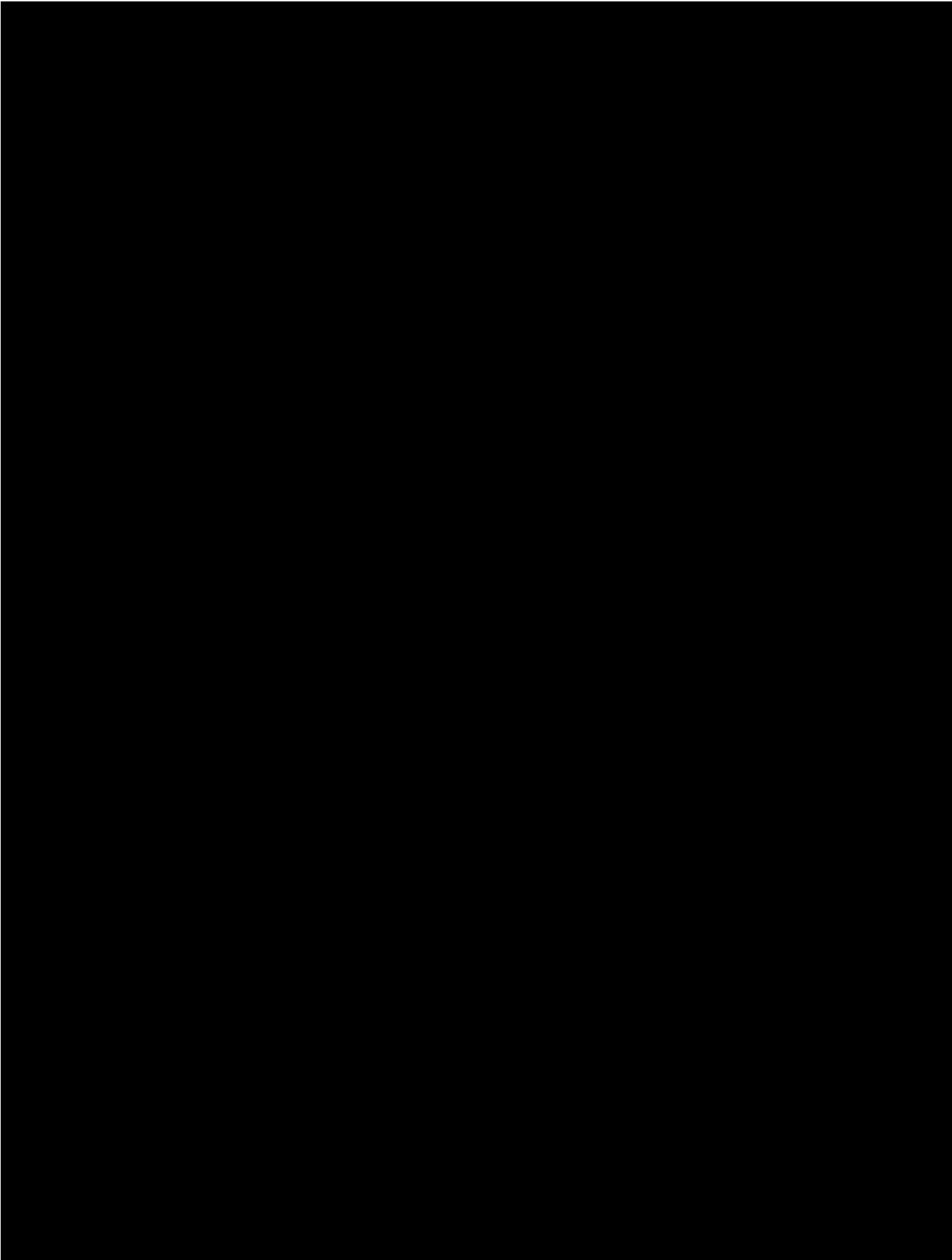
1.4 Reference Documents





2.1.3 Process Map Description



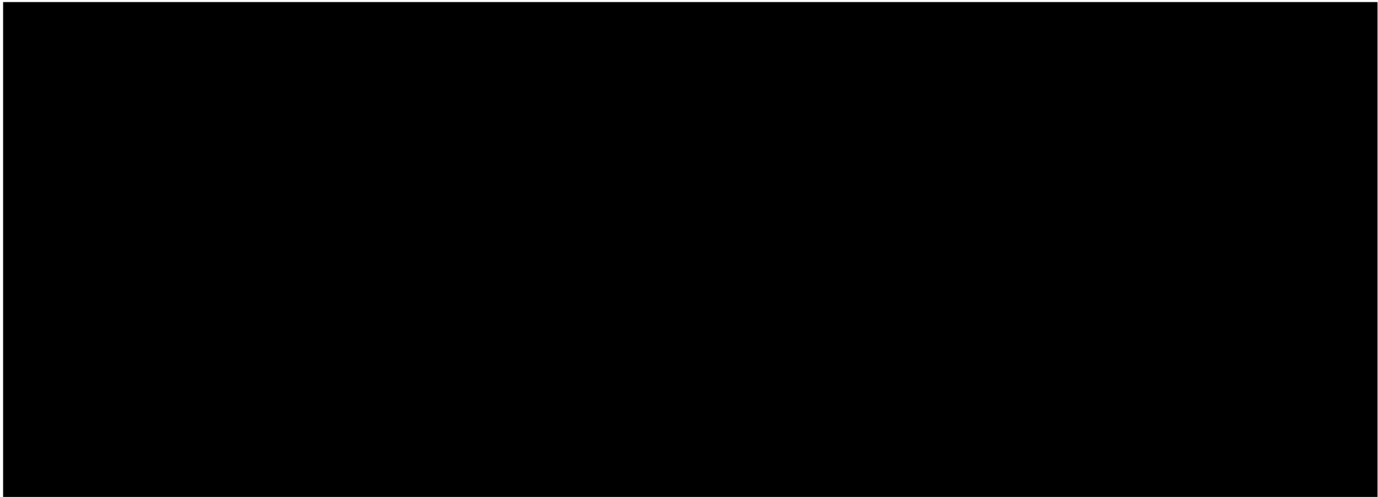




This Agreement is executed on 10 December 2021

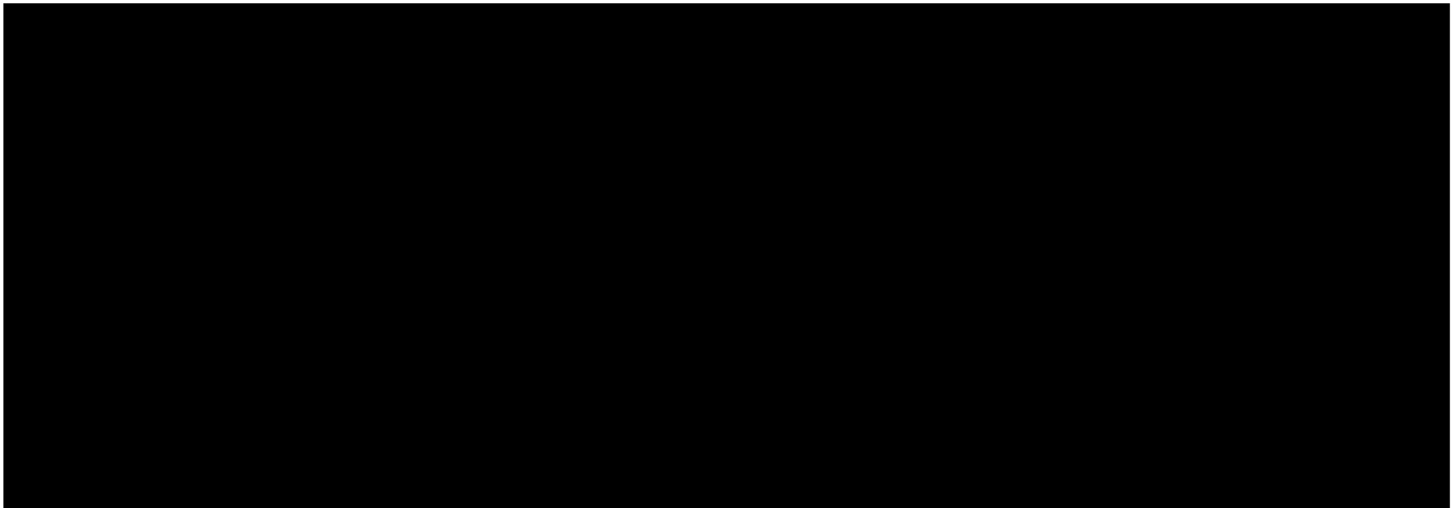
Execution by the

Signed for and on behalf of Service NSW, an executive agency of the Department of Customer Service acting through the Crown in right of the State of New South Wales, ABN 37 552 837 401 by its authorised



Date: 10 December 2021

Execution by the Supplier:



Date: