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**CONTRACT IN: AUDIT  
SERVICES  
SUPPLEMENTARY AUDIT  
STAFF**

**The Commonwealth of Australia,  
represented by the Australian  
National Audit Office  
("ANAO")**

**("Contractor")**

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## AUSTRALIAN NATIONAL AUDIT OFFICE

### CONTRACT-IN: AUDIT SERVICES (SUPPLEMENTARY AUDIT STAFF)

The Contractor agrees to provide audit services to the Commonwealth of Australia, represented by the Australian National Audit Office (**ANAO**), on the following terms:

#### PART 1 – DETAILS

##### A. The Contractor

Name			
		ACN	*ABN

Address		
		Postcode

(Notices will be sent to this address)

Contact person:			
	Tel:	Fax:	email address:

For payment purposes:	Bank account name:	
	BSB and account number:	Fax number for remittance advice:

(Please see clause 4 for invoicing procedure)

##### B. ANAO [ABN: 33 020 645 631]

Address	GPO Box 707	
	CANBERRA ACT	Postcode 2601

(Notices will be sent to this address)

Contact Officer	John Jones		
	Tel: 6203 7636	Fax: 6203 7491	email address: john.jones@anao.gov.au

**C. Term of agreement**

Period from  to

Or such other dates as may be agreed between the parties.

**D. Services**

(If the space provided here is not sufficient, attach a description of the services to Schedule 1 and write "see Schedule 1" in the box below.)

Service description


**E. Specified personnel or qualifications/experience**


**F. ANAO assistance to be provided**


## G. Insurance

<i>Type:</i>	<i>Minimum amount:</i>
Professional indemnity insurance	\$2 million
Public liability insurance	\$2 million
Workers' compensation insurance	In accordance with applicable State or Territory Legislation

Number of years contractor is required to retain these insurances after the end of this agreement:

## H. Fees and Expenses

An hourly rate of \$ \_\_\_\_\_ GST inclusive

Expenses

Nil

### Superannuation guarantee

The fees and expenses on this Part H exclude any superannuation guarantee contributions which may be payable under clause 3.6.

## I. Confidential Provisions of this agreement (if any)

Clauses:

Nil	

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## Part 2 - Terms and conditions

### 1 Term

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- 1.1 The term of this agreement (if applicable) is set out in Part C of the Details.

### 2 Services

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- 2.1 The Contractor will provide the ANAO with the services described in Part D of the Details ("**Services**").
- 2.2 The Contractor will perform the *Services* in accordance with:
- (a) the *Auditor General Act 1997*, the *Commonwealth Authorities and Companies Act 1997* and the *Financial Management and Accountability Act 1997*;
  - (b) the practices and standards set out in the Australian National Audit Office Gazetted Auditing Standards; and
  - (c) other applicable law.
- 2.3 The Contractor will ensure:
- (a) the people listed in Part E of the Details (if any) perform the *Services*;
  - (b) the people performing the *Services* have the qualifications and experience (if any) described in that Part.
- 2.4 Other people may be involved in the performance of the *Services* but the Contractor will ensure that the people listed in Part E (or whose qualifications or experience are listed in that Part) have overall responsibility for the performance of the *Services*.
- 2.5 If any of the specified personnel cannot perform the *Services*, the Contractor will inform the ANAO as soon as possible. Within 5 days of notifying the ANAO of the unavailability of the specified person the Contractor will find a replacement of equivalent expertise acceptable to the ANAO.

### 3 Payment

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- 3.1 ANAO will pay the Contractor the fees described in Part H of the Details, in the manner described in that Part.
- 3.2 The fees are inclusive of *GST*.

#### Expenses

- 3.3 The ANAO will reimburse the Contractor for expenses necessarily incurred in performing the *Services*, as described in Part H of the Details, within 30 days of presentation by the Contractor of a valid tax invoice together with documentation substantiating the expense. The ANAO agrees to pay *GST* in addition to the *GST*-

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exclusive amount of the expenses submitted for reimbursement under this clause 3.3.

- 3.4 Otherwise, the fees are inclusive of all costs and expenses incurred by the Contractor.

### **Warranty**

- 3.5 The Contractor warrants that it is registered for GST.

### **Superannuation**

- 3.6 If the Contractor is an individual and is not within an exemption provided for under the *Superannuation Guarantee Charge Act 1992* or the *Superannuation Guarantee (Administration) Act 1992*, then in addition to the payment of fees and reimbursement of expenses under this clause 3, the ANAO will meet its obligations to provide a minimum amount of superannuation support in accordance with that legislation.

## **4 Invoicing procedure**

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- 4.1 The Contractor will submit invoices to the ANAO, addressed to:

The Finance Section  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

- 4.2 The Contractor will include the following information in invoices:

- (a) the title of the audit being conducted;
- (b) the name and date of this agreement and purchase order number;
- (c) details of the work the subject of the invoice, including the period of time during which the work was carried out; and
- (d) substantiation of expenses reasonably satisfactory to the ANAO;
- (e) payment method (the ANAO prefers direct credit, where possible); and
- (f) contact person (including address, email address and telephone number) accounts queries.

- 4.3 The invoice will be in the form of a valid *Tax Invoice*.

- 4.4 ANAO will pay correctly rendered tax invoices within 30 days of receipt.

## **5 Contractor's obligations**

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### **General**

- 5.1 The Contractor will:

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- (a) comply with the occupational health and safety and security policies in place at the ANAO and *Client* premises, when performing the *Services* on those premises and keep the ANAO informed of any security incidents likely to affect the performance of the *Services*;
  - (b) keep any *ANAO Documents* or *Client Material* in its possession safe, and return all *ANAO Documents* to the ANAO (and *Client Material* to the *Client*) on expiry or termination of this agreement;
  - (c) maintain the insurances described in Part G of the Details while working on the *Services*, and for at least the period shown in Part G of the Details after the completion of the *Services*; and
  - (d) ensure the prompt removal of any personnel from a *Client's* premises, or the ANAO's premises, if requested by the ANAO.

#### **Additional security requirements**

- 5.2 The Contractor will comply with any additional security requirements notified by the ANAO from time to time during the term of this agreement.
- 5.3 Any costs associated with the Contractor's compliance under clause 5.2 will be borne by the Contractor.

#### **IT security**

- 5.4 For the avoidance of doubt, in this clause 5 "security" includes the Contractor's IT security.

#### **Confidentiality and return of documents**

- 5.5 The Contractor will not use any *Confidential Information* of the ANAO or the *Client* for any purpose other than the provision of the *Services*, or disclose any *Confidential Information* except:
  - (a) to employees, legal advisers, auditors and other consultants requiring the information for the purposes of this agreement; or
  - (b) with the consent of the ANAO; or
  - (c) if the Contractor is required to do so by law or a stock exchange; or
  - (d) as strictly required in connection with legal proceedings relating to this agreement.
- 5.6 The Contractor will ensure all of its personnel performing the *Services* sign a deed of confidentiality in the form of Schedule 2. Where the Contractor is an individual, the Contractor will sign the deed of confidentiality in the form of Schedule 2.
- 5.7 The Contractor will keep any *ANAO Documents* in its possession safe, and return them to the ANAO on:

- 
- (a) expiry of this agreement or, if no term is shown in Part C of the Details, on completion of the *Services*; or
  - (b) termination of this agreement.

However, the Contractor may retain one copy of that material for its records.

### **Subcontracting**

- 5.8 The Contractor will not subcontract all or any part of the *Services* without the written consent of the ANAO, which will not be unreasonably withheld.
- 5.9 The Contractor entering into a subcontract does not relieve the Contractor from liability for the performance of any of its obligations under this agreement.

### **Conflict of interest**

- 5.10 The Contractor warrants that no conflict of interest exists or is anticipated relevant to the performance of the *Services*.
- 5.11 If such a conflict arises, the Contractor will notify the ANAO immediately. The ANAO will decide in its absolute discretion whether the Contractor may undertake the conflicting work or not.
- 5.12 A conflict of interest will arise if the Contractor is hindered or prevented from performing the *Services* in the best interests of the ANAO, due to the provision of advice to, or the performance of services for:
  - (a) the *Client*; or
  - (b) a person related to the *Client* in the reasonable opinion of the ANAO; or
  - (c) a person in a contractual relationship with the *Client*.

This clause does not limit the circumstances in which a conflict of interest may arise.

- 5.13 In addition to its obligations under clauses 5.10 and 5.11, the Contractor will not provide internal audit services or other professional services to the *Client* during the term of this agreement without the prior written consent of the Auditor-General.

### **Fair Work Principles**

- 5.14 The Contractor must comply, and as far as practicable must ensure its subcontractors comply, with all relevant requirements of the Fair Work Principles as set out in the Fair Work Principles User Guide (available at [www.deewr.gov.au/fairworkprinciples](http://www.deewr.gov.au/fairworkprinciples)), including by:
  - (a) complying with all applicable workplace relations, occupational health and safety, and workers' compensation laws;

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- (b) informing the ANAO of any adverse court or tribunal decision for a breach of workplace relations law, occupational health and safety laws, or workers' compensation laws made against it during the term of the Contract and any remedial action it has taken, or proposes to take, as a result of the decision;
  - (c) providing the ANAO any information the ANAO reasonably requires to confirm that the Supplier (and any subcontractor) is complying with the Fair Work Principles; and
  - (d) participate in all compliance activities associated with its legal obligations, including those arising under the Fair Work Principles. Compliance activities may include responding to requests for information and/or audits undertaken by the Commonwealth, its nominees and/or relevant regulators.
- 5.15 Compliance with the Fair Work Principles shall not relieve the Contractor from its responsibility to comply with its other obligations under the Contract.
- 5.16 If the Contractor does not comply with the Fair Work Principles, without prejudice to any rights that would otherwise accrue to the Commonwealth, the Commonwealth shall be entitled to publish details of the Contractor's failure to comply (including the Contractor's name) and to otherwise provide those details to other Commonwealth agencies.
- 5.17 As far as practicable, the Contractor must:
- (a) not use a subcontractor in relation to this Contract where the subcontractor would be precluded from contracting directly with the Commonwealth under the requirements of the Fair Work Principles; and
  - (b) ensure that all subcontracts impose obligations on subcontractors equivalent to the obligations under these Contract clauses 5.14 to 5.17.

## **6 ANAO obligations**

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- 6.1 The ANAO will:
- (a) provide the people listed in Part E of the Details with access to the Australian National Audit Office, and ensure the *Client* provides those people access to its premises, to the extent required to perform the *Services*;
  - (b) provide the assistance described in Part F of the Details (if any); and
  - (c) keep confidential the provisions of this agreement (if any) described in Part I of the Details, except:
    - (i) in equivalent circumstances to those described in clause 5.5; or

- 
- (ii) in response to a request from a House of the Commonwealth Parliament or a Commonwealth Parliamentary committee.

6.2 Other than the provisions referred to in clause 6.1(c), the terms of this agreement are not confidential to the Contractor.

## **7 Intellectual property**

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The ANAO will own the *Intellectual Property* in any *Documents* produced by the Contractor in the course of providing the *Services*.

## **8 Moral rights**

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### **Moral Rights consent**

8.1 To the extent permitted by applicable laws, and for the benefit of the ANAO, the Contractor will use its best endeavours to ensure that each of the personnel used by the Contractor and any subcontractor consents in writing to the use of the *Contract Material* for the *Specified Acts*, even if the use would otherwise be an infringement of their *Moral Rights*.

### **Third party consents**

8.2 If the Contractor includes any *Third Party Material* in the *Services*, the Contractor will use its best endeavours to obtain the consent of the holder of the *Moral Rights* in the *Third Party Material* for the *Specified Acts*, even if the use would otherwise be an infringement of their *Moral Rights*.

### **Moral rights notification**

8.3 The Contractor will notify the ANAO if the Contractor fails to obtain the consent referred to in clauses 8.1 and 8.2 from a person within a reasonable time, and will not use any material produced by that person in the performance of the *Services* without the ANAO's consent.

### **Specified Acts**

8.4 In this clause, 'Specified Acts' means:

- (a) failure to identify the authorship of any part of the *Services* (including without limitation literary, artistic, musical and dramatic works and cinematograph films within the meaning of the *Copyright Act 1968*);
- (b) materially altering the content, layout, colours, format, resolution or style of any part of the *Services*;
- (c) reproducing, communicating, adapting, publishing or exhibiting the *Services* without identifying the authorship; and
- (d) adding additional content or information (including without limitation *ANAO Material* or any other material) to the *Services*.

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## **9 Insurance**

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- 9.1 The Contractor will:
- (a) maintain the insurances described in Part G of the Details while providing the *Services*, and for at least the period shown in Part G of the Details after the completion of the *Services*;
  - (b) ensure that its public liability policy names the ANAO as an insured and contains a cross-liability clause which allows the ANAO to make a claim as though individual insurance policies had been issued;
  - (c) not vary any insurance policy required by this agreement without the written consent of the ANAO; and
  - (d) provide evidence of the insurances, and their currency, acceptable to the ANAO on request.

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## **10 Termination**

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- 10.1 The ANAO may terminate this agreement in whole or in part at any time by notice to the Contractor. The ANAO will pay the Contractor any fees for *Services* provided to the date of termination in accordance with clause 3, but is not liable for any loss of profit or other losses or costs suffered or incurred by the Contractor as a result.
- 10.2 For the avoidance of doubt, the ANAO has an unfettered discretion to terminate this agreement in accordance with clause 10.1.
- 10.3 The ANAO will terminate this agreement for any breaches of the Fair Work Principles as set out in clauses 5.14 to 5.17.

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## **11 Miscellaneous**

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### **Entire agreement**

- 11.1 The Details and these terms and conditions constitute the entire agreement of the parties about its subject matter. Any prior agreement, undertakings and negotiations on that subject matter cease to have any effect.

### **Assignment of rights**

- 11.2 The Contractor may not assign any of its rights under this agreement without the ANAO's written consent, which will not be unreasonably withheld.

### **Variation of agreement**

- 11.3 This agreement may only be varied if the ANAO and the Contractor agree in writing.

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## Applicable law

- 11.4 This agreement is governed by the law in force in the Australian Capital Territory.

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## 12 Definitions and Interpretation

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### Definitions

- 12.1 In this agreement:

**ANAO Documents** means all *Documents* owned by the ANAO, including those referred to in clause 7.

**Client** means any organisation that is subject to an audit which forms part or all of the *Services*.

**Client Material** means all *Documents* owned by the *Client*.

**Confidential Information** means all information relating to the business, technology, financial or other affairs of the ANAO or the *Client* which:

- (a) is by its nature confidential;
- (b) is designated by the ANAO or the *Client* as confidential; or
- (c) the Contractor knows or ought to know is confidential,

other than Excluded Information. Confidential Information includes:

- (i) *ANAO Documents* and *Client Material*;
- (ii) information referred to in section 70 of the *Crimes Act 1914*;
- (iii) "personal information" as defined in the *Privacy Act 1988*; and
- (iv) information referred to in section 36 of the *Auditor-General Act 1997*.

**Details** means Part 1 of this agreement.

**Documents** means data, information and other documents (including electronic documents).

**Excluded Information** means information which:

- (a) is in or becomes part of the public domain other than through breach of this agreement or an obligation of confidence owed to the owner of the information;
- (b) the disclosing party can prove by contemporaneous written documentation was already known to it at the time of disclosure (unless that knowledge arose from disclosure of information in breach of an obligation of confidentiality); or

- 
- (c) the recipient acquires from another source entitled to disclose it.

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

**Intellectual Property** means copyright, and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs, circuit layouts, and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.

**Services** has the meaning given in clause 2.1.

**Tax invoice** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

## Interpretation

12.2 In this agreement:

- (a) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (b) the verb "include" (in all its parts, tenses and variants) is not used as, nor is it to be interpreted as, a word of limitation;
- (c) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (d) headings and footnotes are inserted for convenience and do not affect the interpretation of this agreement.

12.3 Clauses 5.2, 5.5, 5.7, 6.1(c), 7 and 8 survive termination or expiry of this agreement.

## J. Signature

### Signature of Contractor

The Contractor agrees to provide the Services on the terms of this agreement.

Signed by a Director / Executive Officer on behalf of the Contractor:

.....  
(signature)

.....  
(name in full)

.....  
(position)

### Acceptance by ANAO

The ANAO agrees to acquire the Services on the terms of this agreement.

Signed by an authorised officer on behalf of the ANAO:

.....  
(signature)

.....  
(name in full)

.....  
(position)

### Witness

.....  
(signature)

.....  
(name in full)

### Witness

.....  
(signature)

.....  
(name in full)

Date:

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**Schedule 1****Description of Services (Part D)**

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[Complete if additional detail is required]

THIS DEED POLL is made the \_\_\_\_\_ day of \_\_\_\_\_  
in favour of the COMMONWEALTH OF AUSTRALIA ("**Commonwealth**") and the  
AUDITOR-GENERAL

BY \_\_\_\_\_ ("**Specified Person**")

#### RECITALS

- A The Commonwealth requires the provision of Audit Services.
- B. The performance of the Audit Services requires access to information confidential to the Commonwealth, the Auditor-General or the Client.

#### COVENANTS

##### 1. INTERPRETATION

###### 1.1

"**Audit Services**" means the services specified in the agreement between the Commonwealth and the Contractor on ..../...../.....

"**Client**" means the person or body which the Contractor has been engaged to audit.

"**Confidential Information**" means all information relating to the business, technology, financial or other affairs of the Commonwealth or the Client, which:

- (a) is by its nature confidential;
- (b) is designated by the Commonwealth or the Client as confidential; or
- (c) the Specified Person or the Contractor knows or ought to know is confidential,

other than Excluded Information. Confidential Information includes:

- (i) information referred to in section 70 of the *Crimes Act 1914*;
- (ii) "personal information" as defined in the *Privacy Act 1988*; and
- (iii) information referred to in section 36 of the *Auditor-General Act 1997*.

"**Contractor**" means [*insert details of other contracting party*].

"**Excluded Information**" means information which:

- (b) is in or becomes part of the public domain other than through breach of this Deed or an obligation of confidence owed to the owner of the information;
- (c) the disclosing party can prove by contemporaneous written documentation was already known to it at the time of disclosure (unless that knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (d) the recipient acquires from another source entitled to disclose it.

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2. NON DISCLOSURE

2.1 The Specified Person shall not copy, reproduce or disclose any of the Confidential Information without the prior written consent of the Commonwealth, which consent the Commonwealth may grant or withhold in its absolute discretion.

3. RESTRICTION ON USE

3.1 The Specified Person shall use the Confidential Information only for the purpose of the Audit Services.

4. SECURITY

4.1 If requested by the Commonwealth, the Specified Person shall cooperate in any security checks the Commonwealth wishes to make of the Specified Person (including by providing information usually requested in such circumstances).

5. ACKNOWLEDGMENT

5.1 The Specified Person acknowledges that it is aware of all relevant statutory and other obligations and standards of performance applicable to the Audit Services.

6. INTELLECTUAL PROPERTY

6.1 The Specified Person hereby assigns any intellectual property rights in materials developed or created by the Specified Person in the course of performing the Audit Services to the Commonwealth.

7. DELIVERY UP OF DOCUMENTS

7.1 The Commonwealth may, at any time and without notice, demand, either orally or in writing, the delivery to the Commonwealth of all documents in the possession or control of the Specified Person which contain the Confidential Information.

8. CONFLICT OF INTEREST

8.1 The Specified Person warrants that no conflict of interest exists or is likely to arise in the performance of the Audit Services.

8.2 The Specified Person warrants that it will not permit any situation to arise or engage in any activity during the performance of the Audit Services which may result in a conflict of interest.

9. SURVIVAL OF OBLIGATIONS

9.1 The obligations in this Deed are perpetual.

SIGNED SEALED AND DELIVERED  
by the Specified Person in the presence of

\_\_\_\_\_  
Signature of Witness

)  
)  
)

\_\_\_\_\_  
Signature of Specified Person

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Specified Person

Date:

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