

REQUEST FOR TENDER (RFT)

PART A - CONDITIONS OF TENDER

Internal Audit Provider

1 About this RFT

Indigenous Business Australia (IBA) is seeking to appointment a suitably experienced and qualified Internal Audit Service Provider to deliver Internal Audit Services for the period commencing **1 July 2024** and concluding on **30 June 2027**.

This Request for Tender (RFT) (including **Part A, Part B and Part C**) has been issued to the market as an open tender and will be managed in accordance with IBA's probity protocols established for the purpose of maintaining fairness of process and ensuring the treatment of prospective providers is open, transparent and compliant.

Part A of this RFT sets out an overview of IBA, the services sought and the conditions of tender.

Part B sets out the required form of tender responses, including company information, professional reference and price and non-price information, required to be provided by Tenderers.

Part C comprises a mandatory Tender Form including Tenderer's declarations and must be completed and submitted with submissions.

1.1 About Indigenous Business Australia

IBA's objective is to provide quality leadership in facilitating and enabling Aboriginal and Torres Strait Islander engagement in the wider economy.

IBA's principal legislative basis is the *Aboriginal and Torres Strait Islander Act 2005 (ATSIA Act)* under which IBA is established, to:

- assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and
- advance the commercial and economic interests of Aboriginal persons and Torres Strait Islanders by accumulating and using a substantial capital asset for the benefit of the Aboriginal and Torres Strait Islander peoples.

Further details about IBA can be found at the following web address: <http://www.iba.gov.au/about-us/>

1.2 Background

IBA's Governance Arrangements

IBA's Board is the accountable authority under the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and responsible for ensuring that the functions of IBA are properly and efficiently performed and for determining the policy with respect to any matter.

Under the PGPA Act, IBA's Board is to ensure that IBA has an audit committee (subsection 45(1)) and that committee is constituted and performs functions in accordance with any requirements prescribed by the associated rules (subsection 45(2)).

The Audit, Risk and Performance Committee (ARPC) provides independent assurance and advice to the Board on IBA's risk, control and compliance framework, financial statements, and performance reporting responsibilities. It also monitors IBA's performance against budget and key performance indicators.

A critical function of the ARPC is oversight of IBA Internal Audit function, providing advice, assurance and support to the Board. The Committee is not responsible for the executive management of its functions.

1.3 Summary of Services

IBA is looking to appoint an experienced and qualified Internal Audit Service Provider to deliver Internal Audit Services for the period commencing 1 July 2024 and concluding on 30 June 2027. The term may be extended for a further 1 to 2 years, at IBA's discretion, subject to exemplary service by the Internal Audit Service Provider.

The scope of Internal Audit Services embraces the wider concepts of corporate governance and risk, recognising that controls exist in an organisation to manage risks and promote effective and efficient governance and performance.

The core services sought by IBA of an Internal Audit Service provider are internal audit reviews (standard audits & health checks) involving objective examination of evidence for the purpose of providing an independent assessment of risk management, control and governance processes.

The services of an Internal Audit function must incorporate the following key deliverables:

- a) The Internal Audit Services delivered in accordance with the International Standards for the Professional Practice of Internal Auditing' contained in the 'International Professional Practices Framework' (IPPF) issued by the Institute of Internal Auditors (IIA). These must be applied with the PGPA Act and Rule and any direction from the Department of Finance.

- b) Development and delivery, in consultation with the Associate Director, Risk and Assurance and Executive members, of an annual Strategic Internal Audit Plan (SIAP) aligned with the organisation objectives and goals that provides coverage against IBA's Strategic, Operational and Fraud Risks.
- c) The Internal Audit Service Provider will develop individual Audit Plans (Audit Scope) using innovative approaches to maximise the amount of internal audit coverage to obtain value-add and strategic gains from the available contract amount.
- d) Delivery of a range of Internal Audit Services primarily, **three standard audits**¹ and **two health checks**² during a given financial year. The report for each engagement may be in the chosen service providers internal audit report format but should contain, amongst other items, an opinion that rates control effectiveness and makes recommendations to improve systems or process, including policy and procedural improvements. It is envisaged an operational auditing approach will be undertaken to integrate assessment of efficiency, effectiveness, economy, and ethics into every audit to provide value-adding Internal Audit Services to IBA.
- e) Attendance and presentation of audit reports at Audit Risk and Performance Committee (ARPC) meetings (assume five per annum), and other associated meetings or discussions as required.
- f) Annual review and self-assessment of the internal audit function to be undertaken by the successful Internal Audit Provider. This includes a formal assessment against criteria agreed between IBA and the service provider, with a written report to support the assessment and any improvements identified.
- g) Delivery of an annual statement of independence on the internal audit program in alignment line with the Internal Audit Standards, including an assertion on compliance with the Internal Audit Standards for all Internal Audit Services provided to IBA.

The contract encompasses internal audit planning, conducting internal audit review engagements, attendance at Audit Committee meetings (assume five per annum), and other associated duties as

¹ an assessment consisting of approximately 25 resource days of effort. The scope of this type of audit considers multiple risks, processes and controls. Reporting is provided in a full report format including executive summary, detailed findings and recommendations, and related risks.

² a high-level assessment consisting of approximately 10 resource days of effort. This type of audit is intended for small scopes (e.g., follow up of recommendations, ensuring ongoing compliance). Reporting is provided in a short-form memorandum format.

required. Additionally, it is expected that they are to attend other meetings from time to time where their input is required. This should be included in the Section 4 – Pricing.

The Internal Audit Service Provider will be subject to assessment against the performance measures contained in this RFT.

The Internal Audit Service Provider selected to provide the Internal Audit Services will be offered a contract in IBA’s format, **refer Attachment A.**

To assist respondents to prepare their response, the following table shows ‘who does what’. This shows who is responsible for the various Internal Audit-related tasks at IBA.

Internal Audit Tasks		
Task	IBA	Service Provider
Audit Committee		
Preparation of Audit Committee papers.	✓	
Provision of an Internal Audit status report for each Audit Committee meeting.		✓
Present and discuss finalised audit report to the Audit Committee		✓
Submission of final internal audit reports to the Audit Committee.	✓	
Attendance at each Audit Committee meeting, in person or via MS TEAMS	✓	✓
Internal Audit Charter		
Maintain an up-to-date Internal Audit Charter	✓	
Provide advise on IBA’s Internal Audit Charter		✓
Internal Audit Planning		
In consultation with the Associate Director, Risk and Assurance and IBA Executive team, prepare an annual Strategic Internal Audit Plan (SIAP)		✓
Internal Audit Services		
Plan internal audit services, prepare audit scope and objectives, and arrange stakeholder meetings for internal audit services.	✓	✓

Seek approval and feedback from relevant Executive Team member, General Counsel and CEO on Audit Scope.	✓	
Confirm requirements from IBA; staff resources, pre audit documentation, access to IBA premises	✓	✓
Clarify audit methodology		✓
Clarify audit limitations		✓
Conduct internal audit services		✓
Determine audit deliverables and timelines	✓	✓
Prepare draft internal audit reports.		✓
Review draft internal audit reports.	✓	
Obtain management responses to go into internal audit reports.	✓	
Prepare final internal audit reports.		✓
Review final internal audit reports.	✓	
Issue and present final internal audit reports to IBA and the ARPC.		✓
Confirm escalation procedure for issues identified during audit	✓	✓
Distribute Audit Sponsor (relevant Executive) feedback surveys after each internal audit service and collate feedback.		✓
Present feedback to ARPC annually on feedback surveys.	✓	
If difficulties arise, provide liaison between service providers and business area being audited.	✓	
Monitor service providers to ensure the internal audit services are commenced and completed in accordance with the agreed schedule, timeline and performance measures.	✓	
Service provider contract management and monitoring service provider performance measures.	✓	
Annual Reporting		
Complete annual service provider performance assessment.	✓	

Prepare Internal Audit Annual Report, including statement of independence for the Audit Committee and ANAO.		✓
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The Internal Audit Service Provider will provide an opinion on control effectiveness for each internal audit engagement performed.

1.4 Pricing

The value of the Internal Audit contract is expected to be in the range **\$130,000 to \$150,000 (Excl GST)** per financial year. It is not envisaged the value of the Internal Audit Services will increase over the life of the contract unless additional internal audit engagements are nominated and approved by IBA. Pricing for the Internal Audit Services over the contract term will be a blended **daily** rate.

Administration costs, including (but not limited to) the preparation of the annual SIAP, annual service provider performance assessments, annual statement of independence for the Audit Committee and ANAO are to be costed into the tenderers pricing response as detailed in part B of this RFT.

All travel and other expenses associated with attendance at IBA’s Canberra office will be borne by the Internal Audit Service Provider.

Where a respondent to this RFT is located outside Canberra, pricing for the Internal Audit Services will need to incorporate any expected expenses such as transport, air tickets, accommodation and per diem.

1.5 Performance Measures

Performance measures for the Internal Audit Service Provider will be the following:

Key Performance Indicator
1. Internal audits are completed in a timely manner in accordance with the individual audit plan schedules.
2. The quality of reporting and services provided by the internal audit provider will be adapted based on feedback from IBA and the Audit, Risk and Performance Committee.
3. Internal audits are undertaken in accordance with the Institute of Internal Auditors’ IPPF and Standards.
4. The internal audit provider will ensure that IBA is fully informed about matters that represent an actual, potential or perceived conflict of interest.
5. The internal audit provider will demonstrate continual efficiency in services provided over the course of the contract term.
6. Fortnightly status updates (or as frequent as IBA requests) are provided detailing the progress of the SIAP.

1.6 Proposed Key dates

Proposed Key items	Proposed Key dates
RFT issue	1 May 2024
Final date for questions	5pm AEST, 8 May 2024
Closing time of Tender	5pm AEST, 15 May 2024
Notification of successful Tenderer	17 June 2024
Indicative contract commencement	01 July 2024
Term of contract	3 years – 1 + 1 contract extension (subject to approval by IBA)

2 Tender preparation

2.1 Enquiries and further information

The RFT Contact Person is **David Hawkins**. All queries and requests for information for this RFT must be in writing and directed via email to tenders@iba.gov.au.

Except for contact with the IBA Contact Person, Tenderers must not contact any employee, officer, or contractor of IBA, to seek or provide information regarding the RFT, the procurement process or the evaluation of tenders.

Any unauthorised communication or attempted approach by Tenderers may lead to Tenderers being excluded from the procurement process.

2.2 Preparing a tender

Tenderers are responsible for preparing the tender and all of its contents. The information Tenderers are required to provide in the tender is set out in Part B and those instructions should be followed. Tenderers should cover all issues in the tender and any other information that they believe to be relevant in assisting IBA to assess the tender. Tenderers should ensure its tender is compliant (see clause 2.5).

Tenders must specify the Specified Personnel who will provide the Internal Audit Services.

Tenderers are responsible for all costs of preparing and lodging the tender; these include but are not limited to the costs of preparing for and attending presentations, site inspections, demonstrations and/or meetings with IBA during the tender bid period or the evaluation period.

2.3 Information documents

An information document is any information, opinion, data, reports or document in addition to the tender documents that are provided either before the RFT issue date, before the RFT closing date or during the evaluation process. Tenderers are not to rely on the information documents as being proper, adequate, suitable and/or complete for the purposes of enabling them to perform the obligations which they will be required to perform if awarded a contract.

Tenderers are to make their own independent evaluation of the information documents' adequacy, accuracy, suitability and completeness for the purposes of preparing the tender.

2.4 Confidentiality and intellectual property

The entire RFT and other information provided by or on behalf of IBA in the tender process is Confidential Information. Further Confidential Information may be subsequently notified to the Tenderer in one or more addendums issued by IBA.

Tenderers must keep confidential and secure IBA's Confidential Information. Tenderers may disclose this Confidential Information to their employees, agents, contractors and advisers strictly on a need to know basis and solely for the purposes of evaluating the contents of this RFT, preparing the tender and participating in the tender process. The Tenderer must ensure that those discloses do not use or disclose the Confidential Information except in accordance with this RFT.

In order to assist in protecting the Tenderer's Confidential Information, anything submitted by a Tenderer in the course of the tender process which the Tenderer considers commercial-in-confidence should be clearly marked as such. Any confidentiality not expressly notified in writing is waived by the Tenderer.

IBA may use and disclose any Confidential Information (including a tender) submitted by a Tenderer for the purposes of this RFT process, including evaluating the tender, preparing or negotiating a contract, verifying the accuracy and currency of the information provided, and for internal management purposes (i.e. to evaluate and review its processes in order to make improvements for future processes, and to develop subsequent tender processes) and as necessary to comply with law or government policy or for any legitimate government purpose or process.

Copyright and other intellectual property rights in the tender and other material submitted by the Tenderer in the tender process will, as between the IBA and the Tenderer, belong to the Tenderer. However, the Tenderer grants to IBA a non-exclusive, royalty free, perpetual licence to exercise copyright and other intellectual property rights in the tender and other material submitted by the Tenderer in the tender process for the purpose of the tender process.

IBA has no confidentiality obligations in relation to information that is in the public domain (except via any breach of confidentiality in relation to this RFT) or information that is in, or comes into, the possession of IBA from a source other than the Tenderer.

IBA is established under the ATSI Act and is a corporate Commonwealth entity for the purposes of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*. IBA resides in the portfolio of the Prime Minister and Cabinet, and is accountable to the Australian Parliament through the Minister for Indigenous Australians. IBA has a range of public accountability and disclosure obligations, and may be required by law, to meet statutory or portfolio duties, or for public accountability reasons, to disclose confidential information to a Minister, House or a Committee of the Parliament of Australia, the Auditor-General, Privacy Commissioner or others. By submitting a tender, the Tenderer acknowledges that IBA is subject to these public accountability and disclosure obligations.

2.5 Complying tenders

Tenderers are invited to submit a tender in accordance with the RFT. A complying tender means a tender that:

- a. is submitted by an entity that relates to the requirements being sought by IBA, as detailed in the this RFT;
- b. is submitted in English;
- c. is submitted using the template response forms provided in the RFT Part B;
- d. includes a completed Tender Form (see Part C), including an appropriately executed declaration;
- e. complies with this RFT Part A document; and
- f. complies with the mandatory requirements of the RFT.

IBA may exclude from consideration any tender that is substantially incomplete or is clearly uncompetitive.

IBA may elect not to consider any tender that is not a complying tender. IBA may, in its absolute discretion and without having any obligation to do so, consider, accept or reject any tender, other offer or tender notwithstanding such tender, other offer or tender is not a complying tender.

2.6 Changes to the process

IBA may extend, suspend, terminate or otherwise change any aspect of the process or requirements described in this document in its absolute discretion (including the objectives, evaluation process, assessment criteria, timetable, requirements, proposed contract or commercial terms).

If the process is changed or any of the details in this RFT are amended, the impact on Tenderers will be considered and if relevant, the IBA Contact Person may notify Tenderers of any changes by issuing a formal addendum.

3 Tender lodgement

3.1 Lodgement of Proposal

Proposals are to be lodged by email and must:

- a) be received electronically by **5pm AEST, 15 May 2024**; and
- b) be sent to: tenders@iba.gov.au.

Note: Total response email is not to exceed 20 mb in size.

Tenders received after the closing time may not be considered. Acceptance of late tenders is at IBA's absolute discretion and late tenders will only be accepted if IBA is satisfied that the acceptance of a late tender does not compromise the integrity of the RFT process, and is not unfair to other Tenderers.

3.2 Incomplete, corrupt or unreadable files

Electronically submitted tenders may be made incomplete, corrupt or unreadable, for example by computer viruses. IBA may decline to consider a tender that cannot be effectively evaluated because it is incomplete, corrupt or unreadable, or which in IBA's opinion, contains a virus.

3.3 Ownership and validity of tenders

Excluding intellectual property rights, all tenders become IBA's property on submission.

All tenders must remain valid for the tender validity period in section 1.4. Tenders must not be withdrawn or, subject to section 4.3, varied by Tenderers before the expiration of that period without IBA's prior written consent.

4 Tender evaluation and outcome

4.1 Evaluation process

The evaluation panel may consider other information provided by Tenderers as part of due diligence (see section 4.3) and may also consider any reasonable information available as a result of the evaluation panel’s own investigations.

Non-compliant tenders or tenders with insufficient information to assess their suitability may be set aside from further evaluation at any stage of the evaluation process.

4.2 Evaluation criteria

The evaluation criteria in Table 1 below will be used in the evaluation of Tenders. Each proposal will be assessed qualitatively and quantitatively for IBA to determine which contractor can achieve the most effective, efficient and economic outcome.

The proposal should address the following weighted and non-weighted criteria:

Table 1: Evaluation Criteria

Evaluation criteria	Involves assessment of:	Weighting
Mandatory Requirements:		
1. Tenderers for Australian Government Contracts worth more than \$200,000 (GST inclusive) will be required to disclose their country of tax residency (including their ultimate parent entity’s country of tax residence), 2. Completion and submission of a Modern Slavery Questionnaire	<ul style="list-style-type: none"> ▪ Disclosure in tender response ▪ Completion and submission of the Modern Slavery Questionnaire (refer Attachment B). ▪ Completion of the Tender Form and Declarations (Part C). 	Pass/Fail
1. Achieving the requirement: The extent to which the quotation meets the detailed requirements set out in Section 1.3.	Executive summary of the offer/proposal. Detailed methodology proposed. Quality or performance criteria which are appropriate to indicate success and/or progress of the agreed tasks.	50%

<p>2. Experience and capacity: Appropriate experience in the Government environment with demonstrated experience and skill in the financial sector, complimenting PGPA Act requirements, supported by skills of key personnel and support personnel. Previous performance on comparable Internal Audit functions performed, indicating the firm's dependability and quality of work.</p>	<p>Curriculum vitae of all nominated personnel and details of their allocation to the proposed internal audit function.</p> <p>References relating to recently undertaken, comparable Internal Audit functions, including;</p> <ul style="list-style-type: none"> ▪ site references ▪ organisation names and contact details. 	30%
<p>3. Engagement Delivery Cost: The estimated total cost to IBA in delivering the Internal Audit program, FY 2025 – FY2027.</p>	<p>Itemised pricing information and proposed payment schedules detailing: fees, prices and charges related to the delivery of the internal audit function as referenced in Sect 1.3 Summary of Services.</p> <p>Any additional costs to be incurred in support of the proposed contract including possible site visit travel.</p>	10%
<p>4. Indigenous Economic Impact:</p> <ul style="list-style-type: none"> ▪ demonstrated commitment to Indigenous outcomes. ▪ Demonstration of assisting Indigenous people and communities. 	<p>Purchasing/support from Indigenous enterprises, including (but not limited to):</p> <ul style="list-style-type: none"> ▪ Indigenous employment outcomes ▪ % of Indigenous ownership ▪ Training, Cultural Awareness and other initiatives that serve to promote and inform a positive delivery of services in an Indigenous focused organisation. ▪ Other improvements in Indigenous outcomes. 	10%

IBA will not necessarily accept the lowest priced proposal.

4.3 Due diligence

As part of the detailed evaluation of tenders, other activities may be undertaken to support the evaluation such as financial assessment, reference checks, risk assessments and business searches. Any such due diligence activities are not considered as an opportunity to vary materially the substance or content of a tender.

Tenderers must also note that IBA contracts only with legal entities having appropriate financial assets.

Due diligence activity	Consideration
Clarifications	Tenderers may be invited to provide clarification of their tender. By submitting a tender, Tenderers agree to provide clarification of their tender on request, within the specified time frame.
Financial assessment	IBA may, or engage an independent third party to, assess Tenderers financial standing. Tenderers are to co-operate with the request to provide information to complete such an assessment.
Presentations	Tenderers may be invited to make a presentation to IBA for the purpose of verifying or clarifying the tender response.
Reference checks	IBA may contact a referee, either nominated by Tenderers or which we are aware that Tenderers provide similar services to that covered by this RFT, for the purposes of verifying information in the tender and gaining a better insight into capacity, operations and performance.
Risk assessment	IBA may consider the risk impact of the tender, should it be accepted, on our operations and obligations.
Site visits	IBA may inspect the Tenderer's premises or a site nominated by Tenderer.

4.4 Negotiation

IBA may, at its sole and absolute discretion, elect to conduct negotiations with one or more preferred Tenderers, to improve value for money outcomes. If this occurs, the IBA Contact Person will advise the selected Tenderer(s) of the purpose of the negotiations and any relevant protocols that will be followed before the commencement of negotiations.

At the conclusion of any negotiations, the selected Tenderer(s) may be requested to submit a revised tender as a formal record of the outcome of the negotiation process.

4.5 Successful Tenderer

IBA will notify the successful Tenderer (if any). The successful Tenderer will promptly execute a final Works Agreement contract provided by IBA.

IBA may continue to evaluate and negotiate with any Tenderer until IBA executes a contract with the successful Tenderer. IBA may decide not to execute a contract with the successful Tenderer or execute a contract with another Tenderer (or any other person) where the successful Tenderer does not execute IBA's proposed contract within a time required by IBA or the successful Tenderer acts inconsistently with representations that it has made during the Tender process regarding its tender, the proposed terms of contract, or its intentions to execute a contract.

4.6 Works Agreement

A sample Works Agreement is set out at **Attachment A** as a base document, however this document is subject to change prior to execution at IBA's discretion. Tenderers are to inform themselves of the requirements of the sample Works Agreement noting the particulars proposed in Schedule 1 of the Works Agreement.

The Internal Audit Service Provider will provide IBA with an acceptable tax invoice following the successful delivery and acceptance of any Internal Audit reports other deliverables as outlined in this RFT to the ARPC.

IBA will make the contracted payment to the internal Audit Provider within 14 working days of receipt.

5 Other conditions

5.1 Tenderers' responsibilities

Tenderers are responsible for:

- a) obtaining a full understanding of all aspects of the RFT and any subsequent contract
- b) reviewing all available information in connection with this RFT
- c) obtaining all necessary information as to the risks, contingencies and other circumstances that could have an effect on the performance and cost of providing the services and which are obtainable by making reasonable enquiries
- d) providing sufficient information in the tender in the prescribed form, to enable its evaluation against the evaluation criteria
- e) warranting that the information provided is accurate and complete
- f) bearing the risks and costs of preparing and lodging the tender and attending any presentations, meetings or site visits
- g) disclosing any actual, perceived or potential conflict of interests
- h) not engaging in practices that might be regarded as collusive or anti-competitive

- i) not offering any form of inducements, or exhibiting undue pressure on IBA, its employees or advisers in connection with this RFT process
- j) not making any announcement or releasing any information regarding this RFT, without IBA's prior written consent
- k) complying with these conditions, and
- l) conducting themselves with due regard for the principles of probity and good faith.

5.2 Reserved rights

Without limiting its rights at law or otherwise and notwithstanding anything else contained in this RFT, IBA reserves the right in its absolute discretion at any time to:

- a) Amend this RFT, including the specification of requirements
- b) Not respond to queries in relation to the RFT
- c) Seek clarification or additional information from any Tenderer
- d) Withdraw, cancel, suspend or modify the RFT process or any component of the RFT process (including structure and timing)
- e) Require that, at any stage, all information provided to Tenderers (whether confidential or otherwise, including copies, and without regard to the type of media) be either:
 - i. Returned to IBA - in which case the Tenderer shall promptly return all such information to the address identified by IBA; or,
 - ii. Destroyed by the Tenderer - in which case the Tenderer shall promptly destroy all such information and provide IBA with written certification in the form of a statutory declaration from an officer of the Tenderer that the information has been destroyed.
- f) Waive any requirement or obligation included in this document and any such waiver will not affect any other requirements or obligations contained in the document
- g) Short-list one or more Tenderers and seek further information from them
- h) Not short-list any Tenderer
- i) Not proceed with the RFT process
- j) Enter into negotiations or discussions with one or more Tenderers
- k) Discontinue negotiations or discussions with a Tenderer and terminate participation of any party or decline to discuss the process further with any party
- l) Allow, or refuse to allow, a Tenderer to enter into a contract in the name of a different legal entity to that which submitted the tender
- m) Not select the lowest priced, or any tender
- n) Accept or reject an alternative tender

- o) Publish or disclose the names of successful Tenderers
- p) Propose a contract based on each Shortlisted Tenderer's tendered model (which may not necessarily be the same);
- q) Vary any of the terms and conditions of the draft contract released to the Shortlisted Tenderers.

5.3 Disclaimer

This RFT has been prepared by IBA to assist Tenderers in evaluating the opportunity to provide the goods and/or services as specified, is not binding on IBA, and does not purport to contain all of the information that Tenderers may require.

IBA and its related bodies corporate (including their representatives and advisers) do not guarantee the accuracy, reliability or completeness of the information in the RFT or subsequently provided to Tenderers.

To the maximum extent permitted by law, IBA shall not have any liability (whether arising from negligence or otherwise) for:

- a) any representations or guarantees (express or implied) or information contained in, or for any omissions from, the RFT or any written, oral or other communications transmitted to Tenderers by or on behalf of IBA or our associates
- b) any cost, expense, loss, claim or damage of any nature arising in connection with this RFT or other representations, actual or implied, contained in or omitted from the RFT or by reason of any reliance on by any person or body, or
- c) the exercise, or the failure by IBA to exercise our rights under this RFT.

To the maximum extent permitted by law, IBA accepts no liability for any loss or damage suffered by any person as a result of that person, or any other person, placing reliance on the contents of the RFT, or any other information provided by IBA or our behalf.

5.4 No obligation

No legal or other obligations will arise between any Tenderer and IBA unless and until a contract has been signed with the successful Tenderer.

IBA is not obliged to proceed with this procurement and no compensation will be payable if IBA does not proceed to contract.

This RFT is an invitation to Tenderers to make an offer to IBA. The RFT is not, and must not be deemed to be, an offer to contract on IBA's part. Nothing in this RFT will be construed to be or create a binding contract (express or implied, including a process contract), enforceable against IBA by any Tenderer.

Neither the release of this RFT, nor the lodgement of a tender, will create any contractual or other enforceable obligations on IBA, in relation to the conduct of the RFT process.

5.5 Jurisdiction

The laws of Australia govern all RFT documents to which IBA is a signatory and all parties agree to submit to the jurisdiction of the courts of QLD.

5.6 Ethical behaviour

Tenderers must not engage in any unethical, corrupt or anti-competitive conduct including:

- a) Making false and/or misleading claims and statements
- b) Engaging in any collusive tender, anti-competitive conduct or any other similar conduct with any other Tenderer or any other person in relation to the preparation or lodgement of their tender
- c) Communicating with, or soliciting information from, employees of IBA or its related entities, except by contact through the IBA Contact Person, in relation to any matter in connection with the RFT
- d) Violation of any applicable laws or IBA policies notified to Tenderers regarding the offering of inducements in connection with the preparation or assessment of their tender

In addition to any other remedies available under any law or any contract, IBA reserves the right, in its absolute discretion, to reject any tender lodged by a Tenderer who has engaged in unethical, corrupt or anti-competitive conduct in connection with the RFT.

5.7 Privacy

In order for IBA to assess a Tender, IBA is required to collect, use, disclose and store personal information provided by a Tenderer. To find out more about IBA's Privacy Policy, go to our website:

<http://www.iba.gov.au/privacy/>

Attachments

- A. Draft Consultancy Agreement
- B. Modern Slavery Questionnaire

Attachment A

Consultancy Agreement

Between

Indigenous Business Australia

and

[insert name of Consultant]



**INDIGENOUS
BUSINESS
AUSTRALIA**

Details

Parties	IBA and Consultant	
IBA	Name	Indigenous Business Australia
	ABN	25 192 932 833
	Address	Ground Floor, 25 National Circuit, Forrest ACT 2609
	Telephone	0417 046 309
	Contract Manager	David Hawkins
	Email Address	david.hawkins@iba.gov.au
Consultant	Name	[insert]
	ACN	[insert]
	Address	[insert]
	Telephone	[insert]
	Attention	[insert]
	Email Address	[insert]
Recital	This agreement records the terms and conditions on which IBA has engaged the Consultant to provide the Services.	
Governing law	Queensland	
Date of agreement	See Signing page	

1 Engagement

1.1 IBA's agreement

IBA:

- (a) engages the Consultant to provide the Services; and
- (b) agrees to pay the Consultant the Consultancy Fee, on the terms of this agreement.

1.2 Consultant's agreement

The Consultant agrees to provide the Services to IBA and agrees and acknowledges that the Services must be provided in accordance with the timelines specified in the Proposal unless otherwise agreed between the parties.

2 Services

2.1 Services

The services to be provided by the Consultant are set out in Schedule 4.

2.2 Variation of services

- (a) At any time during the Term, a party may by written notice propose to the other party a variation to the Services.
- (b) Each party must reasonably consult and cooperate with the other party to resolve and adopt any variation proposal by mutual agreement.
- (c) Any agreed variation to the Services must be set out by the parties in writing.
- (d) If the parties fail to agree to any variation proposal, they must continue to perform this agreement until it is otherwise completed or terminated.

2.3 Pricing for out of scope services

If:

- (a) this agreement specifies a price or rate for the agreed additional services, then that price or rate will apply in respect of the provision of those additional services, and that price or rate will be applied as if it forms part of Schedule 1;
- (b) this agreement does not specify a price or rate for the additional services, then the price or rate will be as agreed between the parties in writing and applied as if it forms part of Schedule 1.

The parties agree that any daily or hourly rate charged for additional services must be the same or lower than any daily or hourly rate set out in Schedule 1.

3 Payments to Consultant

3.1 Payment for hourly rates

Subject to clause 3.4, if the Consultancy Rate at Schedule 1 is an hourly or daily rate, IBA will pay the Consultancy Fee to the Consultant upon submission of each completed Report to the IBA Audit, Risk and Performance Committee.

3.2 Payment for fixed amounts

Subject to clause 3.4, if the Consultancy Rate at Schedule 1 is a lump sum amount, IBA will pay the Consultancy Fee to the Consultant **[in equal instalments each month during the Term]** or **[on the completion of the Services by the Consultant to the satisfaction of IBA, acting reasonably]**.

3.3 Payment for milestones

Subject to clause 3.4, if the Consultancy Rate at Schedule 1 is in respect of milestones, phases, stages, junctures or steps in a process, IBA will pay the Consultancy Fee to the Consultant on the completion of each milestone, phase, stage, juncture or step to the satisfaction of IBA, acting reasonably.

3.4 Timing

IBA will pay Consultancy Fees on receipt of a properly rendered tax invoice submitted by the Consultant with 21 day payment terms, which details;

- (a) the Services performed during the relevant period;
- (b) the dates and times on and during which the Services were performed;
- (c) (if applicable) any milestones or steps met during the relevant period; and
- (d) the Consultancy Fee payable in respect of the relevant period,

to the satisfaction of IBA, acting reasonably. Where requested by IBA, the Consultant must:

- (e) complete and submit time sheets recording the provision of the Services; and
- (f) provide additional information as required to assess a claim for payment.

3.5 Payment not evidence

No payment made by IBA to the Consultant under this agreement is evidence that the Services have been provided according to this agreement.

3.6 Amount to be paid

Subject to clause 21.1, the Consultant acknowledges that the Consultancy Rate is not subject to variation for any reason.

3.7 Costs capped

Subject to any additional Consultancy Fees payable for additional services agreed in accordance with clause 2.2, the Consultant agrees and acknowledges that the Consultancy Fee is capped at the Capped Amount, and that the Capped Amount is the maximum amount that IBA will be required to pay for the provision of the Services by the Consultant.

3.8 Out of pocket expenses

IBA will not reimburse the Consultant for out-of-pocket expenses incurred by the Consultant in providing the Services unless:

- (a) the expense has been reasonably and actually incurred in performing the Services; and
- (b) the Consultant has first obtained approval for the expense from the Contract Manager; and

- (c) the Consultant, in claiming the expense, has produced documentary evidence in respect of the expense satisfactory to IBA, acting reasonably; and
- (d) IBA receives a properly rendered tax invoice submitted by the Consultant with 21 day payment terms which details the out of pocket expenses incurred in providing the Services during the relevant period.

4 Term

This agreement commences on (and includes) 1 July 2024 (**Commencement Date**) and continues (subject to its terms) to 30 June 2027, or such longer period as is agreed between the parties in writing (**Term**).

5 Consultant's responsibility and authority

5.1 Services

In performing the Services, the Consultant must:

- (a) exercise a high level of skill and care in conformity with accepted professional standards;
- (b) act promptly to facilitate the timely and expeditious completion of the Services;
- (c) subject to clause 6, not subcontract or delegate the provision of all or any part of the Services. However, the Consultant may, at its own cost but subject to clause 8, obtain advice, professional services and assistance from other consultants or professions;
- (d) comply with all applicable laws, codes and standards, including applicable work health and safety law;
- (e) perform the Services in the place or places reasonably required by IBA from time to time;
- (f) immediately notify IBA of any illness of or injury to any Key Personnel, Sub-consultants or Representatives arising in connection with the Services or which may result in the Consultant being unable to provide the Services in whole or in part or to the standard required by this agreement;
- (g) immediately notify IBA of:
 - (i) all threatened or actual litigation, proceedings, judicial or administrative enquiries, investigations, claims or allegations, which may have a material effect on the ability of the Consultant to perform the Services, by another person or body, against or in any way involving the Consultant (or Key Personnel);
 - (ii) any act, behaviour, conduct or activity of the Consultant or the Key Personnel which may adversely affect the Consultant's credit worthiness, or either the Consultant or Key Personnel's integrity, character or reputation; or
 - (iii) any act, behaviour, conduct or activity of the Consultant or the Key Personnel which has attracted negative publicity or attention or generated public or media criticism either inside or outside of Australia;

- (h) comply with all procedures, rules, regulations, standards of conduct, other ethical standards, business methodologies and lawful directions of IBA including when using IBA's premises or equipment or dealing with its personnel or clients;
- (i) demonstrate behaviour consistent with the standards outlined in the IBA Values and Code of Conduct;
- (j) perform the Services in a manner which does not pose any avoidable health or physical safety risk to any person;
- (k) ensure that IBA can make full use of the Services or the relevant part of it for the purposes for which it is intended without being in breach of any work health and safety laws; and
- (l) not do anything that is likely to adversely affect the reputation of IBA (including by making of disparaging remarks about IBA, its Personnel or services).

5.2 Other requirements

The Consultant must use all reasonable efforts to inform itself of IBA's requirements for the Services, and for that purpose the Consultant must liaise with the Contract Manager regularly throughout the Term.

5.3 Australian Consumer Law

- (a) Where the Consultant is providing Services to which the Australian Consumer Law applies and a warranty against defects is communicated to IBA, then this clause 5.3 applies.
- (b) The Consultant's Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Service, IBA is entitled:
 - (i) to cancel its contract with the Consultant; and
 - (ii) to a refund for the unused portion, or to compensation for its reduced value.
- (c) IBA is also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure IBA is entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel its contract and obtain a refund for the unused portion of the contract.
- (d) In this clause 5.3, **Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and any variations from time to time.

5.4 Additional information

If the Consultant believes that the information, documents or other particulars provided to it are insufficient to enable the Consultant to provide the Services, the Consultant must immediately notify the Contract Manager, who will take such action (if any) as they consider necessary to enable the Consultant to provide the Services.

5.5 Audit

The Consultant must allow the Contract Manager, on not less than 24 hours notice, to enter any premises owned, leased, licensed or otherwise occupied or controlled by the Consultant where any documentation in connection with the Services is held for the purpose of satisfying themselves of:

- (a) the quality of the Services;
- (b) the rate of progress of the Services;
- (c) compliance with relevant laws, standards and codes, including work health and safety laws;
- (d) compliance with all procedures, rules, regulations, standards of conduct, other ethical standards, business methodologies and lawful directions of IBA; or
- (e) other aspects or matters concerning the provision of the Services as the Contract Manager may think necessary or appropriate.

In exercising IBA's rights under this clause, the Contract Manager will act reasonably and for the purpose only of attempting to ensure the provision of the Services in accordance with this agreement.

5.6 Accounts, books and records

The Consultant must at its own cost:

- (a) keep, maintain and audit adequate accounts, books and records, in accordance with Accounting Standards and Australian record management standards in relation to the Services;
- (b) allow IBA to inspect the accounts, books and records kept in relation to the Services in accordance with clause 5.6(a); and
- (c) retain for a period of seven years after termination or expiration of this agreement all accounts, books and records relating to the Services.

5.7 Timing

If the Consultant becomes aware of any matter which it believes will or may change the timing, nature or scope of the Services, it must immediately notify the Contract Manager and provide all relevant details, including the extent or likely extent of the change.

5.8 Other consultants

- (a) The Consultant acknowledges that IBA may from time to time appoint other consultants with whom, together with IBA, the Consultant is required to work co-operatively and harmoniously in order to facilitate the expeditious provision of the Services.
- (b) If, in the provision of the Services, the Consultant recommends to IBA to engage third parties, these engagement contracts are to be approved by IBA and entered into between IBA and the third party directly or the Consultant as agent for IBA and the third party as agreed between the parties.

5.9 Co-ordination

The Consultant must:

- (a) report from time to time as reasonably required by the Contract Manager; and
- (b) when requested, attend meetings with the Contract Manager to answer questions and deliver advice in connection with the performance of the Services.

5.10 Documentation

The Consultant must create and provide all documentation expressly and impliedly required to give effect to the Services.

5.11 Compliance with instructions

- (a) The Consultant must promptly comply with any reasonable instructions from IBA or the Contract Manager regarding the provision of the Services.
- (b) If there is a conflict between the instructions given to the Consultant by any IBA personnel, the Consultant must immediately inform the Contract Manager and the Contract Manager must resolve that conflict.

5.12 Conflict of Interest

The Consultant must notify IBA in writing of any potential, perceived or actual conflict of interest that has or could have the potential to impact on the Consultant's ability to provide the Services, and the Consultant must comply with any reasonable direction given by IBA in relation to the management of the potential, perceived or actual conflict.

5.13 Proceeding with services despite dispute

The Consultant must proceed with the provision of Services with diligence and otherwise in accordance with this agreement, despite any dispute or proceedings that may arise between the parties.

5.14 Survival

The obligations in clauses 5.5 and 5.6 will survive the expiry or termination of this agreement.

6 Consultant's personnel

6.1 Adequate resources

The Consultant must procure and maintain at all times adequate resources and Representatives to discharge its duties and obligations under this agreement.

6.2 General obligations

The Consultant must ensure that its Key Personnel, Sub-consultants and Representatives have the necessary skills, expertise, qualifications and training for the purposes of providing the Services and comply with the terms of this agreement.

6.3 Sub-consultants

The Consultant may not engage Sub-consultants without the prior written consent of IBA.

6.4 Sub-consultant responsibilities

The Consultant agrees that:

- (a) all Sub-consultants are contractors of the Consultant and IBA is not responsible for any payment to them or any withholdings;
- (b) all Sub-consultants must have all necessary insurances including public liability insurance; and
- (c) the Consultant remains responsible for the performance of the Services despite the Consultant subcontracting the performance of part of the Services.

6.5 Key personnel

Through the Term, the Key Personnel must maintain the nature and extent of their involvement and designated role in providing the Services unless IBA otherwise agrees in writing. Consent will not be unreasonably withheld by IBA.

6.6 Replacement of Sub-contractors or Key Personnel

- (a) If IBA forms the view that any Key Personnel, Sub-contractors or Representatives of the Consultant do not, and are unlikely to in the future, meet the requirements set out in clause 5.1 then without prejudice to any other rights IBA may have, IBA may at any time require the Consultant to remove or replace its Key Personnel, Sub-contractors or Representatives in connection with the provision of Services.
- (b) IBA must act reasonably when exercising its rights under clause 6.6(a).

7 General obligations of IBA**7.1 Provision of information**

IBA will, as soon as practicable, make available to the Consultant all relevant information, documents, specifications, plans, drawings and any other material or particulars reasonably required by the Consultant in connection with its performance of the Services.

Any information provided to the Consultant under this clause 7.1, including all copies of such information, must be returned to IBA immediately:

- (a) on the earlier of the expiry or the termination of this agreement; or
- (b) at the request of IBA.

7.2 Directions and decisions

IBA will provide necessary directions and make decisions in a timely manner, so as not to delay the performance and provision of the Services.

8 Confidentiality**8.1 Disclosure of Confidential Information**

The Consultant must not, and must procure that its Representatives do not, disclose any Confidential Information to any person except:

- (a) Representatives of the Consultant requiring the information for the purposes of this agreement; or
- (b) with the consent of IBA which consent may be given or withheld in its absolute discretion; or
- (c) if disclosure is required by law or by a stock exchange; or
- (d) if disclosure is required in connection with legal proceedings relating to this agreement.

8.2 Disclosure by recipient of Confidential Information

In disclosing information under clause 8.1 (a) or 8.1 (b), the Consultant must, and must procure that its Representatives, use all reasonable endeavours to ensure that persons

receiving Confidential Information from it do not disclose the information except in the circumstances permitted in clause 8.1.

8.3 Use of Confidential Information

The Consultant must not, and must procure that its Representatives do not, use the Confidential Information except for the purpose of exercising its rights or performing its obligations under this agreement.

8.4 Excluded Information

Clauses 8.1, 8.2 and 8.3 do not apply to the Excluded Information.

8.5 Return of Confidential Information

The Consultant must, and must procure that its Representatives, on the request of IBA, immediately deliver to IBA or destroy, at IBA's discretion, all documents or other materials containing or referring to the Confidential Information which are in its possession, power or control or in the possession, power or control of persons who have received Confidential Information from it under clause 8.1(a) or 8.1(b).

8.6 Announcements or releases

The Consultant must not, and must procure that its Representatives do not, make media or other announcements or releases relating to this agreement and the transactions the subject of this agreement without the approval of IBA as to the form and manner of the announcement or release, unless (and to the extent that) the announcement or release is required to be made by the party by law or by a stock exchange.

8.7 No disclosure of terms of this agreement

Except as otherwise agreed or duly required by law or any regulatory authority, no party will disclose the terms of this agreement to any person other than its employees, accountants, auditors, financial advisers or legal advisers on a confidential basis or, in the case of IBA, to the extent it forms the view that the disclosure is necessary or appropriate having regard to its functions and accountability to the relevant Commonwealth minister or the Commonwealth Parliament.

8.8 Secrecy

The Consultant and its Representatives are required to comply with the secrecy obligations in section 191 of the *Aboriginal and Torres Strait Islander Act 2005* (Cth) (**ATSI Act**). Nothing in this agreement in any way affects any entitlement of IBA or limitation or restriction imposed on IBA or the Consultant or any Representatives under the ATSI Act.

8.9 Termination

The obligations in this clause 8 will survive the termination or expiry of this agreement.

9 Relationship between the parties

9.1 Principal and contractor

(a) The relationship between IBA and the Consultant is that of principal and independent contractor, and nothing in this agreement constitutes the

Consultant or any Key Personnel, a partner, joint venturer, employee, servant or agent of IBA.

- (b) The Consultant warrants and represents that the Key Personnel has been made aware of, and agrees to, the extent of the relationship under clause 9.1(a).

9.2 Consultant's employees

- (a) The Consultant and IBA acknowledge that Key Personnel are:
 - (i) employees of the Consultant; and
 - (ii) are not employees of IBA.
- (b) The Consultant is solely responsible and liable for Key Personnel remuneration, superannuation contributions, payroll tax and PAYG tax, leave entitlements, workers' compensation premiums, supervision, all the statutory and other legal obligations and for any claims by the Key Personnel under unfair dismissal, general protection or workplace injury laws as their employer.
- (c) The Consultant is solely responsible for verifying the right to work in Australia of Key Personnel.

9.3 Consultant's Representatives

The Consultant and IBA acknowledge that no Representative of the Consultant is an employee of IBA.

9.4 No authority

The Consultant will not, and the Consultant must ensure its Representatives do not, pledge the credit of IBA or make any representation that it or they or any of them have authority to represent or bind IBA.

10 Dispute resolution

10.1 Disputes

All Disputes must be resolved in accordance with this clause 10.

10.2 Notice of Dispute

Written notice of any Dispute setting out full details of the Dispute must be given to the other party.

10.3 Referral to senior representatives

If the Contract Manager and a representative of the Consultant are unable to resolve the Dispute the subject of a written notice given under clause 10.2 within 10 Business Days after notice is given, either party may refer the Dispute to the senior representatives of the parties, being the Chief Executive Officer of IBA and the chief executive officer or equivalent of the Consultant.

10.4 Litigation

If the senior representatives of the parties are unable to resolve a Dispute referred to them under clause 10.3 within 10 Business Days, either party may, after giving written notice to the other party, commence litigation regarding the Dispute.

10.5 Condition precedent to litigation

Service of the notices under, and compliance with the process outlined in this clause 10 are conditions precedent to the commencement of any litigation in respect of a Dispute.

10.6 Dispute resolution not to delay performance of the Services

Despite the other provisions of this clause 10, the Consultant must continue to perform the Services and its other obligations under this agreement.

10.7 Interlocutory relief

Nothing in this clause prevents either party from seeking urgent interim or interlocutory relief.

11 Termination**11.1 Termination by IBA for cause**

IBA may terminate this agreement immediately by notice in writing if:

- (a) the Consultant is or becomes Insolvent;
- (b) in IBA's view, acting reasonably, the Consultant or any Key Personnel have demonstrated:
 - (i) serious misconduct; or
 - (ii) behaviour inconsistent with the IBA Values and Code of Conduct, as if the IBA Values and Code of Conduct applied to the Consultant, and that behaviour is capable of being remedied but has not been done so to the satisfaction of IBA, acting reasonably, within 7 days of receipt of written notice from IBA identifying the behaviour and its inconsistency with the IBA Values and Code of Conduct;
- (c) the Consultant or any Key Personnel cease to hold any practising certificate, registration or qualification required for the Consultant to perform the Services where IBA requires them to be performed;
- (d) the Consultant materially fails to comply with any timetable which has been agreed between IBA and the Consultant for the completion of any tasks required under this agreement; or
- (e) the Consultant breaches any other provision of this agreement and that breach is not remedied to the satisfaction of IBA within 21 days of receipt of written notice from IBA identifying the breach and requiring its remedy.

11.2 Termination by Consultant for cause

The Consultant may terminate this agreement immediately by notice in writing if:

- (a) any payment due by IBA to the Consultant under this agreement is not paid in full within 21 days of the due date; or
- (b) IBA breaches any provision of this agreement and that breach is not remedied within 21 days of written notice to IBA by the Consultant identifying the breach and requiring that the breach be remedied.

11.3 Termination by either party without cause

- (a) Either party may, at its absolute and unfettered discretion, and notwithstanding the extent (if any) to which the Consultant has then performed the Services, terminate this agreement by written notice with immediate effect.

- (b) Neither party will be liable to the other for any loss of profit, or any other Claims or costs, suffered or incurred as a result of a termination under clause 11.3(a).

11.4 Consequences of termination

If either party terminates this agreement then in addition to any other rights provided:

- (a) IBA may take possession of all documents and materials referred to in clause 8.5;
- (b) the Consultant must deliver promptly to IBA all material (written, electronic or otherwise) prepared in connection with this agreement;
- (c) IBA will pay the Consultant for any Services provided to the effective date of termination unless;
 - (i) the Services were provided in part or in whole without a required qualification, practicing certificate, registration or licence;
 - (ii) IBA has reported the Consultant to the relevant authorities for suspected fraud affecting IBA; or
 - (iii) the Services provided materially departed from the Proposal without authorisation from IBA;
- (d) the Consultant will reimburse IBA for any Consultancy Fees paid by IBA in advance for Services that had not been provided by the Consultant as at the effective date of termination;
- (e) IBA may use all documents prepared by the Consultant under this agreement for any other purpose in connection with the Services;
- (f) the accrued rights and liabilities of the parties are not affected;
- (g) the parties are to be regarded as discharged from any further obligations under this agreement; and
- (h) either party may pursue any additional or alternative remedies provided by law.

11.5 Survival

The relevant parts of this clause 11 will survive the expiry or termination of this agreement.

12 Suspension of Services

12.1 Suspension of Services

IBA may at any time direct the Consultant to suspend the performance of all or any part of the Services.

12.2 Resuming performance after suspension

IBA may at any time direct the Consultant to resume the performance of the Services or the relevant part.

12.3 Suspension costs

Subject to clause 12.5, IBA must pay the Consultant the costs incurred by it in:

- (a) keeping its Representatives, Sub-consultants and equipment on standby, to the extent required in the notice under clause 12.1; and
- (b) demobilising and remobilising its Representatives, Sub-consultants and equipment.

12.4 Agreeing or determining suspension costs

The amount payable under clause 12.3 must be:

- (a) agreed by IBA and the Consultant; or
- (b) failing agreement, determined by the Contract Manager acting reasonably and considering the views of the Consultant as well as current market practices.

12.5 No suspension costs

If IBA gives a direction under clause 12.1 as a result of a material breach by the Consultant of its obligations under this agreement, the Consultant is not entitled to any payment under clause 12.3.

13 Machinery of government changes

13.1 Assignment or novation

Without limiting IBA's rights under clause 11.3 and notwithstanding any other clause of this agreement, in the event of machinery of government changes, IBA may (but is not obliged to) assign or novate its rights under this agreement to a Commonwealth Entity other than IBA.

13.2 Consent to assignment or novation

By entering into this agreement, the Consultant consents to the assignment or novation of this agreement to the relevant Commonwealth Entity.

13.3 Execution of documents

At the request of IBA, the Consultant agrees to execute such documents as IBA reasonably requires the Consultant to execute in order to give effect to the assignment or novation.

13.4 Commonwealth Entity

For the purposes of this clause 13, **Commonwealth Entity** has the meaning given to it in the *Public Governance, Performance and Accountability Act 2013* (Cth).

14 Indemnity

14.1 Scope

The Consultant indemnifies IBA and its officers and employees on demand against all Claims resulting from any of the following:

- (a) the enforcement of this agreement;
- (b) the personal injury to or death of any person or damage to property in connection with the performance of this agreement by the Consultant or any of its Representatives; or
- (c) a claim by any Representative of the Consultant (including the Key Personnel) in relation to their employment or engagement, including any claims regarding underpayment or claims made under the Fair Work Act 2009 (Cth).

14.2 Reduction of liability for IBA fault

The liability of the Consultant under clause 14.1 is reduced to the extent that the Claim was caused or contributed to by the fraud, negligence, mistake, or wilful misconduct of IBA or its agents or employees.

14.3 IBA to mitigate

IBA will, to the extent practicable, take reasonable steps to mitigate its loss in circumstances where clause 14.1 applies.

14.4 Indemnity capped

The indemnity in clause 14.1 is capped at the amount listed at Item (b) of Schedule 2.

14.5 Employees and officers

The indemnity given in clause 14.1 in favour of persons not a party to this agreement is intended to be, and is, directly enforceable by each of those persons, and this agreement operates as a deed poll in favour of those persons.

14.6 Continuing obligation

The indemnity in clause 14.1 is a continuing obligation, separate and independent from the other obligations of the Consultant and survives the termination or expiry of this agreement. It is not necessary for IBA to incur any expense or make any payment before enforcing its rights under clause 14.1.

15 Insurance**15.1 General**

The Consultant must take out and maintain (and require its Sub-consultants to take out and maintain) the insurances described in Schedule 2. Insurance effected by the Consultant pursuant to this clause 15 must be noted to include the interest of IBA.

15.2 Events affecting insurance

The Consultant must notify IBA of any event which could affect its insurance cover, including any event by virtue of which any insurance cover may be or has been cancelled, avoided or allowed to lapse or the rate of premium or the excess increased.

15.3 No effect on obligations

The requirement to effect and maintain insurance in this clause 15 does not limit the Liability or obligations of the Consultant under this agreement.

15.4 Evidence of policies

If requested by IBA, the Consultant must provide documentation certifying that it has the insurance it is required to have and maintain in clause 15.1.

15.5 Survival of obligations

The obligations in this clause 15 will survive the expiry or termination of this agreement.

16 Privacy**16.1 General**

The Consultant agrees, in respect of personal information held in connection with this agreement:

- (a) to comply with the Privacy Act and other legislation regarding privacy in force from time to time that is applicable to IBA or the Consultant;

- (b) to use personal information only for the purposes of fulfilling its obligations under this agreement;
- (c) not to disclose the information without the written authority of IBA except for the purposes of fulfilling its obligations under this agreement. The Consultant must immediately notify IBA where it becomes aware that a disclosure of personal information may be required by law;
- (d) to ensure that an employee of the Consultant or any Sub-consultant requiring access to any personal information is under a legal obligation not to access, use, disclose or retain the information except in performing their duties of employment or retention and is informed that failure to comply with this undertaking may be a criminal offence and may also require the Consultant to take disciplinary action against the employee or Sub-consultant as the case may be;
- (e) to notify IBA immediately if the Consultant becomes aware of a breach of this clause 16 by itself or by any Sub-consultant; and
- (f) to notify IBA immediately if the Consultant becomes aware of or suspects, any Data Breach whether the personal information is in the control or possession of the Consultant or a third party the Consultant has provided the personal information to or directed IBA to provide personal information to, and provide full details of the Data Breach.

16.2 Data Breach

If the Consultant becomes aware of or suspects, any Data Breach relating to IBA, its Confidential Information or the Services, whether the personal information is in the control or possession of the Consultant or a third party the Consultant has provided the personal information to or directed IBA to provide personal information to, the Consultant must:

- (a) immediately notify IBA of the Data Breach or suspected Data Breach;
- (b) fully co-operate with IBA and promptly upon request, provide access to the Consultant's systems and/or documentation in connection with any assessment or investigation of the Data Breach by or on behalf of IBA; and
- (c) fully cooperate with IBA in relation to any provision, notification or publication of a statement in respect of the Data Breach under sections 26WK and 26WL of the Privacy Act.

16.3 Data held outside Australia

Where IBA discloses personal information to the Consultant (or a third party at the direction of the Consultant) and the Consultant transfers that personal information outside Australia, the Consultant must comply with clauses 16.1 and 16.2 as if the Consultant were subject to the Privacy Act, excluding Australian Privacy Principle 1 if the Consultant does not have an Australian link.

16.4 Third parties

Where IBA discloses personal information to a third party at the direction of the Consultant, the Consultant must use its best endeavours to ensure that the third party complies with clauses 16.1, 16.2 and if applicable, clause 16.3.

16.5 Survival of obligations

The obligations in this clause 16 will survive the expiry or termination of this agreement.

17 Modern Slavery Laws

17.1 Warranties

The Consultant warrants that, to the extent applicable, it complies with and will continue to comply with all Modern Slavery Laws, including by taking reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Services.

17.2 Remedial action

If at any time the Consultant becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Contract, the Consultant must, as soon as reasonably practicable, take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.

17.3 Cooperation

The Consultant will:

- (a) provide evidence of its compliance with clause 17.1 upon request by IBA, acting reasonably, including completing any investigation, review or questionnaire and providing any declaration, attestation or certificate of compliance requested by IBA; and
- (b) procure from its own suppliers and subcontractors, a statutory declaration regarding modern slavery matters if required by IBA, acting reasonably.

17.4 Interpretation

In this clause:

Modern Slavery has the meaning given to it in the *Modern Slavery Act 2018* (Cth).

Modern Slavery Laws means the *Modern Slavery Act 2018* (Cth) and any legislation of the Commonwealth or a State relating to Modern Slavery or similar matters including the *Modern Slavery Act 2018* (NSW).

18 Security

18.1 Compliance with security requirements

The Consultant must, and must ensure that its Sub-consultants and Representatives, comply with:

- (a) any security requirements specified in Schedule 3; and
- (b) the Australian Government Protective Security Policy Framework (outlined at www.protectivesecurity.gov.au) and the Australian Government Information Security Manual (outlined at www.asd.gov.au), as updated from time to time (as applicable to the Services).

18.2 Obligation to notify

The Consultant must:

- (a) notify IBA promptly (but no later than 72 hours) after the Consultant becomes aware of a confirmed or suspected Security Incident;

- (b) promptly investigate each Security Incident and escalate internally in accordance with the Consultant's security policies and industry best practice;
- (c) promptly take all reasonable steps (including directions reasonably requested by IBA) to limit, stop, or otherwise remedy, and prevent the recurrence of, each Security Incident; and
- (d) provide IBA prompt access to the Consultant's personnel to the extent reasonably required by IBA to satisfy it as to the extent and nature of the Security Incident and its rectification (including the results of a post-incident review).

18.3 Other security requirements

The Consultant must promptly:

- (a) upon IBA's request (no more than once in any given calendar year), confirm in writing its compliance with clauses 18.1 and 18.2.
- (b) comply with any additional security requirements notified by IBA to the Consultant from time to time. IBA will give the Consultant as much notice as reasonably practicable of any additional security requirements.

18.4 Security audit

- (a) The Consultant must, upon 10 days' written notice by IBA, make available to it:
 - (i) the Consultant's personnel, systems and equipment;
 - (ii) copies of any certifications, reports or tests (including the executive summary portion of penetration or vulnerability tests); and
 - (iii) any other information reasonably requested by IBA,to demonstrate the Consultant's compliance with its obligations under clauses 18.1 and 18.2.
- (b) If IBA reasonably believes that the Consultant's responses do not adequately demonstrate the Consultant's compliance with its legal obligations or this agreement, IBA may conduct, or instruct a third-party auditor to conduct on its behalf, an audit of the Consultant's security compliance.
- (c) Before conducting a security audit in accordance with clause 18.4, IBA must provide the Consultant with at least thirty (30) days' prior written notice. Any audit on the Consultant's premises will only occur during normal business hours, and IBA (or its third party auditor) must take all reasonable measures to prevent unnecessary disruption to the Consultant's operations.

19 Intellectual property

19.1 Title

Subject to this clause, the title to and Intellectual Property Rights in or in relation to all:

- (a) Service Material; and
 - (b) any IBA Data or any other Material provided to the Consultant by IBA,
- vests in IBA.

19.2 Documents necessary to vest title

If requested by IBA, the Consultant will bring into existence, sign, execute or otherwise deal with any document which may be necessary to enable the vesting of that title or those rights in IBA.

19.3 Consultant's intellectual property

The Consultant agrees to:

- (a) grant to IBA a royalty free, non-assignable licence to use the Consultant's Intellectual Property Rights to the extent that use of the Consultant's Intellectual Property Rights is necessary for the provision or use of the Services or any part of the Services; and
- (b) obtain and grant to IBA all necessary Intellectual Property Rights to enable them to lawfully use the Service Material as contemplated by this agreement, including any third party material.

19.4 Moral rights

- (a) To the extent permitted by applicable Laws and for the benefit of IBA, the Consultant must use its best endeavours to ensure that each of the Representatives used by the Consultant in the production or creation of the Services and Service Material gives genuine consent in writing, to the use of the Service Material for the Specified Acts, even if such use would otherwise be an infringement of their Moral Rights.
- (b) In this clause 19.4, **Specified Acts** means:
 - (i) not attributing the authorship of any Service Material, or any content in the Service Material (including literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
 - (ii) materially altering the style, format, colours, content or layout of the Service Material and dealing in any way with the altered Service Material;
 - (iii) reproducing, communicating, adapting, publishing or exhibiting any Service Material; and
 - (iv) adding any additional content or information to the Service Material.

19.5 Pre-existing rights

Nothing in this clause 19 alters the ownership of Intellectual Property Rights existing before the date of this agreement or documents developed independently of the provision of the Services.

19.6 IBA Material

The Consultant must not, and must ensure that its Sub-consultants and personnel do not:

- (a) take any IBA Data or any other Material provided by IBA in accordance with this agreement outside of Australia; or
- (b) allow any IBA Data or any other Material provided by IBA in accordance with this agreement to be accessed from outside Australia,

without IBA's prior written consent.

19.7 Survival

This clause 19 will survive the expiry or termination of this agreement.

20 Notices

20.1 Form

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

20.2 Delivery

A notice or other communication must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details; or
- (c) sent by email to the email address set out or referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address or changed email address, then the notice or other communication must be sent to that address or email address.

20.3 When effective

A notice or other communication takes effect from the time it is received unless a later time is specified.

20.4 Receipt - post

If sent by post, a notice or other communication is taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

20.5 Receipt - email

If sent by email, a notice or other communication is taken to be received at the time it is sent.

20.6 Receipt - general

Despite clauses 20.4 and 20.5, if a notice or other communication is received after 5.00pm in the place of receipt or on a non-Business Day, it is to be taken to be received at 9.00am, on the next Business Day.

21 Miscellaneous

21.1 Waiver and variation

A provision of or a right created under this agreement may not be waived or varied except in writing signed by the party or parties to be bound.

21.2 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Consultant and IBA in connection with this agreement with the result that either party's

rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

21.3 Severability

A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or parts of the terms of this agreement continue in force.

21.4 Approvals and consent

IBA may give conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this agreement expressly provides otherwise.

21.5 Remedies cumulative

The rights, powers and remedies provided in this agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of this agreement.

21.6 Further assurances

At IBA's request the Consultant must, at its own expense execute and cause its successors to execute documents and do everything else necessary or appropriate to bind the Consultant and its successors under this agreement.

21.7 Assignment

The Consultant must not dispose of, or declare a trust over, its rights or obligations under this agreement without the written consent of IBA.

21.8 Costs of consultant

Except to the extent that this agreement provides otherwise, the Consultant's costs and expenses in complying with its obligations under this agreement are payable by the Consultant and are not recoverable from IBA.

21.9 Entire agreement

This agreement and the attachments incorporated into it by reference constitute the entire agreement between the parties about its subject matter and, to the extent permitted by law, supersedes all prior representations, agreements, statements and understandings between the parties, whether verbal or in writing. This clause does not exclude the parties' rights in respect of representations that cannot be excluded by law.

21.10 Governing law

This agreement and the transactions contemplated by this agreement are governed by the law in force stated in the Details.

21.11 Inconsistency with ATSI Act

To the extent that a provision of this agreement would impose on IBA or the Consultant an obligation which is inconsistent with a limitation or restriction imposed on IBA or the Consultant under ATSI Act, IBA or the Consultant (as the case may be) is not obliged to comply with the obligation under this agreement.

21.12 Benefits

The Consultant agrees that undertakings in this agreement in favour of persons not a party to this agreement are intended to be, and are, directly enforceable by each of those persons, and this agreement operates as a deed poll in favour of those persons.

21.13 Counterparts

This agreement may be executed in any number of counterparts, and all counterparts together will be regarded as one instrument. A party may sign any one counterpart. This agreement may be delivered by email and the parties may rely on an electronic signature as though it were an original signature.

22 GST**22.1 Consideration GST exclusive**

Unless expressly stated otherwise in this agreement, all amounts payable or consideration to be provided under this agreement are exclusive of GST.

22.2 Payment of GST

If GST is payable on any supply made under this agreement, for which the consideration is not expressly stated to include GST, the recipient agrees to pay to the supplier an additional amount equal to the GST payable at the same time that the consideration for the supply, or the first part of the consideration for the supply (as the case may be) is to be provided. However:

- (a) the recipient need not pay the additional amount until the supplier gives the recipient a tax invoice or an adjustment note;
- (b) if an adjustment event arises in respect of the supply, the additional amount must be adjusted to reflect the adjustment event and the recipient or the supplier (as the case may be) must make any payments necessary to reflect the adjustment; and
- (c) this clause does not apply to the extent that the GST on the supply is payable by the recipient under Division 84 of the GST Act.

22.3 Reimbursements

If a party is required under this agreement to indemnify another party, or pay or reimburse costs of another party, that party agrees to pay the relevant amount less any input tax credits to which the other party (or to which the representative member for a GST group of which the other party is a member) is entitled.

22.4 Definitions

Unless the context otherwise requires, a term which has a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning when used in this clause.

23 Personal Property Securities Act

Each party agrees that:

- (a) if a security interest for the purposes of the *Personal Property Securities Act 2009* (Cth) (“PPSA”) arises in connection with this agreement or the Services, IBA may make any registration or notification under the PPSA in connection the security interest; and
- (b) to the extent the law permits:
 - (i) IBA need not comply with, and the Consultant may not exercise rights under, any provisions of Chapter 4 of the PPSA that may be contracted out of; and

- (ii) the Consultant waives its rights to receive any notice that is required by the PPSA (but this does not prohibit IBA from giving such a notice); and
- (c) despite anything else in this agreement, neither party may disclose any information in connection with this agreement under section 275(4) of the PPSA unless section 275(7) of the PPSA applies.

24 Interpretation

24.1 Definitions

The following words have these meanings in this agreement unless the contrary intention appears:

Accounting Standards means the standards of that name maintained by the Australian Accounting Standards Board (created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth)) or other accounting standards which are generally accepted and consistently applied in Australia.

Authorised Officer means a person appointed by a party to act as an Authorised Officer for the purposes of this agreement and includes, in the case of IBA, the Contract Manager.

Business Day means a day other than a Saturday, Sunday or public holiday in the capital city of the jurisdiction shown in the Details.

Capped Amount means the sum of [**\$amount**].

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

Confidential Information means all confidential, sensitive, non-public or proprietary information regardless of how the information is stored or delivered, provided by IBA to the Consultant or its Representatives before, or accessed by the Consultant or its Representatives, on or after the date of this agreement, which relates to the business, technology or other affairs of IBA and includes (without limitation) contact names including third parties, personal information and health information of IBA employees and customers.

Commencement Date is defined in clause 4.

Consultancy Fee means the fees, charges and expenses payable to the Consultant, calculated in accordance with the Consultancy Rate and includes (subject to clauses 3.6 and 3.7) all fees and expenses of the Consultant including those paid to or on behalf of employees and Sub-consultants engaged by the Consultant (including the Key Personnel) in the performance of its obligations under this agreement.

Consultancy Rate means the rate described at Schedule 1.

Contract Manager means the person appointed by IBA to administer this agreement and be a contact person for the Consultant, being at the date of this agreement the person identified as the Contract Manager in the Details, or as otherwise notified by IBA to the Consultant.

Controller has the meaning it has in the *Corporations Act 2001* (Cth).

Data Breach means any unauthorised access to, or disclosure of, personal information or loss of personal information where unauthorised access to, or disclosure of, the information is likely to occur.

Dispute means any dispute, controversy, difference or Claim between the parties as to:

- (a) as to the construction of this agreement; or
- (b) the rights or obligations of a party under this agreement; or
- (c) any other matter arising out of or relating to this agreement or the Services including any question regarding the existence, validity or termination of this agreement.

Excluded Information means Confidential 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 IBA; or
- (b) the Consultant can prove by contemporaneous written documentation was already known to it at the time of disclosure by IBA (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (c) the Consultant acquires from a source other than IBA or any Related Entity or Representative of IBA where such source is entitled to disclose it.

A person is **Insolvent** if

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001* (Cth));
- (b) it has had a Controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by IBA);
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above;
- (e) it is taken (under section 459F(1) of the *Corporations Act 2001* (Cth)) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the *Corporations Act 2001* (Cth) (or it makes a statement from which IBA reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

IBA's Data means all information or Material that relates to IBA, its business, operations, customers, personnel or property and whether:

- (a) provided to the Consultant for the purposes of;
- (b) transmitted, received, or stored in connection with; or
- (c) processed, generated, compiled, or modified through,

performing or using the Services (or any part of the Services).

IBA Values and Code of Conduct means the IBA Board policy of that name as published on the IBA website and updated from time to time.

Intellectual Property Rights 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 or artistic fields.

Key Personnel means **[insert names of Key Personnel]**.

Liability means all liabilities (whether actual, contingent or prospective), losses, damages, costs and expenses (including legal costs and expenses on a solicitor client basis).

Material means any data (including metadata), documented methodology or process, documentation or other material in whatever form, and the subject matter of any category of intellectual property rights.

Moral Rights means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the *Copyright Act 1968* (Cth).

Privacy Act means the *Privacy Act 1988* (Cth).

Receiver includes a receiver or receiver and manager.

Related Entity has the meaning given to it in the *Corporations Act 2001* (Cth).

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

Security Incident means any actual or suspected misappropriation of, or unauthorised access to, loss, modification, or disclosure or use of, IBA's Data, or any other compromise of the security, confidentiality, or integrity of IBA's Data.

Services means those services specified in clause 2.

Service Material means any Material created by Consultant or its subcontractors or Representatives for the purpose of or as a result of performing its obligations under this agreement.

Sub-consultant means any sub-consultant of the Consultant approved in writing by IBA.

Term means the term of this agreement, as determined in accordance with clause 4 (but subject to clause 11).

24.2 References

- (a) a reference to this agreement or another instrument includes any variation or replacement of any of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) a reference to a gender includes other genders;
- (e) the word **person** includes a firm, a body corporate, partnership, an unincorporated association, governmental or local authority or agency or other entity;
- (f) word 'include', or another grammatical form of it, is not a word of limitation;
- (g) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (h) a reference to any thing is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (i) an agreement in favour of two or more persons is for the benefit of them jointly and severally; and
- (j) an agreement, representation, warranty or obligation on the part of two or more persons binds them jointly and severally;
- (k) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it.

24.3 Priority of contract documents

If there is an inconsistency between any of the documents forming part of this agreement, those documents must be interpreted in the following order of priority to the extent of any inconsistency:

- (a) terms and conditions in this agreement;
- (b) schedules and attachments to this agreement;
- (c) any attachments to the schedules or attachments; and
- (d) other documents mentioned in this agreement that are to be observed by the Consultant.

For the avoidance of doubt, subject to the terms of the Proposal specifically incorporated by clauses 2.1 and 2.3 of this Agreement, all other terms and conditions contained in the Proposal are expressly excluded from application to this Agreement.

24.4 Headings

Headings are inserted for convenience and do not affect the interpretation of this agreement.

Schedule 1 - Consultancy Rate

1. Hourly or daily rate (clause 3.1)

[The Consultancy Rates for the Services are set out in the below table:] Or **[Not applicable.]**

Personnel	Consultancy Rate per hour/day
[insert]	[\$[insert]
[insert]	[\$[insert]

2. Lump sum (clause 3.2)

[The Consultancy Rate for the Services is \$amount.] or **[Not applicable.]**

3. Milestones (clause 3.3)

[The Consultancy Rates for the Services are set out in the below table:] Or **[Not applicable.]**

Milestone	Consultancy Rate
[insert]	[\$[insert]
[insert]	[\$[insert]

Schedule 2 - Insurance

The Consultant shall take out and maintain the following insurance policies in accordance with this agreement:

- (a) Professional indemnity insurance with a limit of not less than \$5,000,000.00 per Claim and in the aggregate;
- (b) General liability insurance covering Liability arising from premises, operations, independent contractors, personal injury, products completed operation, and Liability assumed under an insured contract on an occurrence basis, with a limit of not less than \$20,000,000.00 for each occurrence and in the aggregate;
- (c) Worker's compensation insurance as required by the relevant State or Territory legislation if the Consultant engages employees, in the performance of the Services; and
- (d) cyber liability and privacy protection insurance covering liability for data breaches with a limit of not less than \$5,000,000.00 for each claim.

Schedule 3 - Security requirements

The Consultant agrees to comply with the following security requirements:

1 Security clearances

- (a) IBA may, from time to time, notify the Consultant of the level of security or access clearance applicable to the Sub-consultants or Representatives, and the date from which, or the period during which, that clearance will be effective and the Consultant must comply with and ensure its Sub-consultants and Representatives act in accordance with that notice.
- (b) The Consultant is responsible for all costs associated with obtaining the security clearances notified in this Schedule or otherwise in writing as at the time of this agreement. Security or access clearances notified as required by IBA after this time are to be treated as expenses in accordance with clause 3.8.

2 Security measures

The Consultant must:

- (a) incorporate and use, security measures in the provision of the Services to protect IBA's Data in the Consultant's possession or control that are no less rigorous than accepted industry standard;
- (b) comply with any requirements of IBA's security policies and procedures that are notified by IBA to the Consultant from time to time;
- (c) implement, maintain, and enforce appropriate administrative, technical, and physical safeguards, and take all necessary steps to:
 - (i) ensure the security and confidentiality of IBA's Data;
 - (ii) protect against anticipated vulnerabilities, threats or hazards to the security or integrity of IBA's Data; and
 - (iii) protect against Security Incidents;
- (d) provide to IBA, upon request, details of the Consultant's security controls and measures; and
- (e) limit access to IBA Data only to the Consultant's personnel or authorised sub-contractors who need to know the information in order to provide the Services.

Schedule 4 - Services

[insert]

Signing page

EXECUTED as a deed

SIGNED for and on behalf of **INDIGENOUS
BUSINESS AUSTRALIA** by:

)
)
)
)
)
) Signature of delegate
)
)
)
) Name of delegate (block letters)
)
)
) Title of delegate (block letters)
)
)
) Date
)

Signed sealed and delivered by
 [#insert company name (in title case)]
 ACN [#insert ACN] on / / by:

▲ _____
 Director

▲ _____
 Director/Secretary

▲ _____
 Full name of Director

▲ _____
 Full name of Director/Secretary

Attachment B

Modern Slavery – Supplier Questionnaire

IBA is committed to ethical and socially responsible procurement.

To ensure modern slavery risks are identified in our operations and supply chains, IBA requests our suppliers and vendors to complete the Questionnaire below.

This will assist IBA to assess suppliers' policies and practices on modern slavery, and to gain a greater understanding of your strengths and weaknesses when it comes to addressing modern slavery risk.

The Questionnaire is designed to facilitate a two-way engagement between IBA and our suppliers. It will also assist IBA to fulfil its annual reporting requirements under the *Modern Slavery Act 2018* (Cth), where IBA is required to report on the risk of modern slavery in its supply chains and operations.

Background - what is Modern Slavery?

Australia's *Modern Slavery Act (Cth) 2018* defines modern slavery as including eight types of serious exploitation: trafficking in persons; slavery; servitude; forced marriage; forced labour; debt bondage; deceptive recruiting for labour services; and the worst forms of child labour.

Modern slavery describes situations where coercion, threats or deception are used to exploit victims and undermine or deprive them of their freedom. Modern slavery can include serious forms of exploitation such as forced labour, human trafficking, slavery and slavery-like practices. These practices are serious crimes, grave abuses of human rights and have devastating impacts on survivors. Modern slavery does not include practices like substandard working conditions or underpayment of workers, although these practices are also illegal and harmful and may be present in some situations of modern slavery.

Modern slavery can occur in any industry or sector and has severe consequences for victims. Modern slavery distorts global markets, undercuts responsible business and can pose significant legal and reputational risks to entities.

Terms used in the Questionnaire

Terms used in the Questionnaire for modern slavery risk assessment purposes are:

- **Operations** - include any activity undertaken to pursue business objectives in Australia or overseas; and

- **Supply chains** – include your suppliers of products and services (including labour) that contribute to your products, services and operations.
- **Tier One** – A direct supplier to your organisation.

Due date – completed Questionnaire

The Questionnaire is to be completed by 10 May 2024 and provided with the Tender submission.

PART A – YOUR ORGANISATION’S INFORMATION			
Company name:			
ABN:		ANZSIC Code (if known):	
Completed By:		Date:	
Key contact person:			
Email		Phone:	
Industry Type	e.g. retail, tourism and accommodation		
No. of Employees	Part-time/casual	full time	
No. of Tier 1 Suppliers			

PART B – YOUR ORGANISATION’S OPERATIONS		
Q1 – Industry: What is your organisation’s key industry? The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Domestic work	<input type="checkbox"/> Hospitality & food services
<input type="checkbox"/> Construction	<input type="checkbox"/> Other	
If other , provide details.		
Q2 – Product & Services: What are the key products and services that your organisation provides (to IBA and to your other customers)? The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> Laptops, computers, mobiles	<input type="checkbox"/> Apparel & clothing accessories	
<input type="checkbox"/> Hospitality & Food Products e.g. in house catering	<input type="checkbox"/> Other	
If other , provide details.		

Q3 – Geography: Does your organisation produce your products or deliver your services to IBA from the following countries? The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> China	<input type="checkbox"/> Malaysia	<input type="checkbox"/> Vietnam
<input type="checkbox"/> India	<input type="checkbox"/> Thailand	<input type="checkbox"/> Other
If other , provide the country/countries of origin that you provide your product or services to IBA.		
Q4 – Operations: Does your organisation directly employ staff that work in the following areas? The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Cleaning	<input type="checkbox"/> Hospitality & food services
<input type="checkbox"/> Construction	<input type="checkbox"/> Other	
If other , provide details.		

PART C – YOUR ORGANISATION’S MODERN SLAVERY GOVERNANCE		
Q5 – Is your organisation required to report under the <i>Modern Slavery Act 2018</i> (Cth):		
<input type="checkbox"/> Yes: If so, please attach a copy of your most recent modern slavery statement		
<input type="checkbox"/> No		
Q6 – What is your understanding of the <i>Modern Slavery Act 2018</i> (Cth) and the risks that could impact your organisation?		
Q7 – Does your organisation have policy or procedures in place to deal with modern slavery risk?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
<i>e.g. Modern Slavery Risk Framework, Procurement Policy, Risk Management Framework, Work, Health and Safety Procedures, Employee Recruiting and Remuneration Processes, Incident Reporting and Mitigation.</i> If yes , list below and provide a copy of the policy or procedure. If unsure , list policy and or procedures you think might have an impact on modern slavery. If no , describe what future plans your organisation has in place to manage modern slavery risk.		
Q8 – Does your organisation have a person/s responsible for overseeing modern slavery risks and the organisation’s procurement activities?		

Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
If yes , describe the role and responsibilities:		
Q9 – Does your organisation have a staff awareness or training program in place to assist with how to identify, assess and respond to modern slavery risks?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
If yes , describe the nature of the training available and the positions or roles of staff that receive training. If no , does your organisation plan to introduce modern slavery risk training for staff?		
Q10 – Has your organisation been subject to or involved in any investigation, inquiry, incidents, breach or potential breach of anti-slavery and human trafficking laws?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
If yes , please provide details:		

PART D – YOUR ORGANISATION’S SUPPLY CHAIN		
Q11 – How much visibility does your organisation have over its supply chain? Please select one option below:		
<input type="checkbox"/> High: You have mapped the full supply chain for key products and services used by your organisation and have identified key suppliers at all levels of your supply chain		
<input type="checkbox"/> Moderate: You have identified major Tier One suppliers and have partially or fully mapped the supply chains for key products and services of your supply chain.		
<input type="checkbox"/> Developing: You have identified major Tier One suppliers. You have very limited or no visibility of your supply chains below the Tier One level.		
Q12– Does your organisation have a screening process in place for prospective and current suppliers? (This includes assessing the risks of modern slavery or other human rights harms that may occur in its operations?)		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
If yes , provide details of the process and any supporting documentation. If no , does your organisation plan to introduce measures to screen suppliers in the future?		
Q13 –What information do you collect about your suppliers and how is the information recorded?		

List items captured by questionnaire or system/tools in place e.g. ABN, Supplier name, ANZSIC code.		
Q14 – Geography: Are you aware of any Tier One suppliers your organisation procures goods and services from, that are based in the following countries?		
The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> China	<input type="checkbox"/> Malaysia	<input type="checkbox"/> Vietnam
<input type="checkbox"/> India	<input type="checkbox"/> Thailand	<input type="checkbox"/> Other
If other , provide country details for key suppliers that are based outside of Australia.		
Q15 – Industry: What are the key industry sectors your organisation procures goods and services from other parties?		
The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Hospitality & food services	
<input type="checkbox"/> Construction	<input type="checkbox"/> Cleaning	<input type="checkbox"/> Other
If other , provide details.		
Q16 – Product: What are the key products and services your organisation procures from other parties?		
The examples provided are identified as having a higher risk of modern slavery activities.		
<input type="checkbox"/> Laptops, computers, mobiles	<input type="checkbox"/> Apparel and clothing accessories	
<input type="checkbox"/> Food Products e.g. rice, fish, cocoa		<input type="checkbox"/> Other
If other , provide details.		