

**1. Contract:**

- (a) The Proposal, the Purchase Order and these terms and conditions form a binding agreement between the Principal and the Contractor (**Contract**). The Contractor agrees that by supplying the Goods and/or Services to the Principal, it has accepted the terms of the Contract and that all other terms and conditions are excluded, including any terms and conditions provided by the Contractor.
- (b) In the case of any conflict or inconsistency, the following order of precedence applies:
  - (i) these terms and conditions;
  - (ii) the Purchase Order; and
  - (iii) the Proposal.
- (c) Subject to the terms of the Contract, if the Purchase Order is issued under the terms of an existing contract or a standing offer, the terms of that existing contract or standing offer will apply and these terms and conditions (other than this clause 1(c)) will have no effect.

**2. Goods:**

- (a) The Contractor must deliver the Goods accompanied by a Delivery Note to the Delivery Address by the Delivery Date and in accordance with the Delivery Instructions (including any required packaging bearing the Purchase Order Number), together with any relevant documentation to operate and use the Goods.
- (b) The Contractor must promptly notify the Principal if the Contractor becomes aware that it will be unable to supply all or parts of the Goods by the relevant Delivery Date and advise the Principal as to when it will be able to do so.

**3. Services:**

- (a) The Contractor must complete the Services by the Delivery Date.
- (b) The Contractor must provide the Services and Deliverables to the Principal:
  - (i) at the times and locations (as applicable) and in accordance with any requirements specified in the Contract;
  - (ii) using appropriately qualified, skilled and experienced personnel;
  - (iii) to a standard of quality not less than Good Industry Practice; and
  - (iv) to the satisfaction of the Principal.
- (c) The Contractor must promptly notify the Principal if the Contractor becomes aware that the Contractor will be unable to provide all or part of the Services in accordance with the Contract.

**4. Warranty:** The Contractor warrants that:

- (a) the Goods are new, free from deficiencies in design, manufacture and workmanship and are fit for the purposes set out in, or reasonably ascertainable from, the Contract, or as otherwise notified by the Principal to the Contractor;
- (b) the Goods are provided by the Contractor with the benefit of any manufacturer's warranties for the benefit of the Principal; and
- (c) in providing the Services, it will use workmanship of a standard consistent with Good Industry Practice and which is fit for the purposes set out in, or reasonably ascertainable from, the Contract.

**5. Title and risk:**

- (a) Title to the Goods transfers to the Principal upon the earlier of payment or delivery to the Delivery Address and the Goods must be free of any security interest.
- (b) Risk in the Goods passes to the Principal on delivery to the Delivery Address.

**6. Acceptance:**

- (a) No Goods and/or Services will be deemed to have been accepted until the Principal has confirmed such acceptance in writing. If the Principal has not provided any such confirmation to the Contractor within 14 days of receipt of the Goods and/or Services, then the Principal will be taken to have accepted the Goods and/or Services on the expiry of the 14-day period.
- (b) Prior to submitting the Goods and/or Services to the Principal, the Contractor must ensure all Goods and/or Services comply with the Specifications and the Purchase Order (including undertaking any reasonable acceptance tests).

- (c) The Principal may reject the Goods and/or Services where they do not comply with the requirements of the Contract, including any acceptance tests.
- (d) If the Principal rejects the Goods and/or Services, or if the Goods and/or Services do not otherwise comply with the Contract, the Principal may require the Contractor to provide, at the Contractor's cost, replacement Goods and/or Services which comply with the requirements of the Contract or to take any other action to rectify any aspect of the Goods and/or Services, as directed by the Principal.
- (e) At the Principal's request, the Contractor must promptly remove any relevant Goods from the Principal's premises at its cost.

**7. Delay, Extension & Liquidated Damages:**

- (a) If the Contractor becomes aware of an actual or likely delay in supplying the Goods or completing the Services by the Delivery Date by a cause beyond the reasonable control of the Contractor, the Contractor must notify the Principal as soon as practicable of the details of the delay, its causes and the extension required and take all reasonable steps to minimise the effects of the delay.
- (b) The Principal may extend the Delivery Date by a reasonable period as determined by the Principal.
- (c) If the Contractor is responsible for a delay, the Contractor will reimburse the Principal for any additional substantiated costs reasonably incurred by the Principal during any extension granted.
- (d) If the Contractor fails to deliver the Goods or complete the Services by the Delivery Date, the Contractor must pay liquidated damages at a rate of 0.5% of the Contract Price for every day or part thereof after the Delivery Date until the actual date of delivery of the Goods or completion of the Services, capped at 10% of the Contract Price.
- (e) The amount payable under this clause 7:
  - (i) will be a debt due from the Contractor to the Principal.
  - (ii) is the Principal's sole and exclusive remedy for any failure by the Contractor to deliver the Goods or complete the Services by the relevant Delivery Date; and
  - (iii) is an agreed genuine pre-estimate of the Principal's damages if delivery of the Goods or completion of the Services does not occur by the Delivery Date.
- (f) If the liquidated damages under this clause 7 are found to be a penalty or void or unenforceable for any reason (whether in whole or in part), then the Contractor will be liable to pay unliquidated damages at law for the breach for which the liquidated damages under this clause 7 would have been payable had the relevant liquidated damages or clause not been a penalty or not been void or unenforceable.

- 8. Suspension:** The Principal may at any time by written notice, instruct the Contractor to suspend and, after a suspension has been instructed, to re-commence the provision of the Goods and/or Services under the Contract.

**9. Site and safety:**

- (a) If the Principal provides the Contractor with access to a Site, the Contractor must comply with any security and safety requirements notified to the Contractor by the Principal or of which the Contractor ought to be aware and ensure that its officers, employees, agents and subcontractors are aware of and comply with those requirements.
- (b) The Principal is not obliged to provide the Contractor with sole access to the Site and the Contractor is not entitled to make a claim for an increase of the Contract Price or otherwise arising out of or in connection with the conditions of the Site.

**10. Approvals and compliance with law:**

- (a) The Contractor must obtain and comply with any necessary export licences, licences, accreditations, permits, registrations, regulatory approvals or other documented authority (however described) required by law or any government authorities (including by the AMB and necessary for the provision of the Goods and/or

Services and arrange any necessary customs entry for the Goods.

- (b) The Contractor must comply with, and ensure its officers, employees, agents and subcontractors comply with, the laws from time to time in force in the State, Territory or other jurisdictions in which any part of the Contract is to be carried out, all of the Principal's policies, standards and guidelines relevant or applicable to the Contract notified to the Contractor by the Principal, or of which the Contractor ought to be aware.
- 11. Work health and safety**
- (a) In this clause 11, the terms "construction work", "principal contractor" and "workplace" have the same meanings assigned to those terms under the WHS Legislation.
- (b) If the Principal is Transport for NSW, TAHE or OTSI, the Contractor will be the principal contractor unless otherwise notified in writing by the Principal for the purpose of the Contract.
- (c) If the Principal is Sydney Trains, NSW Trains or Sydney Metro, the Principal will be the principal contractor unless otherwise notified in writing by the Principal for the purpose of the Contract
- (d) If the Contractor is the principal contractor under this clause 11:
- the Principal authorises the Contractor to have management and control of each workplace at which construction work is to be carried out and to discharge the duties of a principal contractor, under the WHS Legislation;
  - the Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation; and
  - the Contractor's engagement and authorisation as principal contractor will continue:
    - until acceptance of the Goods and/or Services by the Principal; and
    - while any rectification work that is "construction work" is carried out during the Warranty Period, unless sooner revoked by the Principal terminating the Contract pursuant to any provision of the Contract or according to law.
- (e) Where the Contractor is not engaged as the principal contractor, the Contractor must comply with the reasonable directions of the principal contractor in relation to any construction work under the Contract.
- (f) As a condition precedent to the Principal's obligation under the Contract to provide the Contractor with access to, or possession of the Site, the Contractor must prepare and submit a WHS Management Plan to the Principal for approval (such approval not to be unreasonably withheld).
- (g) No comment upon nor any review, acceptance or approval of the WHS Management Plan by the Principal will affect any warranty or guarantee given by the Contractor or relieve the Contractor of any of its liabilities or obligations under the Contract.
- (h) To the extent not prohibited by law, the Contractor indemnifies the Principal against any claims against, or loss suffered or incurred by, the Principal arising out of or in connection with the failure of the Contractor to discharge the duties imposed on a principal contractor under the WHS Legislation (if the Contractor has been engaged as principal contractor) or otherwise comply with this clause 11.
- 12. Requirements for working in Rail Corridor**
- If the Contractor is required to work in the Rail Corridor for the performance of the Contract, the Contractor must comply with the requirements:
- set out the document entitled "Requirements for Working in the Rail Corridor" available at: <https://www.transport.nsw.gov.au/industry/doing-business-transport/tfnsw-standard-terms-and-conditions-for-goods-and-services>; or
  - If the Principal is TfNSW, TfNSW's safety management requirements as notified to the Contractor from time to time.
- 13. Cooperation with others:** The Contractor must permit other contractors of the Principal to carry out their work at the Site without interference, delay or disruption and fully cooperate with those other contractors.

**14. Payment:**

- The Contractor may:
  - submit an invoice for the Contract Price following acceptance of the Contractor's Goods, Services and/or Deliverables in accordance with clause 6;
  - if the Purchase Order provides for the payment of the Contract Price by way of instalments or milestone payments, submit an invoice for the relevant instalment or milestone payment at the times set out in the Purchase Order; or
  - if the SOP Act applies, submit an invoice for a progress payment on account of the Contract Price on the 25th day of each month (or, where that day is not a Business Day, the next Business Day).
- Subject to compliance with clause 15 (Invoice), the Principal must pay the Contractor:
  - within 30 days of receipt of a correctly rendered invoice submitted clause 1.1(a)(i)(i);
  - within 15 Business Days of receipt of a correctly rendered invoice submitted under clause 1.1(a)(ii) or 1.1(a)(iii)(iii); or
  - within such other timeframe set out in the Purchase Order.
- Payment by the Principal is not an acknowledgement that the Goods, Services or Deliverables have been supplied in accordance with the Contract.
- If the Principal reasonably disputes part or all of an invoice, including in relation to suspected non-compliance with the Contract, the Principal may withhold payment of the disputed amount until the dispute is resolved.

**15. Invoice:**

- Unless the Contractor has a RCTI arrangement with the Principal, the Contractor must submit a correctly rendered invoice to the Principal at the Invoice Address.
- An invoice is correctly rendered if:
  - the Principal has not rejected the Goods and/or Services under clause 6;
  - it is for an amount which does not exceed the Contract Price or (where applicable) the relevant instalment or milestone payment;
  - it includes the Purchase Order Number;
  - it is a valid tax invoice under the GST Act;
  - it attaches a signed Subcontractor's Statement (if applicable) and, where the SOP Act applies, a Supporting Statement.
- If the Contractor has a RCTI arrangement with the Principal, the Principal will raise invoices in accordance with the Contract.
- The Contractor must promptly provide to the Principal such supporting documentation and other evidence reasonably required by the Principal to substantiate performance of the Contract by the Contractor, including satisfactory evidence that the Contractor is registered for GST.

**16. SOP Act**

- This clause applies if the SOP Act applies to the Contract.
- For the purposes of section 17(3) of the SOP Act, the Contractor irrevocably chooses the Resolution Institute as the "authorised nominating authority" (as defined in the SOP Act).

**17. Price basis:** The Contract Price is firm and is inclusive of all taxes (other than GST), duties (including any customs duty) and government charges imposed or levied in Australia or overseas.

**18. Taxes**

- Unless otherwise stated all monetary amounts in the Contract are exclusive of GST.
- The Principal will pay to the Contractor an amount equal to any GST payable on any taxable supply made under or in connection with the Contract.
- The Contractor warrants that it is registered for GST under the GST Act and will immediately notify the Principal if it ceases to be registered or ceases to satisfy any of the requirements of any determination or ruling made by the Australian Taxation Office under the GST Act.

**19. Intellectual property:**

- The parties agree that nothing in the Contract will affect the ownership of IP Rights in their Existing Materials.

- (b) The Contractor grants to the Principal a non-exclusive, irrevocable, perpetual, transferable and royalty-free licence to use, copy, adapt, reproduce, modify and communicate or incorporate into other work (and sublicense to any other third party to do so) any IP Rights in the Contractor's Existing Materials as required to receive, use and otherwise enjoy the full benefit of the Goods, Services and Deliverables.
- (c) The Principal grants to the Contractor a non-exclusive, non-transferable, revocable and royalty-free licence to use all IP Rights in the Principal's Existing Materials solely for the purpose of the Contractor performing its obligations under the Contract.
- (d) Unless otherwise specified in the Purchase Order, title in and ownership of all IP Rights in the New Materials vest in the Principal on creation.
- (e) If the Principal is the owner of all IP Rights under clause 19(d), the Principal grants to the Contractor a non-exclusive, non-transferable, revocable and royalty-free licence to use the IP Rights in the New Materials solely for the purpose of the Contractor performing its obligations under the Contract.
- (f) If the Contractor is the owner of all IP Rights under clause 19(d), the Contractor grants to the Principal a non-exclusive, irrevocable, perpetual, transferable, royalty-free licence to use, copy, adapt, reproduce, modify and communicate or incorporate into other work (and sublicense to any other third party to do so) all IP Rights in the New Materials for any purpose.
- (g) If the Goods, Services and/or Deliverables incorporate any third-party's IP Rights, the Contractor must procure for the Principal licence rights no less favourable than the licence rights granted by the Contractor to the Principal under clause 19(b).
- (h) The Contractor warrants that it has all IP Rights and moral rights necessary to provide the Goods, the Services and the Deliverables to the Principal and licences those rights to the Principal to allow the Principal to have the full benefit of the Goods, the Services and the Deliverables. The Contractor also warrants that the provision of the Goods, the Services and the Deliverables in accordance with the Contract will not infringe any third-party's IP Rights or moral rights.
- (i) The Contractor must indemnify the Principal against any claims against, costs, losses or damages suffered or incurred by, the Principal, arising out of, or in any way in connection with, any actual or alleged infringement of any IP Rights in or associated with the Goods, the Services and the Deliverables.

**20. Defects:**

- (a) Notwithstanding acceptance of the Goods and/or Services by the Principal in accordance with the Contract, the Contractor must remedy at its cost any defects notified by the Principal to the Contractor at any time within the Warranty Period.
- (b) The Contractor will be responsible for any costs of removing the Goods and supplying repaired or replacement Goods and/or Services to the Principal together with any associated or incidental costs. If the Contractor does not remedy the defect, the Principal may remedy the defect and the costs incurred by the Principal in remedying the defect will be a debt due from the Contractor to the Principal.

**21. Termination:**

- (a) The Principal may at any time, for any reason, terminate the Contract by notice to the Contractor, effective from the date stated in the notice or, if no date is stated, at the time the notice is given to the Contractor.
- (b) If the Principal terminates the Contract under this clause, the Principal must reimburse the Contractor for the cost of Goods delivered and/or Services performed to the date of termination plus the direct costs reasonably incurred by the Contractor as a result of the termination. Such payment will be a limitation upon the Principal's liability to the Contractor in connection with the termination of the Contract.

**22. Insurance:** The Contractor must:

- (a) procure and maintain:
  - (i) workers' compensation insurance required by law;

- (ii) if the Services involve any professional services, professional indemnity insurance for an amount of \$10 million per claim and in the annual aggregate;
- (iii) products liability insurance for an amount of \$20 million per occurrence and in the annual aggregate;
- (iv) public liability insurance for an amount of \$20 million per occurrence;
- (v) motor vehicle insurance for an amount of \$20 million in respect of property damage and third-party bodily injury (other than as provided for by any compulsory statutory insurance scheme or accident compensation scheme); and
- (vi) any other insurance requirements set out in the Purchase Order;
- (b) use reasonable endeavours to ensure that the insurances required under this clause extend the benefit of cover to the Principal and TAHE as insureds in respect of their vicarious liability for the acts or omissions of the Contractor or its subcontractors; and
- (c) provide evidence of insurance (which may be by way of a certificate of currency) on request by the Principal.

**23. Modern Slavery:**

- (a) **(Compliance)** The Contractor warrants that as at the date of the Contract, neither the Contractor, any entity that it owns or controls or, to the best of its knowledge, any subcontractor, has been convicted of a Modern Slavery Offence.
- (b) **(Information)** The Contractor must:
  - (i) within 7 days of providing a modern slavery statement to the Commonwealth (if required or volunteered under the *Modern Slavery Act 2018* (Cth)) provide a copy of that modern slavery statement to the Principal; and
  - (ii) notify the Principal in writing as soon as it becomes aware of a material change to any of the information it has provided to the Principal in relation to Modern Slavery or any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or those of any entity that it owns or controls).
- (c) **(Due diligence)** The Contractor must take reasonable steps to ensure that:
  - (i) Modern Slavery is not occurring in the operations and supply chains of the Supplier and any entity that it owns or controls; and
  - (ii) it does not use, nor procure, any goods, plant, equipment or other materials and work or services that are the product of Modern Slavery.

**24. Security of critical infrastructure**

- (a) The Contractor:
  - (i) acknowledges the Principal has obligations under the SOCI Act; and
  - (ii) must:
    - A. retain and provide to the Principal such records and reports as may be required; and
    - B. comply with the Principal's directions, for the purposes of compliance with the SOCI Act.
- (b) The Contractor must notify the Principal if it becomes aware of any grounds to believe or suspect that a SOCI Cyber Security Incident has occurred or is occurring. The notification must occur within 4 hours of the incident.
- (c) The Contractor's written report must include the following:
  - (i) All information as prescribed by the SOCI Act;
  - (ii) the nature and details of the SOCI Cyber Security Incident;
  - (iii) the kinds of information and assets affected (or suspect to be affected) by the SOCI Cyber Security Incident;
  - (iv) the impact of the SOCI Cyber Security Incident on the availability, integrity, reliability or confidentiality of an asset; and
  - (v) any actions that have been undertaken and/or are recommended to be taken by the Principal, the Contractor and/or persons who are or may be affected by the SOCI Cyber Security Incident.
- (d) The Contractor must continue to provide to the Principal all information and assistance requested by the Principal relating to the SOCI Cyber Security Incident.
- (e) Notwithstanding any other provision, the Contractor will have no claim against the Principal arising out of or in

- connection with the Contractor's compliance with this clause.
- 25. Set off:** The Principal may, withhold, set off or deduct from amounts otherwise payable to the Contractor:
- any debt or other moneys due from the Contractor to the Principal (including pursuant to section 26C of the SOP Act); and
  - any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to division 2A of Part 3 of the SOP Act.
- 26. Indemnity:**
- The Contractor will indemnify the Principal against:
    - any loss of or damage to property of the Principal; and
    - any liability to or claims by a third party in respect of loss of or damage to property or injury to or death of persons, caused by, or arising out of, or in any way in connection with the Goods and/or Services, provided that the Contractor's responsibility to indemnify the Principal will be reduced to the extent that any negligent or wilful act or omission of the Principal contributed to the loss, damage, injury or death.
- 27. Notices:** Any notice or communication under the Contract will be effective if it is in writing and delivered to the intended recipient at the address or email address set out in the Purchase Order or such other address or email address notified from time to time. A notice sent by email will be taken to have been received at the local time (in the place of receipt of that email) that would be determined if section 13A of the *Electronic Transactions Act 2000* (NSW) were to apply.
- 28. Assignment:** The Contractor must not assign any of its rights under the Contract without the prior written consent of the Principal.
- 29. Subcontracting:** The Contractor:
- may not subcontract any work without the prior written consent of the Principal;
  - will be vicariously liable for the acts and omissions of its subcontractors; and
  - must take reasonable steps to ensure that all approved subcontracts contain Modern Slavery provisions consistent with the provisions in the Contract.
- 30. Confidentiality:** The Contractor shall not disclose any Confidential Information of the Principal to any third party without the prior written consent of the Principal. The Contractor will not be in breach of this clause in circumstances where it is required by law to disclose any Confidential Information.
- 31. Privacy**
- The Contractor must, when it collects, receives, uses, discloses, transfers or otherwise handles Personal Information in the course of performing its obligations under the Contract, comply with the Privacy Laws.
  - The Contractor must not do anything or omit to do anything with the Personal Information that will cause the Principal to breach its obligations under the Privacy Laws.
  - The Contractor must co-operate with any reasonable requests or directions of the Principal concerning the collection, security, use and disclosure of Personal Information covered by the Contract, or the rights of individuals to access and correct such Personal Information, except to the extent that compliance with the direction would cause the Contractor to breach a Privacy Law.
  - On termination or expiry of the Contract, the Contractor must destroy or otherwise deal with any Personal Information collected by or provided to the Contractor in accordance with the reasonable directions of the Principal.
- 32. Performance Reporting & Disclosure of Contract Information**
- Government disclosure:** The Contractor authorises the Principal to make any information concerning the Contractor and the Contract (including any information provided by the Contractor to the Principal and any information relating to the Contractor's performance under the Contract) available to NSW government departments, agencies, authorities and state-owned corporations and, in the case of TAHE, its board and shareholding ministers. Such information may be used by those departments, agencies, authorities, state-owned corporations, board and shareholding ministers in considering whether to offer the Contractor future work opportunities.
  - Disclosure of Contract Information:** The Principal may disclose the Contract (and information concerning the terms of this Agreement) under or in accordance with any one or more of the following:
    - the *Government Information (Public Access) Act 2009* (NSW);
    - the *Ombudsman Act 1974* (NSW); and
    - to satisfy the disclosure requirements of the NSW Auditor General or Parliamentary accountability.
- 33. Publicity:** The Contractor must not publish, publicise or make a public statement relating to the Contract or use the Principal's name as a reference, without the Principal's prior written consent.
- 34. Conflict of interest:** The Contractor warrants that, as at the date of the Contract, no conflict of interest exists or is likely to arise in the performance of its obligations under the Contract by itself or by any of its officers, employees, agents or subcontractors. The Contractor must notify the Principal in writing promptly if such a conflict of interest arises, or appears likely to arise.
- 35. TAHE's interest:** The rights and benefits of the Principal provided for under the Contract are intended to be for, and are held by the Principal for, the benefit of the Principal in its own right and also for the benefit of TAHE as the owner of NSW rail assets, and NSW Trains as the operator of rail services in NSW outside the metropolitan area.
- 36. Governing law:** The laws of New South Wales apply to the Contract.
- 37. Entire Agreement:** The Contract represents the entire agreement between the parties in relation to the Goods and/or Services and supersedes prior discussions, representations, communications, agreements, statements and understandings.
- 38. Definitions:** In the Contract:
- AMB** means the unit within Transport for NSW which sets, controls, maintains, owns and publishes the network and asset standards.
- Business Day** means a day other than a Saturday, Sunday or public holiday in New South Wales or 27, 28, 29, 30 or 31 December.
- Confidential Information** means any information provided by the Principal to the Contractor or which comes into the possession of the Contractor in connection with the Goods and/or Services which the Principal has identified as confidential or the Contractor ought reasonably to know is confidential.
- Contract Price** means the contract price specified in the Purchase Order and includes the cost of any packaging, marking, handling, freight and delivery, insurance and any other applicable costs and charges, and costs of compliance with all other statutory, award or other legal or contractual requirements.
- Contractor** means the Contractor specified in the Purchase Order.
- Deliverables** means the Materials produced, created or developed for the Principal by or on behalf of the Contractor (if any) under the Contract.
- Delivery Address** means the location or locations for the delivery of the Goods, as specified in the Purchase Order.
- Delivery Date** means the date or dates for provision of the Goods or completion of the Services, as specified in the Purchase Order, as extended under the Contract.
- Delivery Instructions** means the delivery instructions set out in the Purchase Order (if any).
- Delivery Note** means a written record containing:
- the Contractor's name and business address;
  - description and quantity of delivered Goods;
  - name and contact details of the Ordering Officer; and
  - the Purchase Order Number.
- Existing Materials** means any Materials in which IP Rights subsist (which, in the case of the Contractor, may be incorporated into the Goods, Service and/or Deliverables or to



which the Principal otherwise requires a licence in order to enjoy the benefit of the Contract) which:

- (a) belong to a party and are pre-existing on the day the Purchase Order is issued; or
- (b) are brought into existence, by or on behalf of a party, other than in connection with the Contract

**Good Industry Practice** means practices which optimise safety, efficiency, durability and performance, and minimise environmental impacts, consistent with recognised standards, methods, and laws, as would be used by skilled and experienced contractors for works or services similar to the Goods and/or Services (as applicable).

**Goods** means the goods specified in the Purchase Order (if any).

**GST** has the meaning given in the GST Act.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**IP Rights** means any patent, registered design, trade mark or name, copyright or other protected intellectual property right.

**Invoice Address** means the invoice address listed on the Purchase Order.

**Materials** means all property, materials, documents, information and items in whatever form, and includes equipment, hardware, computer software (including development tools and object libraries), concepts, approaches, tools, methodologies, processes, know-how, data, documentation, manuals and anything else which is the subject matter of IP Rights.

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

**Modern Slavery Laws** means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW) and any other applicable law addressing the same, similar or related subject matter from time to time.

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

**New Materials** means Materials in which IP Rights subsist that are created or which arise in the course of performing the Contract, including the Goods, Services and Deliverables.

**NSW Trains** means the corporation by that name constituted by Part 3C of the *Transport Administration Act 1988* (NSW).

**OTSI** means the office by the name of the Office of Transport Safety Investigations constituted by Part 5A of the *Transport Administration Act 1988* (NSW).

**Ordering Officer** means the Principal's ordering officer named on the Purchase Order.

**Personal Information** has the meaning given to that term in the *Privacy Act 1988* (Cth).

**Principal** means the customer who has issued the Purchase Order.

**Privacy Laws** means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), and any legislation, rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of personal data, as amended from time to time.

**Proposal** means the proposal or submission in response to a request for tender or quotation submitted by the Contractor to the Principal for the supply of the Goods and/or Services, including any subsequent amendments of the Proposal accepted by the Principal.

**Purchase Order** means the purchase order which refers to these terms and conditions.

**Purchase Order Number** means the order number specified on the Purchase Order.

**RCTI** means recipient created tax invoice.

**Rail Corridor** means the area containing the rail tracks, rail junctions, level crossings, station buildings, platforms, signal boxes, tunnels, bridges and other associated structures. This area is defined by railway boundary fencing and in the absence of such fencing, is defined by a physical boundary (i.e. tunnel, building or retaining walls) or everywhere within 15 metres of the outermost rails.

**Services** means the services specified in the Purchase Order (if any).

**Site** means any land made available by the Principal to the Contractor supply the Goods and/or Services (if any).

**Specifications** means the specifications for the Goods and/or Services set out in the Contract and the Contractor's or the manufacturer's published specifications.

**SOP Act** means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

**SOCI Act** means the *Security of Critical Infrastructure Act 2018* (Cth) and any rules or regulations enacted in connection with that Act.

**SOCI Cyber Security Incident** has the meaning given in section 12M of the SOCI Act.

**Subcontractor's Statement** means a statement in the form attached at: <https://www.revenue.nsw.gov.au/help-centre/resources-library/forms/payroll/opt011.pdf>.

**Supporting Statement** means a statement in the form attached at:

[https://www.fairtrading.nsw.gov.au/\\_data/assets/pdf\\_file/00/06/984993/Supporting-Statement\\_Constructions\\_Contract\\_Updated-V6.pdf](https://www.fairtrading.nsw.gov.au/_data/assets/pdf_file/00/06/984993/Supporting-Statement_Constructions_Contract_Updated-V6.pdf).

**Sydney Metro** means the corporation by that name constituted by Part 3D of the *Transport Administration Act 1988* (NSW).

**Sydney Trains** means the corporation by that name constituted under Part 3B of the *Transport Administration Act 1988* (NSW).

**TAHE** means the corporation by the name Transport Asset Holding Entity of New South Wales ABN 59 325 778 353, constituted by Part 2 of the *Transport Administration Act 1988* (NSW).

**Transport for NSW** and **TfNSW** means the corporation by that name constituted by Part 1A of the *Transport Administration Act 1988* (NSW).

**Warranty Period** means a period:

- (a) lasting 24 months, the period of the Contractor's or manufacturer's standard warranty applicable to the Goods or such longer period set out in the Contract (whichever is longest);
- (b) starting on the later of the Delivery Date, acceptance of the Goods by the Principal or first use of the Goods by the Principal; and
- (c) for Goods and/or Services that are repaired or replaced during this period, continuing for the remainder of the original warranty period for those Goods and/or Services or 12 months from the date on which those Goods were last repaired or replaced (whichever is longest).

**WHS Legislation** means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulations 2017* (NSW).

**WHS Management Plan** means the work health and safety plan to be prepared by the Contractor under clause 11(f), which must:

- (a) describe the procedures the Contractor will implement to manage its compliance with all obligations under this Contract from a work health and safety perspective;
- (b) describe how the Contractor proposes to ensure the Contractor's Services are performed consistently with WHS Legislation; and
- (c) comply with the specific requirements of Part 6.4 of the *Work Health and Safety Regulation 2017* (NSW) in relation to the matters that a WHS management plan must include.