

Any Mater purchase order raised for Service Maintenance will be under these requirements and Terms and Conditions.

Operational Requirements

1. Insurance

The Supplier must maintain the following insurances:

- (a) Worker's Compensation Coverage in accordance with relevant legislation.
- (b) Public and Product Liability with at least \$20M coverage per occurrence.
- (c) Professional Indemnity Coverage with at least \$20M coverage per occurrence.
- (d) Cybersecurity Insurance, that is reasonably commercially available, if applicable.

2. Mater site access

Should any part of the supply of Goods/Services require the Supplier to attend a Mater site to perform maintenance, service, or installation, then the Supplier will be required to enter into a yearly subscription for access, to Mater's nominated Service Agreement or Compliance System at their own cost.

Mater's Service Agreement or Compliance System is [Smartek Workforce Management](#) with an estimated costs of \$400 (excluding GST) per annum, or any other nominated Service Agreement or Compliance System as nominated in writing by Mater.

Unless agreed by Mater in writing.

3. Purchase Orders

- (a) Mater may place purchase orders with the Supplier for services as listed in the eRFQ.
- (b) Each purchase order forms a separate contract between the Supplier and Mater on the same terms as this Agreement;
- (c) Mater may amend or vary each purchase order made under this Agreement at their discretion by emailing the Supplier specified in this Agreement without any penalty or consequence; and
- (d) the parties may through mutual agreement in writing agree to vary this Agreement to add, omit, decrease, increase or otherwise amend

4. Transition in and out

4.1 Transition-in Plan

The Supplier must provide a detailed transition-in plan which demonstrates their capacity to commence operation upon commencement of the Service Agreement. This plan must identify the tasks and timeframes necessary for the implementation of the Agreement.

Items to be included in the transition plan:

- (a) objectives
- (b) milestones, actions, timeframes, and responsibilities
- (c) resources and support provided
- (d) key risks, mitigations, and responsibilities.

The plan must also cover areas including the training of nominated employees in terms of online systems, provision of advertising, and other communication strategies to develop an awareness of the new Service Agreement and establishment of control, reporting, and accounting systems required under the Service Agreement.

The Supplier will be required to work with the previous incumbent supplier, to support and facilitate a smooth transition.

4.2 Implementation

The Supplier is required to provide a detailed implementation plan and provide estimated timeframes for a full implementation of the Service Agreement and how each awarded site will be managed to ensure compliance with the schedule.

Documented reports are to be provided on a regular basis throughout the process in terms of the progress of implementation and rollout of the Service Agreement.

The Implementation plan is to detail the logistics and supply chain timelines necessary to undertake the requirements of the Service Agreement.

During implementation, the Supplier will appoint a designated Account Manager to facilitate implementation.

Expectations and milestone dates are to be agreed by both parties.

4.3 Transition out

Upon request, the Supplier will provide a detailed transition-out plan to ensure that Mater's Comprehensive and/or Preventative Maintenance Schedule/s continues as detailed in the Service Agreement. This plan must identify the tasks and timeframes necessary for the transition out.

Expectations and milestone dates are to be agreed by both parties.

Supplier to arrange for transfer of digital assets, data and meta data and any other items required to be transferred to Mater.

The Supplier will be required to support the new incumbent supplier for a period of no less than 30 days, to support and facilitate a smooth transition.

5. Key Performance Indicators

The Supplier will be monitored against the following key performance indicators (KPIs)

KPI Name	Measure	Target
Service Time Tolerance	Monthly Report	90%
Uptime/Downtime/Repair Response	Monthly Report	90%
Detailed Service Reports	Service Report per Asset provided by the first Tuesday of each new month for the previous month.	90%

	The report must include Mater excel spreadsheet that will detail the assets serviced for that month and the service report per asset.	
Critical Defects Reported same day	Same day reported to Site Contact.	90%

6. Quality Assurance

From the commencement date of the Service Agreement and throughout the term of the Service Agreement, the Supplier must maintain the certified quality assurance system in compliance with the current AS/NZS/ISO 9001, or an equivalent standard.

The supplier is to include a copy of certification with their proposal, in response to this tender.

7. Standards

The services, and equipment and assets must comply with all recognised applicable Australian Standards, Laws, regulations, and relevant industry standards.

It is the responsibility of the Supplier to ensure that any future amendments to Australian Standards, Laws, regulations and/or relevant industry standards are adhered to over the term of the Service Agreement.

The Supplier will comply with all relevant Australian standard, including but not limiting to:

Applicable Standards

Number	Name
AS/NZS 3820 or AS 61010,	Goods that are equipment but not Medical Equipment, will comply with the current AS/NZS 3820 or AS 61010, as applicable.
AS 3112.	All Goods that connect to mains power by means of a plug, will comply with AS 3112.
ISO14001:2016	Environmental management systems Requirements with guidance for use

8. Compliance with Legislation

Without in any way limiting the Supplier's obligations under the Service Agreement to comply with all relevant Laws, the Supplier acknowledges and agrees that in supplying the Goods and/or performing the Services it must always comply with the requirements of the:

- (a) *Labour Hire Licensing Act 2017(Qld);*
- (b) *Heavy Vehicle National Law Act 2018 (Qld) and Heavy Vehicle National Law Regulation 2014 (Qld);*
- (c) *Privacy Act1988(Cth;) and*
- (d) *Modern Slavery 2018 (Cth).*

9. Supplier Code of Conduct

The Supplier must, during the term of the Service Agreement, comply with Mater's Supplier Code of Conduct, as amended from time to time. Please refer to the [Supplier Code of Conduct](#).

10. Continuity of Service

The Supplier is to liaise with Mater to ensure continuity of supply and to assess the impact of future supply disruptions and the supplier will take corrective action to avoid or minimise the effect of forecast and unexpected delays and shortages.

11. Training

The Supplier will be required to provide any necessary training to Mater employees at no additional cost to Mater.

12. Account Management

The Supplier must notify Mater within 10 business days if there is a change in the Supplier's Account Management team.

It is a requirement that the Account Management team have more than two employees. The Supplier must establish primary and secondary points of contact to manage the Service Agreement and provide resolution of all matters of warranty, delivery, issues, and disputes.

The Suppliers Account Management Team will have a strong client focus and communicate regularly with Mater throughout the term of the Service Agreement. Key Personnel will ensure the services are provided in a timely, efficient, and professional manner.

The Account Managers will be responsible for attending and/or facilitating all negotiations, liaising with Mater, provide reports, attending management meetings and must work with Mater and its stakeholders to ensure a smooth and successful implementation and management of the Service Agreement.

13. Specifications

1. SITE REQUIREMENTS

- (a) Site Safety:
 - (i) Suppliers must complete a Mater Site Safety Induction. This course must be completed by each employee online prior to commencing any work on site.
 - (ii) All Suppliers and/or their employees who are working at Mater sites MUST produce Supplier Compliance System ID Badge to scan in before commencing works. Any Suppliers employee who unable to produce a Mater's Supplier Compliance System ID Badge will be refused access to Mater sites. In this event, Mater will not be responsible for any costs borne by the Supplier.
- (b) Suppliers "Sign In" And "Sign Out":
 - (i) All Suppliers and maintenance/Suppliers must "scan in/out" through one of the scanning locations when conducting works at any Mater sites. Some departments also require Suppliers to sign at the individual department after scanning in. For remote sites, the reception Personnel will contact one of Mater Security Personnel and Suppliers will be manually signed in.
 - (ii) Upon scanning in, Suppliers will be issued any required access cards or keys which MUST be returned on the completion of work each day.

Main Security SEQ	Private Security SEQ	Redlands SEQ	Springfield SEQ
SB016 Duncombe Building Ground Floor Security Office	SB030 Mater Private Hospital Brisbane Level 4 Security Office	RB002 Mater Private Hospital Redland Report to the Main Reception ground floor, then Contact Manager Support Services	MS001 Mater Private Hospital Springfield Security Office - next to Dock Office
Mater Hospital Mackay	Mater Hospital Rockhampton	Mater Hospital Bundaberg	Mater Hospital Townsville
MO3 Maintenance Building Engineering Services After Hours Report to the After-Hours Nurse Manager.	RO2 Engineering Services Spencer Street After Hours Report to the After-Hours Nurse Manager	BBG Mater Hospital Bundaberg Main Reception After Hours Report to the After-Hours Nurse Manager	B11 Central Energy Building Maintenance Office After Hours Report to the After-Hours Nurse Manager
Mater Food Services Rockhampton	Mater Linen Services Rockhampton		
CR1 Mater Food Services Building Campbell Street.	LR1 Mater Linen Services Building Alma Street		

- (c) Electrical Equipment: All Suppliers must ensure that all electrical equipment brought to site has a current electrical test and tag compliance sticker
- (d) Parking: All Suppliers conducting works at Mater will be required to obtain parking. Parking is available in the general car park where parking rates apply. There are no free or reduced rates of parking on site. Parking costs are non-refundable and will be borne by the Supplier.
- (e) Licence Requirements: The Supplier will ensure that it and all Personnel/sub-Suppliers are appropriately licenced as required by Law, and carry current licences for the Services being undertaken, and all are in possession of necessary permits (such as Construction Safety Induction "Blue Cards/White Cards") and must ensure compliance for all Services performed on Mater's campuses with relevant sections of the *Workplace Health and Safety Act 2011*, the Electrical Safety Act, and relevant building codes including subsequent amendments and updates to such acts and codes. The Supplier must be able to produce upon request copies of current appropriate licences.
- (f) Uniforms/ Identification: The Supplier is to provide at its own expense for its own Personnel members, a uniform bearing its company logo. Personnel are required to wear the uniform at all times while on Mater sites. Appropriate closed in footwear is required to be worn while on site. Thongs, sandals or similar will not be accepted and Personnel will be requested to leave the site.
- (g) All Personnel of the successful supplier will be required to wear the Supplier Compliance System ID Badge at all times whilst on premises and to present it on demand being made.

2. STANDARD WORKING HOURS AND OUTSIDE HOURS WORK

- 2.1 Standard working hours on Mater sites will be 0700 to 1700 Monday to Friday. The Supplier will allow for Services to be provided at a time outside normal working hour including public holidays if required. This in particular applies to the emergency and "fault" call services and will be charged at the applicable outside hours rates.

3. SUPPLIER'S ON CALL FACILITATION

- 3.1 The Supplier will provide an efficient and prompt response to breakdown, emergency call-out or complaint for the timely attendance of installation/equipment failure and/or unsatisfactory services.
- 3.2 Upon receipt of a fault call, the Supplier will arrive at the site of incident, check the installation and repair to resume the installation into normal working order in a speedy manner. Or, if the installation is beyond emergency repair, the Supplier is required to make safe the installation and install a suitable notice indicating "Out of Service" at a prominent position and inform Mater Site Facility Officer.

3.3 The Supplier will provide a on call services to meet performance requirements:

- (a) Monday – Friday 7.00 to 17.00 – phone and email support
- (b) After hours and public holidays, call for request maintenance services 24/7
- (c) By confirming call out through an electronic response, the receipt of the logged call or email and provide details of planned course of action and timeline for the resolution of the fault/emergency request received from Mater
- (d) To monitor the progress of the fault/emergency call attendance and to report to Mater on any unattended appointment (including missed appointment and inaccessibility to the premises) and the subsequent remedial measure no later than 30 minutes of the originally scheduled appointment time.
- (e) To report the completion of any fault/emergency call attendance within one (1) business day.

4. INFORMATION TO BE SUBMITTED TO MATER

4.1 In all cases of overhaul, repair, modification, addition and/or improvement work, the Supplier will obtain the approval from Mater and notify Mater of the date of commencement and tentative completion of the Works prior to the execution of the Works.

5. COMPREHENSIVE/PREVENATIVE MAINTENANCE

- 5.1 The supplier will provide Comprehensive and or Preventative Maintenance Schedule/s which comply with legislative, regulatory and Mater requirements.
- 5.2 The Comprehensive and or Preventative Maintenance Schedule/s will be agreed between the parties. Any deviation outside the allowed maintenance window from the agreed maintenance schedule is to be brought to the attention of Mater immediately to allow remedial action as determined by risk assessment to be agreed and to allow update of database records.
- 5.3 The agreed Comprehensive and or Preventative Maintenance Schedule/s will not be changed without express written approval of Mater unless the change is to comply with legislative or regulatory requirements.
- 5.4 This Comprehensive and or Preventative Maintenance Schedule/s must take into consideration minimising the need for call outs by inspecting the systems during routine service visits with the view to conducting most work during normal business hours and reducing out of hours call out and work.
- 5.5 The Comprehensive and or Preventative Maintenance Schedule/s must be reviewed annually and tailored to equipment type, age and patterns of use, rather than simply follow a generic maintenance plan.
- 5.6 All annual service items as required by Australian Standard will be conducted during the first round of scheduled maintenance service annually unless otherwise specifically negotiated elsewhere in this agreement.
- 5.7 The Supplier will dispatch competent, qualified, capable, licenced and/ or appropriately trained technicians according to the Comprehensive and or Preventative Maintenance Schedule/s .
- 5.8 All Comprehensive and or Preventative Maintenance Schedule/s works should be well planned, organised and coordinated, and all parts and consumables must be available to complete the works in an efficient and timely manner so as to minimize the impact on patients, Personnel and tenants of Mater.
- 5.9 The Supplier will ensure that where assets/fittings are linked to a central computerised system, that these assets/fittings are commissioned /attached to said system.

- 5.10 All parts and/or consumables used in scheduled Comprehensive and or Preventative Maintenance Schedule/s servicing provision are included in the costs proposal.
- 5.11 If equipment fails in between scheduled testing service, then Mater may replace or repair some items utilising either the Supplier, or our own Mater technicians or any alternative Supplier
- 5.12 Unless otherwise provided for in this Agreement, for tenanted areas (non-Mater business units), the Supplier must ensure that any Service are only carried out with the written approval of the Tenant. This will be is a separate commercial arrangement between the Supplier and the Tenant, and Mater will not be involved or responsible for co-ordination of works or for costs incurred on behalf of Tenants. The invoicing for these Tenant works is to be sent directly to the Tenant, not to Mater.

6. PROVISION OF ON-CALL MAINTENANCE, EMERGENCY REPAIR SERVICES AND AFTER-HOURS CALL-OUTS

- 6.1 The Supplier will maintain Emergency Service Team(s) consisting of technically qualified, skilled and experienced technicians that are competent, qualified, capable and licenced for prompt attendance of fault calls and to provide the On-call Maintenance and Emergency Repair Services (hereafter referred to as emergency services) 24 hours a day, seven (7) days a week throughout the year including Sundays and Public Holidays.
- 6.2 The Emergency Services Team will provide on-call maintenance and emergency repair services in accordance with the Key Performance Indicators specified in of the Agreement.
- 6.3 For all major incidents that Mater considers necessary, the Supplier will be required to submit major incident reports within 48 hours.
- 6.4 All breakdown responses are to be reported same day as close to real time as possible. Should routine maintenance result in a recommendation to conduct additional works those recommendations are to be proactively brought to the attention of Mater

7. PROCESS FOR ON-SITE ON-CALL AND EMERGENCY REQUEST MANAGEMENT

- 7.1 For On-Call and Emergency Request Management works NOT covered by the regular Comprehensive and or Preventative Maintenance Schedule/s, the process will be as follows:
- (a) All service requests will be made by Mater Personnel to the appropriate Mater delegate or after-hours on call manager.
 - (b) The request for service will be logged by Mater
 - (c) A Work order number will be issued to the Supplier by Mater.
 - (d) The Supplier will perform all tasks according to Australian Standards and comply to all Laws
 - (e) For **non-urgent works**, the Supplier should receive a Mater Purchase Order (PO), or a Mater Work Order (WO).
 - (f) For **urgent** call outs or after hours, a phone call can be satisfactory to attend site. The caller should be able to provide a Mater WO number, and the Supplier must request the WO number, if not provided and reference it in all correspondence.
 - (g) If the caller from Mater cannot provide a WO because the task is urgent or after hours, then the Supplier must still attend site. However, the Supplier will ask the caller's name, position title, phone number and collect any other details available. The Supplier will then email the Site Facility Officer the next business day with all the call out details and ask for Mater PO or WO to be raised and provided
 - (h) For non-Comprehensive and or Preventative Maintenance Schedule/s works, the cost of replacement parts, or labour required to utilise or install said parts is not included, therefore all parts and labour supplied and used by the Supplier, which are not supplied by Mater, must be itemised on quotes and invoices.

8. SHUT DOWN OF EQUIPMENT

- 8.1 Shut down of equipment at the premises or site concerned during execution of works will be kept to a minimum. The Supplier will be responsible for giving advance verbal and written notice to Mater or delegate on any shut down indicating the scheduled shut down period and the resumption of the system. The Supplier will dispatch sufficient technical Personnel to diligently execute the works within a reasonable period of time.
- 8.2 If a shut-down is deemed necessary, the following guideline must be observed:
- (a) Shut down of any equipment must be strictly on need basis and resumed as soon as possible.
 - (b) Avoid shut down of all equipment within the same bank of equipment at the same time.
 - (c) Notification of pending shutdowns must provide a minimum of 3 business days before the shut down and should be sent to Mater Site Facilitator.

9. PARTS AVAILABILITY

To minimise downtime and inconvenience to operations and Personnel, the Supplier will keep adequate stocks of spare parts, equipment and other components which are necessary to maintain the safe and satisfactory working condition of equipment.

- 9.1 Mater will advise the Supplier where Mater intends to expand/change Mater's UPS assets on a building-by-building basis for replacement of assets/fittings.
- 9.2 A permanent replacement of the equipment, parts and/or components will be compliant with the manufacturer's warranty and instructions from the manufacture on what equipment/ parts and components to use.
- 9.3 The choice made by the Supplier as to which form of transport to use for transportation of parts must not impact on service delivery timeframes.
- 9.4 The Supplier will return to Mater any Mater materials issued to the Supplier. Such materials remain the property of Mater. The Supplier will keep Materials in good condition and order and will replace any such material which is damaged whilst in its possession. The Supplier will keep such materials in its possession and only use them in conjunction with provision of the maintenance services.

10. EQUIPMENT BEYOND ECONOMIC REPAIR, OBSOLESCENCE AND COMPLIANCE REPORTING

- 10.1 For any assets considered beyond economic repair by the Supplier, the Supplier will submit a report certifying the equipment is beyond economic repair and the report will include full description of extent of damage, cost for repair and the estimated remaining life of implementing repair.
- 10.2 Mater may request the Supplier to repair or replace equipment should the need arise. Formal approval for the repair and/or replacement of any equipment can only be given by issuance of a Purchase Order from Mater.
- 10.3 The Supplier will notify Mater of any work that is required to be undertaken. Critical and 'non-critical' defects are to be reported as required to Mater in writing to Mater Site Facilitator.

11. INSTALLATIONS

- 11.1 Any installation works will comprise the design implementation, supply of the whole of Materials and labour necessary for carrying out of works to the equipment installations or covered by additional Works Order (WO)/Site Instruction.
- 11.2 Preventive maintenance of the equipment installations.
- 11.3 Attending emergency and/or fault call-out service.

12. REPORTING - INSPECTIONS AND TESTING

- 12.1 Supplier activity reports must be provided to Mater on a monthly basis in Excel format or otherwise agreed upon.
- 12.2 Performance Reviews will be required with Mater with the supplier providing reports 10 days in advance of the meeting (or as otherwise agreed);
- (a) Quarterly
 - (b) Upon request
 - (c) Customer-specific reporting must be made available to individuals authorised upon request
- 12.3 The Supplier will be required to ensure that activity can be reported by Customer (facility) down to cost centre codes within facilities.
- 12.4 Service delivery on time forms a Key Performance Indicator and as such needs to be tracked within the successful Supplier's system. A outstanding / incomplete PM works report is to be provided to the customer on a monthly basis with actions on managing the outstanding works.
- 12.5 Reporting is required at both a transactional level and at a dashboard level preferably in a Business Intelligence (BI) format or Excel.
- 12.6 The Supplier and Mater must meet formally at least biannually, in person, to review and discuss:
- 12.7 Performance against the KPIs
- (a) Service reports
 - (b) Asset additions, amendments, substitution, and deletion requests
 - (c) Current or future product and service innovations
 - (d) Any corrective actions required
- 12.8 The Supplier may be required to attend other meetings as requested by Mater.
- 12.9 Mater's preference is that unless there is a regulatory requirement to do otherwise, all reporting should be supplied electronically, in the format as required by Mater:
- (a) All reporting, inspections and testing will be carried out as required by Codes and Standards. Annual testing certificates and a written summary of all testing carried out is required.
 - (b) The following details will be included in ALL Emergency Repairs and Routine Maintenance reports:
 - (i) Time of service call request
 - (ii) Time of arrival
 - (iii) Time of departure
 - (iv) Purchase or Work Order number or Service Agreement Number (To be referenced on all correspondence)
 - (v) Name/s of Technicians attending site
 - (vi) Equipment identification by Building (Building Name and Identification Number)
 - (vii) Asset number
 - (viii) Details of repairs or replacements carried out
 - (ix) Details of call out attendances and nature of fault rectified
 - (x) Detail of test and adjustment carried out
 - (xi) Any follow-on recommendations.
 - (c) Material and Labour costs are to be separated and provided as an itemised list

- (d) The Supplier will provide to Mater at any time and for any reason with access to an inspection of all records and documents kept in relation to the provision of the Services;
- (e) Should the Supplier have a WEB based recording system, access will be provided without charge or access limit to Mater. Any attendance other than routine maintenance is to be proactively reported to Mater and awareness of impact escalated as required.
- (f) Condition Assessment Scale: During the annual Comprehensive and or Preventative Maintenance Schedule/s works, the Supplier will assess Mater assets against the criteria in the Annexure 1 - Condition Assessment Scale. This audit assessment rating information will be added to reports provided to Mater by the Supplier.

13. SECURITY

- 13.1 Where keys are supplied to the Supplier via the Security Office on a day-to-day requirement, for the purpose of entering an area or department, the Supplier will be responsible for safeguarding the keys.
- 13.2 Any lost keys are to be reported to the Security Manager, the associated costs for replacement of keys and/or locks will be the sole responsibility of the Supplier. All keys are to be cut by Mater only; no key is to be cut by any other provider.
- 13.3 Proxy cards will be supplied by Mater Security Department at the time the Supplier signs in for each visit to the site. Replacement of any lost card will be charged to the Supplier at the rate of \$30.00 per card.
- 13.4 The Supplier will ensure, that at the end of the Service Agreement, all keys, proxy cards and identification badges that have been issued by Mater are returned to the Security Manager.

14. BREAKDOWN RESPONSE

- 14.1 The Supplier must ensure provision of a 2-hour response time for emergency call outs 24 hours a day, seven days a week, and including Sundays and Public Holidays as required to meet the following requirements:

- (a) Priority 1: Urgent Fault:

Attend site within 2 hours: critical care situations where there is no redundancy equipment available. Typically, an interruption to an existing service that results in a significant disruption to the delivery of patient care and or the support of patient care. Examples would include loss of building services such as power or water (including water leaks) or a software outage that prevented services being delivered. Typically, these types of faults result in a Code Yellow and are managed under Mater's Emergency Response Framework

- (b) Priority 2: Urgent Request:

Attend the site by the next working day. Typically, a request for new work that has been prompted by the identification of a safety / compliance issue.

- (c) Priority 3: Non-Urgent Fault:

Complete the repairs within 14 days: where redundancy equipment is readily available. An interruption to an existing service that results in minor or negligible disruption to the delivery of patient care and or the support of patient care. Examples would include a broken fitting, faulty light, dripping tap or a software fault that could be worked around.

- (d) Priority 4: Non-urgent Request:

All other new work requests. Complete the repairs within 30 days or as per timeframe instructions from Site Facility Officer

15. TIME TOLERANCE

For breakdown and Comprehensive and or Preventative Maintenance Schedule/s services, the following time tolerances are acceptable as detailed in the table below. Any deviation from the Comprehensive and or Comprehensive and or Preventative Maintenance Schedule/s should be immediately communicated to Mater.

Unless agreed in writing by Mater.

Service or Action interval	Time Tolerance
Annually	+/- 4 weeks
6 Monthly	+/- 3 weeks
3 Monthly (quarterly)	+/- 2 weeks
2 Monthly	+/- 10 days
Monthly	+/- 7 days
Fortnightly	+/- 3 days
Weekly	+/- 2 days
Priority 1: Urgent Fault:	Attend site within 2 hours – No Tolerance
Priority 2: Urgent Request:	+ 1 day
Priority 3: Non-Urgent Fault	+ 3 days
Priority 4: Non-urgent Request:	+ 7 days

16. NOTICE BEFORE COMMENCEMENT

- 16.1 Appropriate notice must be given before starting Comprehensive and or Preventative Maintenance Schedule/s works on Mater Sites so that stakeholders may be notified of the Suppliers pending arrival.
- 16.2 A period of a minimum of two (2) weeks' notice is required; four (4) weeks' notice is preferred when this can be provided without effecting scheduling compliance. This will be issued to the Site Facility Officer.

17. SERVICE AGREEMENT FACILITATION

- 17.1 Upon arrival to site, and before the commencement of any works or servicing the Supplier must report to the Site Facility Officer for pre-start instructions.
- 17.2 Upon completion of any works or servicing, the Supplier must report to the Site Facility Officer for feedback.
- 17.3 Any critical faults or issues or for any items that "FAIL" the service/test must be reported to the Site Facility Officer or the Site Officer prior to leaving the site.
- 17.4 Where Supplier's performance at a Mater site does not meet expectations, a discussion between the parties will take place at a time to be agreed between the parties. During the discussion the parties will negotiate in good faith to address the issues identified with the intention of improving the performance at that site.

18. EXCLUSIONS

The Supplier must nominate any exclusions in the Supplier Response Form.

19. DISCREPANCIES

- 19.1 For additional equipment found during scheduled servicing, the Supplier will seek advice from Mater as to whether the equipment are to be added to the Comprehensive and or Preventative Maintenance Schedule/s and charged at the same pro-rata rate.
- 19.2 The Supplier must not begin Comprehensive and or Preventative Maintenance Schedule/s services on additional equipment found without Mater Site Facility Officer approval.

20. ADDITIONAL REPAIRS

- 20.1 The Supplier must provide written quotes for any additional repairs and/or maintenance required found during Comprehensive and or Preventative Maintenance Schedule/s , which is not subject to the Comprehensive and or Preventative Maintenance Schedule/s and/or the Agreement for Comprehensive and or Preventative Maintenance Schedule/s Services.
- 20.2 Additional expenses must be invoiced separately and clearly itemised to identify it as additional to the Comprehensive and or Preventative Maintenance Schedule/s service cost.
- 20.3 The Supplier must not begin any additional works without Mater Site Facility Officer approval.

21. ASSET IDENTIFICATION

- 21.1 Mater will provide asset labels and an asset details spreadsheet to the Supplier;
- 21.2 The Supplier is responsible to ensure that
 - (a) Within 6 months of execution of this Agreement, the Supplier will undertake a site visit and a physical review of each asset and provide a conditional assessment report.
 - (b) that all Mater assets which are being serviced have a current Mater asset label affixed to each item of equipment. If Mater asset label is missing, then the Supplier will attach a Mater asset label as part of the Preventative Maintenance testing and will collect and keep sufficient detailed information regarding the asset to record on the Asset register.
 - (c) for any additional assets found during the site audit or preventative maintenance services, the Supplier will seek instructions from Mater Site Facility Officer if these additional items require preventative maintenance services. If approved for preventative maintenance service, then the additional assets will be serviced in accordance with the Preventative Maintenance Schedule and included in the asset register, with the costs to be included in the Invoice. The cost for the preventive maintenance is based on the conditions set out in the Preventative Maintenance Service Agreement.
 - (d) the Supplier has updated their own information database after completion of service and ensure that where an asset number is available, that it is reflected in the data.
 - (e) At the conclusion of each round of services, the updated asset spread-sheet containing required details of all assets must be submitted to Mater in the upload spread-sheet format requested.
 - (f) These details should be sent via email to Mater Site Facility Officer provided.
 - (g) Any signage and/or stickers required as part of Australian Standards should not contain the Suppliers branding and call out details. The signage and/or stickers will still comply with the Australian Standards. Old or previously applied stickers will be removed as part of first round of service.

AGREED TERMS:

1 Interpretation and Construction

1.1 In this Agreement the following definitions Apply:

Access Credential means an authentication method including a username, password, a form of cryptosystem (e.g., a network-based security layer, virtual private network, public key infrastructure or similar) or a biometric or other method;

Agreement has the meaning given in clause 2;

Approved Expenses means the expenses (if any) set out the Agreement;

Business Day means between 7.00am and 5.00pm on a weekday other than a Saturday, Sunday or recognised public holiday in Brisbane, Queensland;

Claim includes any claim, action, proceeding, demand, liability, obligation, costs, loss, damages and expenses;

Commencement Date means the date on which the Agreement is executed by the parties (and if not executed by the parties on the same day, the later of the dates of execution);

Comprehensive Maintenance (CM) means to maintain, keep, preserve and protect equipment;

Comprehensive and or Preventative Maintenance Schedule/s ('PM') means maintenance required to reduce the probability of failure or degradation of the Equipment and to maintain performance and functioning of the Equipment, in accordance with the manufacturer's specifications

Consequential Loss means loss of profit, loss of revenue, or loss of goodwill or business;

Confidential Information means all information disclosed by or on behalf of Mater or the Supplier (**Discloser**) to the other party (**Recipient**) in connection with the Agreement or created using that information, which is confidential in nature and designated as confidential or which a reasonable person receiving the information would realise is sensitive or confidential, and all information to the extent it is derived from that information. Confidential Information does not include any information which:

- (a) is or becomes public, except through breach of a confidentiality obligation;
- (b) the Recipient can demonstrate was already in its possession or was independently developed by the Recipient; or
- (c) the Recipient receives from another person on a non-confidential basis, except through breach of a confidentiality obligation;

Data means all facts, statistics or information held or owned by Mater including:

- (a) information provided to Mater by the Supplier;
- (b) clinical information and results;
- (c) patient or client questionnaires; and
- (d) information that is provided or produced in connection with the Hardware, the Software, clinical trials, Mater's processes or the Services which is, or is intended to be, stored in, processed by or retrievable from the computer systems operated by or on behalf of Mater.

Equipment means the equipment in respect of which the Supplier is to provide the Services, and unless otherwise expressly excluded, includes any Hardware and Software comprised in the equipment.

Force Majeure means pandemic, lightning, earthquake, fire, cyclone, riots, civil commotion, natural disaster, act of a public enemy, act of God (excluding storm and tempest), war (declared or undeclared), revolution, radioactive contamination, flood, a government declared public health emergency or a government declared disaster, but only if, in the case of the Supplier, the Supplier could not have prevented the effects of the event by taking those steps which a prudent, experienced and competent contractor or operator would have taken.

Facility means Mater hospital or health care facility where the Services are to be provided.

Site Facility Officer means the person nominated by Mater to oversee and supervise the performance of the Supplier's obligations at each Mater Facility.

Fee means the amount or schedule of rates payable for the performance of the Services.

GST Amount means the amount of GST payable in respect of any taxable supply under a Service Agreement, calculated at the rate of GST applicable at the time (10% as at the Commencement Date).

Hardware means physical components of equipment including accessories, parts, electronic components, cables and assemblies;

ICT System means the information communication technology infrastructure and networks including:

- (a) components and equipment which are related or connected to, or affected by, the information communication technology infrastructure and networks; and
- (b) Hardware, Software and Data used or stored in the information communication technology infrastructure and networks;

Intellectual Property Rights means any and all existing and future intellectual and industrial property rights throughout the world, whether conferred by statute, common law or equity, including Moral Rights and rights in relation to copyright, trade marks, designs, circuit layouts, plant varieties, business and domain names, trade secrets, patent rights and rights to require that know how be kept confidential (including the right to apply for registration of any such rights) and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields;

Key Performance Indicator (KPI) means any KPI or performance standard as set out in this Agreement.

Mater Inputs means Mater's Personnel, equipment, premises, documents, access and any other resources that Mater will provide or make available to the Supplier using that information, materials, data, datasets or databases.

Mater means Mater Misericordiae Limited ABN 83 096 708 922, Mater Foundation Limited as Trustee for Mater Foundation ABN 96 723 184 640, Mater Research Limited ABN 28 109 834 719 and Mater Education Limited ABN 50 148 130 349, as named in the Purchase Order.

Mater ICT System means an ICT System owned or controlled by Mater;

Malicious Code means code in any part of a software system or script that is intended to cause undesired effects, security breaches or damage to an ICT System including an attack script, virus, worm, trojan horse, or other malicious active content;

Modern Slavery has same meaning as the definition provided

in the Commonwealth Modern Slavery Act 2018.

Moral Rights has the meaning given in the Copyright Act 1968 (Cth);

Normal Working Hours means 07:00am to 17:00 pm unless otherwise specified.

Personal Information as defined in the Privacy Act 1988 (Cth).

Personnel means officers, employees, sub-contractors, volunteers, trainees, and agents.

Pre-Existing Intellectual Property Rights means any Intellectual Property Rights in any Material which existed prior to entry into the Agreement, belonging to either the Supplier or to any third party, developed independently of the Agreement and incorporated into any Material created in connection with the Agreement;

Records means all Material including but not limited to books, documents, information, computer software, equipment, and data stored by any means disclosed, or made available, by Mater to the Supplier in connection with the performance of this Agreement;

Response Time means the time from when a request for service is initiated until a service representative solves the problem or arrives to repair the Equipment or to remove the Equipment for repair;

Services means the services to be delivered by the Supplier, and includes any variations and incidental work that can reasonably be inferred as necessary to satisfy the Service Agreement;

Supplier includes its employees, agents or sub-contractors;

Supplier's Representative means the person nominated by the Supplier, to oversee and supervise the performance of the Supplier's obligations under the Service Agreement;

Site Officer means the person nominated by Mater in the Service Agreement to supervise the day to day function and performance of the Supplier's obligations under a Service Agreement;

Software means digitally stored applications and programs including firm ware, middleware, operating systems, testware, web based data and information, utilities, packages and patches that are used to operate, control or to connect with equipment;

Term has the meaning given in clause 4;

Time means the time applicable in Brisbane, Queensland;

Update means an enhancement to the functionality of the existing features or functionalities already within the Hardware or Software of the Equipment;

Upgrade means an addition to the functionality of the existing features or functions already within the Hardware or Software of the Equipment which significantly changes the overall product specification;

Uptime means the total time (represented as a percentage) the Equipment is in clinical service or undergoing scheduled Comprehensive and or Preventative Maintenance Schedule/s, an Update or an Upgrade, and excludes time the Equipment is subject to unscheduled fault investigation, fault resolution actions or unscheduled actions, by either Mater or Supplier;

Wilful Default means fraud, fraudulent concealment, dishonesty, or any illegal or malicious act or omission in relation to the Agreement by a party or its Personnel.

Wilful Misconduct means an intentional breach of either a material provision of the Agreement or of a Law in respect of the Supplier's obligations under the Agreement, committed with reckless disregard for the consequences and in circumstances where the Supplier knows or ought to know that those consequences would likely result from the breach, and which is not due to an honest mistake, oversight, error of judgement, accident or negligence.

- 1.2 Unless expressed to the contrary, in this Agreement:
- (a) words importing a gender include any other gender;
 - (b) words in the singular include the plural and vice versa;
 - (c) all dollar amounts refer to Australian currency;
 - (d) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
 - (e) a reference to an individual or person includes a corporation or other legal entity;
 - (f) a reference to "consent" means prior written consent;
 - (g) clause headings have been included for convenience of reference only and are not intended to affect the meaning or interpretation of this Agreement;
 - (h) if any expression is defined, other grammatical forms of that expression will have corresponding meanings; and
 - (i) if the Supplier comprises two or more persons, this Agreement will bind them jointly and each of them severally.

2 Structure of Agreement

2.1 This Agreement may consist of a number of documents. If there is any inconsistency between the documents which make up the Agreement, then the following will prevail in descending order of precedence:

- (a) the Agreement departures, or documents containing Agreement Changes or departures agreed between Mater and the Supplier;
- (b) the Service Agreement
- (c) this Agreement and schedules;
- (d) Annexures;
- (e) Mater Code of Conduct
- (f) the corresponding Request for Proposal and Supplier response; and
- (g) any documents incorporated by reference.

3 No Exclusivity

3.1 The Supplier acknowledges and agrees that the Agreement does not confer any exclusive rights to the Supplier to provide Services to Mater during the Term.

3.2 Nothing in this Agreement prevents or limits Mater from providing itself or acquiring from any other person any services of a similar nature to the Services.

4 Term and Extension

4.1 The Term of this Agreement will commence on the Commencement Date and, unless terminated sooner pursuant to clause 25, will continue until the expiry date listed in the agreement.

4.2 Mater may elect to extend the Term for an optional extension period, by giving the Supplier written notice.

4.3 If the Supplier continues to supply the Services to Mater after the end of the Term ("Holding Over Period"), the parties agree that the Services provided during the Holding Over Period will be on the same terms and conditions as set out in this Agreement. Either party may terminate this Agreement during the Holding Over Period by giving 20 Business Days' written notice to the other party.

5 Role of the Site Facility Officer

- 5.1 The Site Facility Officer will be the primary liaison and contact officer between Mater and the Supplier for the purpose of the Agreement and is authorised to give notices and consents on Mater's behalf.
- 5.2 The Site Facility Officer may nominate additional key Site Officer/s for the Supplier.
- 5.3 The Site Officer/s will be the responsible point of contact for the day to day operation and use of the Equipment.
- 5.4 The Supplier must:
- liaise with and report to the Site Officer/s about the performance of the Services;
 - attend meetings with, or provide briefings to, the Site Facility Officer and/or Site Officer/s as required from time to time; and
 - promptly comply with any reasonable request or direction given by the Site Facility Officer and/or Site Officer/s about the performance of the Services.
- 6 Supplier general obligations**
- 6.1 The Supplier must provide the Services specified as an independent contractor.
- 6.2 In providing the Services, the Supplier and its Personnel, must:
- inform itself of Mater's requirements in respect of the Services;
 - consult regularly with the Site Facility Officer and Site Officer/s;
 - perform Services promptly in accordance with any timeframes and in a competent manner and exercise due skill, care and diligence;
 - complete service reports and testing compliance forms, that detail the name, licence number and qualification of the Personnel who undertook the Service, at the time of every Service provided and provide copies within five (5) Business Days to the Site Facility Officer and/or any other Mater authorised representatives;
 - ensure that all Services are of a high quality, professional standard to the satisfaction of Mater;
 - supply all products and parts required for the Services in a new and unused condition and are of recent origin unless specified in the Service Agreement or otherwise agreed between the parties, with any manufacturer's or supplier's warranty that applies to the products and parts transferred to Mater at no cost to Mater;
 - promptly address any reasonable concern raised by Mater relating to the Supplier's performance of the Services and comply with the Service Agreement to the satisfaction of Mater;
 - comply with and hold and maintain all requisite licences, permits, permissions, accreditations and/or authorities required under all relevant legislation, regulations, codes of conduct, industry standards or and Mater policies and directives including, where relevant to the Services, and as amended from time to time, including but not limited to:
 - Electricity Safety Act 2002 (Qld);*
 - Radiation Safety Act 1999 (Qld);*
 - Work health and safety laws;*
 - Australian Standards including AS/NZS 3551, 3003, 3760, 3200 and 3200 part 2 standards and other relevant Laws and Australian Standards;*
- (v) Mater Supplier Code of Conduct.
- 6.3 Subject to clause 6.4, Mater may request evidence of compliance with clause 6.2(h) and the Supplier must provide such evidence as soon as practicable after being requested to do so.
- 6.4 If Mater requests documentary evidence of compliance with clause 6.2(h)(v)-(vii) that vaccination screening requirements have been met for Supplier personnel, the Supplier must immediately comply with that request.
- 6.5 If Mater reasonably suspects that the Supplier is not compliant with Mater Supplier Code of Conduct, then Mater may issue a written show cause notice to the Supplier. The Supplier must respond to the show cause notice by the date specified in the notice.
- 6.6 The Supplier must comply with all reasonable direction of Mater in relation to the Supplier's performance of the Service Agreement.
- 6.7 The Supplier will only use Mater Inputs for the purpose of performing the Service Agreement. Where the Supplier loses or damages any Mater Inputs, the Supplier will at the election of Mater promptly replace, repair or pay Mater any all reasonable cost to replace or repair Mater Inputs.
- 7 Reporting and Record Keeping**
- 7.1 The Supplier must:
- comply with its reporting and record keeping obligations as specified in any Service Agreement;
 - make those records available for inspection by Mater and provide copies of the records to Mater within three (3) Business Days of receiving a request to do so; and
 - upon request by Mater, provide additional copies or reports electronically within three (3) Business Days of Mater's request.
- 7.2 The Supplier must arrange for the Supplier's Representative to participate in service review meetings as required by Mater to:
- discuss the Supplier's performance of the Services;
 - track the Supplier's performance against any Key Performance Indicator(s); and
 - discuss such other matters related to this Agreement, or the Supplier's performance of the Services;
- at no additional cost to Mater.
- 7.3 The service review meetings are to be held during the Normal Working Hours of Mater, at a time and place specified by Mater, and Mater will use reasonable endeavours to enable the Supplier's Representative to participate by teleconference or remote access where required by the Supplier.
- 8 Performance of Services by Personnel**
- 8.1 Mater may, in its reasonable discretion, give written notice to the Supplier requesting the removal of the Supplier's personnel from Mater's Facility, including where Mater forms the reasonable view that the Supplier's personnel pose a health or safety risk to Mater's personnel, equipment, Facility or any other person or property.
- 8.2 Any such direction will not relieve the Supplier of its obligations under this Agreement, including in respect of any Key Performance Indicator(s), and the Supplier

must use its best endeavours to promptly arrange for the removal of such personnel and their replacement with personnel acceptable to Mater.

9 Fees and Reimbursable Expenses

9.1 The Supplier agrees to provide the Services to Mater at the pricing specified in the Service Agreement.

9.2 In consideration of the Supplier providing the Services in accordance with this Agreement, Mater will:

- (a) pay the Supplier the Fee specified in the Service Agreement; and
- (b) reimburse the Supplier for the Approved Expenses, after the Approved Expenses have been incurred by the Supplier.

9.3 Mater will not be liable to reimburse the Supplier for expenses other than the Approved Expenses, unless the Supplier has obtained Mater's prior written consent.

10 Price and Payment

10.1 The Fee provided by the Supplier is inclusive of all charges, freight, expenses and overheads, taxes and duties, excluding GST.

10.2 Mater will not reimburse any travel or accommodation expenses except where:

- (a) Mater requests that the Supplier travel away from the agreed Service locations;
- (b) Mater has approved the expenses in writing before the expenses are incurred; and
- (c) the Supplier provides evidence of payment of the expense which Mater has approved.

10.3 Mater will pay the Fee, subject to receipt of a correctly rendered invoice in accordance with clause 12, within 30 days from the end of the month.

10.4 In the event Mater forms the reasonable view that the Services have not been provided in accordance with the Service Agreement, Mater may, without limiting any other rights it may have:

- (a) require the Supplier to promptly provide, or provide again, any part of the Services at no additional cost to Mater;
- (b) require the Supplier to take such steps as may be reasonably necessary to ensure further Services provided by the Supplier comply with the Service Agreement;
- (c) where the Fee for the Services has not been paid in advance, defer payment for that part of the Services until such time as Mater is satisfied that the Services have been provided in accordance with the Service Agreement; and
- (d) where the Fee for the Services has been paid in advance, and the Services are unable to be remedied by the Supplier, request the Supplier refund to Mater that part of the Fee representing the apportioned cost of the Services not performed to the reasonable satisfaction of Mater.

10.5 Payment of any amount to the Supplier will not constitute an admission by Mater that the Services have been or will be properly provided in accordance with the Service Agreement.

10.6 If Mater disputes the amount of any invoice, Mater may suspend payment of that part of the invoice until the dispute is resolved. Mater must pay any non-disputed amounts.

10.7 The Supplier must continue to perform its obligations under each Service Agreement notwithstanding any dispute about an invoice, while that dispute is resolved

in accordance with this Agreement.

10.8 The Supplier may review the Fee in accordance with the any Fee change, no new Fee will be effective unless agreed in writing by Mater.

11 Performance Standards

11.1 If Mater considers any Key Performance Indicator(s) have not been met, or that the Services have not otherwise been provided to a standard required under a Service Agreement, then Mater may give notice that it will retain or require refund of part of the Fee in relation to the Services.

11.2 Within thirty (30) days of receipt of notice under clause 11.1, the Supplier must either:

- (a) accept the retention or refund suggested by Mater; or
- (b) escalate the matter of performance of the Services to dispute resolution.

11.3 If the Supplier gives no response within the time set out in clause 11.2, then it will be assumed the Supplier accepts the retention or refund suggested by Mater.

11.4 Any uncontested notice under this clause, or retention or repayment determined through dispute resolution, may be paid, at the election of Mater, by:

- (a) Mater retaining the amount from future payments under a Service Agreement; or
- (b) Mater providing an invoice to the Supplier in the amount of the refund.

11.5 For the avoidance of doubt, Mater will be entitled to a refund for any Services which are either not provided or provided below a satisfactory level as anticipated under this Service Agreement.

12 Invoicing

12.1 Mater will make payment of a correctly rendered invoice. For the purposes of this Agreement, a "correctly rendered invoice" is an invoice:

- (a) in which the amount claimed is due for payment in accordance with the relevant Service Agreement;
- (b) set out as an itemised account, which identifies the GST exclusive amount, the GST component and the GST inclusive amount and enables Mater to ascertain what the invoice covers and the amount payable;
- (c) which correctly identifies the Service Agreement, Service Agreement Number and Services provided or to be provided in accordance with the relevant Service Agreement;
- (d) provided to the Facility Officer and the Site Officer/s specified in the relevant Service Agreement;
- (e) which includes sufficient detail to allow Mater to assess progress against milestones, where relevant;
- (f) supported by records of time spent by individuals on the Services, verified by the Supplier, for work performed prior to the date of the invoice which is carried out on a time basis;
- (g) which separately itemises any Approved Expenses claimed; and
- (h) any additional information required in as specified in the agreement. .

12.2 Upon receipt of an invoice, Mater may require the Supplier to provide additional information to assist Mater to determine whether or not an amount is payable.

12.3 If an invoice is found, after Mater has paid the invoiced amount to the Supplier, not to have been correctly rendered, Mater will, as the case requires:

- (a) pay any additional amount owed to the Supplier; or
- (b) deduct any amount owed to Mater from the next invoiced payment or, recover the amount from the Supplier as a debt due to Mater.

13 GST

13.1 In this clause "adjustment event", "adjustment note", "GST", "supply", "supplier" and "tax invoice" have the same meaning as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST legislation**).

13.2 The Supplier acknowledges that in terms of the GST legislation it will, under this Agreement, be a "supplier" and may be required to pay GST to the Commissioner of Taxation.

13.3 The parties agree that the Fees for the Services under the Agreement are GST exclusive.

13.4 The Supplier will ensure that all tax invoices and adjustment notes rendered to Mater under the Agreement are in a format that identifies any GST paid, and which permits Mater to claim an input tax credit.

13.5 Subject to clause 13.6, for a supply under this Agreement subject to GST, Mater must pay to the Supplier an amount equal to the GST payable for that supply.

13.6 Where a party is required under this Agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing 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.

13.7 The Supplier must issue an adjustment note to Mater on or before seven (7) days after the occurrence of an adjustment event. Mater's request for an adjustment note will be deemed to have occurred on the date of the adjustment event. The adjustment note must identify the goods or services relevant to the adjustment event. Adjustment notes issued to Mater must comply with the requirements of the GST legislation. Where an adjustment event occurs, the amount of GST payable under clause 13.5 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

13.8 If the amount of GST recovered from Mater under this Agreement differs, for any reason, from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation, including by reason of:

- (a) an amendment to the GST legislation;
- (b) the issue of or an alteration in a ruling or advice of the Commissioner of Taxation;
- (c) a refund of GST to the Supplier in respect of any supply made under this Agreement;
- (d) a decision of any tribunal or court;

then, subject to obtaining the written approval or instruction from Mater, the difference in amounts will be paid by or to Mater as the case may be.

14 Commissions and Incentives, Conflict of Interest and anti-competitive conduct

14.1 The Supplier must not offer anything to Mater or any employee or agent of Mater, including a parent, spouse, child or associate of the employee or agent,

as an inducement, gift, or reward, which could in any way influence Mater's actions in relation to this Agreement.

14.2 The Supplier warrants that neither it, nor its -Personnel have, or will engage in any collusive, anti-competitive or similar conduct in connection with the Service Agreement.

15 Intellectual Property Rights

15.1 Existing Intellectual Property Rights

(a) Each party retains all its Intellectual Property Rights which existed at the Agreement start date, or which are developed independently of the Agreement.

(b) The Supplier grants (and must procure that relevant third parties grant) Mater an irrevocable, unconditional (subject to this clause), perpetual, royalty-free, non-exclusive, worldwide, transferable and sublicensable licence to exercise all such Intellectual Property Rights which are incorporated into any Goods and/or Services provided to Mater under the Agreement, for any purpose of Mater, as part of those Goods and/or Services and future development of those Goods and/or Services.

15.2 New Intellectual Property Rights

(a) The parties agree Mater will own the Intellectual Property Rights created or developed in performing the Agreement.

16 Disclosure of Information

16.1 Each party as Recipient must:

- (a) keep confidential all Confidential Information of the Discloser;
- (b) not use the Confidential Information except for the purposes of the Agreement;
- (c) not disclose the Confidential Information except:
 - (i) to its personnel on a need to know basis for the purpose of performing its obligations under the Agreement;
 - (ii) with the Discloser's consent;
 - (iii) to the extent required by law;
 - (iv) to its professional advisors;

16.2 Where the Recipient discloses the Confidential Information to a third party as permitted under the Agreement (other than disclosure by Mater as permitted under clause 16.1(c)(v)), the Recipient must inform the third party of the confidential nature of the Confidential Information and will be responsible for all use and disclosure of the Confidential Information by the Recipient's personnel and professional advisors.

16.3 The Supplier must not make any public announcement or advertisement relating to the Agreement except where Mater has approved the proposed public announcement or advertisement in writing.

16.4 If requested by Mater, on termination or expiry of the Agreement, the Supplier must promptly return or destroy (at Mater's option) all Records, Confidential Information and Personal Information of Mater and will confirm to Mater when this has been done.

16.5 The Supplier may retain a copy of any Confidential Information of Mater to the extent required by law, or for the Supplier's reasonable internal credit, risk, insurance, legal and professional responsibilities.

17 Privacy

17.1 This clause 17 applies if:

- (a) the Supplier will in any way deal with Personal

- Information for Mater; or
- (b) the provision of the Services under this Agreement will involve:
- (i) the transfer of Personal Information to Mater; or
 - (ii) the provision of services to a third party for Mater.
- 17.2 The Supplier acknowledges that it is a bound contracted Supplier for the purposes of the *Privacy Act 1988 (Cth)*.
- 17.3 The Supplier must:
- (a) in relation to the discharge of its obligations under this Agreement, comply with the *Privacy Act 1988*, as if the Supplier was Mater;
 - (b) ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
 - (c) not use Personal Information other than for the purpose of performing its obligations under this Agreement, unless required or authorised by law;
 - (d) not disclose Personal Information without the prior written consent of Mater, unless required or authorised by law;
 - (e) not transfer any Personal Information outside of Australia without the prior written consent of Mater;
 - (f) ensure that access to Personal Information is restricted to those of its employees and officers who require access in order to perform their duties under this Agreement;
 - (g) ensure that its officers, employees and sub-contractors comply with the same obligations imposed on the Supplier under this clause;
 - (h) fully cooperate with Mater to enable Mater to respond to applications for access to, or amendment of, a document containing a person's Personal Information and to privacy complaints;
 - (i) immediately notify Mater if the Supplier becomes aware that a disclosure of Personal Information is or may be required or authorised by law;
 - (j) comply with such other privacy and security measures as Mater reasonably advises the Supplier in writing from time to time; and
 - (k) upon request by Mater, promptly return any Personal Information to Mater upon expiry or termination of this Agreement.
- 17.4 The Supplier must immediately notify Mater upon becoming aware of any breach of this clause 17.
- 18 Data Protection, Security and Access**
- 18.1 Mater must give the Supplier and any other person authorised in writing by the Supplier reasonable access to the Equipment and to Mater premises and Facility at which the Equipment is located, to the extent such access is required for the Supplier to perform the Services.
- 18.2 The Supplier must, when using Mater's premises or Facilities:
- (a) comply with all rules, directions and procedures, including those relating to security or workplace health and safety, which are in effect at the premises or facilities;
 - (b) avoid unnecessary interference with the passage of people and vehicles; and
 - (c) not create nuisance or unreasonable noise and disturbance.
- 18.3 The Supplier must give the Site Facility Officer and any other person authorised in writing by Mater reasonable access to premises occupied by the Supplier where the Services are being undertaken and must permit them to inspect any Material related to the Services.
- 18.4 Mater may provide to the Supplier access (including remote access) to a Mater ICT System on such terms and conditions as Mater determines in its sole discretion. Such access may include provision of an Access Credential.
- 18.5 Each such grant of access may specify which function, part or other use of Mater ICT System the Supplier is authorised to use and the purpose for which the Supplier may use it in relation to performance of the Services.
- 18.6 The Supplier must comply strictly with all requirements and procedures relating to its authorised use of Mater ICT System including use and protection of Access Credentials and any other ICT System security codes and/or mechanisms, as notified to the Supplier from time to time.
- 18.7 Without limiting clause 18, the Supplier must not and must ensure that its Personnel do not:
- (a) without Mater's prior written consent, disclose to any other person (including other Personnel of the Supplier) details in relation to a Mater ICT System or Access Credential, except to the extent strictly necessary for provision of the Services by the Supplier;
 - (b) interfere with, damage, manipulate, disrupt, disable, modify, overburden, or impair a Mater ICT System, or assist any other person to do any of these things;
 - (c) load into, download to or from, transmit to or from, post to or from or otherwise make available or introduce to in respect of a Mater ICT System any Malicious Code;
 - (d) use a Mater ICT System in a way that harms or interferes with the use of the ICT System by Mater or another person;
 - (e) use of any part of a Mater ICT System as a destination linked from any unsolicited bulk messages or unsolicited commercial messages; or
 - (f) use any unauthorised third party software or service to access a Mater ICT System.
- 18.8 If Mater notifies the Supplier in writing, or if the Supplier becomes aware, that Mater ICT Systems, the Equipment or Mater's Data contains any Malicious Code or is corrupted, lost or functionally disabled in any way ("**Data Defect**"), the Supplier must immediately notify Mater, in writing:
- (a) unless the Supplier was notified of the Data Defect by Mater under clause 18, of the existence of the Data Defect;
 - (b) whether or not the Supplier can remedy the Data Defect to return the Equipment or Mater ICT Systems or Data back to the state existing prior to the Data Defect; and
 - (c) how long it will take to remedy the Data Defect.
- 18.9 If the Supplier cannot remedy the Data Defect within a timeframe acceptable to Mater, or if the Supplier fails to remedy the Data Defect within the agreed time, the Supplier will co-operate with Mater to enable Mater to remedy or procure the remedy of the Data

- Defect itself.
- 18.10 Where the Data Defect was a direct or indirect result of any act or omission of the Supplier in performing the Services, the Supplier will bear the costs and expenses of, and will indemnify Mater in respect of any Claims associated with, remedying the Data Defect, including costs of any third party which Mater reasonably considers it must retain in order to remedy the Data Defect.
- 18.11 The Supplier will notify Mater of any specific virus protection requirements for the Hardware and Software, any anti-virus protections software which has been validated for the Hardware and Software, and any specific technical strategies that may be recommended or available to Mater to minimise risk of the Hardware and Software being interfered with, damaged, manipulated, disrupted, disabled, modified, overburdened or impaired.
- 18.12 Without limiting the Supplier's obligation under clause 18, in the event the Equipment includes anti-virus protection software which is maintained by the Supplier, the Supplier must ensure the virus pattern file is updated at least annually.

19 Variation

- 19.1 The Parties may at any time by request to vary the provision of the Services in nature, scope or timing, to:
- (a) increase, decrease or omit any part of the Services;
 - (b) change the character or content of any part of the Services;
 - (c) perform additional work.
- Variations must be agreed by the parties in writing.

20 Liability

- 20.1 The Parties agree that:
- (a) neither party will be liable to the other, (whether in contract, tort including negligence or otherwise) in connection with the Agreement, for loss or damage to the extent that the other party contributed to the loss or damage;
 - (b) the party who suffers loss or damage must mitigate its loss. The other party will not be responsible for any loss, damage or expenses to the extent that the injured party could have avoided or reduced the amount of the loss, damage or expense, by taking reasonable steps to mitigate its loss;
 - (c) despite any other condition of the Agreement, the Supplier's liability under the Agreement is limited to the extent necessary to comply with a scheme that is in force and applies to the Supplier under the *Professional Standards Act 2004 (Qld)* as specified in the Agreement; and
 - (d) Subject to clause 21, the Supplier's total liability to Mater arising out of or in connection with this Agreement will not exceed \$20 Million per occurrence;

21 No limitation

- 21.1 Any exclusions and limitations of liability set out anywhere in this Agreement do not apply to:
- (a) injury, including sickness and or death;
 - (b) Loss of, or damage to, tangible property;
 - (c) any infringement of Intellectual Property Rights or Moral Rights;

- (d) Willful Default or Willful Misconduct of the Supplier or its Personnel;
- (e) any breach by the Supplier or its Personnel of any obligation under clause 16 ("Disclosure of Information") 17 ("Privacy") and or 18 ("Data Protection, Security and Access").

22 Indemnity

- 22.1 The Supplier releases, discharges and indemnifies Mater and its Personnel from and against any Loss and or Claim that may be brought against or made upon or incurred by any of them (whether in contract, tort including negligence, or otherwise) in connection with any:
- (a) Injury and death;
 - (b) failure to comply with applicable Law by the Supplier or its Personnel;
 - (c) Willful Default or Willful Misconduct;
 - (d) claim of Intellectual Property Rights or Moral Rights infringement relating to this Agreement or the Goods and/or Services;
 - (e) claim related to any Cyber Incident or Cyber Act;
 - (f) breach of any warranty given in this Agreement; or
 - (g) any Claim by a third party relating to this Agreement,

except to the extent that Mater or its Personnel caused or contributed to the Claim.

23 Insurance

- 23.1 The Supplier must at its cost, take out and maintain for the duration of this Agreement, the following insurances:
- (a) workers' compensation insurance in accordance with the *Workers' Compensation and Rehabilitation Act 2003*;
 - (b) product liability insurance as specified in, for the amount specified;
 - (c) public liability insurance as specified, for the amount specified; and
 - (d) professional indemnity insurance as specified, for the amount specified.
- 23.2 The insurances must be:
- (a) on reasonable commercial terms that are acceptable to Mater (acting reasonably);
 - (b) held with an insurer or insurers authorised and licensed to operate in Australia or otherwise with an insurer or insurers with a security rating of A- or better from AM Best (or equivalent rating organisation);
 - (c) in the name of the Supplier as policy holder or a named insured; and
 - (d) subject to a territorial limit and jurisdictional limit that includes Australia.
- 23.3 The Supplier must, on request, promptly provide to Mater evidence of insurance, or such other satisfactory evidence, Mater may reasonably require to demonstrate that the Supplier has in place the insurance policies required before commencement of performance of a Service Agreement, within five (5) Business Days of a request from Mater or when renewing or changing an insurance policy.
- 23.4 The Supplier must immediately notify Mater if any policy is cancelled or there is any significant change in any of those policies.
- 23.5 The Supplier must maintain run-off insurance for a minimum period of six (6) years after the Service Agreement ends, for all insurance policies which are

- maintained on a "claims made" basis.
- 23.6 The Supplier warrants that any endorsement, exclusions and deductibles that may be applicable to the required insurance policies, will not impact on the Supplier's ability to meet any claim or otherwise prejudice Mater's rights under the Agreement.
- 23.7 The Supplier's compliance with any insurance obligation does not limit the Supplier's liabilities or obligations under the Agreement.

24 Force Majeure

- 24.1 If any party is unable to carry out its obligations under this Agreement by reason of Force Majeure, that party must give the other party prompt written notice of the Force Majeure with reasonably full particulars concerning it.
- 24.2 If the parties cannot reach an agreement within seven (7), or such other period as the parties may agree, Mater may exercise its rights under clause 24.
- 24.3 At each requested meeting, the parties will:
- (a) use their best endeavours to agree to variations to the Agreement that are necessitated by the Force Majeure event; and
 - (b) formally document such variations in writing at the earliest possible opportunity after the meeting.

25 Termination for cause

- 25.1 Mater may immediately terminate this Agreement by notice in writing to the Supplier if:
- (a) the Supplier breaches this Agreement and the breach cannot be remedied, or the breach can be remedied but the Supplier has not remedied the breach within a reasonable period nominated by Mater in a notice;
 - (b) the Supplier fails to comply with clause 6.2(h);
 - (c) the Supplier has a conflict of interest under clause 14;
 - (d) the Supplier:
 - (i) becomes insolvent;
 - (ii) becomes subject to any form of external administration;
 - (iii) enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
 - (iv) is wound up, voluntarily or involuntarily;
 - (e) the Supplier indicates that it is unable or unwilling to comply with its obligations under this Agreement or any Service Agreements in accordance with this Agreement; or
- 25.2 The Supplier may terminate the Service Agreement immediately by written notice if Mater has failed to remedy a breach of a Service Agreement within a reasonable period nominated in the notice.
- 25.3 Termination of this Agreement will not affect any Claim or action either party may have against the other by reason of any prior breach of this Agreement and will not relieve either party of any obligation under this Agreement which is expressed to continue after termination.
- 25.4 Upon termination of this Agreement:
- (a) Mater may by written notice require the Supplier to repay the balance of the Fee representing the apportioned cost of any Services not performed by the Supplier, and the Supplier must repay to Mater the amount set out in the notice within twenty-one (21)

- Business Days of receipt of the notice; and
- (b) all money which has been paid and all money to be paid for work completed prior to the date of termination will be in full and final satisfaction of claims by the Supplier under this Agreement.

26 Termination for convenience

- 26.1 Either Party may terminate the Service Agreement in whole or in part at its absolute discretion by giving at least 30 days' written notice.
- 26.2 If Mater terminates the Service Agreement under this clause, Mater will pay the Supplier for Services performed in accordance with the Service Agreement, but not yet invoiced, substantiated to the reasonable satisfaction of Mater.
- 26.3 Where the Supplier terminates under this clause it will refund to Mater all payments for Services yet to be performed, or which have not been completed.

27 Notices

- 27.1 Any notice, request, notification, consent, or approval (a "notice") under this Agreement must be in writing and may be sent by prepaid postage or email or delivered by hand
- 27.2 A notice will be deemed to be given:
- (a) if posted – five (5) Business Days after the date of posting;
 - (b) if delivered by hand during a Business Day – on the date of delivery; or
 - (c) if emailed – on the date recorded on the device from which the party sent the email, unless the sending party receives an automated message that the email has not been delivered;
- except that a delivery by hand or email received after 17:00 pm will be deemed to be given on the next Business Day.

28 Dispute Resolution

- 28.1 Neither Party may commence court proceedings or action against the other party under or in connection with the Agreement (other than where urgent interlocutory relief is required) unless it has first attempted to resolve the dispute.
- 28.2 Either party may give the other a notice in writing ("**Dispute Notice**") setting out the details of the dispute. Within five (5) Business Days after the date on which a party gives the other party a dispute notice ("**Dispute Notice Date**"), representatives of the parties must meet and use reasonable endeavours to resolve the dispute.
- 28.3 If the dispute is not resolved under clause 27.2, senior management representatives of the parties must, within ten (10) Business Days or such other time as agreed between the parties, after the Dispute Notice Date, meet and use reasonable endeavours to resolve the dispute.
- 28.4 If the dispute is not resolved under clause 27.3, the dispute must be referred to each party's chief executive or equivalent position (or their nominee) for resolution.
- 28.5 If the dispute is not resolved under clause 27.4 within thirty (30) Business Days after the Dispute Notice Date (or such other time as agreed between the parties), the dispute must be referred to mediation according to clause 27.6.
- 28.6 Where the dispute is referred to mediation, the parties:
- (a) will conduct the mediation in Brisbane;
 - (b) will jointly appoint the mediator, or if the parties cannot agree on the mediator within five (5)

- Business Days of referral to mediation, the Chairperson of the Queensland Chapter of the Resolution Institute will determine the mediator;
- (c) may be legally represented at the mediation;
 - (d) will each bear their own costs concerning the mediation and will bear the costs of the mediation venue and the mediator equally; and
 - (e) will continue to perform their obligations under the Agreement notwithstanding the existence of a dispute to the extent practicable having regard to the nature of the dispute, unless the parties agree otherwise in writing.
- 28.7 If the mediation does not resolve the dispute, either party may commence any other form of action to resolve the dispute, including court proceedings.
- 28.8 This clause does not apply in relation to the exercising by Mater of any rights under clause 24.
- 29 Modern Slavery**
- 29.1 For the purpose of this clause, the words Modern Slavery have the same meaning as the definition in the Modern Slavery Act 2018 (Cth).
- 29.2 The Supplier undertakes, warrants and represents that:
- (a) neither the Supplier nor any of its officers, employees, agents or subcontractors has:
 - (i) committed an offence under the *Modern Slavery Act 2018* (Cth) (a "MSA Offence"); or
 - (ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the *Modern Slavery Act 2018* (Cth); or
 - (iii) is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the *Modern Slavery Act 2018* (Cth)
 - (b) it will comply with the *Modern Slavery Act 2018* and the Ethical and Sustainable Procurement Supplier Code of Conduct; and
 - (c) it will respond complete and accurately to the best of its ability to Mater's Modern Slavery and Human Trafficking Due Diligence questionnaire in the event this is requested; and
 - (d) it will notify Mater in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have, breached or potentially breached any Supplier's obligations under this clause. Such notice will set out full details of the circumstances concerning the breach or potential breach of Supplier's obligations.
- 29.3 Any breach of this clause by the Supplier will be deemed a material breach of the agreement and will entitle Mater to terminate the agreement.
- 29.4 Where the supplier delegates or sub-contracts any of its duties or obligations under this agreement it will, at all times, remain liable to Mater for the performance of all of its duties and obligations under this agreement. The Agreement that the supplier has with a sub-contractor must:
- (a) be in writing;
 - (b) Contain substantially the same provisions as those provisions in this agreement, including an obligation to comply with the *Modern Slavery Act 2018* (Cth) and
- the Ethical and Sustainable Procurement Supplier Code of Conduct; and
- (c) The supplier will ensure that it has the ability to audit its sub-contractors to ensure compliance with the Modern Slavery Policy
- 29.5 The supplier shall conduct a programme of regular training for its officers, employees, agents, subcontractors and other members of its supply chain to ensure compliance with the Modern Slavery Act 2018.
- 29.6 The supplier will indemnify defend and hold harmless Mater and its directors, officers and employees in full and on demand from and against any and all liabilities, claims, fines, demands, damages, losses or expenses (including legal and other professional adviser's fees and disbursements), interest and penalties incurred by them arising, whether wholly or in part, resulting from a breach of the *Modern Slavery Act 2018*.
- 30 General Provisions**
- 30.1 **Cost** - Each party will pay their own costs in relation to the preparation and execution of this Agreement; however, the Supplier pay any stamp duty assessed on this Service Agreement.
- 30.2 **Delay not to constitute waiver** - Any failure by a party at any time to enforce a clause of this Agreement, or any forbearance, delay or indulgence granted by a party to the other, will not constitute a waiver of the party's rights.
- 30.3 **Entire agreement** - this Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, and agreements between the parties.
- 30.4 **Further assistance** - The Supplier must do all things reasonably required by Mater to give effect to this Agreement.
- 30.5 **Governing Law** - This Agreement is governed by the Laws of Queensland and each party submits to the exclusive jurisdiction of the courts of Queensland and courts competent to hear appeals from those courts
- 30.6 **Law** - Law/s includes common law and statutory laws, regulations, orders, subordinate legislation, ministerial directions, directions of relevant regulators and binding codes of conduct, and includes any consolidation, amendment, re-enactment or replacement of a Law;
- 30.7 **No assignment or novation** - The Parties may not assign or novate its interest in this Agreement, except with the prior written consent of the other Party.
- 30.8 **No sub-contracting** - The Supplier must not sub-contract the provision of the Services without the prior consent of Mater. Any consent given by Mater may be conditional and will not relieve the Supplier from any of its obligations or liabilities under the Agreement.
- 30.9 **No partnership or joint venture, employment of Mater** - The relationship of the parties under this Agreement is one of principal and contractor and the Supplier is not by virtue of this Agreement in partnership or joint venture with Mater and must not represent itself or allow itself to be represented as a partner or joint venturer, or Personnel of Mater.
- 30.10 **Waiver to be in writing** - No provision of this Agreement will be deemed to be waived unless that waiver is in writing and signed by the waiving party.
- 30.11 **Severability** - If any part of this Agreement is determined to be invalid, unlawful, or unenforceable for any reason, then that part, to the extent of the

invalidity, unlawfulness or unenforceability, will be severed from the rest of the Agreement and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

30.12 **Catholic Negotiating Alliance (CAN)**

The Supplier accepts that:

- (a) Mater is required to supply data and information to the Joint Purchasing Network (JPN) operated by the CNA about its current pricing and usage volume and that the confidentiality restrictions imposed by this Agreement do not apply to any exchange of information authorised under the Authorisation, or by any variation of the Authorisation or any authorisation which replaces that Authorisation;
- (b) It unconditionally waives any rights which would prevent this supply from taking place and undertakes to desist from any action to enforce such rights; and
- (c) for the purposes of this clause, Authorisation means the authorisation under the *Competition and Consumer Act 2010* (Cth) given by the Australian Consumer and Competition Commission A91400 and any successive determinations. Joint Purchasing Network (JPN) has the meaning as set out in the Authorisation.

30.13 **Clauses to Survive Termination and Expiry**

The following clauses will survive termination or expiration of this Agreement:

- (a) **clause 16 – Disclosure of Information;**
- (b) **clause 17 – Privacy;**
- (c) **clause 18 – Data Protection, Security and Access;**
- (d) **clause 20 – Liability;**
- (e) **Clause 21 No limitation**
- (f) **clause 22– Indemnity;**
- (g) **clause 23 – Insurance;**
- (h) **clause 28 – Dispute Resolution;**
- (i) **clause 29 – Modern Slavery; and**
- (j) **clause 30 – General Provision.**