



ESSENTIAL ENERGY

# Traffic Management Services General Conditions - Panel Agreement Website Edition

**Version: September 2025**



**ESSENTIAL ENERGY**  
**TRAFFIC MANAGEMENT SERVICES CONTRACT**

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**GENERAL CONDITIONS**

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## **GENERAL CONDITIONS**

### **1. INTERPRETATION AND DEFINITIONS**

#### **1.1 INTERPRETATION**

In these General Conditions, unless and to the extent that the context requires or indicates:

- (a) Reference to:
  - (i) one gender includes the other;
  - (ii) the singular includes the plural and vice versa;
  - (iii) a person includes a body corporate and vice versa;
  - (iv) a party includes the party's executors, administrators, successors and permitted assigns;
  - (v) a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
  - (vi) a document includes all amendments or supplements to, or replacements or novations of, that document; and
  - (vii) money is to Australian dollars, unless otherwise stated.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Headings and the table of contents are for convenience only and do not form part of these General Conditions or a TCTF Contract or affect their interpretation.
- (d) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (e) A provision of these General Conditions or a TCTF Contract must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of these General Conditions or a TCTF Contract or the inclusion of the provision of these General Conditions or a TCTF Contract.
- (f) Unless these General Conditions or a TCTF Contract expressly provides otherwise, any and all of the Contractor's obligations under these General Conditions or a TCTF Contract are to be discharged by the Contractor at its own cost and expense.
- (g) Where these General Conditions or a TCTF Contract refers to all or part of another document not physically included with these General Conditions or a TCTF Contract then the Contractor shall be deemed to have obtained a copy of that other document or relevant part thereof:
  - (i) from Essential Energy; or
  - (ii) if the document is not a Project specific document, from the relevant source.
- (h) An obligation on or promise made by two or more persons binds them jointly and severally.

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1.2 DEFINITIONS

Terms defined in the Panel Agreement shall have the same meaning in these General Conditions and unless and to the extent that the context requires or indicates:

**“Australian Standards”** means the standards published by Standards Australia as amended from time to time.

**“Authority”** means any:

- (a) government department;
- (b) local government council;
- (c) government or statutory authority; or
- (d) other body or instrumentality,

which has a right to impose a requirement or whose approval is required with respect to or in connection with the Services.

**“Business Day”** means any day other than:

- (a) a Saturday, Sunday or public holiday in the State of New South Wales; or
- (b) 27, 28, 29, 30 or 31 December.

**“Claim”** means any request, demand or entitlement in relation to, arising out of or in connection with these General Conditions or a TCTF Contract or the Services for payment, for an extension of time, for damages (whether under these General Conditions or a TCTF Contract or otherwise, including in tort, for breach of contract or quasi contract, misrepresentation and under any statute except any part of a statute the provisions of which cannot be excluded by agreement), for unjust enrichment or restitution, or under any other principle of law or equity.

**“Completed Work Order Confirmation”** has the meaning given to it in clause 2.3.

**“Contract Documents”** means the following documents:

- (a) Panel Agreement;
- (b) the General Conditions;
- (c) each individual TCTF.

**“Contractor’s Representative”** means the person identified as such in Schedule 1 to the Panel Agreement or a nominated replacement whose appointment has been approved in writing by Essential Energy.

**“day”** means a calendar day.

**“Essential Energy’s Representative”** means the person identified as the contact in a TCTF.

**“Fee”** means the fee as set out in clause 12.

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

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**“General Conditions”** means these general conditions of contract as may be amended or updated by Essential Energy from time to time in accordance with its terms.

**“Intellectual Property Rights”** means any and all intellectual and industrial property rights, whether subsisting now or in the future, including rights of any kind in:

- (a) copyright;
- (b) design, patent, trademark or circuit layout (whether registered, unregistered or applied for);
- (c) trade, business, company or domain name;
- (d) know-how, inventions, processes; and
- (e) any other proprietary, licence or personal rights arising from intellectual activity in the business, industrial, scientific or artistic fields,

in Australia and the world.

**“Intended Purpose”** means the purpose:

- (a) stated in these General Conditions or a TCTF Contract; or
- (b) as could be reasonably inferred from what is stated in these General Conditions or from a TCTF Contract.

**“Law”** means:

- (a) Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth, a State, a Territory or any other Authority in which the Services or any part thereof are being carried out;
- (b) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the Services; and
- (c) fees and charges payable in connection with the foregoing.

**“Party”** means a party to these General Conditions.

**“Panel Agreement”** means the panel agreement entered into between Essential Energy and the Contractor, which incorporates these General Conditions.

**“Project”** means the project as described in a TCTF.

**“Relevant Period”** means a 12 month period during the Term, the first period commencing on the date of the Panel Agreement and each subsequent period commencing on the anniversary of the date of the Panel Agreement.

**“Schedule”** means a schedule to these General Conditions or the Panel Agreement.

**“Schedule of Rates”** means rates used to calculate the Fee for the Services as set out in Schedule 2 to the Panel Agreement.

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

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**“Services”** means, in respect of each TCTF, those services which the Contractor is or may be required to carry out and complete under a TCTF Contract, in accordance with the Technical Specifications.

**“Service Levels”** means the standards to which the Services must be supplied, also referred to as “key performance indicators” or “KPIs” or “performance measures”, in Schedule 3 to these General Conditions or otherwise set out in the Technical Specifications.

**“Site”** means the land (if any) so described in a TCTF.

**“Special Conditions”** means the special conditions set out in Schedule 1 to the Panel Agreement for a TCTF.

**“Tax Invoice”** has the meaning given to that expression under the GST Act.

**“Traffic Control Tracking Form”** or **“TCTF”** means the form issued by Essential Energy’s Representative under clause 2.2 substantially in the form set out in Schedule 2 to these General Conditions.

**“TCTF Contract”** means the agreement between Essential Energy and the Contractor created under clause 2.5.

**“Technical Specifications”** means the specifications outlined in Schedule 2 to these General Conditions relevant to the Services.

**“Variation”** means any change in the Services, including an addition or omission in the scope, quality, timing or character of the Services.

**“Work Order Acceptance”** has the meaning given to it in clause 2.4(b).

## **2. PROCUREMENT OF SERVICES**

### **2.1 GENERAL**

Essential Energy has entered into the Panel Agreement with the Contractor for the provision of Services of the nature described in the Panel Agreement.

The Contractor has represented to Essential Energy that it has the skill and expertise required to perform various Services set out in the Panel Agreement.

The parties have negotiated, and the Panel Agreement includes, terms pursuant to which the Contractor is prepared to provide Services to Essential Energy.

Essential Energy may at any time and from time to time during the Term issue a TCTF for Services in accordance with clause 2 of these General Conditions.

### **2.1A AMENDMENTS TO THESE GENERAL CONDITIONS**

The Contractor acknowledges that amendments or updates may be made to these General Conditions from time to time and posted on Essential Energy’s website (or otherwise notified by Essential Energy to the Contractor).

### **2.2 TCTF**

The range of Services which the Contractor has agreed to provide to Essential Energy, is set out in Schedule 2 to these General Conditions (**“Technical Specifications”**).

If Essential Energy requires any of the Services to be performed in accordance with the Technical Specifications, Essential Energy’s Representative may at any time and from time to time during the Term issue to the Contractor a Traffic Control Tracking Form (**“TCTF”**) substantially in the form set out in

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Schedule 2 to these General Conditions with section 1 "Work Order Request" completed setting out details of the Project and the scope of Services and other details relevant to a TCTF Contract in respect of which Essential Energy requires the Contractor to complete section 2 "Work Order Confirmation" of the TCTF.

Other than as expressly permitted under this clause 2, the Contractor must not undertake any Services and is not entitled to any payment from Essential Energy under or in connection with these General Conditions.

**2.3 TCTF – WORK ORDER CONFIRMATION**

If the Services the subject of the TCTF are Services which the Contractor has represented that it can provide (including in respect of the geographic location of the services and work), then within the time specified in the TCTF, or if no time is specified within 2 Business Days of receipt of the TCTF with a completed section 1 "Work Order Request", the Contractor shall submit to Essential Energy the TCTF with a completed section 2 "Work Order Confirmation" ("**Completed Work Order Confirmation**").

**2.4 WORK ORDER ACCEPTANCE**

- (a) If Essential Energy rejects a Completed Work Order Confirmation, it must notify the Contractor of its rejection within 2 Business Days of its receipt of the Completed Work Order Confirmation, and no separate and legally binding TCTF Contract between Essential Energy and the Contractor will be created under clause 2.5.
- (b) Except if a Completed Work Order Confirmation has been rejected under clause 2.4(a), a Completed Work Order Confirmation will be deemed accepted by Essential Energy on the earlier of:
  - (i) Essential Energy's Representative issuing a written notice of acceptance of the Completed Work Order Confirmation to the Contractor; or
  - (ii) the date that is 2 Business Days after Essential Energy's receipt of the Completed Work Order Confirmation

("**Work Order Acceptance**").

**2.5 TCTF CONTRACT**

On Work Order Acceptance, a separate and legally binding contract between Essential Energy and the Contractor (referred to in these General Conditions as a "TCTF Contract") will be created comprising:

- (a) the relevant TCTF (which includes the completed "Work Order Request" and completed "Work Order Confirmation");
- (b) any Special Conditions;
- (c) any other applicable terms, conditions or Schedules to the Panel Agreement; and
- (d) these General Conditions (including Schedules) which are in effect as at the date Essential Energy issues the relevant TCTF to the Contractor.

Without limiting the above, on and from Work Order Acceptance:

- (e) the Contractor must carry out the Services in accordance with the TCTF Contract;
- (f) Essential Energy must pay to the Contractor the Fee, subject to and in accordance with the TCTF Contract these General Conditions and the Panel Agreement; and

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- (g) each of Essential Energy and the Contractor will be bound by the obligations and liabilities imposed on it by the TCTF Contract.

## 2.6 TCTF VARIATIONS

- (a) The parties may effect a Variation to the Services by agreement in writing.
- (b) The Contractor shall not vary the Services (in any way) except as agreed or approved in writing by Essential Energy. Essential Energy will not be obliged to agree or approve any Variation for the convenience of the Contractor. However, the Contractor may vary the Services to the extent necessary to comply with any Law or Approval or any conditions of a Road Occupancy Licence (ROL) issued by, or on behalf of, Transport for NSW.
- (c) Essential Energy shall be entitled to execute and complete, or engage any other person to execute and complete, any part of the Services which is omitted due to a Variation agreed in accordance with clause 2.6(a).

## 2.7 TCTF CONTRACT TERMINATION PRIOR TO COMMENCEMENT OF SERVICES

If the Services under a TCTF Contract have not commenced and Essential Energy determines (acting reasonably) that the Services are no longer required, Essential Energy may terminate the TCTF Contract and shall notify the Contractor of the termination by telephone:

- (a) if reasonably practicable, not less than twenty-four hours prior to the scheduled commencement of the relevant Services (unless otherwise agreed by the parties); or
- (b) otherwise, as soon as possible prior to the scheduled commencement of the relevant Services.

Following the confirmation of a termination of a TCTF Contract by telephone, the details as outlined in section 3 "Cancellation" of the relevant TCTF are required to be completed by Essential Energy and emailed to the Contractor as soon as reasonably practicable, and the TCTF Contract will immediately terminate.

## 2.8 COMPLETION OF WORK

As soon as possible upon completion of the Services, the Contractor must issue to Essential Energy's Representative a payment claim for the completion of the Services as set out in the Technical Specifications.

## 2.9 ACKNOWLEDGMENTS

The Contractor acknowledges that:

- (a) Essential Energy's Representative will be under no obligation to issue a TCTF to, or to accept any Completed Work Order Confirmation submitted by, the Contractor;
- (b) Essential Energy's Representative may seek to procure or procure services similar or equivalent to Services the subject of a TCTF issued under clause 2.2 from any third party (including by issuing a TCTF to that third party or via any other means).
- (c) the Services the subject of a Work Order Acceptance are not exclusive and Essential Energy may, at its option, appoint other Contractors to provide services similar or equivalent to the Services for the Project and any other project;
- (d) Essential Energy does not, by inviting a Work Order Confirmation pursuant to clause 2.2 in respect of the Services the subject of a TCTF from the Contractor bind itself to issuing a Work Order Acceptance in respect of the Contractor's Work Order Confirmation;

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- (e) services and work undertaken other than pursuant to a TCTF the subject of a Work Order Acceptance shall not form a part of any Services to be undertaken pursuant to these General Conditions and the Contractor shall not be entitled to any payment for or in connection with the same under these General Conditions;
- (f) if Essential Energy's Representative does not issue a Work Order Acceptance in respect of the Services the subject of a TCTF pursuant to this clause 2, the Contractor releases and discharges Essential Energy from any Claim it has or may have against Essential Energy arising out of or in connection with the TCTF, the issue of a Work Order Request under clause 2.2, a Work Order Confirmation provided by the Contractor under clause 2.3 and Essential Energy's assessment and determination of the same; and
- (g) Essential Energy does not guarantee and makes no representation that the Contractor will have an opportunity to perform any Services under or in connection with the Panel Agreement and nor does Essential Energy make any specific quantity or monetary commitment to the Contractor other than as expressly set out in a TCTF Contract.

### **3. ADDITIONAL SERVICES**

Any additional services that may be provided by the Contractor will be provided in accordance with the Technical Specifications.

### **4. CONTRACTOR'S OBLIGATIONS AND WARRANTIES**

#### **4.1 OBLIGATIONS AND WARRANTIES**

The Contractor must:

- (a) carry out the Services independently, professionally and in a timely manner;
- (b) in undertaking the Services exercise all proper professional skill, care, attention and judgment which may be expected of a Contractor experienced in providing services similar to the Services on projects of a similar value, importance and complexity as this Project;
- (c) ensure that any of the Contractor's employees carrying out the Services have appropriate qualifications and experience;
- (d) warrant that as a result of its skill, expertise and experience it is aware of the scope of services ordinarily involved in works the nature of the Project;
- (e) ensure that the Services will be in every respect fit for their Intended Purpose and for all purposes the Services might reasonably be expected to achieve in accordance with the requirements of these General Conditions and a TCTF Contract;
- (f) re-perform all or any part of the Services at its own cost in order to rectify any errors or omissions in the Services it has supplied or undertaken;
- (g) ensure that all documents prepared by the Contractor for the Project are accurate, comply with all Laws and meet the requirements of these General Conditions and a TCTF Contract;
- (h) acknowledge that Essential Energy may engage other Contractors or separate contractors to provide services in connection with the Project;
- (i) fully co-operate, liaise and co-ordinate with all other consultants or separate contractors and carefully co-ordinate the performance of the Services (including the production of any documents) to ensure that such performance is consistent with the services to be performed by other Contractors or separate contractors;

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- (j) prepare and present to Essential Energy for its approval regular progress reports at such intervals (not less than monthly) and containing such information as reasonably required by Essential Energy;
- (k) not purport to be a partner or joint venturer of Essential Energy and is in all respects an independent contractor or consultant;
- (l) acknowledge that it has no legal authority and must not enter into commitments or other legal documents in the name of Essential Energy or take any step to bind or commit Essential Energy in any manner whether as a disclosed agent of Essential Energy or otherwise, without the prior written approval of Essential Energy;
- (m) remain fully responsible for the Services carried out by the Contractor notwithstanding any review, comment on or acceptance in relation to those Services by Essential Energy or any other entity;
- (n) when on the Site and Essential Energy's premises and when using Essential Energy's facilities, comply with all directions, procedures and policies relating to occupational health and safety and security requirements relating to the Site, Essential Energy's premises and Essential Energy's facilities and any other reasonable requirements of Essential Energy; and (o) warrant that it is a GST registered entity.

The responsibilities and obligations in this clause 4.1 are not affected by any correspondence, comment, approval or direction on documents or information supplied by one Party to the other or any variation.

#### 4.2 OTHER WARRANTIES

The Contractor represents and warrants in addition to and without limiting any other warranty given by the Contractor pursuant to these General Conditions or a TCTF Contract that:

- (a) it has thoroughly examined all information or documentation made available to it by Essential Energy prior to entering into the Panel Agreement or a TCTF Contract and has obtained all other information necessary to complete the Services;
- (b) the Services will be completed within the time stipulated (if any) in these General Conditions and a TCTF Contract; and
- (c) the Services will comply with all the requirements of or to be inferred from these General Conditions and any TCTF Contract including, the requirements of Laws and all relevant codes of practice and Australian Standards.

#### 4.3 STATEMENT OF BUSINESS ETHICS AND CODE OF CONDUCT

The Essential Energy Statement of Business Ethics (copies of which can be downloaded from the website ([www.essentialenergy.com.au](http://www.essentialenergy.com.au)) (**Code**) sets the framework for all business relationships by:

- (a) establishing the standards of behaviour expected from government agencies (as clients), employer and industry associations and unions; and
- (b) requiring a strong commitment to continuous improvement and best practice performance by all participants in the supply chain.

The Contractor must at all times comply with the Code. Failure by the Contractor to comply with the Code may be taken into account when considering the Contractor for future business opportunities with the Essential Energy.

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The Contractor must have a satisfactory record of compliance with the Code. This also includes ensuring that contractors and their subcontractors, consultants, and suppliers comply with their legal obligations regarding their employees.

**5. DOCUMENTS**

**5.1 DISCREPANCIES**

Should the Contractor encounter any discrepancies, contradictions, omissions, ambiguity, errors, faults or inconsistencies in or between any documents comprising a TCTF Contract ("**Discrepancy**"), the Contractor must promptly notify Essential Energy's Representative in writing.

Essential Energy's Representative will (acting reasonably), by direction to the Contractor, resolve any Discrepancy as follows:

- (a) where the Discrepancy is in relation to the standard or quality required in the Services, Essential Energy's Representative shall adopt the higher quality or standard;
- (b) where clause 5.1(a) does not apply, Essential Energy's Representative shall apply the following order of precedence (in descending order):
  - (i) Panel Agreement (including Schedules);
  - (ii) Schedule 2 of the General Conditions;
  - (iii) the relevant TCTF Contract;
  - (iv) the relevant TCTF (including any Special Conditions);
  - (v) General Conditions (including Schedules); and
- (c) where clauses 5.1(a) and 5.1(b) do not apply, Essential Energy's Representative shall make a determination based on the Parties' intentions which can be ascertained from these General Conditions and a TCTF Contract.

The Contractor must comply with a direction of Essential Energy's Representative under this clause 5.1 as to the interpretation to be adopted in resolving the Discrepancy.

Notwithstanding clauses 5.1(a) to 5.1(c), where:

- (d) details of the Project or Services; or
- (e) any document attached to a TCTF Contract,

which has been prepared by the Contractor contains a right or entitlement in the Contractor, then the Contractor will only be entitled to the benefit of that right or entitlement if:

- (f) the relevant right or entitlement is also contained in these General Conditions (but excluding the Schedules to these General Conditions); and
- (g) the Contractor has satisfied any pre-conditions to that right or entitlement set out in the TCTF Contract or these General Conditions (but excluding the Schedules to these General Conditions).

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**5.2 SUPPLY OF DOCUMENTS BY THE CONTRACTOR**

The Contractor must give Essential Energy the documents required by a TCTF Contract to be supplied by the Contractor to Essential Energy in the number of copies set out in the relevant TCTF Contract.

If the Contractor submits a document to Essential Energy then, except where a TCTF Contract otherwise provides:

- (a) Essential Energy is not required to check such documents for errors, discrepancies, contradictions, omissions, ambiguities, faults, inconsistencies or compliance with the relevant TCTF Contract; and
- (b) notwithstanding clause 5.2(a), any acknowledgement or approval by Essential Energy shall not prejudice the Contractor's obligations.

**5.3 SUPPLY OF DOCUMENTS BY ESSENTIAL ENERGY**

Information or documents of any nature provided by or on behalf of Essential Energy to the Contractor at any time, whether before or after the date of the Panel Agreement (other than the Contract Documents and notices issued by Essential Energy or Essential Energy's Representative under these General Conditions or a TCTF Contract) were furnished and are furnished to the Contractor for its convenience only and, to the extent permitted by law, were not and are not guaranteed whether in terms of their accuracy or otherwise. Essential Energy has no liability whatsoever to the Contractor in tort (including negligence), contract, statute or otherwise (except to the extent that such liability cannot be excluded) concerning or in any way connected with any interpretations, deductions, inferences drawn or conclusions made by the Contractor in relation to such information or documents or any errors, omissions, representations or misrepresentations contained in the same.

Any document supplied by Essential Energy to the Contractor remains (as between Essential Energy and the Contractor) the property of Essential Energy and must be returned to Essential Energy upon request. The Contractor may keep one copy of any such document for its own records.

**6. ADMINISTRATION AND PERSONNEL**

**6.1 ESSENTIAL ENERGY'S REPRESENTATIVE**

Essential Energy's Representative:

- (a) will give directions and at all times carry out its functions under these General Conditions and any TCTF Contract on behalf of and as the agent of Essential Energy and not as an independent certifier or assessor; and
- (b) may, by written notice to the Contractor be replaced from time to time by Essential Energy, at its sole discretion.

**6.2 COMPLIANCE WITH DIRECTIONS**

The Contractor must promptly comply with any direction given by Essential Energy's Representative in connection with these General Conditions, a TCTF Contract or the Services.

**6.3 CONTRACTOR'S REPRESENTATIVE**

The Contractor's Representative shall act on behalf of and as agent of the Contractor for the purposes of exercising the functions of the Contractor under the Panel Agreement, these General Conditions and any TCTF Contract and any direction given by Essential Energy or Essential Energy's Representative to the Contractor's Representative shall be binding. The Contractor shall not substitute the Contractor's

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Representative without the prior written consent of Essential Energy, which consent shall not be unreasonably withheld.

**6.4 CONTRACTOR'S RESOURCES**

The Contractor must ensure that:

- (a) it employs sufficient suitable resources to carry out and complete the Services in a proper and workmanlike manner with due diligence and expedition in accordance with the TCTF Contract; and
- (b) the key personnel nominated in Schedule 1 to the Panel Agreement are directly engaged in the performance of the Services in the nominated roles in any TCTF Contract. Should the Contractor wish to substitute alternative personnel to those nominated in any TCTF Contract the Contractor shall first obtain the written approval of Essential Energy. Such approval will not be unreasonably withheld provided Essential Energy is satisfied that the qualifications, experience and other relevant attributes of the proposed alternative personnel are at least equivalent to the nominated key personnel.

**7. INDEMNITY AND INSURANCE**

**7.1 INDEMNITY**

The Contractor is liable for and indemnifies and shall keep indemnified Essential Energy (to the maximum extent permitted by law) against:

- (a) all cost, loss, damage and expense (including legal fees on an indemnity basis) suffered by Essential Energy and any of its employees and agents; and
- (b) all liabilities Essential Energy has or may have to any third party in relation to, arising out of or in connection with the work under a separate contract or consultancy agreement,

arising as a result of or in connection with any negligence of the Contractor, its employees, subcontractors, sub-consultants or agents.

Without limiting the above, the Contractor is liable for and indemnifies and shall keep indemnified Essential Energy (to the maximum extent permitted by law) against:

- (c) loss of or damage to property of Essential Energy, including existing property in or upon which the Services are being carried out; and
- (d) claims by any person against Essential Energy in respect of illness, personal injury or death or loss of or damage to any property,

arising out of or as a consequence of the carrying out by the Contractor of the Services including where there has been any failure by any subcontractor or sub-consultant of the Contractor to take reasonable care.

The Contractor's liability to indemnify Essential Energy under this clause 7.1 shall be reduced proportionally to the extent that a wrongful act or wrongful omission of Essential Energy, its employees or agents caused or contributed to the loss, damage, death or injury.

**7.2 INSURANCE REQUIRED BY CONTRACTOR**

The Contractor is required to have in place policies of insurance, as a precondition to any entitlement to payment under or in connection with a TCTF Contract, in the amounts and for the periods stated in

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Schedule 1 to the Panel Agreement and with an insurer having a Standard and Poors, Moodys, A M Best, Fitch's or equivalent rating agency's financial strength rating of A- or better.

The Contractor must ensure that its subcontractors and sub-consultants are similarly insured or covered by the insurance required under this clause 7.2 for the relevant work to be performed by those subcontractors and sub-consultants.

Before commencing any work under a TCTF Contract and when requested by Essential Energy's Representative from time to time, the Contractor must promptly provide to Essential Energy's Representative copies of the certificates of currency for any insurance policies required by this clause 7.2.

**7.3 FAILURE TO PROVIDE EVIDENCE OF INSURANCES**

If the Contractor is required under clause 7.2 to have in place policies of insurance and fails to provide to Essential Energy copies of the certificates of currency for those policies in accordance with the requirements of these General Conditions and/or a TCTF, Essential Energy may (without being obliged to do so) effect and maintain such insurance and the cost incurred will be a debt due by the Contractor to Essential Energy.

**7.4 NOTICE OF CLAIMS/LIKELY CLAIMS**

The Contractor must as soon as practicable inform Essential Energy's Representative in writing of any occurrence which it ought reasonably expect may give rise to a claim under an insurance policy required by these General Conditions or a TCTF Contract. The Contractor must give all information and assistance requested by Essential Energy's Representative in respect of any such claim or possible claim.

**7.5 EFFECT OF INSURANCES**

The effecting or failure to effect insurance by the Contractor will not in any way limit or reduce any of the Contractor's obligations or liabilities under these General Conditions or a TCTF Contract or at law.

**8. ASSIGNMENT, SUBCONTRACTING AND NOVATION**

**8.1 ASSIGNMENT AND NOVATION**

The Contractor must not novate or assign the Panel Agreement or any TCTF Contract or any right, benefit or interest under the Panel Agreement or a TCTF Contract without the prior written consent of Essential Energy. This consent must not be unreasonably withheld, but may be subject to reasonable conditions.

Essential Energy may at any time assign or novate the Panel Agreement or a TCTF Contract or any right, benefit or interest under the Panel Agreement or a TCTF Contract, provided that the party to whom Essential Energy is assigning or novating has the financial capacity to perform Essential Energy's obligations under the Panel Agreement or the relevant TCTF Contract, is not a direct competitor of the Contractor, and Essential Energy provides written notice of the assignment or novation as soon as reasonably practicable. The Contractor must promptly, upon request by Essential Energy, execute all documents required by Essential Energy to give effect to any such assignment or novation.

**8.2 SUBCONTRACTING**

- (a) The Contractor must not engage any subcontractors or sub-consultants in connection with the Services in respect of the work described in the relevant TCTF Contract without obtaining the prior written consent of Essential Energy's Representative.
- (b) Approval to subcontract shall be at the absolute discretion of Essential Energy and may be conditional upon the subcontract including:

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- (i) provision that the sub-consultants or subcontractors shall not assign, novate or subcontract without the consent in writing of the Contractor; and
  - (ii) any provision which may reasonably be necessary to enable the sub-consultant or subcontractor to fulfil the Contractor's obligations to Essential Energy.
- (c) Approval to subcontract will not relieve the Contractor from any liability or obligation under the Panel Agreement, these General Conditions or a TCTF Contract. Except to the extent expressly stated otherwise in the Panel Agreement, these General Conditions or a TCTF Contract, the Contractor agrees that it is, to the maximum extent permitted by law, fully liable for all acts and omissions (including the negligence) of its employees, subcontractors, sub-consultants and agents and each other person within its contractual chain under or in any way in connection with the Panel Agreement, these General Conditions or a TCTF Contract.
- (d) If any sub-consultant or subcontractor of the Contractor obtains a court order in respect of any moneys due to that sub-consultant or subcontractor from the Contractor and produces to Essential Energy that court order and a statutory declaration that it remains unpaid, then Essential Energy may pay the amount of the order, and costs included in the order, to the sub-consultant or subcontractor and the amount paid shall be a debt due from the Contractor to Essential Energy.

## **9. INTELLECTUAL PROPERTY**

### **9.1 INTELLECTUAL PROPERTY RIGHTS**

As between Essential Energy and the Contractor, Intellectual Property Rights in the drawings, reports, specifications, calculations, documents and other goods or materials provided, developed, created or acquired by or on behalf of the Contractor in the performance of the Contractor's obligations under the Panel Agreement, these General Conditions and each TCTF Contract shall continue to vest in the Contractor.

The Contractor grants to Essential Energy, for the purposes of the Services, a perpetual, irrevocable and royalty free licence to use, adapt and modify (and sub-licence others to use, adapt and modify) all Intellectual Property Rights of the Contractor in the Services and all drawings, reports, specifications, calculations, documents and other goods or materials provided or prepared by the Contractor, its employees, subcontractors, sub-consultants or agents in connection with the Services. Such licence shall also allow for facilitating or completing construction, operation of, any subsequent repairs to, maintenance or servicing of (including the supply of replacement parts), or additions or alterations to the Services or any works comprising the Project.

### **9.2 WARRANTY AND INDEMNITY**

The Contractor warrants that it has the necessary rights to grant to Essential Energy the licence referred to in clause 9.1 and that the performance of the Services does not infringe any Intellectual Property Right belonging to any third party, and indemnifies Essential Energy and its employees, directors and agents against all losses, liabilities and legal costs arising directly or indirectly from any allegation or finding of infringement.

## **10. LAWS AND REPORTS**

### **10.1 COMPLIANCE WITH LAWS**

The Contractor must comply, and must ensure that its employees, sub-consultants, subcontractors and agents comply, with all Laws and the requirements of Authorities in performing the Services.

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The Contractor must also comply, and must ensure that its employees, sub-consultants, subcontractors and agents comply, with all relevant Australian Standards, to the extent that they are not inconsistent with the requirements of a TCTF Contract and any Laws.

If the Contractor discovers that a Law is at variance with these General Conditions or a TCTF Contract, it shall promptly give Essential Energy written notice.

**10.2 REPORTS AND RECORDS**

Without limiting clause 4.1(j), upon a direction from Essential Energy's Representative, the Contractor must, within the time stated in the direction (which must be reasonable), submit a report or provide records in relation to the Services to Essential Energy's Representative.

**11. TIME AND DELAY**

**11.1 TIME**

The Contractor shall proceed with the Services with due expedition and without delay and within any times set out in these General Conditions or in a TCTF Contract.

**11.2 SUSPENSION**

Essential Energy's Representative may at any time and for any reason suspend the whole or any part of the Services by written notice to the Contractor. In such event, the Contractor must not recommence work on the whole or on the relevant part of the Services until Essential Energy's Representative by written notice, directs the Contractor to do so.

If costs and expenses arising from a suspension under this clause 11.2 have not been agreed in advance and if the event giving rise to the direction to suspend is a result of a breach or negligence by Essential Energy, then Essential Energy shall pay the Contractor the additional costs and expenses reasonably and necessarily incurred by the Contractor as a result of the suspension (as determined by Essential Energy's Representative, acting reasonably).

**12. PAYMENT**

**12.1 SCHEDULE OF RATES**

Subject to the performance by the Contractor of its obligations under a relevant TCTF Contract, Essential Energy will pay to the Contractor the amount adjusted for the Services performed under a TCTF Contract (and not otherwise detailed in that TCTF Contract) as per the Schedule of Rates ("**Fee**").

The Contractor acknowledges and agrees that the Fee:

- (a) subject to the following paragraph of this clause 12.1, includes all costs, expenses, fees and charges incurred by the Contractor in performing all its obligations under these General Conditions and in connection with a TCTF Contract; and
- (b) will not be subject to any rise and fall, changes in taxation (other than GST), excise duty, fees, charges, foreign exchange adjustment or any other adjustment whatsoever except to the extent expressly provided by the relevant TCTF Contract.

Essential Energy shall bear the expenses and disbursements specified in a TCTF Contract provided that the Contractor:

- (c) obtains the written approval of Essential Energy's Representative prior to incurring the expense or disbursement; and

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- (d) without limiting clause 12.2, provides Essential Energy with evidence of the amount of the expense or disbursement incurred.

Except as provided in the preceding paragraph of this clause 12.1, the Contractor shall bear all other expenses and disbursements incurred by the Contractor in performing the Services.

## 12.2 PAYMENT CLAIMS

The Contractor may, in respect of each TCTF Contract, submit a payment claim to Essential Energy's Representative in respect of the Services performed under the relevant TCTF Contract at the times stated in the Panel Agreement, or if no time is stated on the last Business Day of each month.

In each payment claim the Contractor must include:

- (a) sufficiently detailed evidence to enable Essential Energy's Representative to assess the claim, including the following:
- (i) identification of the Services supplied in the relevant period, in accordance with the stage breakdown (if any) stated in the relevant TCTF, including, but not limited to, information such as:
    - signed TCTF or email confirmation;
    - TCP;
    - substantiating documents for accommodation (e.g. motel receipts);
    - approvals for Variations or cancellations;
    - other (e.g. council bonds);
    - subcontracting invoice;
  - (ii) the amount of payment that the Contractor claims to be due in relation to the Services to which the payment claim relates and identifies whether that amount relates to:
    - (A) the lump sum fee (if any) relevant to the Services; or
    - (B) time based charges (if any) relevant to the Services; and
- (b) a statutory declaration, in a form acceptable to Essential Energy, from a representative of the Contractor who is in a position to know the facts attested to, stating that:
- (i) all subcontractors and sub-consultants of the Contractor engaged in the Services have been paid all moneys that are due and payable to those subcontractors and subconsultants up to the date of submission by the Contractor of its payment claim; and
  - (ii) all employees of the Contractor who have been engaged in the Services have been paid all moneys that are due and payable to them up to the date of submission by the Contractor of its payment claim; and
- (c) a Statement in the form set out in Schedule 1 to these General Conditions, duly completed and signed and attaching a relevant Certificate of Currency (as referred to in that Statement).

Essential Energy's Representative may request additional information in respect of any payment claim (valid or otherwise) and if so requested the Contractor must promptly provide any additional information so requested.

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12.3 PAYMENT SCHEDULE

Within 10 Business Days after receipt of a payment claim validly submitted under clause 12.2, Essential Energy's Representative must, unless Essential Energy agrees to pay the whole of the amount claimed, assess the payment claim and provide a payment schedule to the Contractor and Essential Energy. The payment schedule must identify the payment claim to which the payment schedule relates and certify the amount Essential Energy's Representative reasonably considers is due to the Contractor or Essential Energy, as the case may be, setting out the reasons for the difference.

Essential Energy's Representative may allow in any payment schedule adjustment for amounts paid under a TCTF Contract and amounts that otherwise may be retained, deducted or claimed by Essential Energy from the Contractor (whether or not there has been a final determination as to the amount claimed or the amount claimed is disputed) under or in connection with these General Conditions or a TCTF Contract.

12.4 PAYMENTS

Essential Energy must (subject to its right to set-off under clause 12.7) pay the Contractor the amount certified in a payment schedule as being payable by Essential Energy to the Contractor (or if no payment schedule is provided to the Contractor, the whole of the amount claimed), no later than the later of:

- (a) to the extent permitted by law, the date of satisfaction of the pre-conditions in clauses 7.2, 12.2, and 17; and
- (b) 15 Business Days after a payment claim validly made under clause 12.2.

The Contractor must pay to Essential Energy any amount certified in a payment schedule as being payable by the Contractor to Essential Energy no later than 10 Business Days after the provision of the relevant payment schedule to Essential Energy and the Contractor under clause 12.3.

12.5 EFFECT OF PAYMENT AND CERTIFICATES

Any payment made by Essential Energy to the Contractor is deemed to be a payment on account only and is not evidence of the value of the Services or that the Services have been satisfactorily completed. Nor does the issue of a payment schedule constitute approval of any work or other matter and does not prejudice any Claim by Essential Energy.

12.6 SATISFACTORY EVIDENCE

Without limiting any other provision of the Panel Agreement, these General Conditions or a TCTF Contract, if the Contractor fails to provide to Essential Energy's Representative satisfactory evidence in accordance with clause 12.2(a), 12.2(b) or 12.2(c), the Contractor is not entitled to payment under or in connection with these General Conditions or a TCTF Contract and Essential Energy is not obliged to make any payment to the Contractor until evidence to the satisfaction of Essential Energy's Representative is provided.

12.7 SET OFF

Despite any other provision of the Panel Agreement, these General Conditions or a TCTF Contract and without limiting Essential Energy's other rights and remedies, Essential Energy may, at any time, and from time to time, deduct or set-off from any money payable by Essential Energy to the Contractor under or in connection with a TCTF Contract any money due or reasonably claimed to be due from the Contractor to Essential Energy for any reason including under or in connection with a TCTF Contract.

12.8 INTEREST

If any moneys due and payable to either Party remain unpaid after the date upon which or the expiration of the period within which they should have been paid, then interest shall be payable thereon at the rate prescribed under section 101 of the *Civil Procedure Act 2005* (NSW) from the date upon which or the

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expiration of the period within which they should have been paid up until and including the date upon which the moneys are paid.

**13. WORK HEALTH AND SAFETY & CHAIN OF RESPONSIBILITY**

**13.1 WORK HEALTH AND SAFETY**

The Contractor shall be responsible for providing and maintaining a safe working environment and safe workplace for all its workers, including its employees, subcontractors, sub-consultants or agents involved in the provision of the Services or the Project or attending the Site pursuant to all Laws, standards and codes of practice. This includes, without limitation, ensuring that safe work practices are adopted and executed by all persons pursuant to all Laws and any health and safety policies, procedures and requirements issued by Essential Energy, or any relevant Authority to the Contractor, from time to time whilst performing the Services and ensuring all such persons are properly inducted, trained and supervised.

The Contractor must take all possible and reasonably practicable steps and measures to eliminate risk to health and safety and to avoid and minimise the consequences of work health and safety issues and, if requested by Essential Energy, must promptly provide copies of its work health and safety policies and other evidence to demonstrate that it has met and is meeting at all times its obligations under this clause 13.1 and all Laws in relation to work health and safety.

The Contractor must immediately notify Essential Energy of every work related accident, incident, injury or illness that occurs in relation to the performance of the Services or on the Site.

Essential Energy shall be entitled, but shall be under no obligation, to issue directions in relation to occupational health and safety issues and the Contractor shall, at its own cost, comply with those directions to ensure the highest level of health and safety.

**13.2 HEAVY VEHICLE NATIONAL LAW**

The Contractor shall be responsible for providing and maintaining the safety of all of its heavy vehicle transport activities. This responsibility includes but is not limited to ensuring that the Contractor's business practices, decisions, policies, directions, management, contracts and employee training associated with the use of a heavy vehicle on a road complies with the requirements of the Heavy Vehicle National Law, any related regulations and standards and/or direction by any relevant Authority to the Contractor, its employees or third parties effecting the Contractor's transport activities.

The Contractor must ensure, so far as reasonably practicable, the safety of its transport activities relating to heavy vehicles and so far as reasonably practicable eliminate (or where not reasonably practicable to eliminate, minimise) public risks and ensure that its conduct does not directly or indirectly cause or encourage contraventions of any Laws applicable to heavy vehicle transport activities or contraventions by other parties in the Chain of Responsibility.

If requested by Essential Energy, the Contractor must provide copies of its policies and any other evidence to demonstrate that it has met and is meeting at all times its obligations under this clause 13.2 and the Heavy Vehicle National Law.

If, during the course of its performance of any Services, the Contractor becomes aware of its, its employees or its sub-contractor's contravention or reasonably suspected contravention of the requirements of the Heavy Vehicle National Law, it must notify Essential Energy of this incident as soon as possible and within 24 hours provide Essential Energy with a written report detailing the particulars of incident.

Essential Energy shall be entitled, but shall be under no obligation, to issue directions in relation to heavy vehicle safety issues and the Contractor shall, at its own cost, comply with those directions to ensure the highest level of safety in its transport activities.

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**14. DEFAULT AND TERMINATION**

**14.1 NOTICE OF CONTRACTOR DEFAULT**

If the Contractor commits a substantial breach of the Panel Agreement, these General Conditions or of a TCTF Contract then, without limiting any other right it may have, Essential Energy may by notice in writing serve upon the Contractor a notice entitled "Notice of Contractor Default".

A substantial breach of the Panel Agreement, these General Conditions or of a TCTF Contract includes any of the following:

- (a) a failure to comply with a lawful and reasonable direction of Essential Energy's Representative given under clause 6.2;
- (b) a failure to insure in accordance with clause 7.2;
- (c) a failure to comply with the standard of workmanship required by the relevant TCTF Contract;
- (d) a failure to provide qualified trained personnel to carry out the Services in accordance with RMS and Transport of Main Roads (TMR) QLD Traffic Control Qualifications as required under Schedule 2 of these General Conditions;
- (e) a failure to comply with clause 20;
- (f) a failure to perform the Services with due expedition and without delay as required under clause 11.1; and
- (g) where the Contractor's liability to Essential Energy is equal to or exceeds the liability cap referred to in clause 21.1.

A substantial breach of a TCTF Contract is deemed to be a substantial breach of the Panel Agreement and these General Conditions.

**14.2 CONTENTS OF NOTICE OF CONTRACTOR DEFAULT**

A Notice of Contractor Default given under this clause 14 must:

- (a) state that it is given under this clause 14;
- (b) identify and particularise the substantial breach complained of; and
- (c) specify a time not less than 14 days from the date the Notice of Contractor Default is given within which the Contractor is either to remedy the breach or to show cause to Essential Energy's satisfaction why Essential Energy ought not exercise its rights under clause 14.3.

**14.3 FAILURE BY CONTRACTOR TO REMEDY/SHOW CAUSE**

If the Contractor fails within the time specified in a Notice of Contractor Default either to remedy the substantial breach or to show cause to Essential Energy's satisfaction why Essential Energy ought not exercise its rights under this clause 14.3, Essential Energy may by notice in writing to the Contractor engage others to, or itself, carry out any part or the whole of the remaining Services or terminate the Panel Agreement or a TCTF Contract or both (including after first exercising its rights to engage others to, or itself, carry out any part or the whole of the remaining Services).

If Essential Energy engages others to carry out or itself carries out any part or the whole of the remaining Services, Essential Energy's Representative must determine the reasonable cost so incurred by Essential Energy and any other loss or damage sustained by Essential Energy as a consequence and the same will constitute a debt due and owing by the Contractor to Essential Energy.

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If Essential Energy terminates the Panel Agreement or a TCTF Contract or both it under this clause 14.3 or clauses 14.4 or 14.9 will have the same entitlements and the Contractor will have the same liabilities as each would at law, had the Contractor repudiated the Panel Agreement or the relevant TCTF Contract or both and Essential Energy terminated the Panel Agreement or the relevant TCTF Contract or both by acceptance of the Contractor's repudiation.

**14.4 CONTRACTOR UNABLE OR UNWILLING TO COMPLETE**

If the Contractor advises Essential Energy that the Contractor is unable or unwilling to complete performance of the Panel Agreement or a TCTF Contract, Essential Energy may immediately (and without serving upon the Contractor a Notice of Contractor Default) exercise its rights under clause 14.3 to engage others, or itself, carry out any part or the whole of the remaining Services or terminate the Panel Agreement or the relevant TCTF Contract or both (including after first exercising its rights to engage others to, or itself, carry out any part or the whole of the remaining Services).

**14.5 PROCEDURE UPON TERMINATION OR TAKING SERVICES OUT OF HANDS**

Notwithstanding any other provision of the Panel Agreement, these General Conditions or a TCTF Contract, if Essential Energy terminates the Panel Agreement or a TCTF Contract or both for whatever reason (including for its convenience) or engages others to carry out or itself carries out any part or the whole of the remaining Services, Essential Energy may without payment of compensation to the Contractor (unless expressly provided to the contrary in the Panel Agreement, these General Conditions or the relevant TCTF Contract):

- (a) take possession of all documents (including design documentation), information and the like in the Contractor's possession which is connected with the Services and reasonably required by Essential Energy to facilitate completion of the Services; and
- (b) take an assignment of the Contractor's rights and benefits under any contracts with subcontractors or sub-consultants, including any warranties and guarantees, that are related to the Services. The Contractor must do all things necessary to effect such an assignment.

**14.6 ESSENTIAL ENERGY'S DEFAULT**

If Essential Energy is in breach of its obligation to pay an amount under clause 12.4, then without limiting any other right it may have, the Contractor may by notice in writing serve upon Essential Energy a notice entitled "Notice of Essential Energy Default".

**14.7 CONTENTS OF NOTICE OF ESSENTIAL ENERGY DEFAULT**

A Notice of Essential Energy Default given under this clause 14 must:

- (a) state that it is given under this clause 14;
- (b) identify and adequately particularise the amount not paid under clause 12.4; and
- (c) specify a time not less than 14 days from the date the Notice of Essential Energy Default is given within which Essential Energy must either make payment of the amount or compromise the claim of the Contractor to the Contractor's satisfaction or identify the basis on which it is entitled to refrain from paying the amount required under clause 12.4.

**14.8 FAILURE BY ESSENTIAL ENERGY TO MAKE PAYMENT/COMPROMISE CLAIM**

If the Contractor is entitled to serve a Notice of Essential Energy Default and having been served with a valid Notice of Essential Energy Default, Essential Energy fails within the time specified, either to make payment of the amount required under clause 12.4 or fails to compromise the claim to the satisfaction of the Contractor (acting reasonably) or fails to identify any basis on which it is entitled to refrain from paying the amount required under clause 12.4, the Contractor may by notice in writing to Essential Energy

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expressly referring to this clause 14.8, suspend the whole or any part of the relevant Services. If Essential Energy remedies the breach, the Contractor shall promptly lift the suspension.

If within 7 days of the date of suspension under this clause 14.8 Essential Energy fails to compromise the claim to the satisfaction of the Contractor (acting reasonably) or fails to identify any basis on which it is entitled to refrain from paying the amount required under clause 12.4, the Contractor may by notice in writing to Essential Energy terminate the TCTF Contract under which the relevant Services are performed. In such event or in respect of a notice from the Contractor under clause 14.9, the Contractor will be entitled to be paid in respect of the relevant TCTF Contract:

- (a) any outstanding amounts due to the Contractor under a payment schedule issued under the relevant TCTF Contract; and
- (b) an amount for the value of work done in the period between when the last payment claim was submitted and the date that the relevant TCTF Contract was terminated, as determined by Essential Energy's Representative (acting reasonably) in accordance with that TCTF Contract.

The Contractor agrees that the entitlements under this clause 14.8 will be the Contractor's full compensation for all work performed in respect of the relevant TCTF Contract and for any Claims of the Contractor arising out of or in connection with that TCTF Contract or its termination under this clause 14.8.

#### 14.9 INSOLVENCY

Without prejudice to any other right either Party may have, a Party may, to the extent permitted by law, terminate the Panel Agreement and/or any and all TCTF Contracts by notice in writing to the other Party upon the date stated in the notice if the other Party is insolvent or:

- (a) being a person:
  - (i) has judgment entered against him or her in any court in any jurisdiction;
  - (ii) commits an act of bankruptcy;
  - (iii) has a sequestration order made against his or her estate;
  - (iv) lodges a debtor's petition; or
  - (v) calls a meeting of his or her creditors with a view to entering into, or enters into, any form of compromise or arrangement with his or her creditors; or
- (b) being a company:
  - (i) calls a meeting of its creditors with a view to entering into, or enters into, any form of compromise or arrangement with its creditors;
  - (ii) an order is made or resolution passed for its winding up (except for the purpose of reconstruction or amalgamation with the consent of the other which consent may not be unreasonably withheld);
  - (iii) an order is made for the appointment of a liquidator or provisional liquidator;
  - (iv) makes an assignment for the benefit of or enters into any arrangement or composition with its creditors or an administrator is appointed to it or it is unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth); or
  - (v) as a result of the operation of section 459F(1) of the *Corporations Act 2001* (Cth), it is taken to have failed to comply with a statutory demand.

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**14.10 TERMINATION FOR CONVENIENCE**

The Contractor and Essential Energy agree that a TCTF Contract may be terminated by Essential Energy, for its sole convenience and without cause, by Essential Energy providing written notice to the Contractor at any time of an amount equal to 14 days, or such longer period as may be agreed by the Parties. Where Essential Energy terminates a TCTF under this clause 14.10, the Contractor's entitlements will be limited to those set out in clause 14.8.

**15. DISPUTE RESOLUTION**

**15.1 NOTICE**

If a dispute or difference arises between Essential Energy and the Contractor out of or in connection with the Services, the Panel Agreement, these General Conditions or a TCTF Contract, either Party may give the other a written notice specifying the dispute or difference. The notice must specify in reasonable detail the nature of the dispute or difference and if the Party serving the notice makes any Claim the notice must specify in reasonable detail the legal basis of the Claim.

Neither Party will commence proceedings (other than for injunctive or other urgent relief) in respect of any such dispute or difference before a notice under this clause 15.1 has been served and the procedure in clauses 15.2 and 15.3 have been complied with.

**15.2 MEETING**

If a dispute or difference notified under clause 15.1 has not been settled within 7 days of the date of the notice, either Party may require by further notice in writing to the other, that a person holding a position of senior management of each of Essential Energy and the Contractor meet and undertake negotiations in good faith and on a without prejudice basis with a view to resolving the dispute or difference.

If such a meeting is required by either Party, within 7 days of the receipt of the further notice, each Party must ensure attendance on its behalf by a person holding a position of senior management.

**15.3 MEDIATION**

If the dispute or difference is not resolved within 21 days of the giving of notice under clause 15.1, the dispute or difference is referred to mediation. If the Parties cannot promptly agree on a mediator then a mediator will be nominated by the Resolution Institute.

The Parties must pay the mediator's remuneration in equal shares. Each Party must pay its own costs of the mediation.

The Resolution Institute "Mediation Rules" will apply to the mediation.

**15.4 CONTINUED PERFORMANCE**

Notwithstanding the existence of a dispute or difference, the Parties must continue to perform their respective obligations under the Panel Agreement and any TCTF Contract.

**16. BAR ON CLAIMS**

To the extent permitted by law, the Contractor will not have any right to make any Claim against Essential Energy and will be absolutely barred from making such a Claim, unless the Contractor gives to Essential Energy:

- (a) a written notice not later than 28 days after the Contractor first knew, or ought to have known, about the circumstances on which the Claim is based, that it intends to make a Claim; and

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- (b) a further written notice within 28 days of the notice under clause 16(a) providing detailed particulars of the basis for and the quantification of the Claim sufficient to enable Essential Energy to make an informed assessment of the merits of the Claim,

unless, in circumstances where another provision of these General Conditions or a TCTF Contract provides a procedure for the making of the Claim, the Contractor complies in all respects with the requirements in those other provisions (including as to time).

Updates of the information required in the notice under clause 16(b) for a Claim based on ongoing events or circumstances shall be submitted by the Contractor to Essential Energy at weekly intervals until the events or circumstances have ceased.

**17. GST**

Save for defined terms in a TCTF Contract, words or expressions used in this clause 17 which have a particular meaning in the GST law (as defined in the GST Act) and including any applicable legislative determinations and Australian Taxation Office public rulings, have the same meaning, unless the context otherwise requires.

Except where express provision is made to the contrary, and subject to this clause 17, the consideration to be paid or provided under or in connection with a TCTF Contract is exclusive of any GST.

To the extent that any supply made under or in connection with a TCTF Contract is a taxable supply, the GST exclusive consideration to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is to be paid or provided.

To the extent that one Party is required to reimburse another Party for costs incurred by the other Party, those costs do not include any amount in respect of GST for which the other Party is entitled to claim an input tax credit.

To the extent that any consideration to be paid or provided under a TCTF Contract represents a decreasing or increasing adjustment because of an adjustment event in relation to a taxable supply:

- (1) the supplier must notify the recipient of the refund, credit or further amount payable on account of GST by the supplier issuing to the recipient an adjustment note (or a cancellation note together with a tax invoice) within 5 Business Days of becoming aware of the adjustment event; and
- (2) the supplier must provide a refund or credit to the recipient, or the recipient must pay a further amount to the supplier, as appropriate on account of GST within 10 Business Days of receipt of the adjustment note or tax invoice.

To the extent that any consideration payable to a Party under or in connection with a TCTF Contract is determined by reference to a cost incurred by a Party, or is determined by reference to a cost, price, value, sales, revenue or similar amount, the GST exclusive amount of that cost, price, value, sales, revenue or similar amount must be used.

A Party's right to payment under a TCTF Contract is subject to a valid Tax Invoice being delivered to the recipient of the taxable supply.

**18. SECURITY OF PAYMENT**

The Contractor acknowledges, for the avoidance of doubt, that to the extent Essential Energy has an entitlement to issue a payment schedule(s) (or its equivalent) or any other document or notice under the Security of Payment Act, it may do so by Essential Energy's Representative who acts as Essential Energy's agent in that regard.

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The Contractor must provide to Essential Energy's Representative as soon as possible in the circumstances, a copy of any notice or document:

- (a) served by the Contractor on Essential Energy under or in connection with the Security of Payment Act; and
- (b) received by the Contractor from any third party in connection with the Project where that notice, or document is provided under the Security of Payment Act. In such event, Essential Energy may, in its absolute discretion, pay such third party the money that it is owed by the Contractor and the amount of such payment will be a debt due from the Contractor to Essential Energy. Payment by Essential Energy of any amount under this clause 18 will not relieve the Contractor of any of its obligations and liabilities under or in connection with the Panel Agreement, these General Conditions or a TCTF Contract.

Without limiting Essential Energy's rights pursuant to any other clause of the Panel Agreement, these General Conditions or a TCTF Contract, the Contractor is liable for and indemnifies Essential Energy against all loss, costs, damages and expense (including legal fees on an indemnity basis) or liability arising out of or in connection with:

- (c) a suspension pursuant to the Security of Payment Act by a subcontractor or a sub-consultant to the Contractor of;
- (d) the Contractor's failure to pay an amount claimed pursuant to the Security of Payment Act by a sub-consultant or subcontractor to the Contractor for; or
- (e) an adjudication application issued by a sub-consultant or subcontractor to the Contractor under the Security of Payment Act in connection with,

work which forms part of or is incidental to the Services.

**19. CIVIL LIABILITY**

The Parties agree that to the maximum extent permitted by law, the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to all and any rights, obligations and liabilities arising out of or in connection with the Panel Agreement, a TCTF Contract or the Services whether such rights, obligations or liabilities are sought to be enforced as a breach of contract or a claim in tort or on the basis of quantum meruit, quasi contract or of any other principle of law or equity.

The Contractor further agrees that each subcontract into which it enters includes the following terms:

- (a) to the extent permitted by law, the operation of Part 4 of *Civil Liability Act 2002* (NSW) shall be excluded in relation to all rights, obligations and liabilities arising out of or in connection with the subcontract or the work of the sub-consultant or subcontractor whether such rights, obligations or liabilities are sought to be enforced as a breach of contract or a claim in tort or on the basis of quantum meruit, quasi contract or of any other principle of law or equity; and
- (b) the sub-consultant or subcontractor warrants in favour of Essential Energy that the sub-consultant or subcontractor will not seek to rely upon any of the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) in any proceedings taken by Essential Energy against the sub-consultant or the subcontractor arising out of or in connection with the work of the sub-consultant or subcontractor required to be executed by it under the subcontract.

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**20. CONFIDENTIALITY, CONFLICT OF INTEREST, PRIVACY AND CORRUPT CONDUCT**

20.1 CONFIDENTIALITY

Each Party must keep confidential:

- (a) information so designated in writing by the other Party as confidential or which the Party receiving the information ought to reasonably know is confidential; and
- (b) all aspects of the Panel Agreement, these General Conditions, any TCTF and a TCTF Contract and all matters arising from the Services,

and must not disclose these details to any third party without the written approval of the other Party except:

- (c) to the extent required by Law (including the *Government Information (Public Access) Act 2009* (NSW));
- (d) to enable performance of the Panel Agreement or a TCTF Contract;
- (e) where the disclosing Party is Essential Energy, to obtain the benefit of the Panel Agreement or a TCTF Contract, at the request of Parliament, a Parliamentary Committee or a Minister, or for the purposes of government accountability;
- (f) disclosure to a professional adviser for the purposes of the Panel Agreement, these General Conditions or a TCTF Contract; or
- (g) if such information is in the public domain other than by reason of a breach of this clause by the other Party.

To the extent that a Party may disclose such information to a third party under this clause, that Party must, before disclosing that information, ensure that the third party is bound by similar confidentiality obligations as contained in this clause 20.1.

Neither Party shall use or allow for publication or broadcasting any information concerning the Project or the Services in any media without the written approval of the other Party. Each Party shall refer to the other Party any enquiries concerning the Project from any media.

This clause 20.1 survives the expiry or termination of the Panel Agreement, these General Conditions and any TCTF Contract, regardless of the cause of that expiry or termination.

20.2 CONFLICT OF INTEREST

The Contractor warrants:

- (a) as at the date of the Panel Agreement; and
- (b) at the time of each Work Order Acceptance,

that the Contractor does not have an interest or duty which conflicts or may conflict with any interest of Essential Energy ("**Conflict of Interest**") and is not aware of any Conflict of Interest which may arise.

If the Contractor becomes aware of a Conflict of Interest or a potential Conflict of Interest, the Contractor must notify Essential Energy in writing as soon as possible in the circumstances.

20.3 PRIVACY

- (a) The Contractor must:

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- (i) comply with the *Privacy Act 1988* (Cth), and any regulations made under that Act, in relation to any Personal Information it obtains under or in connection with the Panel Agreement, these General Conditions or a Purchase Order Contract;
  - (ii) take all reasonable steps to ensure that Personal Information is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure;
  - (iii) comply with any reasonable directions of Essential Energy relating to the use, management and storage of that Personal Information; and
  - (iv) not do, or omit to be done, any thing which would cause Essential Energy to breach or be taken to breach the *Privacy Act 1988* (Cth) or any regulations made under that Act.
- (b) Any Personal Information collected by Essential Energy from or through the Contractor in connection with the Panel Agreement, these General Conditions or a Purchase Order Contract will be used, managed and stored in accordance with Essential Energy's Privacy Policy (which is available on Essential Energy's website ([www.essentialenergy.com.au/](http://www.essentialenergy.com.au/))).
- (c) For the purposes of this clause 20.3, "**Personal Information**" has the meaning given to it in the *Privacy Act 1988* (Cth).

#### 20.4 CORRUPT CONDUCT

- (a) In this clause 20.4:
- (i) "**Advantage**" means any financial or other advantage or benefit, payment, gift, promise or transfer of anything of value.
  - (ii) "**Corrupt Conduct**" has the meaning given in the ICAC Act.
  - (iii) "**Corruption Law**" "Corruption Law" means all of the Laws, rules and regulations of Australia (State and Federal) relating to any of the matters specified in section 8(1) or paragraphs (a) to (y) of section 8(2) of the ICAC Act, including breaches of public trust, bribery, corruption, money laundering, fraud or similar activities.
  - (iv) "**ICAC**" means the Independent Commission Against Corruption, constituted by the ICAC Act.
  - (v) "**ICAC Act**" means the *Independent Commission Against Corruption Act 1988* (NSW).
  - (vi) "**Offence**" means an offence under the ICAC Act.
  - (vii) "**Public Official**" has the meaning given in the ICAC Act.
  - (viii) "**Report**" means a report prepared by the ICAC under section 74 of the ICAC Act.
- (b) The Contractor must, at all times, comply with all Corruption Law, and not offer, promise or give (either directly or indirectly) any Advantage to any person with the intent, or probable consequence, of inducing or influencing that person to:
- (i) breach or impair public trust;
  - (ii) misuse information acquired in the course of their official functions; or
  - (iii) engage in the dishonest or impartial exercise of their official functions.
- (c) The Contractor warrants to Essential Energy that:
- (i) at the time of entering into the Panel Agreement or a TCTF Contract:

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- (A) neither it nor any of its officers (including, for the avoidance of doubt, any director) have been found guilty of an Offence; and
  - (B) the ICAC has not included in any Report a finding or opinion that the Contractor or any of its current officers (including, for the avoidance of doubt, any director) have engaged in any Corrupt Conduct; and
- (ii) it will:
- (A) in performing its obligations under the Panel Agreement or a TCTF Contract, not employ or engage, or continue to employ or engage, (as applicable) any employee, officer (including, for the avoidance of doubt, any director) or subcontractor who is found guilty of an Offence or who is specified in any Report as having engaged, or who in the ICAC's opinion has engaged, in any Corrupt Conduct; and
  - (B) ensure that no subcontractor employs or engages, or continues to employ or engage, (as applicable) any person in relation to the performance of the Panel Agreement or a TCTF Contract who has been found guilty of an Offence or who is specified in any Report as having engaged, or who in the ICAC's opinion has engaged, in any Corrupt Conduct.
- (d) In addition to any other right or remedy of Essential Energy, Essential Energy may, in its sole discretion, upon written notice, terminate the Panel Agreement or any TCTF Contract (or both) with immediate effect and without any requirement to pay compensation in respect of such termination (other than payment for work performed by the Contractor under the terminated TCTF Contract and which is unpaid up until the date of termination), if the:
- (i) Contractor breaches any of the warranties given by it in clause 20.4(c); or
  - (ii) Contractor, or any officer of the Contractor (including, for the avoidance of doubt, any director), is, at any time found guilty of an Offence or specified in any Report as having engaged, or who in the ICAC's opinion has engaged, in any Corrupt Conduct.

**21. LIMITATION OF LIABILITY**

21.1 LIMITATION OF LIABILITY

Subject to clause 21.2 below, the Contractor's maximum aggregate liability to Essential Energy under all TCTF Contracts created in a Relevant Period is limited to ten million dollars, unless otherwise set out in the Panel Agreement.

21.2 EXCEPTIONS

Clause 21.1 does not apply to the Contractor's liability:

- (a) in respect of any liability under clause 7.1(c) or 7.1(d);
- (b) in respect of the Contractor's failure to effect and maintain insurance in accordance with clause 7.2;
- (c) to the extent that insurance proceeds are received, or would have been received but for an act or omission of the Contractor, under insurances required by the Panel Agreement, these General Conditions or a TCTF Contract in respect of that liability;
- (d) in respect of a breach by the Contractor of clause 9;
- (e) in respect of any liability under clause 9.2; or

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- (f) arising out of or in connection with criminal conduct, fraud, wilful misconduct, wilful default, or gross negligence.

**22. EXCLUSION OF CONSEQUENTIAL LOSS**

**22.1 EXCLUSION OF CONSEQUENTIAL LOSS**

Despite any other provision of the Panel Agreement, these General Conditions or a TCTF Contract to the contrary, but subject to (f), to the extent permitted by law, neither Party is liable to the other Party whether under, arising out of or in any way connected with the Panel Agreement, these General Conditions or a TCTF Contract, without limitation, by way of indemnity, for breach of contract, in tort (including negligence), in equity, under statute or otherwise for any:

- (a) loss of profit;
- (b) anticipated loss of profit;
- (c) loss of production;
- (d) loss of opportunity;
- (e) loss of use; or
- (f) third party pure economic loss (except to the extent covered by liquidated damages); or
- (g) other losses that do not naturally rise from an event or breach.

**22.2 EXCEPTIONS**

Clause 22.1 does not apply to:

- (a) the Contractor's liability:
  - (i) in respect of any liability under clause 7.1(c) or 7.1(d);
  - (ii) in respect of the Contractor's failure to effect and maintain insurance in accordance with clause 7.2;
  - (iii) to the extent that insurance proceeds are received, or would have been received but for an act or omission of the Contractor, under insurances required by the Panel Agreement or a TCTF Contract in respect of that liability;
  - (iv) in respect of a breach by the Contractor of clause 9;
  - (v) in respect of any liability under clause 9.2; or
  - (vi) to the extent that such liability arises out of or in connection with criminal conduct, fraud, wilful misconduct, wilful default, or gross negligence; or
- (b) Essential Energy's liability to the extent that such liability arises out of or in connection with criminal conduct, fraud, wilful misconduct, wilful default, or gross negligence of Essential Energy or its employees or agents.

**23. GENERAL**

**23.1 NOTICES**

Any notice to be given or served under or in connection with the Panel Agreement, these General Conditions or a TCTF Contract must be in writing and delivered by hand, in the ordinary mail or email at the address stated in Schedule 1 of the Panel Agreement (in the case of the Contractor) or in the relevant TCTF (in the case of Essential Energy) except in the case of notices to be given or served under or in

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connection with clause 14 or 15 in which case such notices must be delivered by registered mail to the address stated in Schedule 1 of the Panel Agreement (in the case of the Contractor) or in the relevant TCTF (in the case of Essential Energy).

A notice sent by ordinary or registered mail to:

- (a) an address in Australia within the same city or town is taken to have been received 4 Business Days after the date on which the notice was posted;
- (b) an address in Australia outside of the same city or town is taken to have been received 6 Business Days after the date on which the notice was posted; and
- (c) an address outside Australia is taken to have been received 7 Business Days after the date on which the notice was posted.

The Contractor, Essential Energy and Essential Energy's Representative must each notify the others in writing of any change of contact details.

A notice sent by email is taken to have been received on the day it is sent if sent before 4pm on a Business Day and on the next Business Day if sent after 4pm. An email is not taken to have been received if the sender's computer reports that the message has not been delivered or if it is not received in full and legible form and the addressee notifies the sender of that fact within 6 hours after the transmission ends or by 12 noon on the Business Day on which it would be otherwise treated as given or received, whichever is later.

#### 23.2 GOVERNING LAW

The law governing the Panel Agreement and any TCTF Contract is the law of New South Wales.

#### 23.3 ENTIRE AGREEMENT

The Panel Agreement, these General Conditions and the relevant TCTF Contract contains the entire agreement and understanding between the Parties on everything connected with the subject matter of the Panel Agreement, these General Conditions and the relevant TCTF Contract.

#### 23.4 AMENDMENT

An amendment to the terms of these General Conditions or the Panel Agreement is not effective unless it is in writing and signed by the parties.

#### 23.5 WAIVER

The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.

Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given and only if given in writing.

#### 23.6 SEVERABILITY

The Parties agree that a construction of the Panel Agreement, these General Conditions and any TCTF Contract that results in all provisions being enforceable is to be preferred. If a part of the Panel Agreement, these General Conditions or a TCTF Contract is illegal or unenforceable or otherwise invalid, then such invalidity will not affect the validity of any other part of the Panel Agreement, these General Conditions and a TCTF Contract except to the extent made necessary by such invalidity.

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23.7 INDEMNITIES

The indemnities in the Panel Agreement, these General Conditions and any TCTF Contract are continuing, separate and independent obligations and survive termination.

23.8 REPRESENTATIONS

Each party has entered into the Panel Agreement and any TCTF Contract without relying on the representation by any other Party or any person purporting to represent that Party, provided that such representation was not fraudulent, misleading or deceptive. If any representation was made by a Party to another Party, the other Party must ensure that representation is reflective of or included in (as applicable) the terms of the Panel Agreement or any TCTF Contract, and seek independent legal advice as required to confirm the foregoing.

24. SMALL BUSINESS CONTRACTS

If a TCTF Contract constitutes a "small business contract" within the meaning of the Australian Consumer Law (at Schedule 2 of the *Competition and Consumer Act 2010* (Cth)), these General Conditions are amended as follows:

- (a) clause 2.1A is amended to read as follows:
- (a) The Contractor acknowledges that:
- (i) amendments or updates may be made by Essential Energy to these General Conditions from time to time and posted on Essential Energy's website (or otherwise notified by Essential Energy to the Contractor); and
- (ii) any amendment or update to these General Conditions will only apply to a TCTF Contract that is created after the amendment or update has been posted on Essential Energy's website (or otherwise notified by Essential Energy to the Contractor) (**Date of Amendment**).
- (b) If the Contractor, acting reasonably, disagrees with any amendment or update made to these General Conditions under clause 2.1A(a):
- (i) the Contractor must notify Essential Energy in writing of the amendment or update to which it objects, and the parties will endeavour to negotiate, in good faith, the relevant amendment or update (**Amendment Dispute**); and
- (ii) whilst an Amendment Dispute is on foot, unless the parties agree otherwise in writing:
- (A) notwithstanding clause 2.3, the Contractor is not obliged to submit to Essential Energy any TCTF with a completed section 2 "Work Order Confirmation"; and
- (B) Essential Energy may, in its sole discretion, withdraw any TCTF it issues to the Contractor under clause 2.2 between the Date of Amendment and the date the Amendment Dispute is resolved, and no TCTF Contract will be created in respect of that withdrawn TCTF.
- (b) the first paragraph of clause 5.1 is amended to read as follows:
- Should either Party encounter any discrepancies, contradictions, omissions, ambiguity, errors, faults or inconsistencies in or between any documents comprising a TCTF Contract ("**Discrepancy**"), it must promptly notify the other Party in writing.
- (c) clause 5.3 is amended to read as follows:

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Information or documents of any nature provided by or on behalf of Essential Energy to the Contractor at any time, whether before or after the date of the Panel Agreement (other than the Contract Documents and notices issued by Essential Energy or Essential Energy's Representative under a TCTF Contract) were furnished and are furnished to the Contractor for its convenience only, to the extent permitted by law, and were not and are not guaranteed whether in terms of their accuracy or otherwise.

Any document supplied by Essential Energy to the Contractor remains (as between Essential Energy and the Contractor) the property of Essential Energy and must be returned to Essential Energy upon request. The Contractor may keep one copy of any such document for its own records.

(d) clause 8.2(b) is amended to read as follows:

Approval to subcontract must not be unreasonably withheld but may be conditional upon the subcontract including:

- (a) provision that the sub-consultants or subcontractors shall not assign, novate or subcontract without the consent in writing of the Contractor;
- (b) any provision which may reasonably be necessary to enable the sub-consultant or subcontractor to fulfil the Contractor's obligations to Essential Energy; and
- (c) requirements for collateral warranty deeds (including a deed proposed by Essential Energy).

(e) clause 11.2 is amended to read as follows:

Essential Energy's Representative may at any time and for any reason suspend the whole or any part of the Services by written notice to the Contractor. In such event, the Contractor must not recommence work on the whole or on the relevant part of the Services until Essential Energy's Representative by written notice, directs the Contractor to do so.

If costs and expenses arising from a suspension under this clause 11.2 have not been agreed in advance and if the event giving rise to the direction to suspend was not caused or contributed to by the Contractor, then Essential Energy shall pay the Contractor the additional costs and expenses reasonably and necessarily incurred by the Contractor as a result of the suspension (as determined by Essential Energy's Representative, acting reasonably).

(f) clause 14.5 is amended to read as follows:

Notwithstanding any other provision of the Panel Agreement, these General Conditions or a TCTF Contract, if Essential Energy:

- (a) terminates the Panel Agreement or a TCTF Contract or both for whatever reason (including for its convenience) or engages others to carry out or itself carries out any part or the whole of the remaining Services, Essential Energy may without payment of compensation to the Contractor (unless expressly provided to the contrary in the Panel Agreement, these General Conditions or the relevant TCTF Contract) take possession of all documents (including design documentation), information and the like in the Contractor's possession which is connected with the Services and reasonably required by Essential Energy to facilitate completion of the Services; and
- (b) exercises any of its rights under clause 14.3, 14.4 or 14.9, Essential Energy may without payment of compensation to the Contractor (unless expressly provided to the contrary in the Panel Agreement, these General Conditions or the relevant TCTF Contract) take an assignment of the Contractor's rights and benefits under any contracts with subcontractors or sub-consultants, including any warranties and guarantees, that are related to the Services. The Contractor must do all things necessary to effect such an assignment.

(g) clause 14.10 is amended to read as follows:

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A Party may at any time, for its sole convenience and without cause, terminate a TCTF Contract by providing 14 days' prior written notice to the other Party (or such longer period as may be agreed by the Parties). Where Essential Energy terminates a TCTF Contract under this clause 14.10, Essential Energy will pay the Contractor the relevant amounts specified in clause 14.8, and where the Contractor terminates a TCTF Contract under this clause 14.10, the Contractor must reimburse Essential Energy for any part of the Fee paid by Essential Energy to the Contractor relating to any part of the Services not performed.

(h) clause 16 is amended to read as follows:

Where the Contractor proposes to make a Claim against Essential Energy, the Contractor must give to Essential Energy:

- (a) a written notice not later than 28 days after the Contractor first knew, or ought to have known, about the circumstances on which the Claim is based, that it intends to make a Claim; and
- (b) a further written notice within 28 days of the notice under clause 16(a) providing detailed particulars of the basis for and the quantification of the Claim sufficient to enable Essential Energy to make an informed assessment of the merits of the Claim,

Updates of the information required in the notice under clause 16(b) for a Claim based on ongoing events or circumstances shall be submitted by the Contractor to Essential Energy at weekly intervals until the events or circumstances have ceased.

(i) clause 19 is amended to read as follows:

The Parties agree that the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is, to the maximum extent permitted by law, excluded in relation to the obligations and liabilities of the Contractor under or in any way in connection with the Panel Agreement or a TCTF Contract with respect to the apportionment of any liability (whether arising in contract, tort, or otherwise) as between the Contractor and any of its employees, sub-consultants, subcontractors, and agents.

## **25. PERFORMANCE MEASURES**

### **25.1 SERVICE LEVELS**

Without limiting the Contractor's obligations under any other provision of the Contract Documents, the Contractor must achieve the Service Levels set out in the Schedule 3 of these General Conditions, which the Contractor accepts are minimum objectives.

## **26. SUSTAINABILITY**

### **26.1 CONDUCT AND DIVERSITY**

- (a) The Contractor:
  - (i) acknowledges Essential Energy's continued commitment to environmentally, economically and socially sustainable business practices; and
  - (ii) in carrying out its obligations under the Panel Agreement and a TCTF Contract:
    - (A) warrants that it will uphold high standards of ethics and honour global and local labour laws, human rights and environmental responsibilities; and
    - (B) have regard to Essential Energy's Sustainability Strategy (available on Essential Energy's website).

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- (b) The Contractor must:
- (i) treat its Personnel with respect and dignity; and
  - (ii) use best endeavours to:
    - (A) provide equal opportunity and, to the extent reasonably possible, advancement opportunities for all employees regardless of age, colour (dis)ability, ethnicity, race, gender, gender identity, gender expression, marital status, pregnancy/maternity, national origin, sexual orientation or religion;
    - (B) promote pay equality, diversity and inclusion (including through training and awareness initiatives or programs to recruit and develop diverse talent);
    - (C) provide a work environment free of discrimination, harassment, intimidation and bullying; and
    - (D) protect Personnel in raising concerns about business conduct.

## 26.2 ENVIRONMENT

- (a) In performing its obligations under the Panel Agreement and a TCTF Contract, the Contractor must:
- (i) to the extent reasonably possible, minimise the use of hazardous substances and materials;
  - (ii) make reasonable efforts to:
    - (A) reduce waste generated, energy consumption and any other potentially adverse impacts of its activities on biodiversity and natural capital;
    - (B) use environmentally friendly materials, packaging and transportation; and
    - (C) meet industry best practices and standards in relation to the monitoring and reporting of energy use and greenhouse gas emissions; and
  - (iii) where possible, and to the extent feasible and economically viable, actively support and promote the reuse and recycling of any redundant or discarded items or other materials, or any components of any of them, in connection with the Panel Agreement and a TCTF Contract, including working towards implementing processes and practices that facilitate the reuse of such items, materials or components and ensuring that the recycling of any such items, materials or components is in accordance with applicable laws.
- (b) The Contractor must review and report to Essential Energy on opportunities to improve environmental sustainability outcomes over the Term, if and as such opportunities arise. The Contractor must utilise such opportunities when directed by Essential Energy to do so, subject to the Parties agreeing any reasonable amendments to the fees and payment arrangements directly associated with the relevant opportunities.
- (c) The Contractor must provide to Essential Energy such information and written documentation, as may be required by Essential Energy from time to time, to verify and evaluate the Contractor's compliance with this clause 26.2, including in respect of the Contractor's sustainability efforts related to the reuse and recycling of items or materials (or any components of any of them).

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26.3 MODERN SLAVERY

- (a) The Contractor must not (and must take reasonable steps to ensure that any entity it owns or controls or which is in the Contractor's supply chain do not) engage in any Modern Slavery Practice or undertake any other act which could constitute an offence involving Modern Slavery.
- (b) The Contractor warrants, at all times, that:
  - (i) it is not aware (including through the making of reasonable inquiries) of any circumstance within its operations or supply chains (or in those of any entity it owns or controls) that could give rise to an official investigation or prosecution of an offence involving Modern Slavery; and
  - (ii) to the best of its knowledge and belief, having made reasonable enquiries, neither it nor any related entity or any entity in the Contractor's supply chain has been convicted of any offence involving Modern Slavery.
- (c) The Contractor must:
  - (i) conduct, and ensure each entity it owns or controls or which is in the Contractor's supply chain conducts, business in a manner so as to reduce the risk of Modern Slavery in their respective operations and supply chains;
  - (ii) as appropriate, develop and maintain policies and procedures, and implement due diligence processes and training for Personnel, to avoid engaging (whether directly or indirectly) in Modern Slavery;
  - (iii) comply, and take reasonable steps to ensure any entity it owns or controls complies, with the Modern Slavery Laws;
  - (iv) promptly upon Essential Energy's request, provide Essential Energy with a copy of any statement or report the Contractor is required to prepare under any Modern Slavery Law;
  - (v) comply with any reasonable policies, procedures, investigations or additional conditions relating to Modern Slavery notified by Essential Energy to the Contractor from time to time during the Term;
  - (vi) promptly provide Essential Energy with all Information required for Essential Energy to comply with Essential Energy's reporting obligations under the Modern Slavery Laws; and
  - (vii) notify Essential Energy promptly upon becoming aware of any complaint or allegation that the Contractor, or any related entity or entity in the Contractor's supply chain, has engaged in Modern Slavery and take reasonable steps to respond to the complaint or allegation, including in accordance with any internal Modern Slavery strategy and procedures of the Contractor and any relevant code of practice or conduct or other guidance issued by the Anti-slavery Commissioner. The Contractor must notify Essential Energy in writing of the action it is taking to address the complaint or allegation, which must be satisfactory to Essential Energy (acting reasonably).
- (d) If the Contractor subcontracts any of its obligations (including any part of the Services) in accordance with these General Conditions and Essential Energy notifies the Contractor that it requires the following to be complied with in respect of a particular subcontractor, the Contractor must:

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- (i) implement an appropriate system of due diligence which ensures the subcontractor takes reasonable steps to reduce the risk of Modern Slavery in the subcontractor's supply chains and in any part of the subcontractor's business or operations; and
  - (ii) include in the relevant subcontract provisions that are reasonably consistent with the provisions of this clause 26.3, having regard to the nature and origin of the procurement.
- (e) In addition to any other right or remedy of Essential Energy, Essential Energy may, in its sole discretion, terminate the Panel Agreement or a TCTF Contract or both, upon written notice, with immediate effect and without any requirement to pay compensation in respect of such termination (other than payment for work performed by the Contractor under the relevant TCTF Contract and unpaid up until the date of termination), if the Contractor breaches any Modern Slavery Law or if the Contractor, or any entity that it owns or controls, commits an offence involving Modern Slavery.

#### 26.4 SUSTAINABILITY PERFORMANCE REGIME

- (a) This clause 26.4 applies to a TCTF Contract if the parties agree:
  - (i) any 'Key Performance Indicators' relating to Essential Energy's Sustainability Strategy (available on Essential Energy's website) that the Contractor is required to achieve; and
  - (ii) the methodology and frequency for the assessment of those Key Performance Indicators,

under a TCTF Contract (**Sustainability Performance Regime**).
- (b) The parties agree that:
  - (i) the Sustainability Performance Regime will facilitate compliance with Essential Energy's Sustainability Strategy (available on Essential Energy's website); and
  - (ii) Essential Energy will assess the Contractor's compliance with each Key Performance Indicator in accordance with the methodology, and at the frequency, agreed by the parties under clause 26.4(a)(ii).
- (c) The Contractor's failure to achieve:
  - (i) a Key Performance Indicator on two (2) or more occasions; or
  - (ii) two (2) or more different Key Performance Indicators,

in accordance with the Sustainability Performance Regime will constitute a substantial breach of the relevant TCTF Contract.
- (d) The Contractor must keep sufficient records of its performance as against each Key Performance Indicator to enable Essential Energy to assess the Contractor's compliance with each Key Performance Indicator, and the Contractor must provide such records to Essential Energy within 5 Business Days of a written request from Essential Energy.

#### 26.5 NO DEROGATION

For the avoidance of doubt, nothing in this clause 26 derogates from the Contractor's other obligations or liabilities arising under the Panel Agreement or a TCTF Contract, and the obligations or liabilities in this clause 26 are in addition to the Contractor's obligations and liabilities set out in any other document comprising the Panel Agreement or a TCTF Contract.

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26.6 DEFINITIONS

In this clause 26:

- (a) any word, expression, reference or term used in this clause 26 which is defined in clause 1.2 and is not specifically defined in this clause 26 shall, unless the context otherwise indicates, have in this clause 26 the same meaning as in clause 1.2; and
- (b) each term set out below has the meaning given to it in this clause 26.6(b):
- (i) **Anti-slavery Commissioner** means the Anti-slavery Commissioner appointed under the *Modern Slavery Act 2018* (NSW).
  - (ii) **Information** may include (as applicable) information as to any risks of, actual or suspected occurrences of, and remedial action taken in respect of, Modern Slavery but excludes “personal information” as defined in the *Privacy Act 1988* (Cth) or information which tends to identify individuals.
  - (iii) **Key Performance Indicator** means a Key Performance Indicator agreed by the parties in respect of a TCTF Contract under clause 26.4(a)(i).
  - (iv) **Modern Slavery** has the meaning given to that term in the Modern Slavery Laws, and includes any form of slavery, servitude, debt bondage, deceptive recruitment practices, or forced labour to exploit children or other persons.
  - (v) **Modern Slavery Laws** means the *Modern Slavery Act 2018* (Cth) and the *Modern Slavery Act 2018* (NSW), and any and all rules or regulations enacted in connection with any of those Acts, as in force and updated from time to time.
  - (vi) **Modern Slavery Practice** includes any one or more of the following:
    - (A) using any form of forced, imprisoned, indentured, bonded, or involuntary labour, child labour or deceptive recruitment practices;
    - (B) requiring Personnel to work more than the local legal limits on regular and overtime hour;
    - (C) save for short periods where legally required to do so for the purposes of administering employment, retaining the passports and/or identity documents of Personnel or any potential Personnel;
    - (D) denying Personnel the right to freely associate and collectively bargain within the boundaries of applicable laws;
    - (E) save where required by law, paying wages to any individual other than Personnel;
    - (F) providing wages and benefits which contravene applicable laws; and
    - (G) if any Personnel are migrant workers, providing migrant workers with any lesser entitlements than given to local employees.
  - (vii) **Personnel** means the Contractor’s officers, employees, subcontractors, consultants and all personnel of subcontractors and consultants within the contractual chain.
  - (viii) **Sustainability Performance Regime** has the meaning given to it in clause 26.4(a).

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## SCHEDULE 1

### Subcontractor's Statement

**REGARDING WORKER'S COMPENSATION, PAYROLL TAX AND REMUNERATION (Note1 – see back of form)**

For the purposes of this Statement a "subcontractor" is a person (or other legal entity) that has entered into a contract with a "principal contractor" to carry out work.

This Statement must be signed by a "subcontractor" (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007*, and s127 *Industrial Relations Act 1996* where the "subcontractor" has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

**SUBCONTRACTOR'S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.)**

Subcontractor: ..... ABN: .....  
(Business name)

of .....  
(Address of subcontractor)

has entered into a contract with ..... ABN: .....  
(Business name of principal contractor) **(Note 2)**

Contract number/identifier .....  
**(Note 3)**

This Statement applies for work between: ..... / ..... / ..... and ..... / ..... / ..... inclusive, **(Note 4)**

subject of the payment claim dated: ..... / ..... / ..... **(Note 5)**

I, ..... a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

- (a)** The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [ ] if true and comply with **(b)** to **(g)** below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [ ] and only complete **(f)** and **(g)** below. You must tick one box. **(Note 6)**
- (b)** All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ..... / ..... / ..... **(Note 7)**
- (c)** All remuneration payable to relevant employees for work under the contract for the above period has been paid. **(Note 8)**
- (d)** Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. **(Note 9)**
- (e)** Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. **(Note 10)**
- (f)** Signature ..... Full name ..... **(g)**

Position/Title ..... Date ..... / ..... / .....

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**NOTE:** *Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987.*

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**Notes**

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007* and section 127 of the *Industrial Relation Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called **the subcontractor**) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the *Industrial Relations Act 1996* defines remuneration 'as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.'

Section 127(11) of the *Industrial Relations Act 1996* states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'

5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

**Statement Retention**

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

**Offences in respect of a false Statement**

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if: the person is the subcontractor;

(a) (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or

(c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

**Further Information**

For more information, visit the WorkCover website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au), Office of State Revenue website [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au), or Office of Industrial Relations, Department of Commerce website [www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au). Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

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## SCHEDULE 2

### Provision of Traffic Management Technical Specifications

#### 1. BACKGROUND

Essential Energy is responsible for ensuring the safety and reliability of its electricity supply network. The completion of regular maintenance programs and the construction of new infrastructure are crucial in meeting this requirement. As part of this responsibility, Essential Energy is responsible for the provision of associated traffic control to ensure works are completed safely and reduce risks posed to the public.

All definitions included in Panel Agreement and General Conditions apply to this document.

#### 1.1 TECHNICAL DEFINITIONS

<b>Contractor Personnel</b>	Employees of the Contractor, agents of the Contractor and sub-contractors engaged by the Contractor including employees of the subcontractor, who assist the Contractor to perform the Services.
<b>Essential Energy Personnel</b>	Employees of Essential Energy, agents of Essential Energy, Essential Energy contracted 3 <sup>rd</sup> party suppliers.
<b>Road Occupancy Licence (ROL)</b>	A permit which allows the applicant to use or occupy a specified road space at approved times, provided that certain conditions are met.
<b>Traffic Management Plan (TMP)</b>	A plan showing how traffic will be managed when construction works are being carried out. A TMP describes the work activities being proposed, their impact on the roadway and on road users, and how these impacts are being addressed. A TMP may incorporate Traffic Staging Plans, Traffic Control Plans, Vehicle Movement Plans and Pedestrian Movement Plans
<b>Traffic Control Plan (TCP)</b>	A diagram showing signs and devices arranged to warn traffic and to guide it around, past or if necessary through a work site or temporary hazard.
<b>Essential Energy Representative</b>	A related person appointed by Essential Energy to liaise with the Contractor on specific matters related to the provision of the Services.
<b>Remote Location</b>	Any worksite that is more than three hours or 300 Kms, whichever is the shortest, travel from the closest Contractors Depot.
<b>Site Supervisor</b>	Essential Energy Representative responsible for the activities of Essential Energy on Site.

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1.2 SCOPE OF SERVICES

A TCTF Contract is for the provision of core traffic control services. The Contractor must ensure the safe management of traffic flow, all operating mobile plant and equipment, Essential Energy Personnel and the public on Essential Energy's work Sites relevant to each Traffic Control request from Essential Energy.

The Contractor must provide the following services/resources:

- (a) site assessment – to establish site specific requirements for the safe movement of traffic as required;
- (b) Qualified personnel trained in accordance with RMS Traffic Control Qualifications (as outlined in Annexure B), including traffic control crews to direct and control traffic as well as a traffic control supervisor / leading hand for each crew (in accordance with clause 4 of this Specification).
- (c) Traffic Control Services;
- (d) design, construction, upgrading maintenance and removal of any temporary roadways and detours;
- (e) Provision of access to properties adjoining Site;
- (f) Protection of all Essential Energy Personnel, Contractor Personnel and members of the Public from passing traffic including Pedestrian control;
- (g) Installation and removal of all temporary safety barriers;
- (h) Installation and removal of temporary signs, road markings and lighting.
- (i) all necessary vehicles, signage and equipment to enable successful delivery of the Services (in accordance with this Specification);
- (j) preparation of suitable Traffic Control Plans (TCP) / Traffic Management Plans (TMP) for submission to the appropriate authority as required (in accordance with relevant clauses in 3.14; 0 and 3.16 of this Specification);
- (k) obtaining traffic control permits / road occupancy licences from the appropriate authority as required.
- (l) From time to time Essential Energy may (acting reasonably) request, during the Term, additional services similar to the services in this Technical Specification, which may be outside the scope of the services specified.

The Contractor must ensure that all on-site traffic management risks are identified, assessed and sufficiently controlled so as to protect Essential Energy Personnel, Contractors Personnel and the public, including acceptance of Essential Energy's Risk assessment documentation as agreed at the Pre-start meeting prior to commencement of work.

The Contractor is required to provide the Services listed above, in addition to the core traffic management services, on an emergency, twenty-four hours per day, seven days per week basis, as required.

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1.3 ESSENTIAL ENERGY SERVICE LOCATIONS

The successful Contractor will be required to provide Traffic Management Services related to Essential Energy Depot location. The Contractor must identify the Essential Energy depots where the Contractor will provide Traffic Management Services. The Contractor coverage for Essential Energy depots will form the agreed Service area as listed in the Panel Agreement, Schedule of Rates Table 2.

One Schedule of Rates will apply to the agreed Service area. Refer to Table 1 below for list of Depot locations.

From time to time Essential Energy, at its discretion, may change the list of depots.

**Table 1 – Essential Energy List of Depots**

<b>Essential Energy Depot List</b>			
<b>A-C</b>	<b>D-J</b>	<b>K-S</b>	<b>T-Z</b>
Albury Depot	Darlington Point Depot	Kempsey Depot	Tamworth Depot
Armidale Depot	Deniliquin Depot	Kyogle Depot	Taree Depot
Ballina Depot	Dorrigo Depot	Lake Cargelligo Depot	Temora Depot
Balranald Depot	Dubbo Depot	Leeton Depot	Tenterfield Depot
Barham Depot	Dunedoo Depot	Lismore Depot	Texas Depot
Barraba Depot	Dungog Depot	Lockhart Depot	Tooleybuc Depot
Bathurst Depot	Ewingsdale Depot	Macleay Depot	Tumbarumba Depot
Bega Depot	Forbes Depot	Molong Depot	Tumut Depot
Berrigan Depot	Gilgandra Depot	Moree Depot	Tweed Heads Depot
Blayney Depot	Glen Innes Depot	Moruya Depot	Wagga Depot
Bombala Depot	Gloucester Depot	Moulamein Depot	Walcha Depot
Boorowa Depot	Goondiwindi Depot	Mudgee Depot	Walgett Depot
Bourke Depot	Goulburn Depot	Murwillumbah Depot	Warialda Depot
Braidwood Depot	Grafton Depot	Nambucca Heads Depot	Warren Depot
Broken Hill Depot	Griffith Depot	Narrabri Depot	Wellington Depot
Bulahdelah Depot	Gunnedah Depot	Narrandera Depot	West Wyalong Depot
Buronga Depot	Guyra Depot	Narromine Depot	Wilcannia Depot
Canowindra Depot	Harden Depot	Nyngan Depot	Yass Depot
Casino Depot	Hay Depot	Oberon Depot	Young Depot
Cobar Depot	Hillston Depot	Orange Depot	
Coffs Harbour Depot	Inverell Depot	Parkes Depot	

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Condobolin Depot	Jerilderie Depot	Port Macquarie Depot	
Coolamon Depot	Jindabyne Depot	Queanbeyan Depot	
Cooma Depot	Junee Depot	Quirindi Depot	
Coonabarabran Depot		Stroud Depot	
Coonamble Depot			
Cootamundra Depot			
Corowa Depot			
Cowra Depot			
Crookwell Depot			
Culcairn Depot			

## 2. APPLICABLE LAW AND STANDARDS

### 2.1 GENERAL REQUIREMENTS

All Services must be completed in accordance with the relevant State road authority.

The Contractor must comply with the requirements of all Acts of Parliament of the Commonwealth of Australia and the State of NSW, and with the requirements of all ordinances, regulations, by-laws, orders and proclamations made or issued under the relevant Act; and with the lawful requirements of public, local or other Authority including local governments, in any way affecting the execution of the work under the General Conditions.

The Contractor must also comply with the policies of Essential Energy, including, but not limited to, Drug and Alcohol and Fatigue Management Policies.

### 2.2 AUSTRALIAN STANDARDS AND NSW REQUIREMENTS

The provision of Traffic Management Services must be in accordance with all relevant Legislation, Australian standards, Essential Energy Policies and industry publications in relation to RMS requirements and the TCWS Manual V5 or subsequent versions.

The Contractor is to follow Australian Standards applicable to the Services, relevant codes of practice and RMS requirements. The Australian Standards are available from Standards Australia's website <<http://www.standards.org.au>>.

Australian Standards that apply to this General Conditions and the following are listed for reference purposes, but are not limited to regulations and policies to this list;

- (a) Roads Act 1993 (NSW)
- (b) Roads Transport Act 1993 (NSW) & Transport and Main Roads (TMR) (QLD)
- (c) Electricity Supply Act 1995 (NSW)
- (d) Electricity Act 1994 (QLD)
- (e) Transport Infrastructure Act 1994 (QLD)

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- (f) Payroll Tax Act 2007 (NSW) & (QLD)
- (g) Work Health and Safety Act 2011
- (h) Work Health and Safety Regulation 2018
- (i) Workers Compensation Act 1987(NSW) & (QLD)
- (j) Industrial Relations Act 1996 (NSW) & (QLD)
- (k) Superannuation Guarantee (Administration) Act 1992 (Cth)
- (l) Meet all Australian Taxation Office (ATO) requirements for PAYG or PPS income tax systems
- (m) Safe Work Australia Codes of Practice and related legislation
- (n) AS1742.3 – Manual of uniform Traffic Control
- (o) AS1743 - Road Signs - Specifications
- (p) AS2890 – Parking Facilities
- (q) AS4801 OH& S Management System
- (r) ISO9001(Quality Management System)
- (s) ISO14001(Environment Management System)
- (t) RMS Traffic Management Manual TCWS5 (or subsequent versions)
- (u) Manual of Uniform Traffic Control Devices (MUTCD) QLD
- (v) Essential Energy Policies;
- (w) CEOP1000.11
- (x) CECM1000.24

RMS supplements have been developed for Australian Standards (AS) 1742, 1743 and 2890. The supplements document any mandatory RMS practice and any complementary guidelines that must be considered. The supplements are located at the following link:

<https://www.rms.nsw.gov.au/business-industry/partners-suppliers/document-types/supplements-austroads-guides/road-design.html>The Contractor must ensure that it has in its possession and is working to the most up-to-date version of the relevant standards and associated documents at all times.

### 2.3 SUPPLEMENTS TO AUSTRROADS GUIDES

Austrroads is the association of Australian and New Zealand road transport and traffic authorities and includes the six Australian state and two territory road transport and traffic authorities, Australian Department of Infrastructure, Regional Development and Cities, Australian Local Government Associations, and New Zealand Transport Agency.

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Austrroads provides a comprehensive set of technical guides covering the design, construction, maintenance, operation and safety of Australian and New Zealand road networks. The Austrroads Guide to Traffic Management (13 parts) includes Part 10 – Guide to traffic control and communication devices.

Services must be provided in accordance with relevant parts of the Austrroads Guide to Traffic Management.

If any conflict is identified, the Australian Standards, RMS supplements and the Austrroads guides are to prevail. The Contractor must inform Essential Energy of the conflict, the standard adopted and the reasons for the decision as soon as reasonably practicable.

### **3. TRAFFIC CONTROL REQUIREMENTS**

Essential Energy maintains a large network of assets. These can be very close to the roadways and required traffic control services could range from moving sites requiring shadow traffic control, multiple traffic control set ups in one day or large construction projects disrupting traffic for long periods.

The Contractor is responsible for the provision of the Services listed in this Specification.

The Contractor is required to commence work and set up the traffic control prior to Essential Energy employees arriving on site (up to 30 minutes) unless agreed otherwise in writing by Essential Energy. The Contractor is responsible for the safe management of traffic through or around the worksite to ensure the safety of Essential Energy employees, Contractor Personnel and the public. The Contractor and Energy must maintain open communication to ensure all risks are safely mitigated and controlled.

Minor and Major Traffic Management is to be conducted utilising an Essential Energy authorised traffic management contractor.

#### **3.1 TRAFFIC FLOW MANAGEMENT**

Traffic Management (or traffic control) on urban and rural roads is the process of directing vehicles and pedestrians around, past, or through a road disruption to protect safety at the worksite. Effective traffic management ensures the safety of workers and the public and maintains good traffic flow.

The Contractor must arrange and manage all traffic control including all co-ordination, organisation and provision of work permits, Road Occupancy Licence (ROL), RMS approved Traffic Control Plans (TCP's) and Traffic Management Plans (TMP), Traffic Control and road closures with local authorities.

The Contractor must comply with the requirements of Roads and Maritime Services (RMS) and the Local Government Council in relation to the work to be carried out on Classified roads and in Council controlled road reserves.

No Personal vehicles are to be taken to site, as personal vehicles may impact the traffic flow in and around the work site.

All traffic Control vehicles must be fit for purpose and be identified as Traffic Control Services.

Before commencement of Traffic Control Services, the Contractor must provide a Traffic Control Plan (TCP) and/or Traffic Management Plan (TMP), acceptable to Council or the RMS within road reserves. The Contractor must revise the plan, if necessary, to conform to Council and RMS requirements at no additional cost to Essential Energy.

The TCP/TMP is to be prepared by a person holding a current "Prepare a Work Zone Traffic Management Plan" if required by the nature of the TCP/TMP. Where applicable no on-site work may be commenced until RMS or Council approves and accepts the TCP/TMP.

The Contractor must provide written confirmation of the relevant approval document from the Council or RMS to the Principal 5 business days from the approval and no later than the day before date of service.

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The Traffic Control Tracking Form (TCTF) must be approved by Essential Energy in accordance with General Conditions CI 2.4 and this Specification.

All Traffic Control work crews must have current RMS Traffic Control Qualifications. Refer to Annexure B to this Specification.

### 3.2 MAJOR TRAFFIC CONTROL

Major Traffic Control is defined by:

- (a) closing of a traffic lane;
- (b) a Road Occupancy License (ROL) or Access Permit is required;
- (c) Truck Mounted Attenuators or other specialised traffic control equipment is required. Refer to CI 3.6 of this Specification.

The Contractor must identify and schedule all major traffic control requirements and lodge with the TCTF all the supporting documentation from the RMS Council or approved TCP/TMP, including the Contractor's detailed written estimate for the provision of the major traffic control services.

The written estimate must include all additional expenses, including and where applicable travel, accommodation, Location Levy, Truck Mounted Attenuators (TMA) and other specialised equipment and vehicles. Refer to CI 3.6 of this Specification.

Notwithstanding the creation of any TCTF Contract under the General Conditions, any Major Traffic Control over \$5000 in respect of a TCTF the subject of a Work Order Acceptance must be approved in writing by Essential Energy before any Services under the TCTF Contract commence (such approval not to be unreasonably withheld). Refer to CI 3.7 of this Specification.

Prior to the day of service for Major Traffic Management requirements, the Contractor and Essential Energy must arrange to meet and discuss in a preparation site meeting, and review the site requirements for ROL, Access Permits Special equipment including TMA's.

### 3.3 TCTF CONTRACT PROCESS

The Contractor will be notified of the requirement for the Services at a particular worksite in accordance with the following TCTF Contract process:

- (a) Traffic Control Tracking Form (TCTF)

#### **Section 1 of TCTF Form (Refer Annexure A of this Specification)**

Essential Energy or its successor, will issue a Traffic Control Tracking Form to engage the Contractor for the provision of the Services.

The Traffic Control Tracking Form will include;

- contractor name;
- contractor email address;
- job type;
- confirmation job completed and date completed;

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- project name;
- WACS project number;
- WACS work order number;
- date;
- worksite location including GPS coordinates;
- Google map details;
- Essential Energy Depot;
- Essential Energy depot supervisor contact number;
- Essential Energy depot code;
- work order start date;
- work order end date;
- time Essential Energy arrive on worksite;
- time Essential energy will depart worksite;
- description of task:
  - number of Essential Energy staff;
  - number of Essential Energy vehicles on site.
- site specific plan details;
- special considerations;
  - pedestrian control;
  - third party contractors.
- Essential Energy contact name;
- Essential Energy contact email and mobile.

The above details will be sent by Essential Energy to the Contractor via email.

For emergency work refer to clause 3.8 of this Specification. A verbal direction must be followed by completed TCTF confirming in writing the TCTF Contract for invoicing purposes.

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(b) Work Order Confirmation by Contractor

**Section 2 of the TCTF Form (Refer Annexure A of this Specification)**

To confirm acceptance of a Traffic Control Tracking Form, the Contractor must complete Section 2 Work Order Confirmation of the Traffic Control Tracking Form and email the Traffic Control Tracking Form to Essential Energy within **two business days** of receipt of the Traffic Control Tracking Form.

The Traffic Control Tracking Form (TCTF) Contract (Work Order Confirmation) refer General Conditions Cl 2.3) must include:

- contractor contact name;
- contractor contact email address and mobile;
- job reference number;
- job acceptance;
- crew size;
- number of vehicles;
- total hours;
- set up time;
- pack up time;
- Road Occupancy Licence required;
- pedestrian control if applicable;
- special considerations;
- nominated contractor depot;
- travel distance;
- travel requirements if applicable (location levy and accommodation required).

(c) Not used

(d) Cancellation of TCTF Contract

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**Section 3 of TCTF Form (refer to General Conditions – Cancellation of TCTF Contract CI 2.7 of General Conditions and TCTF - Annexure A of this Specification)**

If, for any reason, a TCTF the subject of a Work Order Confirmation is cancelled, Essential Energy's cancellation may be by telephone in the first instance and then followed in writing and/or emailed to the Contractor as soon as reasonably practicable.

A minimum of 24 hours' notice of a cancellation of a TCTF the subject of a Work Order Acceptance will be required prior to the scheduled commencement of work (except if it is not reasonably practicable for Essential Energy to notify the Contractor in this timeframe, in which case Essential Energy will notify the Contractor of the cancellation as soon as possible prior to the scheduled commencement of work).

The written notice will set out the following:

- confirmation if work is rescheduled;
- date cancellation communicated to traffic control contractor;
- time;
- Essential Energy Name and contact number.

(e) Not used

#### 3.4 TRAFFIC CONTROL RESOURCES

The Contractor must provide and must be responsible for the supply of appropriate Contractor Personnel, proper use and maintenance of all necessary materials, tools, plant, equipment and transport necessary to ensure that Services are provided in a safe and environmentally responsible manner, meeting all contractual and legislative requirements.

The Contractor must immediately notify Essential Energy where nominated resources are not maintained.

All traffic control signs and devices must be in accordance with AS 1742.3 or its successor which specifies the sizes for temporary road works signs.

(a) Traffic Control Supervisor

The Contractor must provide a traffic control supervisor with each crew. The traffic control supervisor must be trained in accordance with clause 6 Training Requirements of this Specification and will be the only person provided in a one-person crew. The traffic control supervisor is expected to form part of the traffic control crew and not be an additional overhead.

The traffic control supervisor is responsible for:

- (i) communicating with the Site Supervisor on site;
- (ii) conducting the hazard assessment before Essential Energy arrives on site, in accordance with clause 3.17 Hazard Assessments of this Specification and relaying on this traffic management hazards and control measures during Essential Energy's hazard assessment process for their works;

The Contractor must participate in a joint hazard assessment with Essential Energy. The Contractor must

- (a) sign on to Essential Energy's Hazard Assessment;
- (b) all Contractor Personnel at each work location;

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- (c) selecting and modifying the correct TCP to meet the traffic conditions on site and ensure it is applied as intended;
- (d) continually monitoring the traffic conditions on site;
- (e) modifying the TCP if traffic conditions change, or notifying Essential Energy Site Supervisor on site to stop work until the conditions are safe to continue or further modification and implementation of the revised TCP is in place;
- (f) ensuring adequate traffic control personnel are on site and rotate in accordance with the TCP and Australian Standards;
- (g) obtaining timesheet sign off each day prior to leaving site from Essential Energy Site Supervisor on site; and
- (h) Traffic Control Crews.

The crew size assigned to each job must be appropriate for the work required and not overstaffed. Contractor Personnel must:

- (i) be trained in accordance with clause 6 of this Specification;
- (ii) participate in the traffic control hazard assessment process;
- (iii) understand the TCP for the site, including familiarisation with the site and understanding of the work being undertaken; and
- (iv) carry appropriate equipment.

The crew size assigned to each job must be appropriate for the work required and not overstaffed.

### 3.5 WORKING HOURS

The nominated traffic control crew will be required to be at the nominated site on the date and time specified in the TCTF the subject of a Work Order Acceptance.

Actual hours worked on site by all traffic control crew must be valued based on the approved actual hours worked on site. This is also applicable for any special equipment used.

The Contractor must submit timesheets on a daily basis for approval by the Site Supervisor – this will reflect only hours worked on site.

The Contractor must submit copies of relevant Traffic Control Tracking Forms and signed timesheets with all invoices issued to Essential Energy.

- (a) Set up / Pack up

A maximum of 30 minutes for setup and 30 minutes for pack up may be invoiced at the applicable rates per crew per job for the time spent on these activities prior to Essential Energy personnel arrival on site or after that Essential Energy personnel has already left the site.

Setup includes all activities necessary to implement traffic control requirements and crew preparation to enable Essential Energy crew to commence work. This includes, but is not limited to:

- complete a worksite hazard and risk assessment;

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- review of the worksite and, as required, update the TCP to reflect site conditions and features;
- complete all site induction requirements for the traffic control crew; and
- setup worksite in line with the TCP / TMP.

Pack up involves all activities to remove traffic management signs and equipment from the worksite after Essential Energy crew has left the site.

Set up and pack up time must be clearly identified as a separate item in the timesheets.

The Contractor may be required to complete the set up prior to Essential Energy employees arriving on site and the pack up after Essential Energy employees have left the site. This requirement will be nominated in the TCTF Booking Form.

(b) Minimum Hours

Minimum engagements shall be four hours per day inclusive of setup and pack up. This will only apply if a traffic control crew is engaged for a single job which is less than four hours and does not have same day follow on engagements.

(c) Night Works

The Contractor may be required to work at night.

The TMP and TCP must specify the hours for night works. The Contractor must ensure all night works are managed in accordance with all requirements as specified by legislation, RMS Technical Manual – Traffic Control at Work Sites (TCWS) and special conditions as specified under the Road Occupancy License or road access permits. The Contractor must ensure;

- (i) All personnel on the site wear approved high visibility clothing
- (ii) The work site has appropriate flood lighting (See TCWS, Section 9.2.5, Lighting)
- (iii) Additional signs and devices may be used where there is reduced visibility
- (iv) The traffic management arrangements are appropriately delineated in accordance with AS1742.3.

### 3.6 EQUIPMENT

The Contractor must provide, properly use and maintain all necessary equipment to ensure that the provision of the Services is carried out in a safe and environmentally responsible manner and meet all contractual and legislative requirements.

Any equipment supplied by the Contractor and considered to be unsafe or environmentally unsuitable by the Site Supervisor, shall be immediately removed from the site. Unsafe use of equipment shall result in the work being suspended until details of proposed modifications to the Contractor's work practices have been submitted and approved.

Should a suspension of work be due to unsafe condition(s) which are the Contractor's responsibility, Essential Energy reserves the right to be reimbursed for any costs incurred as a result.

(a) Special Signage and Equipment

Where the TCP or TMP requires special signage and/or equipment for the safety of workers, the Contractor must nominate this special signage and equipment during the TCTF Contract process for approval prior to the implementation of the TCP or TMP.

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The special signage and equipment may include trailer mounted electronic signage or oversized signage. The following items are considered as special signage and/or equipment:

- (i) variable message signs;
- (ii) arrow boards;
- (iii) water filled barriers;
- (iv) Lighting Tower;
- (v) Traffic Signals;
- (vi) Portable Boom Gate;
- (vii) Truck Mounted Attenuator; and
- (viii) Escort Vehicle.

### 3.7 TRAFFIC CONTROL APPROVAL REQUIREMENTS

Before any Services under a TCTF Contract commence which involve specialised signage and equipment where the estimated cost of that specialised signage and equipment exceeds **\$5000 (excl GST)**, Essential Energy must approve, in writing, that cost (and the Contractor must not commit to or incur that cost until Essential Energy provides its written approval). Such approval will not be unreasonably withheld by Essential Energy.

#### (a) Specialised Vehicles and Equipment

Where the delivery of Traffic Management Services or where the TCP/TMP or the ROL/Access Permit, require Specialised vehicles and equipment i.e. Truck Mounted Attenuators (TMA's) and Cone Trucks or other unspecified specialised equipment, the Contractor must provide a written estimate outlining the full extent of the requirement for each TCTF Contract on a case by case basis.

All estimates for Specialised Vehicles and Equipment must include, where applicable the following:

- (i) TCP/TMP
- (ii) ROL including special conditions
- (iii) Access Permit and conditions
- (iv) All travel from Depot to site and return to Depot
- (v) Accommodation only
- (vi) Other including any 3rd party or additional expenses.

The use of Specialised Vehicles and Equipment must be approved in writing by Essential Energy prior to the date of service of the TCTF Contract.

### 3.8 PROVISION OF EMERGENCY SERVICES

For emergency work, the Contractor may be required to provide the Services with minimal notice (less than two hours).

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The Contractor must be able to provide the Services at the worksite within two hours of notification (unless otherwise approved by Essential Energy) and as soon as possible, on a 24 hours per day, seven days per week basis, including public holidays.

The process for booking emergency works will follow the process outlined in clause 3.8 of this Specification. An Essential Energy Representative may issue the Contractor with a verbal direction followed by a written confirmation within 24 hours of the emergency works direction. Although the Contractor will not be required to submit a TCP for emergency work before commencement of the job, the Contractor must submit a copy of the TCP to Essential Energy together with the invoice for the Services.

### 3.9 MOBILISATION

When Traffic Management Services are required a flat fee for Mobilisation is applied.

Mobilisation is applied when the individual crew member is required to depart the nominated Contractor Depot location and travel to site for the delivery of services.

The mobilisation fee will cover the first 50kms of distance from the nominated Contractor Depot to the worksite.

### 3.10 TRAVEL AND ACCOMMODATION

Where Traffic Management is required, more than 50kms from the nominated Contractor Depot, to manage fatigue and work under an Essential Energy TCTF Contract, "living away from home" costs may apply.

Essential Energy is not responsible for meals and incidental expenses.

#### (a) Travel

Where Traffic Management is required more than 50kms from Contractor Depot, travel costs may be claimed, based on the Australian Taxation Office (ATO) Travel Allowance per vehicle per kilometre and the applicable rate as agreed in the approved Schedule of Rates may apply.

All travel must be approved in writing by Essential Energy prior to work commencing where travel costs exceed \$5000 (AUD).

All substantiating and approval documents must be provided at the time of invoice submission.

#### (b) Accommodation

Where Traffic Management is required more than 250kms from the Contractor nominated Depot and the hours of work on site exceed 8 hours (combined travel and work onsite), for the purposes of "Fatigue Management" accommodation expenses (capped at \$150 per night) may apply.

All accommodation must be approved in writing by Essential Energy prior to work commencing.

Where a Truck Mounted Attenuator (TMA) is required to travel from the TMA Contractor Depot location, and where the Road Occupancy license (ROL) and RMS Traffic Management guidelines require the use of a TMA, the cost for accommodation for the operator may apply, where the TMA is to travel from Contractor Depot to Site overnight.

Essential Energy is not responsible for meals and incidental charges.

Accommodation must be at cost with no margin applied. All accommodation payments will be based on a pass-through cost and capped at \$150 per person per night.

All substantiating and approval documents must be provided at the time of invoice submission.

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(c) Location Levy Approval

Where Traffic Management is required more than 300kms from Contractor Depot a levy may be applied for out of area location. This levy will be in addition to the mobilisation fee, travel and accommodation fees. Essential Energy is not responsible for meals and incidental charges.

The out of area location levy applied under this provision must be applied as per the approved Schedule of Rates charge and must be approved in writing by Essential Energy prior to work commencing.

All substantiating and approval documents must be provided at the time of invoice submission.

3.11 FAILURE TO DELIVER TCTF CONTRACT SERVICES

Where the Contractor fails to attend the worksite, and/or the Contractor failed to deploy the correct resources to the worksite as stipulated in the TCTF Contract, ROL or access permit, resulting in the cancellation or rescheduling of the TCTF Contract, "No Show" conditions will be applied.

Where "No Show" conditions apply and cancellation of the TCTF Contract or the rescheduling of the TCTF Contract occurs, the Contractor will be responsible for the "Out of Pocket" expenses suffered by Essential Energy.

The "Out of Pocket" expenses will be charged at the Essential Energy Schedule of Rates at Schedule 2 of the Panel Agreement.

Third party expenses will be charged to the Contractor on a pass-through basis, with no margin applied.

Where the Contractor fails to deliver the services, at the discretion of Essential Energy, a deduction may also be applied from any amount payable to the Contractor in respect of the Services on every occasion the Contractor fails to meet the required Service Level in any month ("**Service Level Credit**") General Conditions, Schedule 3 and/or in accordance with Cl 12.7 Set Off – General Conditions.

3.12 LATE ARRIVAL TO SITE

Where the Contractor arrives late to the worksite, Essential Energy will review the Contractor compliance and performance in accordance with Section 5 of the TCTF Contract.

Where the Contractor arrives late to site and it has the same result in the TCTF being cancelled or rescheduled, "No Show" conditions apply. (Refer to Cl 3.11 of this Specification).

The Contractor must record all noncompliance and late arrivals and report on a monthly basis to Essential Energy all worksite non-compliance.

3.13 WORKSITE RECORD KEEPING REQUIREMENTS

The Contractor must keep records of the following information on a daily basis:

- (a) location of where the Services are being provided;
- (b) name and classification of Contractor Personnel engaged and the Site Supervisor;
- (c) weather conditions;
- (d) any incident or injury to any Contractor Personnel, Essential Energy's employees or members of the public. Details of the cause of the incident, notifications to all authorities, including Essential Energy's employees, steps taken to address, rectify or avoid the effects of the incident must be recorded in accordance with clause 4.5 and 4.6 of this Specification;

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- (e) details of any property damage caused by Contractor Personnel. Particulars of the person(s), plant and/or equipment involved in the incident must be recorded and provided to Essential Energy in accordance with clause 4.5 and 4.6 of this Specification;
- (f) details of any repairs to public or private property and the name(s) and qualifications of the person(s) carrying out the repairs;
- (g) details of any incident causing, or having the potential to cause, an adverse effect on the environment. Details of the steps taken to address, rectify or avoid the environmental effect must be recorded in accordance with clause 5.3 of this Specification;
- (h) details of any circumstance or occurrence that impacts on the General Conditions, for example, customer complaints or meetings with third parties, including representatives of a legislative authority or local government inspectors.

The daily records must always be available to Essential Energy in a format approved by Essential Energy.

### 3.14 TRAFFIC CONTROL PLAN (TCP)

A TCP is a document that shows the traffic control arrangements for a particular worksite. It will typically consist of a diagram showing temporary signs and devices arranged to warn, inform and guide road users on the approaches to, around and/or through the worksite. This will usually be supplemented by notes providing an explanation of aspects of the traffic control not clear from the diagram.

TCPs must be compliant with AS 1742.3.

The Contractor is responsible for site assessment and TCP preparation. Preparation of the TCP must include identifying traffic management areas, hazards, associated risks and evaluation of all site and traffic conditions.

Traffic management hazards need to be considered against the work to be undertaken at the nominated location and further consultation with Essential Energy must occur during risk assessment and development of controls. The Contractor is responsible for reviewing and evaluating the effectiveness of the TCP following implementation or when site changes impact on the TCP.

The Contractor must ensure that each TCP is fit for the purpose for which it is intended and complies with all safety laws.

The Contractor must carry out the Services in accordance with the relevant TCP.

The Contractor is responsible for any liability, whether under the General Conditions or otherwise, resulting from:

- (a) the finalisation of any TCP;
- (b) the implementation of, and compliance with, the requirements of any TCP;
- (c) any act or omission of Essential Energy concerning a TCP or the Contractor's compliance or noncompliance with a TCP; and/or
- (d) any audit or other monitoring by Essential Energy of the Contractor's compliance with a TCP and this Specification.

To the extent of any inconsistency between the TCPs and the General Conditions, the General Conditions will prevail except to the extent that Essential Energy has expressly stated otherwise in writing (acting reasonably).

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3.15 PREPARATION OF TCPS

The Contractor must:

- (a) within five business days of notice of traffic control requirements, submit the TCP(s) to Essential Energy;
- (b) allow Essential Energy two business days to review the draft TCPs (including any draft TCP that has been resubmitted in accordance with clause 0 of this Specification). A TCP will be considered to be final if Essential Energy does not reject the draft TCP within the two-business day period;
- (c) if any draft TCP is rejected by Essential Energy, promptly submit an amended draft of the TCP to Essential Energy in which case clauses 0 of this Specification will reapply to the amended draft of the TCP;
- (d) document and maintain detailed records of inspections and/or audits conducted by the Contractor (if any) as part of any TCP;
- (e) obtain all RMS and/or local government licences required to perform the Services: and
- (f) Confirmation call the last business day prior to the work required date. before job commences to confirm detail.

3.16 TRAFFIC MANAGEMENT PLAN (TMP)

A Traffic Management Plan (TMP) is a document required when major road disruptions will occur. A major road disruption is defined as an interference with the normal flow of the traffic in a determined area (e.g. deviation of the traffic in both direction of the road or road closure).

A TMP is a document detailing:

- (a) special traffic control measures;
  - (b) the impact of these measures;
  - (c) how to minimise the impact of re-assigned traffic;
  - (d) assessment of public transport affected;
  - (e) provisions for emergency vehicles;
  - (f) assessment of effect on existing and future developments;
  - (g) assessment of effect of proposed measures on traffic movements in adjoining council areas;
- and
- (h) public consultation process.

In preparing the Site TMP, the following steps are to be followed:

- (i) Identify Areas – Identify areas that have an interaction between persons, operational plant, equipment and vehicles within the site;

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- (ii) Assess Risk – Carry out risk assessments in consultation with the Site Supervisor involved. The risk assessment must be conducted according to the type of activities that will be carried out in the area, the site conditions and requirements of the job in order to minimise incidents and risk.
- (iii) Evaluations – Evaluate all conditions in which the activity may occur including but not limited to:
  - (i) daytime and visibility;
  - (j) night-time and visibility;
  - (k) peak period operation;
  - (l) high sun conditions;
  - (m) poor weather visibility;
  - (n) volume of movements of vehicles including type of vehicle; and
  - (o) heavy vehicle required directions.

The Contractor is required to document the Site TMP ensuring that the following are considered:

- (p) isolating employees/pedestrians from moving plant and equipment;
- (q) plant and equipment operating in noisy environments;
- (r) plant and equipment operating near underground or above ground services;
- (s) plant/vehicles moving on road ways around site (speed limits);
- (t) consideration of one way only roadways/direction (forward);
- (u) blind spots;
- (v) use of fences/barriers/bollards;
- (w) use of safe work distances;
- (x) clear communication signage;
- (y) use of audible alarms/reversing sensors;
- (z) use of flashing lights;
- (aa) use of high visibility clothing; and
- (bb) use of observers (when required).

The TMP must be reviewed when significant changes to the site layout, site operations or surrounding road systems have occurred.

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**3.17 SITE HAZARD ASSESSMENT**

All Contractor Personnel involved on site must be involved in Essential Energy's daily site-specific discussions regarding hazard identification, risk assessment and controls prior to work commencing inside the traffic management site.

All Contractor Personnel must sign on Essential Energy HIRAC to confirm they are aware of the hazards involved with the work at the site and understand the mitigation measures in place to control those hazards.

The traffic control supervisor must alert Essential Energy employees to site specific safety issues related to traffic management and ensure those safety issues are included in Essential Energy's HIRAC and adequate mitigation strategies are correctly implemented and maintained for the duration of the work or longer as required.

**3.18 ON-SITE DOCUMENTATION**

The Contractor is required to have the following documents available at all times for inspection:

- (a) risk assessment documentation (clause 4.1 of this Specification);
- (b) Safe Work Method Statements (clause 4.2 of this Specification);
- (c) TCP or TMP as required (clauses 3.14, 0 and 3.16 of this Specification);
- (d) vehicle log books including daily checklists as required;
- (e) register of hazardous substances and relevant Safety Data Sheets (MSDS); and
- (f) relevant Essential Energy induction cards and identification of all Contractor personnel.

**3.19 REVIEW BY ESSENTIAL ENERGY**

Essential Energy is not obliged to draw the Contractor's attention to any error or omission (including any non-compliance with the General Conditions) in any material (including the TCPs).

Nothing that Essential Energy does or fails to do in relation to any material (including the TCPs) will:

- (a) relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities whether under the General Conditions or otherwise according to Law; or
- (b) prejudice Essential Energy's rights against the Contractor whether under the General Conditions or otherwise according to Law.

**4. CONTRACTOR'S MANAGEMENT SYSTEMS**

To ensure all Services are carried out in accordance with this General Conditions and all legislative requirements, the Contractor must have a quality management system, safety management system and an environmental management system, as either a combined system or three separately documented systems.

The Contractor's management systems may be subject to review by Essential Energy before the commencement of the Services.

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#### 4.1 QUALITY MANAGEMENT SYSTEM

For Essential Energy, a certified quality management system is required. For the other Essential Energy regions and when the Contractor is not providing the Services in more than one region, the Contractor is required to have, as a minimum, a documented quality management system for the Services. Although it is not a mandatory requirement to have a certified system in this case, the Contractor must have a system aligned to certification of a quality assurance system (ISO or equivalent) and should be working toward full certification in all Essential Energy areas.

(a) Supervision and Auditing of the Services

The Contractor must ensure that sufficient supervisors are available to attend worksites to ensure a complete inspection of Services provided.

As part of the Contractor's quality system, the Contractor must carry out self-audits of quality, safety, environmental and customer relations aspects of all Services delivered under this General Conditions and the Contractor must provide details of these audits to Essential Energy with the monthly reporting (see clause 7 of this Specification).

The Contractor must nominate one or more persons who can be contacted by telephone 24 hours per day, seven days per week to effectively deal with emergencies and complaints arising from the Services.

Essential Energy will complete a Traffic Control delivery audit on the performance of the Contractor compliance for each TCTF Contract. Any noncompliance will be entered into Essential Energy TotalSafe and be recorded as an action.

Where the Contractor fails to show or is late to arrive to site this will be recorded by Essential Energy as a noncompliance in Essential Energy's TotalSafe records.

All noncompliance will form an incident for review by the Contractor and will be measured under the Key Performance Indicators table and will impact the Contractor Performance.

(b) Work Health and Safety

The Contractor must comply with the *Work Health and Safety Act 2011* (NSW) (WHS Act) in relation to the Services.

<<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+10+2011+cd+0+N>>

The Contractor must meet its obligations under the WHS Act to provide a safe system of work at all times and to provide and maintain a work environment without risks to health and safety.

The Contractor must also comply with all applicable obligations under the *Work Health and Safety Regulation 2011* (NSW) (WHS Regulation) and relevant codes of practice in relation to the Services.

<<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+674+2011+cd+0+N>>

Without prejudice to Essential Energy other rights under the General Conditions, the Contractor must immediately comply, and ensure that all Contractor Personnel immediately comply, with a direction issued by a Essential Energy Representative, inspector or safety adviser. This applies where the direction is issued because it is reasonably considered that there is an imminent risk to the worksite health or safety of a person arising from the performance of the Services.

(c) Safety Management System

The Contractor must have a documented safety management system for the Traffic Management Services.

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(d) Work Health and Safety (WHS) Risk Management

The Contractor must ensure full compliance with Chapter 3, Part 3.1 of the WHS Regulation 2018 or later in relation to the Services. All potential risks must be identified, assessed and, where the risk is deemed unacceptable, eliminated. If it is not reasonably practicable to eliminate identified risks, the risks must be minimised or controlled.

It is the Contractor's responsibility to undertake a full risk assessment of all aspects of the Services requirements of the General Conditions and to implement the appropriate control measures.

Clause 38 of the WHS Regulation also requires a review of control measures be carried out whenever:

- (e) the control measure does not control the risk it was implemented to control so far as is reasonably practicable;
- (f) before a change at the worksite that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control; (g) a new relevant hazard or risk is identified;
- (h) the results of consultation by the duty holder under the WHS Act or the WHS Regulation indicate that a review is necessary; and (i) a health and safety representative requests a review.

The Contractor must complete a risk assessment for each TCTF Contract and provide a written copy of the completed risk assessment to Essential Energy at each Pre-start meeting. Essential Energy procedures may be used as the minimum standard to complete a risk assessment.

- (j) Contact with Low Voltage and Clearance from High Voltage;
- (k) Working within Railway Corridors;
- (l) Other Services e.g Telecommunications, Water and Sewer, Gas etc;
- (m) Excavations;
- (n) Personal Safety;
- (o) Public Safety;
- (p) Working on existing Poles;
- (q) Plant and Equipment Inspections;
- (r) Road Crossings and Traffic Control; and
- (s) Network Fatal Risks.

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Essential Energy has identified 9 Network Fatal Risks (NFR) which must be addressed for all work as per Table 2 below:

**Table 2 - Essential Energy Network Fatal Risks**

Network Fatal Risks (NFRs).			
No	Network Fatal risk	Definition	Intent
NFR 1.	Exposure to unintended discharge of electricity	An incident involving an unintended discharge of electricity, on or near, the network that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the unintended discharge of electricity.
NFR 2.	Exposure to hazardous chemicals/materials	An incident involving exposure to hazardous chemicals / materials (including but not limited to, asbestos, lead, acid and other chemicals, PCB, SF6, ozone and / or contaminated soil / water in one or more forms (solid, liquid, gas and particulate)) that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the storage, handling, transport, recycling and disposal of hazardous chemicals / materials.
NFR 3.	Fall from height	An incident involving a fall from one level to another that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents that could occur as a result of working at height (two meters or more, or where a fall could result in a significant incident).
NFR 4.	Motor vehicle accident	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the use of motor vehicles.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the use of motor vehicles.
NFR 5.	Unintended contact with mobile plant	An incident involving unintended contact with mobile plant that could result in a fatality or permanent disability to a worker or member of the public. This includes an event where mobile plant collides / contacts with other mobile plant or a fixed object or worker.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the use of mobile plant.
NFR 6.	Struck by falling or moving object	An incident involving an object falling from height or moving in an uncontrolled manner and that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents where and when there is the potential for human interaction with falling or moving objects.
NFR 7.	Incident while undertaking lifting operations	An incident involving mechanical lifting operations that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the performance of lifting operations.
NFR 8.	Uncontrolled collapse of excavation work	An incident involving unintended ground / earth movement due to Company works that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from the execution of excavation works.
NFR 9.	Breach of controlled worksite when working near or around traffic.	An incident involving a breach of a controlled worksite by company vehicles or general traffic that could result in a fatality or permanent disability to a worker or member of the public.	To eliminate or minimise the risk of fatalities, injuries and incidents arising from breaching a controlled worksite when working near or around traffic.

#### 4.2 SAFE WORK METHOD STATEMENTS

Safe Work Method Statements (SWMS) must meet the requirements of the WHS Regulation 2018 and the procedures of Essential Energy.

A safe work method statement is a document that:

- (a) lists the type of construction work being done;
- (b) states the health and safety hazards and risks relating to that work;
- (c) describes how the risks will be controlled;
- (d) describes how the control measures will be implemented, monitored and reviewed.

The Contractor must prepare the SWMS for the Services before the Services are performed. SWMS should be prepared with Contractor Personnel who will be undertaking the tasks to which it relates. The Contractor must keep evidence that Contractor Personnel using the SWMS have read and understood the SWMS (achieved by sign off on the SWMS by Contractor Personnel).

The SWMS must be updated and maintained throughout the Term of this Panel and made available to all employees undertaking the work, health and safety inspectors, any authorised person or any other workers

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within the vicinity. The Contractor must ensure that a copy of the SWMS is given to the Site Supervisor on site prior to the commencement of Services.

SWMS should be easy to read and understand and comprise and/or include flow charts, diagrams, tables, maps, etc. Essential Energy procedures must be used as the minimum standard in the development of SWMS.

#### 4.3 HAZARD ASSESSMENTS

In association with the SWMS for the performance of the Services, the Contractor must in conjunction with Essential Energy's staff complete a hazard assessment before performing that relevant part of the Services at a worksite and continually monitor for any potential hazards which may arise. The hazard assessment must include, but not be limited to, an examination and evaluation of the following:

- (a) traffic hazards;
- (b) access to the job;
- (c) electrical hazards;
- (d) hazards from falls and heights;
- (e) hazards from crushing;
- (f) manual handling;
- (g) mechanical hazards;
- (h) hazards to and from the environment;
- (i) hazards to and from the public; and
- (j) other hazards, for example—weather conditions.

#### 4.4 PERSONAL SAFETY EQUIPMENT

The Contractor must ensure that clauses 44, 45 and 46 of the WHS Regulation are complied with.

Appropriate personal safety equipment must be provided by the Contractor to ensure that all Contractor Personnel are adequately protected from all hazards associated with the performance of the Services. The personal safety equipment must comply with Australian Standards, Essential Energy Electrical Safety Rules, given the different requirements based on the work environment, and include, but not limited to, the following items:

- (a) protective overalls or appropriate work clothes for an electrical working environment such as long sleeve shirts and long trousers (to be worn at all times);
- (b) protective eyewear;
- (c) safety helmets;
- (d) hearing protection, as required;
- (e) gloves;
- (f) reflective vest or clothing to be used when on or near roadways;

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- (g) sun protection including sun screen SPF 30+; and
- (h) safety footwear (to be worn at all times).

The requirements of ISSC EC14 – Guide to Electrical Workers' Safety Equipment must be followed at all times. The inspection of personal safety equipment must be carried out before each use.

- (i) First Aid Provisions

The Contractor must ensure that the requirements of clause 42 of the WHS Regulation and any other applicable legislative requirement, code of practice and Australian Standard concerning first aid are complied with in respect of the Services.

The Contractor must also ensure a minimum of one member of the traffic control crew performing work at the worksite holds a current first aid certificate and has training in the type of incidents that may occur while performing the Services. If there is only one member of the traffic control crew with these requirements at the relevant worksite, he or she must remain at the worksite at all times while Services are being delivered or close the worksite down when he or she cannot be at the worksite.

#### 4.5 WORK HEALTH AND SAFETY INCIDENTS

A WHS incident may include any event or situation in a worksite that has impacted on the health, safety or wellbeing of any person; or poses an immediate threat to the health, safety or wellbeing of any person (even though the injury or illness has not yet occurred). WHS incidents include and are not limited to:

- (a) an incident in which any person has been injured or requires medical attention, as a result of (or during) Services being delivered;
- (b) a near miss in which any person could have been injured as a result of Services being delivered; and
- (c) any injury (including long term or late report) which is alleged to have occurred as a result of Services being delivered.

The Contractor must ensure that any 'notifiable incident' prescribed by the WHS Act is:

- (d) notified in the manner and form prescribed by the WHS Act to the relevant Authority;
- (e) notified to Energy immediately, with a confirmatory notice in writing to Essential Energy within 24 hours of its occurrence and accompanied by any documentation provided to the relevant Authority.

The Contractor must ensure that all available details concerning any WHS incident are notified to Essential Energy immediately with a confirmatory notice in writing to Essential Energy within 24 hours of its occurrence in accordance with clause 4.6 of this Specification. This applies whether or not the Contractor is also required to notify the incident under the WHS Act.

If an incident occurs the Contractor must ensure the following steps are taken by the Contractor traffic control supervisor managing the incident:

- (f) immediately make the area safe;
- (g) control any immediate danger to people and the worksite;
- (h) provide first aid as required;
- (i) where required, contact emergency services;

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- (j) use the emergency procedures described in the WHSMP / SWMS; and
- (k) if there are electrical leads or wires, maintain a safe perimeter.

The Contractor must:

- (l) cooperate with any authority, for example, police, WorkCover etc.;
- (m) remain at the incident scene until instructed to leave; and
- (n) do not disturb the site of the incident until an inspector arrives or until an inspector gives a direction, unless disturbance is necessary to assist or remove the injured person or minimise the risk of a further incident, or permission has been given by the inspector or Authority.

#### 4.6 REPORTING OF WHS INCIDENTS TO ESSENTIAL ENERGY

Any WHS incident must immediately be reported to the Site Supervisor or, where that contact is not successful, Essential Energy emergency on call number (this will be provided to the Contractor on commencement of the Services) which is available 24 hours a day, 7 days a week.

In all cases where Essential Energy emergency on call officer cannot be contacted, a message must be left providing a return name and contact number. The Contractor must then immediately inform Essential Energy Hazard Alert Line (number will be provided to contractors on commencement of the Services) and request that a Essential Energy Representative is notified.

The Contractor must complete Essential Energy incident report for all notifiable incidents or WHS incidents reported in accordance with the above requirements. This form must be forwarded to Essential Energy within twenty-four hours of the incident occurring.

Details of all WHS incidents, including those reported in accordance with the above procedure must be provided to Essential Energy on a monthly basis in accordance with Monthly reporting requirements at clause 7 of this Specification, regardless of their nature.

All Contractor documentation relating to an incident must be retained by the Contractor as required by the WHS Act – for a notifiable incident, this is five years.

The Contractor must provide monthly WHS performance report to Essential Energy.

#### 4.7 WHS INCIDENT INVESTIGATION

The Contractor must establish a process for classification of incidents that provides a timely and appropriate response. The Contractor must use Essential Energy Incident Investigation procedure as a reference guide. The incident investigation process outlined in Essential Energy – Incident Investigation includes information relating to the:

- (a) decision to initiate an investigation;
- (b) appropriate level of investigation;
- (c) skilled investigation personnel;
- (d) gathering of factual evidence;
- (e) causal analysis;
- (f) reporting; and

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- (g) corrective actions and communication.

Investigations must be conducted for serious injury events and also for near miss events, damage to equipment or property, complaints or any other range of situations where a detailed analysis of an event is required.

If the investigative process is not thorough it can lead to actions that address symptoms and not the actual underlying cause. This increases the potential for the unwanted event to re-occur because of a failure to learn.

Essential Energy may conduct its own investigation into any WHS incident relating to the Services or carry out the investigation with the Contractor.

The Contractor must provide a process for the communication and tracking of corrective and preventative actions arising from any WHS incident, the timeframe for completing corrective and preventative actions and the person responsible for carrying out corrective and preventative actions. The Contractor must prepare a written report about this process and provide the report to Essential Energy before implementing the actions.

The final incident investigation report must be provided to Essential Energy within five business days from the date of the incident.

## **5. ENVIRONMENT**

The Services must be delivered in an environmentally acceptable and responsible manner and in accordance with Energy environmental procedures.

In carrying out the Services, the Contractor must:

- (a) minimise the generation of waste;
- (b) separate generated wastes for re-use or recycling;
- (c) use low-waste products and products with recycled content, wherever these are technically suitable and cost and performance competitive;
- (d) keep disturbance of the existing environment and noise to a minimum;
- (e) regularly maintain their vehicles; and
- (f) comply with any applicable policy provided from time to time by Essential Energy.

### **5.2 ENVIRONMENTAL MANAGEMENT SYSTEM**

The Contractor must have an adequate environmental management system for the Services.

### **5.3 REPORTING OF POLLUTION INCIDENTS**

The Contractor must promptly notify (or immediately notify if immediate notice is required for Essential Energy to comply with Law) Essential Energy of all pollution incidents. The Contractor must cooperate with Essential Energy and relevant authorities to rectify or contain the pollution incident. Essential Energy may require the Contractor to directly contact the NSW Office and Heritage, Environmental Protection Agency depending on the seriousness of the incident.

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The Contractor must also comply with Essential Energy incident reporting process for all pollution incidents in accordance with the applicable Essential Energy's policies. All reports need to be completed and communicated to Essential Energy within 24 hours of the incident occurring.

## 6. TRAINING REQUIREMENTS

### 6.1 INDUCTION OF CONTRACTOR PERSONNEL

All Contractor Personnel must receive an induction by the Contractor prior to commencing work.

The Contractor's induction document must detail:

- (a) Essential Energy structure and obligations under the General Conditions;
- (b) the obligations and responsibilities of the Contractor Personnel including the Code of Conduct; and
- (c) the Contractor's policies and responsibilities relating to quality, safety, environment, customer relations, manual handling and property damage.

A copy of the Contractor's induction document must be provided to Essential Energy within three weeks of the Effective Date.

### 6.2 COMPETENCE, TRAINING AND QUALIFICATIONS OF CONTRACTOR PERSONNEL

The Contractor must ensure that all Contractor Personnel are fully conversant with the Services they are required to perform under this General Conditions Agreement and Specification and that, before any work commences, they are qualified, trained and competent to carry out their duties. The following matrix is based on the TMS Traffic Control Training requirement, refer to Annexure B of this Specification, and details the minimum training and qualifications of the Contractor Personnel.

**Table 3 – Contract Personnel Training Matrix**

Job description	Course code	Traffic control personnel	Traffic Control Supervisor	Contract Manager / Auditor
Contractor Induction (customer relations/manual handling training)	n/a	Yes	Yes	Yes
General Construction Induction Training <sup>1</sup>	n/a	Yes	Yes	Yes
Essential Energy inductions	n/a	Yes	Yes	Yes
Traffic Control – Stop & Go – construction	Traffic Controller	Yes	Yes	Yes
Traffic Control – Apply (set-up)	Implement Traffic Control Plans	Yes	Yes	Yes
Traffic Control – Select & Modify	Prepare a Work Zone Traffic Management Plan	No	Yes	Yes

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<b>Job description</b>	<b>Course code</b>	<b>Traffic control personnel</b>	<b>Traffic Control Supervisor</b>	<b>Contract Manager / Auditor</b>
Traffic Control – Design & Inspect	Prepare a Work Zone Traffic Management Plan	No	Yes	Yes
Senior First Aid	n/a	1 on site		

<sup>1</sup>General construction induction training cards will be recognised in accordance with WHS 318 Regulation.

When requested by Essential Energy, the Contractor must remove any Contractor Personnel considered to be a threat to safety at the site due to incompetence, misconduct or negligence.

Apart from Essential Energy training nominated in clause 6.2 of this Specification, all other training requirements may be carried out by a recognised/approved training organisation. Course codes beginning with UETT must be carried out in accordance with the Australian Quality Training Framework (AQTF) to meet the national competency standards.

All training courses must be carried out by a Registered Training Organisation (RTO) of the Contractor's choice and approval from Essential Energy. The Contractor may request further information from Essential Energy when unclear if the training is appropriate or accepted by Essential Energy. The adequacy of training and competency of all Contractor Personnel will be at the discretion of Essential Energy.

(a) Training Register

The Contractor must establish and maintain a register of all inductions and training provided to all of the Contractor Personnel delivering the Services to Essential Energy in accordance with all legislative requirements of the WHS Regulation and Act and the training outlined in clause 6 and Annexure B of this Specification. An up to date training register must be provided to Essential Energy monthly in an agreed format in accordance with monthly reporting requirement at Cl 7 of this Specification of this Specification.

The register must list the names of all Contractor Personnel currently engaged by the Contractor or who have left the company as at the last day of each month, the information required must be listed as follows:

- (b) full name;
- (c) Essential Energy 'Contractor';
- (d) Type of identification and card number;
- (e) Role;
- (f) Indicate whether the employee is a direct employee or engaged via a subcontractor (including that subcontractor's name); and

(g) current training status of the employee, subcontractor and self-employed person under their control.

## 7. REPORTING REQUIREMENTS

### 7.1 MONTHLY REPORT

The Contractor must submit to Essential Energy a monthly report due by the 15th of the following month. Where there is no activity in the preceding month a "Nil" return is to be submitted.

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Monthly reports are to be submitted to [traffic.managementservices@essentialenergy.com.au](mailto:traffic.managementservices@essentialenergy.com.au) .

- (a) Monthly Report in the required template and format, supplied by Essential Energy on the commencement of the Panel Agreement, outlining:
- (i) TCTFs the subject of a Work Order Acceptance received in the month;
  - (ii) TCTF Contracts completed for the month;
  - (iii) Detailed monthly transactions report – in MS Excel and MS Word;
  - (iv) KPI performance report;
  - (v) Worksite non-compliance (see clause 3.3(e) of this Specification)
  - (vi) Staff training register or confirmation that all contractor personnel meet the minimum training and qualifications;
  - (vii) Monthly WHS&E statistics; and
  - (viii) Summary of internal audits and audit findings.
- (b) Claim for Payment / Invoice as per agreed template (with all required supporting documents).

The Contractor must provide Essential Energy with the information required by the NSW Government Office of Environment and Heritage as part of the Waste Production and Purchasing Policy (WRAPP). This information must be provided by the Contractor within two weeks of the end of each financial year and using Essential Energy's 'Waste Reduction and Purchasing Reporting' (form no. DC0001).

On request, the Contractor must supply the following to Essential Energy:

- (i) Equipment Maintenance Summary – all vehicles; and
- (ii) Insurances - Certificate of currency.

## **8. ESSENTIAL ENERGY PROVIDED ITEMS**

The following works, materials and services will be provided by Essential Energy and unless otherwise noted, will be provided at no charge to the Contractor.

### **8.1 DOCUMENTS**

Essential Energy will provide copies of all the required forms and documents as well as time sheets prior to the commencement of the Services. It will then be the Contractor's responsibility to print additional copies as required.

### **8.2 INDUCTION REQUIREMENTS**

All Contractor Personnel performing Traffic Management Services are required to complete a Essential Energy induction before they can work on sites.

Where required by the Purchase all Contractor Personnel must participate in a Purchase Induction training program.

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The Site Supervisor is to provide an overview of the Site Safety Rules for all Contractor Personnel working on site. Site Induction Forms must be completed for all Contractor Personnel for each worksite, and the completed Site Induction Forms must be retained on site for the duration of the Services.

## 9. CONTRACTOR PERFORMANCE

### 9.1 KEY PERFORMANCE INDICATORS

The Contractor's performance will be monitored with a formal performance review meeting that will be held between Essential Energy and the Contractor to review performance against specifications and Key Performance Indicators and identify opportunities for improvement.

These meetings will take place at least quarterly or as nominated by Essential Energy and may be scheduled more frequently, depending on the requirements of Essential Energy and the overall Contractor's performance.

The Contractor may be audited at any time by Essential Energy to maintain an acceptable level of performance is maintained throughout the Term and to confirm the Contractor is meeting all its obligations.

Applicable Key Performance Indicators (KPIs) are set out in Table 5. The KPIs may be adjusted during the Term by mutual General Conditions and in writing.

It is the responsibility of the Contractor to measure and monitor the KPIs on a monthly basis. Performance against these KPIs will be reviewed through regular performance reviews and management meetings.

Without limiting its contractual rights, Essential Energy requires the Contractor to provide the Services in accordance with the targets that are set out in Table 5.

The monthly assessment and reporting of the Contractor's performance will form part of the overall compliance to the General Conditions and will provide evidence of satisfactory or unsatisfactory performance. The report must be reviewed in context against the number of worksite observations completed for the month and the seriousness and/or repetition of non-conformances.

Essential Energy will use these reports and allocated points to trend performance throughout the Term and establish benchmarks for expected performance.

The performance reports will contribute to Essential Energy's decision to apply Service Level Credits. Essential Energy will use this process to work with the Contractor to improve performance in the points that have been identified as unsatisfactory.

**Table 4- Monthly WHS and Environmental Contractor Performance Metrics**

	<b>Metric</b>	<b>Description/Definition</b>
1	Lost Time Injuries (LTI)*	Number of incidents that result in time lost from work of 1 day/shift or more whilst carrying out Work under the <i>Contract</i> .
2	Medically Treated Injuries (MTI)*	Number of medically treated injuries that have occurred whilst carrying out Work under the <i>Contract</i> .
3	Total Recordable Injuries*	Number of lost time injuries and medically treatment injuries that have occurred whilst carrying out Work under the <i>Contract</i> .
4	First Aid Injuries*	Number of first aid injuries that have occurred whilst carrying out Work under the <i>Contract</i> . (A first aid injury is one that requires first aid and is able to be treated onsite or at the place of work by a competent first aider).

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	<b>Metric</b>	<b>Description/Definition</b>
5	Near Misses*	Number of near misses that occurred while working at any <i>Contract premises</i> whilst carrying out Work under the <i>Contract</i> . A near miss is an unplanned event that did not result in an injury, illness or damage, but had the potential to do so.
6	Days Lost *	Number of days lost as a result of LTI's and MTI's that have occurred whilst carrying out Work under the <i>Contract</i> .
7	Lost Time Injury Frequency Rate (Contractor's whole organisation)	Lost Time Injury Frequency Rate measures the number of Lost Time Injuries that have occurred across the <i>Contractor's</i> whole organisation divided by the Number of Hours worked in the period multiplied by 1,000,000 hours. (No. of LTI for the mth. / No. Hours worked for the mth. *1,000,000) across <i>Contractor's</i> whole organisation.
8	Total Recordable Injury Frequency Rate (Contractors whole organisation)	Total Recordable Injuries (TRI), measures the Total Number of Recordable Injuries that have occurred across the <i>Contractor's</i> provision of Traffic management Services for Essential Energy divided by the Number of Hours Worked in the period multiplied by 1,000,000 hours. (No of TRI's for the mth / No. Hours worked for the mth * 1,000,000) across <i>Contractor's</i> provision of Traffic Management Services to Essential Energy.
9	SafeWork Notifiable Incidents* or SEWA Incidents	Number of incidents reported to SafeWork that have occurred whilst carrying out Work under the <i>Contract</i> . (Notifiable Incidents as per s35 <i>WHS Act</i> ) or Number of SEWA Incidents reported to <i>Essential Energy</i> that have occurred whilst carrying out Work under the <i>Contract</i> .
10	Environmental Protection Authority (EPA) Notifiable incidents*	Number of incidents reported to the EPA* (Notifiable Incident as defined under Part5.7 of the <u>POEO Act</u> )
11	Number of Hours Worked ^	Number of hours worked under the <i>Contract</i> .
12	Number of FTE's ^	Number of FTE's that carried out Work under the <i>Contract</i> .
13	Improvement Notices	Improvement notices issued by SafeWork or the EPA issued whilst carrying out Work under the <i>Contract</i> .
14	Prohibition Notices	Prohibition notices issued by SafeWork whilst carrying out Work under the <i>Contract</i> .
15	Fines	Number of fines (and value of fine) issued by SafeWork or the EPA issued in relation to carrying out Work under the <i>Contract</i> .

**Notes for Table 4:**

\*Any occurrence requires specific documentation for each incident that describes the date of the incident, the circumstances, causal factors and corrective actions/control or preventative measures implemented.

^Full time employees (FTE's) or equivalent, is a calculation of the total number of paid hours during the month divided by the number of normal working hours in a month (assume 166 hours per month for 1 FTE). Paid hours will include full time contracted workers, part time and subcontractor hours and will include all staff (Worksite based, managerial, office based, traffic etc.). FTE's are used for calculating Contract LTIFR & TRIFR.

Implementation of Internal Reviews

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In accordance with this Schedule 2. Cl 4.1(a) – Supervision and Auditing of Services, the Contractor must provide details of its internal reviews, including audits, inspections and audit trend analysis, undertaken to verify that the Worksite WHS processes and practices conform with its WHS Management Plan including:

- (a) system element(s) and activities audited and/or reviewed;
- (b) non-conformance(s), improvement(s) identified and corrective and preventative action(s) taken, including any corrective and preventative actions implemented by the Contractor following a review of its monthly audit trend analysis; (c) details of auditors and reviewers and dates and durations of audits and reviews; and
- (d) copies of 3rd party audit reports and details of the Contractor's responses to the reports

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Table 5 – Key Performance Indicators

Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>1</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
<b>SAFETY</b>	1.	Monthly	<b>LTI (Lost Time Injuries)</b>	Number of incidents that result in time lost from work of one day/shift or more whilst carrying out works under the Contract.	The number of injuries or illnesses resulting in lost time for the month.	0			
	2.	Monthly	<b>MTI (Medical Treated Injuries)</b>	Number of medically treated injuries that have occurred whilst carrying out works under the Contract.	The number of Medically Treated Injuries for the month	0			
	3.	Monthly	<b>SafeWork Notifiable Incidents or SEWA Incidents</b>	Number of incidents reported to SafeWork that have occurred whilst carrying out work under the Contract.	Number of Incidents reported to SafeWork or SEWA	0			
	4.	Monthly	<b>Environmental Protection</b>	Number of incidents reported to the Environment Protection Authority (EPA)	Number of Incidents reported to EPA	0			
	5.	Monthly	<b>Total Recordable Injury (TRI) score</b>	Weighted calculation of the number and severity of 'Safety' related TotalSafe records	$X = a + b + c + d + e$ <hr style="width: 20%; margin-left: 0;"/> <b>a</b> = n*0 LTI per MTD/LTD  <b>b</b> = n*0 MTI per MTD/YTD	<2			

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Traffic Management Replacement Monthly Key Performance Indicators						MTD	YTD	CTTD <sup>1</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level			
				<p><b>c</b> = n*2 SafeWork or SEWA Incidents</p> <p><b>d</b> = n*3 Environmental Protection Incidents</p> <p>n = # TSL X = Score</p>				
6.	Monthly	<b>TotalSafe Actions not completed</b>	Number of safety audit non-conformances not actioned and completed by the Contractor in less than 30 days.	The number of failed safety audits outstanding due to incomplete Contractor actions, where the number of days since the TotalSAFE action was greater than or equal to 15 days.	0			
7.	Monthly	<b>HPI<sup>2</sup></b>	Any work related incident that has a reasonable likelihood of resulting in a fatality or permanent disability to an employee or member of the public. Includes incidents where no injury occurred (near miss)	Number of work related incidents that has the potential for fatality of permanent disability measured per 1000 hours worked, to an employee of member of the public	<5			

1 CTTD – Contract Term to Date

2 HPI- The number of failed safety audits outstanding due to incomplete. Contractor actions where the number of days since the TotalSafe action was assigned is greater than or equal to 15 days

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Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>1</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
<b>COMPLIANCE</b>	1.	Monthly	<b>Contract Audits</b>	Percent of audits performed by the Contractor as a portion of the of number of TCTF Contract hours.	The number of actual audits completed by the Contractor divided by the number of TCTF Contract hours by the Contractor multiplied by 100.	>95%			
	2.	Monthly	<b>Response and Performance</b>	<p>100% ability to service all Traffic management Services engagement requests and Services as per the Specification and TCTF Contract.</p> <ol style="list-style-type: none"> <li>1. Compliance to Specification</li> <li>2. Conformance to Service Delivery date and location</li> <li>3. Compliance to "fit for purpose" Specialised Equipment</li> <li>4. Delivery in accordance with TCTF Contract Confirmation</li> </ol>	<ol style="list-style-type: none"> <li>1. Failure to provide Service delivery resulting in "No Show Conditions"</li> <li>2. Number of late arrivals to site per month</li> <li>3. Number of late site setup per month</li> <li>4. Failure to provide Specialised Equipment fit for purpose</li> <li>5. Additional vehicles/ equipment on site and not approved.</li> </ol>	100%			

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Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>1</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
3.	Monthly	<b>Crew Size</b>	Compliance reported on TCTF Section 5 – Compliance	Crew size is consistent with TCTF Contract Confirmation	100%				
4.	Monthly	<b>Training</b>	Compliance to Training and qualification in accordance with the Specification and TfNSW training accreditation and requirements	100% compliance to required training, accreditation and TfNSW licenses <ol style="list-style-type: none"> <li>1. 100% of all qualification and certificates reported by Contractor monthly by 15<sup>th</sup> of month.</li> <li>2. Confirmation at Prestart checks for each TCTF Contract and confirmation to Essential Energy on worksite prior to work commencing.</li> <li>3. Failure to provide qualification cards on request.</li> <li>4. Number of unqualified crew onsite</li> </ol>	100%				

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Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>1</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
5.	Monthly	<b>Contract Meetings</b>	Required attendance to Contract Account meetings frequency to be determined by Essential Energy	Attendance to  1. Contractor Account Meetings 2. Failure to supply response within agreed timeframes	<98%				

1. CTTD – Contract Term to Date

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Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>3</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
FINANCIAL	1.	Monthly	<b>Invoice Accuracy</b>	100% of the invoices received are as per the TCTF's as outlined in the Schedule of Rates and accurate to reflect the work undertaken and the TfNSW conditions	<p>Correctly rendered invoice must include:</p> <ol style="list-style-type: none"> <li>1. TCTF number on the invoice as provided to Contractor by Essential Energy.</li> <li>2. Items on the invoice match the services delivered.</li> <li>3. Specialised equipment matches the Schedule of Rates.</li> <li>4. Quantities are correct.</li> </ol> <p>All approvals and substantiating documents are supplied with the invoice including timesheets signed by EE</p>	100%			

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Traffic Management Replacement Monthly Key Performance Indicators							MTD	YTD	CTTD <sup>3</sup>
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
2.	Monthly	<b>Invoice Compliance</b>	Payment Claims	Payment Claims must comply to the Securities of Payment Act (SOPA)	100%				
3.	Monthly	<b>Reporting</b>	Number of days after 15 <sup>th</sup> of month due date for monthly report for previous month	Number of days after 15 <sup>th</sup> of month for previous months report	5				


1 CTTD – Contract Term to Date

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Traffic Management Replacement Monthly Key Performance Indicators						MTD	YTD	CTTD <sup>3</sup>	
KPI #	Frequency	Description	Definition	Method of Measure	Required Service Level				
CUSTOMER SATISFACTION	1.	Monthly	<b>Customer Complaints</b>	Managing TCTF Contract Traffic Control Road User complaints	The number of Essential Energy, individual Road User, members of the Public, and related customer complaints recorded by the Essential Energy due to negative Contractor behaviour. The measure for this KPI is the required Contractor action/response remaining open and not closed within 5 business days of being logged by the Essential Energy.	0			

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## ANNEXURE A - TCTF CONTRACT SAMPLE

<b>Traffic Control Tracking Form Contract</b>			
<b>This Traffic Control Tracking Form (TCTF) must be completed prior to booking an external traffic control contractor for planned works. For Fault and Emergency work, TCTF is to be emailed within 24 hours.</b>			
<b>Step 1:</b> Complete Section 1 of the form <b>Step 2:</b> Select Traffic Management Supplier at <a href="#">Traffic Control - Provision of Traffic Management by EE Depots - Panel 1106_2025.xlsx</a> (sharepoint.com) attach form and email to Contractor with a CC to Traffic Mailbox at <a href="mailto:traffic.control@essentialenergy.com.au">traffic.control@essentialenergy.com.au</a> <b>Step 3:</b> Contractor to return Tracking Form acceptance and confirmation to Essential Energy Contact within 2 business days			
1. Work Order Request (to be completed by Essential Energy supervisor)			
Contractor Name:		Contractor Email:	
Job Type:		Job Completed:	If Yes, Date Completed:
Project Name:	WACS Project Number:	WACS W/O Number:	Date:
Worksite Location:		GPS Coordinates:	Google Map:
EE Depot:	Depot OS/SOS: <small>(Senior/Operations Supervisor)</small>	Mobile:	Depot Code:
Work Order Start Date:		Work Order End Date:	
Essential Energy arrive worksite: (HH:MM):		Essential Energy depart worksite: (HH:MM):	
Description of Task: <small>(# of EE Staff &amp; Vehicles on site)</small>			Site Specific Plan:
Special Considerations: <small>(Pedestrian Control; 3rd Party Contractors)</small>		Pedestrian Control Required:	
Essential Energy contact name:		Email:	Mobile:
2. Work Order Confirmation (to be completed by contractor)			
Contractor contact name:		Email:	
Job Reference No:		Job Acceptance:	Mobile:
Crew Size (number):		# of Vehicles:	Total Hours:
Set Up Time (start time) (HH:MM):		Pack Up Time (completed time) (HH:MM):	
Road Occupancy Licence (ROL Required):		Pedestrian Control Required:	
Special Considerations:			
Nominated Contractor Depot:		Travel Distance:	
<b>NB: Mobilisation fee covers the first 50kms. Travel costs only apply when distance to work site is greater than 50kms from Contractor Depot</b>			
Location Levy: <small>(Only applies when work site is 300km or more from Contractor Depot)</small>		Accommodation Required: <small>(All Accommodation Expenses must be approved by Essential Energy in writing prior to work commencing)</small>	
3. Cancellation (to be completed by Essential Energy supervisor)			
Cancelled:		Rescheduled:	
Date cancellation communicated to traffic control contractor (DD/MM/YY):		Time (MM:HH):	
Print Name:		Contact Number:	

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## ANNEXURE B – RMS TRAINING QUALIFICATIONS

# Traffic Control Training

TRAINING COURSE OVERVIEW AS OF 1 JULY 2017

	Traffic Controller	Implement Traffic Control Plans	Prepare a Work Zone Traffic Management Plan
Description	<p>This course provides training for personnel who are required to control traffic with a Stop/Slow bat.</p> <p>This course <b>does not</b> qualify a participant to set up or work with traffic control plans.</p> <p>This program is a good entry point for those wishing to establish themselves into the traffic control/management industry</p> <p>All training and assessment is carried out by RMS Approved Training Providers and qualified RMS Approved trainer/assessors.</p>	<p>This course provides training for personnel who are required to set up and work with Traffic Control Guidance Schemes/Traffic Control Plans at a work site.</p> <p>This course <b>does not</b> qualify a participant to control traffic with a Stop/Slow bat, or to modify existing traffic control plans.</p> <p>This program is suited to those who have Traffic Controller experience and wish to further their career within the traffic control/management industry</p> <p>All training and assessment is carried out by RMS Approved Training Providers and qualified RMS Approved trainer/assessors.</p>	<p>This course provides training for personnel who are required to design new traffic management plans and TCGS/TCP's for road works, produce major upgrades of standard plans and/or inspect traffic control plans on road construction sites.</p> <p>This course does not qualify a participant to control traffic with a Stop/Slow bat or set up work with traffic control plans.</p> <p>This program is suited to experienced traffic control/management operators</p> <p>All training and assessment is carried out by RMS Approved Training Providers and qualified RMS Approved trainer/assessors.</p>
Learning Outcomes	<ul style="list-style-type: none"> <li>• Stop/direct road users using a stop/slow bat and understand stopping sight distances</li> <li>• Maintain traffic incident reports</li> <li>• Understand the Traffic Control Guidance Schemes (TCGSs) also known as Traffic Control Plan (TCPs) for the site</li> <li>• Assess and respond to changes in the environment, for example traffic volumes, weather conditions, road conditions, Work Health and Safety (WHS) and operational requirements</li> <li>• Carry out risk assessments for personal safety</li> <li>• Participate in toolbox talks (specific to traffic control)</li> <li>• Use communication methods and devices</li> <li>• Conform to traffic control policy and procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Identify safety implications of traffic control at road works and personal responsibilities.</li> <li>• Set up, Monitor and Close down traffic control devices according to a nominated TCGS/TCP, to WHS and legislative requirements.</li> <li>• Operate a two-way radio correctly and effectively.</li> <li>• Check, clean and store equipment on completion of work and close down a TCGS/TCP.</li> <li>• Select a TCGS/TCP to suit site conditions, traffic volumes and work activities, and adjust a to suit the specific road environment (see <b>additional notes</b>)</li> <li>• Know the basic function of the TCGS/TCP system</li> <li>• Adapt to all Work Health and Safety (WHS) and operational requirements</li> <li>• Use the site/location assessment, distinguish topographical landmarks and carry out authorised risk control</li> <li>• Conduct an onsite check of a TCGS/TCP to identify any unexpected risks/hazards</li> <li>• Plan for emergencies that may arise</li> <li>• Ensure spacing between signs and traffic control devices is in line with a TCGS/TCP</li> <li>• Understand speed, environment, type and class of vehicles, traffic density, sight lines, environmental conditions,</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare a Work Zone Traffic Management Plan (TMP).</li> <li>• Collect all required information about a given roadwork project to enable the preparation of a TCGS/TCP.</li> <li>• Design a TCGS/TCP, based on risk assessment, statutory and regulatory requirements, standards, road authority requirements and project brief.</li> <li>• Select and modify a TCGS/TCP based on risk assessment, statutory and regulatory requirements, standards, road authority requirements and project brief.</li> <li>• Draw up a TCGS/TCP to recognise other graphical representations such as pedestrian movement plans, vehicle movement plans, and notification of authorities.</li> <li>• Determine the recommended spacing between signs and traffic control devices in line with standards; measure width of trafficable surface; calculate edge clearances to barriers, cones and clearance to work personnel.</li> <li>• Incorporate Environmental Management Plans</li> <li>• Conduct an onsite check and inspection of the plan and to identify any unexpected hazards/risks.</li> <li>• Identify approvals required; identify approval agencies, types of approvals for roadway access, railway reserve access, authority to install signs on roads, variation to standards.</li> </ul>

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		<p>weather patterns and surface type</p> <ul style="list-style-type: none"> <li>• Maintain traffic incident reports</li> <li>• Monitor traffic controllers</li> </ul>	<ul style="list-style-type: none"> <li>• Understand speed, environment, type and class of vehicles, traffic density, sight lines, environmental condition, weather patterns and surface type.</li> <li>• Monitor and interpret control systems to apply to the drawing, selection and design.</li> <li>• Use approved methods and follow recognised local legislation.</li> <li>• Use the site/location assessment, distinguish topographical landmarks and carry out authorised risk control</li> <li>• Collate traffic volume data, type and class of vehicles</li> <li>• Determine lane capacity, road network performance and lane closure restrictions</li> <li>• Identify impacts from any concurrent or adjacent works</li> <li>• Identify times and dates of any planned public events that may result in increased or redistributed traffic patterns</li> <li>• Identify affected stakeholders and type of notification required and prepare notifications</li> <li>• Calculate costings for TMP development and implementation</li> </ul>
Units of Competency	<p>RIIWH5201D Work safely and follow WHS policies and work procedures</p> <p>RIICOM201D Communicate in the workplace</p> <p>RIIWH5205D Control traffic with a stop/slow bat</p>	<p>RIIWH5201D Work safely and follow WHS policies and work procedures</p> <p>RIICOM201D Communicate in the workplace</p> <p>RIIWH5302D Implement traffic management plan</p>	<p>RIIWH5201D Work safely and follow WHS policies and work procedures</p> <p>RIIRIS301D Apply risk management processes</p> <p>RIIGOV401D Apply, monitor and report on compliance systems</p> <p>RIICWD503D Prepare work zone traffic management plan</p>
Recommended Target Audience	<ul style="list-style-type: none"> <li>• Field Staff</li> </ul>	<ul style="list-style-type: none"> <li>• Field Staff</li> <li>• Team leaders</li> </ul>	<ul style="list-style-type: none"> <li>• Works Supervisors</li> <li>• Surveillance Officers</li> <li>• Road Safety Auditors</li> <li>• Project Managers</li> </ul>
Course pre Requisites	<p>Currently there are no pre requisites</p>	<p>Currently there are no pre requisites</p> <p>It is recommended that you have experience in Traffic Control</p>	<p>There are no training package pre-requisites for these units of competency, although RMS has set minimum course pre requisites to obtain a photocard in NSW, see below</p> <p>Participants who hold one of the following</p> <ul style="list-style-type: none"> <li>• Current 'Apply Traffic Control Plans' photocard</li> <li>• Current 'Implement Traffic Control Plans' photocard (full qualification)</li> <li>• Current 'Select and Modify Traffic Control Plans' photocard</li> <li>• Current 'Design and Inspect Traffic Control Plans' photocard</li> <li>• (Equivalent qualifications from other jurisdictions)</li> </ul> <p>Or</p> <p>For those who do not hold formal Traffic Control/Management qualifications such as engineers and project managers and they wish to complete the course, they will be eligible if, they hold a tertiary qualification that is relative to the road construction, civil construction or engineering. This must be determined upon enrolment and a thorough training needs analysis (TNA) is required</p>

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Course Timing	Generally course timing will be based on the individual and or group. 1 (one) full day of training is a minimum for new entrants into the industry who have never held this qualification, to include classroom theory and simulated practical training.	Generally course timing will be based on the individual and or group. 1 (one) full day of training is a minimum for those who have never undertaken these activities prior and have never held this qualification, to include classroom theory and simulated practical training.	Generally course timing will be based on the individual and or group, although RMS stipulates a minimum of 3 (three) full days of training (excludes additional time for post work project assessments)
Training	Training will include; <ul style="list-style-type: none"> <li>Classroom activities</li> <li>Theory questionnaires and group activities</li> <li>Minimum practical traffic control simulation using full scale devices and vehicles in controlled and safe environments</li> </ul>	Training will include; <ul style="list-style-type: none"> <li>Classroom activities</li> <li>Theory questionnaires and group activities</li> <li>Minimum practical implementation, monitoring and removing TCGS/TCP's simulation using full scale devices and vehicles in controlled and safe environments</li> </ul>	Training will include <ul style="list-style-type: none"> <li>Classroom activities</li> <li>Theory questionnaires and group activities.</li> <li>Use of regulatory and statutory manuals and documents</li> <li>Project management that includes case studies and document preparation</li> <li>Use of TCP/TCGS development software</li> </ul>
Assessment Requirements	Assessments are to be completed as per the RII Resources and Infrastructure training package requirements, whereby all units of competency must be assessed on the job on a minimum of 2 (two) separate occasions (in the context of traffic control at worksites)  Assessments will include <ul style="list-style-type: none"> <li>Theory questionnaires and activities</li> <li>On the job practical application and observation (by an RMS approved trainer/assessor)</li> <li>Provision of workplace samples and documentation</li> </ul>	Assessments are to be completed as per the RII Resources and Infrastructure training package requirements, whereby all units of competency must be assessed on the job via 3 (three) separate live projects (in the context of traffic control at worksites)  Assessments will include <ul style="list-style-type: none"> <li>Theory questionnaires and activities</li> <li>On the job practical application and observation (by an RMS approved trainer/assessor)</li> <li>Provision of workplace samples and documentation</li> </ul>	Assessments are to be completed as per the RII Resources and Infrastructure training package requirements, whereby all units of competency must be assessed by qualified assessors (in the context of traffic control at worksites)  Assessments will include <ul style="list-style-type: none"> <li>Theory questionnaires and activities</li> <li>Practical activities and observation (by an RMS approved trainer/assessor)</li> <li>Development of TCGS/TCP's</li> <li>Development of 2 (two) Traffic Management Plan projects</li> <li>Provision of workplace samples and documentation</li> </ul>
Language Literacy and Numeracy (LLN)	Language, Literacy and Numeracy levels have been mapped for each course in an effort to demonstrate the minimum levels that are required to complete training. In addition the mapping exercise also identifies levels that may be required in the workplace, below is a sample of LLN levels.  LLN level equal to or above the following:  READING: Level 2 Ability to read appropriate signage for the tasks required and understands clear consistent formats that are written in simple sentences Interpret instructions and information from notices, forms and other forms of written instructions  WRITING: Level 2 Writes short texts with simple structures. Fills in details on simple forms and can complete workplace checklists Records simple and routine information  ORAL COMMUNICATION: Level 2	Language, Literacy and Numeracy levels have been mapped for each course in an effort to demonstrate the minimum levels that are required to complete training. In addition the mapping exercise also identifies levels that may be required in the workplace, below is a sample of LLN levels.  LLN level equal to or above the following:  READING: Level 2-3 Ability to read appropriate signage for the tasks required and can read and interpret traffic control plans that include specialised symbols  WRITING: Level 2-3 Writes clear sequenced instructions for using routine/everyday activities. Records simple and routine information from a telephone message Can write tasks to be completed by other staff. Completes a range of forms requiring routine and factual data, e.g/ WHS records, inspection reports and checklists.	Language, Literacy and Numeracy levels have been mapped for each course in an effort to demonstrate the minimum levels that are required to complete training. In addition the mapping exercise also identifies levels that may be required in the workplace, below is a sample of LLN levels.  LLN level equal to or above the following:  READING: Level 4-5 Ability to read and understand highly complex information and can reflect on the explicit and implied purpose of the text and its potential impact Reviews relevant national, state and local legislation and regulations relevant to the job role Identifies and extracts relevant information from complex diagrams, graphs and charts. Identifies critical information from a plan and can translate and convey concepts and ideas. Analyses and evaluates the validity of information sources and make recommendations. Understands specialised vocabulary and acronyms relevant to own fields of expertise and interest

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<p>Asks simple questions and makes statements with reasonable effectiveness where this involves short utterances and highly familiar content.</p> <p>Can use a range of nonverbal communication support such as gestures and facial expressions to express meaning.</p> <p>Can describe a routine task, using workplace specific vocabulary as appropriate supported by body language.</p> <p>Communicates using radio equipment, e.g. to report to base on a location or field emergency</p> <p><b>NUMERACY: Level 2</b> Locates and recognises simple, everyday mathematical information in highly familiar short and simple oral and or written materials. Ability to calculate braking distances and speed of oncoming traffic Follows simple instructions and can measure content, time and distance</p>	<p><b>ORAL COMMUNICATION: Level 2-3</b> Demonstrates language use appropriate to some different interactional purposes, e.g. gives and opinion or explanation, makes and enquiry or seeks clarification. Can identify key information relevant to an exchange. Can explain routine procedures and give clear sequenced instructions to others. Follows directions to perform a sequence of tasks and listens for specific information in a formal workplace meeting. Asks questions to clarify and confirm instructions. Listens to clear, sequenced instructions of several steps and asks clarifying questions as required. Communicates using radio equipment, e.g. to report to base on a location or field emergency.</p> <p><b>NUMERACY: Level 2-3</b> Interprets and comprehends a range of everyday mathematical information that is embedded in familiar and routine texts. Can interpret and familiar and routine maps and plans. Uses appropriate technological devices to measure, estimate and calculate length/distance. Selects and uses appropriate tools and hand held device. e.g. uses tape measure to measure. Problem solving processes using developing estimation, and other assessment skills. Ability to calculate braking distances and speed of oncoming traffic.</p>	<p><b>WRITING: Level 4-5</b> Ability to write and organise content in a manner that supports the purposes and format of what is required. Can demonstrate sophisticated control of a broad range of text types. Writes a technical/design brief or a complex work instruction based on client or stakeholder requirement Prepares data for team or stakeholder using graphs Writes clear and detailed instructions organised sequentially to be completed. Compiles reports with input from a range of sources. Understands and uses appropriate specialised vocabulary in a variety of situations</p> <p><b>ORAL COMMUNICATION: Level 4-5</b> Engages in complex oral negotiations, such as exploring issues, problem solving, reconciling points of view or bargaining. Determines clients or stakeholder requirements to inform a design or technical brief. Actively participates in workplace meetings. Listens to a set of instructions detailing changes to work processes and notes key changes and the reasons for the changes. Sequences complex technical instructions to ensure understanding, including pitfalls to be avoided when training others to use equipment. Interacts effectively with members of the public to identify and remedy problems.</p> <p><b>NUMERACY: Level 4-5</b> Ability to draw upon mathematical knowledge and experience, diagrammatic, symbolic and other mathematical processes. Can extract, interpret and comprehend detailed maps and plans. Uses and applies relevant ratio, rates and proportions e.g. scales on maps and plans. Uses developed estimating and assessment skills to check the outcomes and decide on the appropriate degree of accuracy required. Selects and flexibly uses a range of specialised tools, hand held devices, computers and technological processes.</p> <p><b>LEARNING: Level 4-5</b> Ability to draw selectively on experience to adapt past learning to new circumstances Draws on a repertoire of strategies to clarify and extend understanding Develops and trials own approaches to a task when templates and guides are not available Actively seeks feedback from others as a way of improving performance, e.g. approaches peers, manager or customers Attempts complex tasks/activities requiring sophisticated</p>
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				conceptualisation and analysis that may be carried out over an extended period of time, e.g. major projects requiring research and recommendations Draws on prior knowledge to assess, and where required renegotiate, the nature and scope of what has to be done Develops a brief for a complex project that includes several staff with different skills Uses software options to organise and present complex information Uses highly developed formatting, drafting and editing skills to refine thinking and clarify a message for others
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### Additional Notes

#### *Implement Traffic Control Plans*

RMS has recently added the following task to this qualification  
 'Select traffic guidance scheme to suit site conditions, traffic volumes and work activities'  
 This is based on the performance criteria 2.1 from the RIWH302D unit of competency

There are strict provisions placed on this ability, see below

#### Minimum Conditions

- Must be selected from approved TCP/TCGS signed off by qualified persons (persons who hold current 'Design and Inspect Traffic Control Plans' or 'Prepare a Work zone Traffic Management Plan')
- Blank TCP/TCGS cannot be selected from the TCAWS manual and used (unless approved and signed off by qualified persons)
- Approved TCP/TCGS must be current (within the past 6-12months)
- No modifications can be made by the implementer (modifications can only be completed by a qualified person)
- Implementers will be able to make minor adjustments as per A.S 4.1.6 and Traffic Control at Worksites manual section 3.5.8 'Tolerances on positioning signs and devices'
- A risk assessment must be undertaken on each occasion as per general standards
- This change can only be applied for qualifications achieved post 1/7/2015
- Holders of the old 'Apply Traffic Control Plans' who wish to be able to undertake this additional task will need to upgrade to the new 'Implement Traffic Control Plans' qualification

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## ANNEXURE C – Sample Report Template



Contractor Name : \_\_\_\_\_

Report Month : \_\_\_\_\_

Total TCTF contracts completed  
for reporting month :

\* If "Zero" "Nil" TCTF Contract, no further reporting required for this month. Please submit "Nil" report to;

[Traffic.management.services@essentialenergy.com.au](mailto:Traffic.management.services@essentialenergy.com.au)

Prepared By : \_\_\_\_\_

1. Report must be submitted by 15th of every month [refer to Schedule 2, General Conditions - Reporting Requirements] to the [Trafficmanagementservices@essentialenergy.com.au](mailto:Trafficmanagementservices@essentialenergy.com.au) mailbox.
2. Do NOT change the format or structure of this document.
3. Any questions on this document should be submitted via email to [Traffic.management.services@essentialenergy.com.au](mailto:Traffic.management.services@essentialenergy.com.au) marked to the attention of Helen Edmunds
4. Documented evidence is to be submitted in separate files in Microsoft Office (2010) format and uploaded with your report.
5. Attachments to the monthly report:
  - Register of all Inductions & Training - Attach copy of Induction Registers for Contractor Induction, WHS, Environment, Drug and Alcohol etc
  - Internal Audit Findings and non Compliance Report (where applicable) - Attach copy of full non Complaint reports

Measure	Target	Monthly Actual	Contract YTD	Contract Term to Date
<b>Health and Safety</b>				
High Potential Incident (HPI). Refer notes below.	0			
Medically Treated Injuries (MTI)	0			
Lost Time Injuries (LTI)	0			
First Aid Incidents	0			
Total Recordable Injuries	0			
Near Misses	0			
Lost Time Injury Frequency Rate (LTIFR)	0			
Total Recordable Injury Frequency Rate (TRIFR)	0			
Days Lost	0			
Average Time Lost	0			
Total Hours Worked	0			
<b>Motor Vehicle Accidents</b>				
Recoverable	0			
Liable	0			
<b>Problems &amp; Non-Conformances</b>				
Number Customer Complaints	0			
Number Safety Incidents	0			
Number Non-Conformances e.g. No Shows /Late arrivals	0			
Number of Environmental Incidents	0			
Mandatory Training and Refresher Courses Overdue	0			

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Sample Report Template (Cont.)

Totalsafe Number	Date Received	Network Fata Risk (NFR)	Location	Details	Status

Injury Performance

Lost Time Injuries (LTI)	Target	Actual
Jun-18		
Jul-18		
Aug-18		
Sep-18		
Oct-18		
Nov-18		
Dec-18		
Jan-19		
Feb-19		
Mar-19		
Apr-19		
May-19		

Medically Treated Injuries (MTI)	Target	Actual
Jun-18		
Jul-18		
Aug-18		
Sep-18		
Oct-18		
Nov-18		
Dec-18		
Jan-19		
Feb-19		
Mar-19		
Apr-19		
May-19		

Comments:

**Work Orders (WO)**

Region 10 - North Coast

	Jun-2018	Jul-2019	Aug-2018	Sep-2018	Oct-2019	Nov-2018	Dec-2018	Jan-2019	Feb-2019	Mar-2019	Apr-2019	May-2019	Jun-2019
TCP													
TMP													

Comments :

Region X -

	Jun-2018	Jul-2019	Aug-2018	Sep-2018	Oct-2019	Nov-2018	Dec-2018	Jan-2019	Feb-2019	Mar-2019	Apr-2019	May-2019	Jun-2019
TCP													
TMP													

Comments :

Region X -

	Jun-2018	Jul-2019	Aug-2018	Sep-2018	Oct-2019	Nov-2018	Dec-2018	Jan-2019	Feb-2019	Mar-2019	Apr-2019	May-2019	Jun-2019
TCP													
TMP													

Comments :

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## SCHEDULE 3

### Service Levels

The Contractor shall provide the Services in accordance with the Service Levels set out in Table Five (5) Key Performance indicators, Schedule 2 of this General Conditions

Essential Energy will deduct an amount from any amount payable to the Contractor in respect of the Services on every occasion the Contractor fails to meet the required Service Level in any month (“**Service Level Credit**”).

The Service Levels have been assigned a weighting which is set out in Table One below (“**Service Level Weight**”).

The value of the Service Level Credit is calculated by multiplying the charge payable for the Services in a month by the corresponding Service Level Weight by 10%. The maximum total Service Level Credits that the Contractor will be liable for in any given month is 10% of the amount payable in any month for the Services.

An example of calculating a Service Level Credit follows:

The Contractor fails to meet a Service Level, the Service Level Weight for which is 0.25, on two separate occasions in a month. The charge of providing the services for the month in question is \$1,000.

$$\text{Service Level Credit} = \$1000 \times 0.25 \times 10\% \times 2 = \$50$$

**Table One**

No.	Description	KPI/Metric	Required Service Level	Service Weight.	Level
1.	<b>Total Recordable Injury (TRI) score</b>	Weighted calculation of the number and severity of 'Safety' related TotalSafe records	$X = a + b + c + d + e$ <hr/> <b>a</b> = n*0 LTI per MTD/LTD <b>b</b> = n*0 MTI per MTD/YTD <b>c</b> = n*2 SafeWork or SEWA Incidents <b>d</b> = n*3 Environmental Protection Incidents n = # TSL X = Score	10% income	Mthly

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No.	Description	KPI/Metric	Required Service Level	Service Weight.	Level
2.	<b>Training</b>	Compliance to Training and qualification in accordance with the Specification and RMS training accreditation and requirements.	100% compliance to required training, accreditation and RMS licenses. <ol style="list-style-type: none"> <li>1. 100% of all qualification and certificates reported by Contractor -monthly by 15<sup>th</sup> month</li> <li>2. Confirmation at Prestart checks for each TCTF Contract and confirmed to Essential Energy on worksite prior to work commencing</li> <li>3. Failure to provide qualification cards on request.</li> <li>4. Number of unqualified crew on site.</li> </ol>	10% income	Mnthly
3.	<b>Response Performance</b>	100% ability to service all Traffic Management Services engagement requests and Services as per the Specification and TCTF Contract. <ol style="list-style-type: none"> <li>1. Compliance to Specification</li> <li>2. Conformance to Service Delivery date and location</li> <li>3. Compliance to "fit for purpose" Specialised Equipment</li> <li>4. Delivery in accordance with TCTF Contract Confirmation</li> </ol>	<ol style="list-style-type: none"> <li>1. Failure to provide Service delivery resulting in "No Show Conditions"</li> <li>2. Number of late arrivals to site per month</li> <li>3. Number of late site setup per month</li> <li>4. Failure to provide Specialised Equipment fit for purpose</li> <li>5. Additional vehicles/equipment on site and not approved</li> </ol>	10% income	Mnthly

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No.	Description	KPI/Metric	Required Service Level	Service Weight.	Level
4.	<b>Customer Complaints</b>	Managing TCTF Contract Traffic Control Road User complaints	The number of Essential Energy, individual Road User, members of the Public, and related customer complaints recorded by the Essential Energy due to negative Contractor behaviour. The measure for this KPI is the required Contractor action/response remaining open and not closed within 5 business days of being logged by the Essential Energy.	10% income	Mnthly

Essential Energy reserves the right to vary the Service Level Weights every six months.

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**Document Revision Register**

Previous version date	New version date	Amendments made to new version
May 2024	August 2025	<ul style="list-style-type: none"> <li>• Clause 2.4 is amended.</li> <li>• Clause 2.5 is amended to add the words “and legally binding”.</li> <li>• Clause 2.6 is amended.</li> <li>• Clause 5.3 is amended to delete part of the first sentence.</li> <li>• Clause 14.1 is amended in the second paragraph and insertion of a new clause 14.1(e).</li> <li>• New clause 20.3 (Privacy) is inserted.</li> <li>• New clause 20.4 (Corrupt Conduct) is inserted.</li> <li>• Clause 24(c) minor amendment in the first sentence.</li> <li>• Schedule 2 clause 3.3 amended.</li> <li>• Schedule 2 clause 7.1 ‘Monthly Report’ amended.</li> <li>• Annexure A updated with new ‘TCTF Contract Sample’</li> <li>• Minor clarificatory amendments made to other provisions.</li> <li>• Logo/branding change.</li> </ul>
August 2025	September 2025	<ul style="list-style-type: none"> <li>• A new definition of “Completed Work Order Confirmation” is inserted into clause 1.2.</li> <li>• Minor amendments made to the definitions of “TCTF” and “Work Order Acceptance” in clause 1.2.</li> <li>• Minor amendment made to clause 2.3.</li> <li>• Substantial amendments made to clause 2.4.</li> <li>• Amendments made to clauses 2.5, 2.6, 2.7, 2.9(a) to (d), 4.2(a), 20.2, 20.3(c), and 20.4(c) and (d).</li> <li>• Amendments made to Schedule 2, sections 3.2 and 3.3.</li> </ul>