

Standard Terms and Conditions for Minor Procurement

1 Agreement

The Agreement comprises the following documents:

- (a) The Purchase Order;
- (b) RFX Criteria;
- (c) These Conditions; and
- (d) Contractor's Response.

The above order of precedence applies so that, if there is any ambiguity, conflict, discrepancy or inconsistency between the documents comprising the Agreement, the document which appears higher in the order of precedence above is to be given priority over those below.

The above documents embody the entire Agreement between the parties and supersedes any previous negotiations, representations, warranties or statements not contained in this Agreement. Any terms and conditions attaching to the Contractor's quote (or any equivalent document) or delivery note do not form part of this Agreement or create a separate agreement.

2 Undertaking the Contractor's Activities

The Contractor must undertake the Contractor's Activities in accordance with this Agreement, and:

- (a) in a proper, timely and efficient manner using that standard of care, skill, diligence, prudence and foresight that would reasonably be expected from a prudent, expert and experienced provider of activities that are similar to the Contractor's Activities;
- (b) ensure that all materials, components, parts, items, consumables and other things used to carry out or incorporated in the Contractor's Activities are of merchantable quality, fit for their intended purpose, free from defects in design, materials and workmanship, are new and unused and not of an age which would impair their operation unless otherwise specified.
- (c) act in good faith and in the best interests of RailCorp; and
- (d) provide all equipment (including all consumables) necessary for the performance of the Contractor's Activities and ensure that it holds any and all licences, permits and approval necessary to operate the equipment.

3 The Contractor's Activities

- (a) If the Contractor is required to carry out design as part of the Contractor's Activities ("Design"), the Contractor must complete all tasks necessary for the Design, including the preparation of any drawings or other design documents. In carrying out its design obligations under this clause the Contractor warrants that:
 - (i) It is suitably qualified and experienced, and will exercise due skill, care and diligence in the execution and completion of the Design;
 - (ii) it has examined and carefully checked any concept design provided by RailCorp and the concept design is suitable, appropriate and adequate as a basis for developing the Design;
 - (iii) it holds a professional indemnity insurance policy with respect to any design work undertaken by the Contractor pursuant to this Agreement; and
 - (iv) the Contractor's Activities will be completed in accordance with all design documents so that the Contractor's Activities, when completed will be fit for their stated purpose and comply with all the requirements of this Agreement.
- (b) RailCorp may, but is not bound to, comment upon or review the drawings or design documents for errors, omissions or compliance with this Agreement. In the event that RailCorp wishes to review any drawings and design documents, the Contractor must promptly give such drawings and design documents to RailCorp upon its request.
- (c) The Contractor's obligations under this clause remain unaffected notwithstanding:
 - (i) that design work in the concept design has been carried out by or on behalf of RailCorp;
 - (ii) any receipt or review of, or comment or direction on, any drawings or other design documents by RailCorp; or
 - (iii) any variation under clause 25.

4 Supply of Goods

Where the Contractor's Activities includes Goods:

- (a) The Contractor must supply the Goods to RailCorp in accordance with the Purchase Order and this Agreement.
- (b) The Contractor must deliver the Goods to the Delivery Address by the Time for Delivery and must obtain the name and signature of the RailCorp employee or agent who accepts and takes receipt of the delivery of the Goods.
- (c) The Contractor must provide with each consignment or delivery of Goods a Delivery Note.
- (d) Unless otherwise specified in this Agreement, all deliveries must be made during Working Hours on Working Days
- (e) The Contractor must:
 - (i) package all Goods to ensure maximum protection against theft or damage during transit, delivery, loading and unloading, and
 - (ii) clearly label all packages of Goods with the address and/or place for delivery, the name of the RailCorp Officer who ordered the Goods and RailCorp's Purchase Order number.
- (f) The Contractor must include in each consignment:-
 - (i) the information (including Material Safety Data Sheets) specified in RailCorp's Safety Specification;
 - (ii) the information specified in RailCorp's Environmental Management Specification; and
 - (iii) all other information (including test results, manuals, guides, instructions, procedures and drawings) necessary for the proper and safe handling, transport, storage, use, operation, maintenance, repair and disposal of the Goods.
- (g) Subject to clause 5 Delivery will not be taken to have occurred until delivery is acknowledged in writing by RailCorp.

5 Delivery of Goods

If the Delivery Address is to any RailCorp premises, the Contractor must liaise and co-ordinate delivery with RailCorp. In accordance with clause 18, the Contractor must not deliver any Goods to a RailCorp premises without prior arrangement with RailCorp and must follow the requirements of RailCorp's Safety Specification and Environmental Management Specification.

6 Acceptance or rejection of Goods

- (a) If the Goods do not conform with the Purchase Order and this Agreement, RailCorp will promptly advise the Contractor. RailCorp may reject the Goods within 30 days by written notice giving reasons. If RailCorp does not accept or reject the Goods within 30 days of delivery, delivery will be deemed to have then occurred.
- (b) The Contractor must at its cost collect and remove any Goods that have been rejected as soon as practicable or RailCorp may return the Goods to the Contractor at the Contractor's expense.

7 Contract Price

The Contract Price is to be calculated in accordance with the rates or fees set out in the Purchase Order which are fixed. Expenses may only be recovered if provided for in the Purchase Order.

8 Invoicing and payment

- (a) The Contractor must submit to RailCorp a tax invoice in respect of the Contractor's Activities once they are completed, or at such other time or times as agreed by the parties. A tax invoice submitted for payment must contain the information necessary to be a tax invoice for the purposes of the GST Act together with such other information as RailCorp may reasonably require and be sent to the address specified in the Purchase Order.
- (b) RailCorp will pay the invoiced amount by the end of the month following the month of the satisfactory completion or provision of the Contractor's Activities and receipt of a correctly rendered tax invoice. An invoice will be correctly rendered if it is complete and, where explanation is necessary, accompanied by documentation substantiating the amount claimed.
- (c) The Contractor acknowledges that a payment made to it by RailCorp is payment on account only and does not imply or constitute a waiver or release of the Contractor's obligations under

this Agreement, or that the Contractor's Activities have been provided in accordance with this Agreement.

9 GST

- (a) Terms used in this clause have the same meanings given to them in the GST Act.
- (b) Unless otherwise expressly stated, all prices or other sums payable under or in accordance with the Purchase Order or this Agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the taxable supply must pay to the other party an additional amount equal to the GST payable on or for the taxable supply subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made.

10 Warranties

The Contractor warrants to RailCorp that:

- (a) **(Purpose)** where RailCorp has, either expressly or by implication, made known to the Contractor any particular purpose for which the Contractor's Activities are required, the Contractor's Activities will be performed in such a way as to achieve that result;
- (b) **(Conflict)** it and its employees, agents and contractors do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby duties or interests are or might be created in conflict with or might appear to be created in conflict with its obligations under this Agreement; and
- (c) **(IP)** it is entitled to use and deal with any Intellectual Property Rights which may be used by it in connection with the Contractor's Activities.

In addition to the above and where required to provide Goods as part of the Contractor's Activities, the Contractor warrants that:

- (d) **(Title)** it has the right to sell and transfer title to and property in the Goods to RailCorp;
- (e) **(Goods)** the Goods:
 - (i) Are new and fit for the purpose stated in this Agreement or for which the Goods would ordinarily be used **(Specification)**;
 - (ii) Conform in all respects with the Specification;
 - (iii) Are free from defects (including defects in installation); and
 - (iv) Are of merchantable quality and comply with all Laws.
- (f) **(Recall of Goods)** if the Goods are recalled for any reason the Contractor must:
 - (i) Immediately advise RailCorp of the recall;
 - (ii) Comply with all Laws relating to the recall;
 - (iii) Promptly comply with any direction by RailCorp to remove the Goods from RailCorp's premises and provide to RailCorp a complete refund for those recalled Goods; and
 - (iv) Pay all costs associated with the recall

11 Intellectual Property Rights

Where applicable:

- (a) Subject to subclause (c), all Intellectual Property Rights created in the course of undertaking the Contractor's Activities vests in and is the property of RailCorp from the time of its creation and the Contractor irrevocably and unconditionally assigns to RailCorp, free of additional charge, all of its right, title and interest in and to such Intellectual Property Rights. The Contractor must sign all documents and do all things reasonably required to ensure that such assignment is effected.
- (b) The Contractor warrants that it has or will procure from all relevant persons who are authors or makers of any Intellectual Property Rights a written assignment of all Intellectual Property Rights of such persons in such rights as necessary to give effect to subclause (a) and a written consent from all individuals involved irrevocably consenting to RailCorp exercising its rights in the Intellectual Property Rights in a manner that, but for the consent,

would otherwise infringe the Moral Rights of those individuals (as defined in *Copyright Act 1968 Cth*).

- (c) All existing Intellectual Property Rights existing at the date of this Agreement used by the Contractor in connection with undertaking of Contractor's Activities remains the property of the Contractor or its licensors. The Contractor hereby irrevocably and unconditionally grants to RailCorp, free of additional charge, a non-exclusive, worldwide licence to use any pre-existing Intellectual Property Rights to the extent that it forms part of or is integral to any Contractor's Activities or other items created by the Contractor in connection with undertaking the Contractor's Activities or was created as part of the Contractor's Activities.

12 Liability

The Contractor must indemnify RailCorp and each of its employees and agents against any loss, damage, claim, action or expense (including legal expense) which any of them suffers as a direct result of any breach of this Agreement by the Contractor.

13 Insurance

- (a) If required by RailCorp, the Contractor must insure the Contractor's Activities against loss, damage or destruction resulting from any cause whatsoever while it is undertaking the Contractor's Activities.
- (b) The Contractor must obtain and maintain public liability insurance coverage at all relevant times for a minimum of \$20 million, unless specified elsewhere in this Agreement.
- (c) The Contractor must take out worker's compensation insurance as required by Law.
- (d) Any policy obtained by the under this Agreement must not contain any exemption or exclusions of insurance coverage.
- (e) Upon request, the Contractor must provide RailCorp with evidence of the currency of any insurance it is required to obtain.

14 Confidentiality and privacy

- (a) The Contractor must keep confidential the terms of this Agreement and any information relating to the Agreement or the Contractor's Activities including discussions and negotiations leading to this Agreement except to the extent that such things:
 - (i) Are in, or come into the public domain, other than as a result of either party's breach of this clause 14;
 - (ii) Are required to be disclosed by Law or the Listing Rules of the Australian Stock Exchange Limited; or
 - (iii) Are required to be disclosed to a Minister, House of Parliament, a Committee of a House of parliament or for any legitimate government purpose or process;
- (b) Ensure that their employees, consultants and subcontractors comply with the terms of this clause 14.
- (c) The Contractor must not issue any information, publication, document or article or make any statement to or advertise in any media about any matters relating to this Agreement, unless otherwise approved in writing by RailCorp.
- (d) The Contractor's obligations under this clause 14 shall survive expiry or termination of this Agreement.
- (e) The Contractor acknowledges that it will be bound by the Code of Practice and RailCorp's Code of Conduct as well as any applicable government direction with respect to any act done in connection with undertaking the Contractor's Activities.

15 Records and Reports

The Contractor must keep accurate and detailed financial records and other information relevant to this Agreement and must give RailCorp reasonable access to and copies of such records and information if requested to do so.

The Contractor must provide progress reports to RailCorp at such times and containing such information as may be agreed between RailCorp and the Contractor, or as RailCorp may reasonably direct.

16 RailCorp Assistance

- (a) The Contractor must rely on its own professional and personal expertise when providing the Contractor's Activities.
- (b) Subject to subclause (a), RailCorp may:

- (i) make or arrange to make available to the Contractor any RailCorp Material necessary for the provision of the Contractor's Activities; and
- (ii) provide assistance to the Contractor, as reasonably required, so that the Contractor may perform its obligations under this Agreement.

The Contractor acknowledges and agrees that RailCorp's provision of any information and assistance in accordance with subclause (b) is by way of assistance only and will not in any way be deemed to give rise to a duty of care on the part of RailCorp.

17 RailCorp's Material

Where Applicable, the Contractor must:

- (a) take all reasonable care of RailCorp's Material;
 - (i) use RailCorp's Material only for the purpose of providing the Contractor's Activities;
 - (ii) not make any alteration to RailCorp's Material (except as necessary to provide the Contractor Activities);
 - (iii) promptly inform RailCorp of any damage to or loss or destruction of RailCorp's Material; and
 - (iv) if no longer required, return RailCorp's Material as soon as practicable.
- (b) The Contractor must notify RailCorp as soon as practicable of any inadequacies, errors, omissions and ambiguities in any RailCorp Material. RailCorp will then issue an instruction or direction to the Contractor explaining, determining or correcting any inadequacies, errors, omissions or ambiguities.

18 Access to RailCorp's premises

Where required, RailCorp will grant the Contractor access to the RailCorp premises at which the Contractor's Activities are to be performed, only after the Contractor has provided to RailCorp:

- (a) satisfactory evidence of the Contractor's licences, permits, approvals and insurance policies;
- (b) any environmental management plan required by RailCorp;
- (c) any safety management plan and/or safe work method statements required by RailCorp; and
- (d) if required by RailCorp satisfactory evidence that the Contractor's employees have been provided with all required health assessments and training and possess all required qualifications and certificates of competency and training.

19 Entering upon RailCorp's premises

When entering upon RailCorp's premises the Contractor must ensure:

- (a) to take all reasonable precautions to safeguard, protect and avoid injury or damage to people, property and the environment;
- (b) to prevent unreasonable noise, disturbance and nuisance;
- (c) that its plant is safely and properly stored and secured when not in use;
- (d) that its employees and subcontractors comply with all codes, policies, procedures and directions that are given by RailCorp in respect to occupational health, safety and security at the premises;
- (e) to co-operate and confer with other Contractors and consultants who may be at RailCorp's premises;
- (f) follow any directions given by RailCorp; and
- (g) keep the premises as clean and tidy as and on completion of work promptly remove from the premises all plant, surplus materials, rubbish and debris, and leave the premises in a clean and tidy state.

20 Reinstatement

The Contractor must immediately rectify and make good any loss or damage to RailCorp's premises, property or the environment, caused by the Contractor.

21 Suspension of the Contractor's Activities

RailCorp may at any time, and for any reason, direct the Contractor to suspend providing all or part of the Contractor's Activities. The Contractor must promptly comply with any direction that RailCorp may give, including a direction to remove its personnel and plant from

RailCorp's premises and must not resume providing the Contractor's Activities until directed to do so by RailCorp.

The Contractor shall not be entitled to any reimbursement of its costs.

22 Defective Contractor's Activities

Without limiting any other available remedy, if the Contractor fails to provide any of the Contractor's Activities in accordance with this Agreement, RailCorp will not be required to pay for those Contractor's Activities (until they are provided correctly) and may require the Contractor to remedy any default or re-perform the Contractor's Activities within the time specified in a notice (which must be reasonable having regard to the nature of the Contractor's Activities).

Contractor's Activities will be defective if they contain any errors, faults, defects or omissions or do not comply with any term or warranty contained in this Agreement. ("Defect")

If the Contractor fails to promptly comply with a direction given under this clause to rectify Defects, RailCorp may engage a third party to rectify the Defects and the costs and expenses of doing so will be a debt due from the Contractor to RailCorp.

23 Timetable of the Contractor's Activities

Where required:

- (a) The Contractor must carry out the Contractor's Activities in accordance with the program stipulated by RailCorp and complete the Contractor's Activities by the Date for Completion.
- (b) The Contractor must carry out the Contractor's Activities only on Working Days during Working Hours, unless otherwise authorised by RailCorp in writing.
- (c) If the Contractor is or will be unavoidably delayed in carrying out the Contractor's Activities due to an event or circumstance beyond its reasonable control (including a direction to suspend work pursuant to this Agreement), RailCorp may, at its absolute discretion, grant a reasonable extension to the Date for Completion provided the Contractor:
 - (i) notified RailCorp of the event or circumstance no later than 5 Business Days after the Contractor first became aware of the event or circumstance;
 - (ii) took all reasonable action to mitigate the effect of the event or circumstance on the Contractor's ability to carry out the Contractor's Activities by the Date for Completion; and
 - (iii) did not contribute in any way to the cause of the event or circumstance.

24 Completion of the Contractor's Activities

The Contractor must promptly notify RailCorp when it has completed the Contractor's Activities. RailCorp will inspect the Contractor's Activities and notify the Contractor whether it considers the Contractor's Activities to be complete. If RailCorp considers that the Contractor's Activities are not complete, it will notify the Contractor of the reasons why it considers the Contractor's Activities are not complete and the action the Contractor must take to complete the Contractor's Activities.

25 Variations

- (a) The Contractor may propose or RailCorp may direct, a variation to the Contractor's Activities (including a variation to omit work from the Contractor's Activities). The Contractor must promptly comply with a direction by RailCorp to vary the Contractor's Activities.
- (b) RailCorp will value variations using the following order of precedence:
 - (i) by applying the Rates specified in this Agreement (to the extent the Rates are applicable);
 - (ii) by agreement with the Contractor (to the extent the Rates specified in this Agreement are inapplicable); or
 - (iii) by using reasonable rates or prices, having regard to market rates or prices for the carrying out of identical or similar Contractor's Activities.
- (c) The Contractor must not vary the Contractor's Activities unless directed to do so by RailCorp.

- (d) RailCorp will not be liable for any work carried out or any expenditure incurred by the Contractor which has not been directed or authorised by RailCorp.
- (e) A dispute over the valuation of a variation shall not affect the Contractor's obligation to comply with a direction by RailCorp to vary the Contractor's Activities.

26 Liquidated damages

The Contractor agrees that if the Contractor's Activities are not completed by the Date for Completion it will pay to RailCorp, liquidated damages in the amount specified in this Agreement for every day after the Date for Completion up to and including the actual date of completion. The Contractor acknowledges and agrees that the liquidated damages are a genuine pre-estimate of the costs that RailCorp is likely to incur if the Contractor's Activities are not completed by the Date for Completion.

27 Return of RailCorp's property

On completion or on termination of this Agreement, the Contractor must promptly return to RailCorp all RailCorp's Materials and things given to the Contractor by RailCorp to assist the Contractor to carry out the Contractor's Activities.

28 Termination for default

RailCorp may by notice terminate this Agreement with immediate effect if the Contractor:

- (a) breaches any term of this Agreement (including clause 33) which, in RailCorp's opinion, is not capable of remedy;
- (b) breaches any term of this Agreement which is capable of remedy, but fails to remedy the breach within a reasonable time after receiving notice to do so; or
- (c) becomes insolvent, bankrupt or subject to any form of external administration.

29 Cancellation

RailCorp may cancel the Contractor's Activities at any time for any reason by giving written notice to the Contractor who must, on receipt, immediately cease all work and take appropriate action to mitigate any loss or prevent further costs being incurred with respect to the Contractor's Activities. RailCorp must pay all reasonable amounts due in accordance with clause 8 for all work performed by the Contractor up until cancellation (but not any loss of prospective profits).

30 Dispute Resolution

If a dispute arises under this Agreement, the parties must promptly meet to resolve the dispute. If the parties are unable to resolve the dispute within a reasonable time, then either party may refer the dispute to the Chief Executive Officers or other representatives nominated by the Chief Executive Officer of each party for resolution before having recourse to litigation. Notwithstanding the existence of a dispute, the parties must continue to perform their obligations under the Contract. Nothing in this clause will prevent a party from seeking interlocutory relief in respect of any dispute.

31 Safety Specification

- (a) The Contractor must comply with RailCorp's Safety Specification as stated in the RFX.
- (b) If required, the Contractor must provide a site specific safety management plan prepared in accordance with *Occupation Health and Safety Regulation 2001* (NSW) and the New South Wales Government Occupation Health and Safety Management Systems Guidelines before commencing the Contractor's Activities, the Guidelines are located at:
http://www.nswprocurement.com.au/psc/nsw_government_guidelines/ohsms_guidelines.aspx

32 Environmental Management Specification

- (a) The Contractor must comply with RailCorp's Environmental Management Specification as stated in the RFX.
- (b) If required, the Contractor must provide a site specific environmental management plan prepared in accordance with the New South Wales Government Environmental Management

Systems Guidelines before commencing the Contractor's Activities, the Guidelines are located at:

http://www.nswprocurement.com.au/psc/nsw_government_guidelines/EMS-Ed2-Sept-2009.aspx

33 Statement of Business Ethics and Corruption Prevention

- (a) The Contractor must at all times comply with RailCorp's Statement of Business Ethics.
- (b) Prior to the engagement of any subcontractor by the Contractor, the Contractor must obtain a written acknowledgement from such subcontractor that it has received, read, understood and will comply with RailCorp's Statement of business ethics. The Contractor must retain the documentation required by this clause for a period of seven years and shall provide such documentation to RailCorp as and when requested.
- (c) The Contractor must not, and must ensure that subcontractors at any level do not, engage any person named at:
http://www.railcorp.info/commercial/contracts_and_procurement/individuals_adversely_named
to do any thing in connection with this Agreement whether as an employee, agent, contractor or in any other capacity whatsoever. Breach of this clause is a fundamental breach of this Agreement entitling RailCorp to terminate by written notice forthwith.

34 Subcontracting

- (a) The Contractor must not subcontract to any third person any of its obligations in relation to the Contractor's Activities without the prior written consent of RailCorp (which may be given or withheld in its absolute discretion).
- (b) The Contractor will not, as a result of any sub-contracting arrangement, be relieved from the performance of any obligation under this Agreement and will be liable for all acts and omissions of a sub-contractor as though they were the actions of the Contractor itself.

35 Compliance with Laws

The Contractor must, in undertaking of the Contractor's Activities, comply with all Laws and with the lawful requirements or policy of any governmental agency affecting or applicable to the undertaking of the Contractor's Activities.

36 General

- (a) This Agreement is governed by and is to be construed in accordance with the Laws applicable in New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- (b) Notwithstanding anything else contained in this agreement and to the extent permissible by law any proportional liability legislation does not apply to any dispute between RailCorp and the Contractor, which might in the absence of this provision have applied.
- (c) Time is of the essence in relation to the undertaking of the Contractor's Activities.
- (d) No rule of construction applies to the disadvantage of a party on the basis that the party put forward this Agreement or any part of it.

37 Interpretation

In these Agreement, unless the context otherwise requires:

Agreement has the meaning in clause 1.

Code of Conduct means RailCorp's Code of Conduct which may be obtained from RailCorp and is located at:

http://www.railcorp.info/data/assets/pdf_file/0012/3045/Code_of_Conduct.pdf

Code of Practice means New South Wales Government Code of Practice for Procurement which may be obtained from RailCorp and is located at:

<http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Overarching-Procurement-Environment/Code-of-Practice-and-Implementation-Guidelines.aspx>

Completion Date means the date set out in this Agreement by which the Contractor's Activities must be effected by the Contractor.

Confidential Information means any technical, scientific, commercial, financial or other information of, about or in anyway related to, RailCorp, including any information designated by RailCorp as confidential, which is disclosed, made available, communicated or delivered to the Contractor, but excludes information:

- (a) which is in or which subsequently enters the public domain other than as a result of a breach of this Agreement;
- (b) which the Contractor can demonstrate was in its possession prior to the date of this Agreement;
- (c) which the Contractor can demonstrate was independently developed by the Contractor; or
- (d) which is lawfully obtained by the Contractor from another person entitled to disclose such information.

Contract Price means the monies payable to the Contractor for the Contractor's Activities as calculated in accordance with the Purchase Order.

Contractor means the person supplying the Contractor's Activities under this Agreement and includes a reference to the Contractor's employees, agents, consultants and subcontractors.

Contractor's Activities means the Contractor's Activities specified in the Purchase Order.

Contractor's Response means any information provided by the Contractor in response to the RFX excluding any terms and conditions proposed by the Contractor in substitution for or additional to the terms and conditions of this Agreement.

Date for Completion means the date for completion of the Contractor's Activities specified in the Purchase Order.

Delivery Address means the location or address to which the Goods are to be delivered, as specified in this Agreement.

Delivery Note means a written note containing:

- (a) Contractor's name and business address;
- (b) Description and quantity of Goods delivered;
- (c) Name and contact details of RailCorp officer who ordered Goods; and
- (d) RailCorp's Purchase Order number.

Goods means the goods (or any of them) specified in this Agreement.

GST Act means the *A New Tax System (Goods and Contractor's Activities Tax) Act 1999* (Cth).

Intellectual Property Rights includes all present and future copyright and neighbouring rights, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Laws means the law in force in New South Wales and the Commonwealth of Australia, including common law and legislation.

Material includes, without limitation, documents, data, information, samples and software whether or not in material form.

Pre-Existing Intellectual Property means any and all Intellectual Property Rights in any Contractor's Activities, items or systems which are the property of the Contractor and which existed in substantially the same form and with substantially the same contents prior to the commencement of the Contractor's Activities.

Purchase Order means any form of order or acknowledgment from RailCorp for the undertaking of the Contractor's Activities which incorporates this Agreement.

RailCorp means Rail Corporation New South Wales a NSW government agency constituted under the Transport Administration Act 1988 (NSW) (ABN 59 325 778 353).

RailCorp's Environmental Management Specification means RailCorp's Environmental Management Specifications which may be obtained from RailCorp and are located at:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=7261>

RailCorp's Safety Specification means RailCorp's Safety Specification as identified in the RFX which may be obtained from RailCorp and are located at:

for service providers:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=5998>

for contractors:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=5997>

for principal contractors:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=6000>

for labour hire firms:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=6001>

for goods:

<http://railsafe.railcorp.nsw.gov.au/editorialDocument.jsp?id=5999>

RFX means the RFX Criteria or any format in which RailCorp requests quotations for the Contractor's Activities.

Statement of Business Ethics means RailCorp's Statement of Business Ethics, which may be obtained from RailCorp and is located at:

http://www.railcorp.info/_data/assets/pdf_file/0016/3364/RailCorp_Business_Ethics.pdf

Working Days means the days specified in the Purchase Order and if none specified then any day other than a Saturday, Sunday, a Public Holiday in NSW and 27, 28, 29, 30 and 31 December.

Working Hours means the hours specified in the Purchase Order and if none specified then between the hours of 8:00am and 4:00pm.