

Unless a formal contract has been entered into by the Supplier and Wodonga Institute of TAFE and signed by an authorised representative of Wodonga Institute of TAFE (including a State Purchase Contract), whether before or after Wodonga Institute of TAFE issues a Purchase Order to the Supplier:

- these standard purchase order terms and conditions apply to the supply of Goods and/or the provision of the Services;
- the Supplier must supply the Goods and/or provide the Services specified in the Purchase Order in accordance with these standard purchase order terms and conditions; and
- any Supplier terms and conditions are expressly excluded from this Agreement.

In the event and to the extent of any inconsistency between:

- (i) these standard purchase order terms and conditions;
- (ii) the Purchase Order; and
- (iii) any attachments to the Purchase Order or other documents incorporated by reference,

these standard purchase order terms and conditions will prevail to the extent of the inconsistency and, if the inconsistency remains incapable of resolution by reading down, the inconsistent provisions will be severed from the Agreement without otherwise diminishing the enforceability of the remaining provisions of the Agreement.

AGREED TERMS

1. DURATION

- 1.1 This Agreement commences on the Commencement Date and continues until the End Date, unless terminated earlier under clause 20 or extended under clause 1.2.
- 1.2 Wodonga Institute of TAFE may extend this Agreement for the Extension Period by giving reasonable notice prior to the End Date.

2. CONTRACT MANAGERS

The persons named in the Agreement Form as the 'Contact Person' are the first point of contact between the Parties and are responsible for overseeing the effective administration of the Agreement including variations and extensions.

3. SUPPLY OF GOODS (IF APPLICABLE)

- 3.1 If Goods are supplied under this Agreement then the Supplier must:
 - (a) supply the Goods in accordance with this Agreement;
 - (b) sell the Goods without encumbrance;
 - (c) deliver the Goods to the Delivery Point on or before the Delivery Date;
 - (d) comply with Wodonga Institute of TAFE's reasonable directions and delivery instructions;
 - (e) if requested by Wodonga Institute of TAFE, provide Wodonga Institute of TAFE with material safety data sheets with respect to the Goods delivered;
 - (f) provide test evidence for the Goods if required; and
 - (g) if indicated in the Agreement Form, install the Goods on or before the Installation Date.
- 3.2 If the Supplier cannot comply with any of its obligations under clause 3.1, the Supplier must notify Wodonga Institute of TAFE in writing immediately.

4. INSPECTION AND ACCEPTANCE OF GOODS (IF APPLICABLE)

- 4.1 Wodonga Institute of TAFE may inspect the Goods to determine whether to accept or reject the Goods.

- 4.2 Wodonga Institute of TAFE must accept the Goods if they conform with the requirements of this Agreement.

- 4.3 Subject to clause 4.4, the Goods are deemed accepted either:

- (a) on delivery, if Wodonga Institute of TAFE notifies the Supplier that it accepts the goods; or
- (b) if no notice is issued by Wodonga Institute of TAFE, then 5 Business Days after delivery of the Goods to the Delivery Point.

- 4.4 If the Goods are consumable products and the Goods are found to be defective when first used, then Wodonga Institute of TAFE may reject the Goods under clause 4.5.

- 4.5 If Wodonga Institute of TAFE rejects the Goods due to non-conformity with the requirements of this Agreement, then Wodonga Institute of TAFE must notify the Supplier as soon as possible and require the Supplier at its sole cost, and at Wodonga Institute of TAFE's election to either:

- (a) resupply the Goods and remove the non-conforming Goods from the Delivery Point; or
- (b) repair the Goods.

- 4.6 Acceptance of the Goods does not relieve the Supplier of any of its obligations under this Agreement.

- 4.7 The Supplier bears the risk in the Goods until delivery to the Delivery Point. Title in the Goods will pass to Wodonga Institute of TAFE upon Wodonga Institute of TAFE's acceptance of the Goods.

5. WARRANTY PERIOD (IF APPLICABLE)

- 5.1 The Supplier shall ensure that Wodonga Institute of TAFE receives the benefit of all manufacturer warranties applicable to the Goods and shall provide Wodonga Institute of TAFE with copies of such warranties on request by Wodonga Institute of TAFE.

- 5.2 In addition to the manufacturer warranties, the Supplier undertakes to facilitate the repair and/or replacement of any Goods that fail to comply with the warranties in clause 9.1. If during the Warranty Period Goods are found to be defective then Wodonga Institute of TAFE may in its absolute discretion require that the Supplier at its expense:

- (a) replace the Goods within 10 Business Days of notification by Wodonga Institute of TAFE (or such other time as is agreed); or
- (b) refund the Price.

6. SUPPLY OF SERVICES (IF APPLICABLE)

- 6.1 If Services are supplied under this Agreement then the Supplier must ensure that the Supplier's Personnel provide the Services described in the Agreement Form in accordance with the terms and conditions of this Agreement.
- 6.2 Where the Agreement Form specifies Named Persons, the Services must be delivered by those Named Persons. The Supplier may substitute a Named Person with the consent of Wodonga Institute of TAFE subject to Wodonga Institute of TAFE being satisfied as to the expertise, experience and suitability of the substitute.
- 6.3 The Supplier must deliver the Services:
 - (a) to a standard that meets or exceeds the Service Levels;
 - (b) in accordance with the warranties in clause 9.4; and
 - (c) by any Milestone Dates.
- 6.4 Wodonga Institute of TAFE's remedies for the Supplier's failure to meet a Service Level or for a breach of a warranty, includes resupply of the Services, a reduction of the price, termination, rebates or any other remedy specified in the Special Conditions.

7. REPORTS AND MANUALS (IF APPLICABLE)

- 7.1 The Supplier must provide those reports, manuals or other materials specified in the Agreement Form.

8. SERVICE VARIATION (IF APPLICABLE)

- 8.1 If Wodonga Institute of TAFE wishes to vary the scope of the Services ("**Variation**"), it must issue a written request to the Supplier and the Supplier must within 5 Business Days (or such other period as agreed) provide a written quote ("**Quote**") setting out:
 - (a) any impacts on the timing of or completion of tasks;
 - (b) the varied price and payment arrangements; and
 - (c) any changes to the terms that apply to the performance of the Services.
- 8.2 The Parties must negotiate in good faith to agree on the price and other terms applicable to the Variation.
- 8.3 If the Parties agree in writing to the terms of the Variation then:
 - (a) the Supplier must perform the Services as varied by the Variation;
 - (b) Wodonga Institute of TAFE must pay the varied price;
 - (c) the terms and conditions of the Agreement are varied by the terms of the Variation.

9. SUPPLIER'S WARRANTIES

- 9.1 If Goods are being supplied under this Agreement then the Supplier warrants that it has good and unencumbered title to the Goods and the Goods:
 - (a) conform with any description applied and any sample provided by the Supplier;
 - (b) are new (unless otherwise specified);
 - (c) are free from defects in materials, manufacture and workmanship;
 - (d) conform to any applicable Australian Standards or other standards nominated in this Agreement;
 - (e) conform to the Specifications and any technical Specifications provided by the Supplier;
 - (f) are of merchantable quality;
 - (g) are installed correctly (if the Supplier is responsible for installation);
 - (h) are fit for their intended purpose; and
 - (i) are manufactured and supplied without infringing any person's Intellectual Property Rights.
- 9.2 The Supplier must ensure that Wodonga Institute of TAFE receives the full benefit of any manufacturer's warranties in respect of the Goods.
- 9.3 During any Warranty Period any defects in the Goods must be rectified at the Supplier's expense.
- 9.4 If Services are being supplied under this Agreement then the Supplier warrants that the Services will:
 - (a) comply with the description of the Services in the Agreement Form;
 - (b) be provided with due care and skill;
 - (c) be provided in a timely and efficient manner;
 - (d) be provided in accordance with the best practices current in the Supplier's industry;
 - (e) be supplied without infringing any person's Intellectual Property Rights;
 - (f) be performed by the Supplier and/or the Supplier's Personnel; and
 - (g) be supplied in the most cost effective manner consistent with the required level of quality and performance.

10. SUPPLIER'S PERSONNEL

- 10.1 The Supplier, if required by Wodonga Institute of TAFE, must give its consent to and procure the consent of the Supplier's Personnel, to the conduct of a police check or any Additional Personnel Checks specified in the Agreement Form.
- 10.2 If Wodonga Institute of TAFE gives the Supplier notice in writing requiring those persons to be withdrawn from, supplying the Goods or providing the Services, and the Supplier must immediately comply with the notice and provide replacement Personnel acceptable to Wodonga Institute of TAFE.
- 10.3 The Supplier and the Supplier's Personnel must only use Wodonga Institute of TAFE's computer systems with the specific authorisation of Wodonga Institute of TAFE and only in the manner as directed by Wodonga Institute of TAFE from time to time.

10.4 Wodonga Institute of TAFE reserves the right to refuse entry to any of Wodonga Institute of TAFE's premises to any of the Supplier's Personnel.

11. PRICE AND PAYMENT

11.1 In consideration for the supply of the Goods and/or the Services, Wodonga Institute of TAFE will pay the Price.

11.2 Unless otherwise expressly stated the Price is inclusive of GST.

11.3 The Supplier is entitled to invoice Wodonga Institute of TAFE for payment in respect of the Goods and/or Services, when the Goods have been supplied and accepted under clause 4, and the Services have been supplied in accordance with this Agreement.

11.4 Unless specified otherwise in the Agreement Form or the relevant Purchase Order, Wodonga Institute of TAFE will pay the Supplier within 10 Business Days of receipt of the Supplier's invoice properly rendered in accordance with this Agreement.

11.5 Wodonga Institute of TAFE will, on demand by the Supplier, pay simple interest on a daily basis on any overdue amount, at the rate for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 (Vic). For the purposes of this clause 11.5 "overdue amount" means:

- (a) an amount (or part thereof) that is not, or is no longer, disputed in accordance with this Agreement;
- (b) that is due and owing under a tax invoice properly rendered by the Supplier in accordance with this Agreement; and
- (c) which has been outstanding for more than ten business days from the date of receipt of the correctly rendered invoice or the date that the amount ceased to be disputed, as the case may be.

12. GST

12.1 Subject to clause 12.2 the Supplier represents that:

- (a) the ABN shown in the Agreement Form is the Supplier's ABN; and
- (b) it is registered under the *A New Tax System (Australian Business Number) Act 1999* (Cth),

12.2 If the Supplier is not registered for GST, then GST must not be charged on supplies made under this Agreement.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 Ownership of any Contract Materials will vest in Wodonga Institute of TAFE from the time of its creation.

13.2 All Pre-Existing Intellectual Property used by the parties in connection with the provision of the Goods and/or the performance of the Services or the creation of Contract Materials remains the property of the relevant party or its licensors.

13.3 The Supplier hereby irrevocably and unconditionally grants to Wodonga Institute of TAFE a perpetual, non-exclusive, royalty-free, worldwide and transferable licence (including the right to sub-license) to use any

of the Supplier's Pre-Existing Intellectual Property incorporated in or otherwise required to use the Contract Materials or the Goods and/or Services. The licence granted to Wodonga Institute of TAFE under this clause is limited to use of the relevant Pre-Existing Intellectual Property by Wodonga Institute of TAFE for the purposes of Wodonga Institute of TAFE and for no other purpose.

13.4 The Supplier must, upon request by Wodonga Institute of TAFE, do all things necessary (including executing any documents) to give full effect to this clause 13.

14. INSURANCE

14.1 The Supplier must effect and maintain the policies of insurance specified in the Agreement Form for not less than the amounts specified in the Agreement Form.

14.2 The policies of insurance referred to in clause 14.1 must be held until the expiry of the Agreement.

15. LIABILITY AND INDEMNITY

15.1 The Supplier indemnifies, and will at all times keep Wodonga Institute of TAFE and each of its personnel indemnified, against any liabilities, losses, damages, costs and expenses (including all legal and settlement costs determined on a full indemnity basis) or compensation arising out of, or in any way in connection with, any breach of the Agreement.

16. CONFIDENTIAL INFORMATION

16.1 Subject to this clause 15.1, neither Party may disclose any Confidential Information belonging to the other Party except as genuinely and necessarily required for the purpose of this Agreement.

16.2 A Party may disclose Confidential Information belonging to the other Party:

- (a) to an employee, agent or adviser of that Party, on a "need to know" and confidential basis;
- (b) as required by law or a court order;
- (c) in accordance with any Government or Ministerial order or direction or Parliamentary or constitutional convention;
- (d) to the Australian Competition and Consumer Commission (ACCC) if the party reasonably suspects, or is notified by the ACCC that it reasonably suspects, that there is Cartel Conduct or unlawful collusion in connection with the supply of Goods or Services under this Agreement; or
- (e) for the purposes of prosecuting or defending proceedings.

16.3 The Parties may mutually agree to disclose Confidential Information.

17. PRIVACY AND DATA PROTECTION

17.1 The Supplier acknowledges that it will be bound by the Information Privacy Principles, Health Privacy Principles and any applicable Code of Practice (together, Privacy Obligations), as relevant, with respect to any act done or practice engaged in by the Supplier for the purposes of the Agreement, in the

same way and to the same extent as the Privacy Obligations would have applied to Wodonga Institute of TAFE in respect of that act or practice had it been directly done or engaged in by Wodonga Institute of TAFE.

17.2 The Supplier must not do an act or engage in a practice that contravenes a Protective Data Security Standard in respect of data collected, held, used, managed, disclosed or transferred by the Supplier in the course of, or for the purpose of, providing the Services.

17.3 The Supplier will follow all reasonable directions from Wodonga Institute of TAFE in respect of the protection of data collected, held, used, managed, disclosed or transferred by the Supplier in the course of, or for the purpose of, providing the Services.

18. SET-OFF

Any claim Wodonga Institute of TAFE may have against the Supplier may be set off against monies owed to the Supplier under this Agreement.

19. DISPUTE RESOLUTION

19.1 Subject to clause 19.4 a Party may not commence legal proceedings without first referring the dispute to the other Party under this clause.

19.2 Either Party may give the other a notice in writing ("**dispute notice**") setting out the details of the dispute.

19.3 Within 5 Business Days or such other period as may be agreed by the Parties, representatives must meet and use reasonable endeavours to resolve the dispute.

19.4 A Party may seek immediate interlocutory relief or other interim remedy in case of genuine urgency.

20. ENDING THIS CONTRACT

20.1 Wodonga Institute of TAFE may terminate this Agreement immediately upon giving notice in writing to the Supplier if:

- (a) Wodonga Institute of TAFE reasonably forms the opinion that the Supplier will be unable to perform its obligations under this Agreement;
- (b) the Supplier is in breach of this Agreement and has not rectified such breach within 10 Business Days of Wodonga Institute of TAFE giving notice in writing to the Supplier requiring the rectification of such breach;
- (c) Wodonga Institute of TAFE becomes aware that the Supplier is in breach of its statutory obligations with respect to its employees;
- (d) the Supplier fails to comply with a notice issued under clause 10.2; or
- (e) the Supplier fails to disclose a conflict of interest;
- (f) any Other Termination Right occurs; or
- (g) the Supplier suffers or, in the reasonable opinion of Wodonga Institute of TAFE, is in jeopardy of becoming subject to any form of insolvency administration or bankruptcy.

20.2 Wodonga Institute of TAFE may terminate this Agreement without cause by giving the Supplier the

period of notice specified in the Agreement Form ("**Notice Period for Termination for Convenience**").

20.3 If Wodonga Institute of TAFE terminates this Agreement in accordance with clause 20.2:

- (a) the Supplier has no claim against Wodonga Institute of TAFE arising out of or in relation to such termination other than the right to be paid for Goods accepted and/or Services provided before the effective termination date; and
- (b) the Supplier must comply with all reasonable directions given by Wodonga Institute of TAFE.

20.4 The Supplier may terminate this Agreement immediately upon giving notice in writing to Wodonga Institute of TAFE if Wodonga Institute of TAFE is in breach of this Agreement and has not rectified such breach within 14 days of the Supplier giving notice in writing to the Purchaser requiring the rectification of such breach.

21. EFFECT OF ENDING THIS CONTRACT

21.1 Any termination of this Agreement by either Party does not affect any accrued right of either Party.

21.2 Despite termination or completion of this Agreement, this clause 21 and clauses 9, 13, 13.1, 15, 15.1, 18 and those Special Conditions that by their nature remain in force, shall survive.

22. SUBCONTRACTING

22.1 With the exception of the Approved Subcontractors described in the Agreement Form, the Supplier must not engage any subcontractor without the prior written permission of Wodonga Institute of TAFE.

22.2 The Supplier remains responsible for obligations performed by the Approved Subcontractors to the same extent as if such obligations were performed by the Supplier.

23. CONFLICT OF INTEREST

23.1 The Supplier must disclose in writing to Wodonga Institute of TAFE all actual and potential conflicts of interest that exist, arise or may arise (either for the Supplier or the Supplier's Personnel) in the course of performing its obligations under this Agreement as soon as practical after it becomes aware of that conflict.

24. COMPLIANCE WITH LAWS

The Supplier must comply with the laws in force in the State of Victoria in performing its obligations under this Agreement.

25. GOVERNING LAW AND JURISDICTION

25.1 This Agreement is governed by the laws in the State of Victoria.

25.2 The courts of the State of Victoria have exclusive jurisdiction in connection with this Agreement.

26. ENTIRE AGREEMENT

The Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with in this Agreement and supersedes all prior

agreements, understanding and negotiations in respect of the matters dealt with in this Agreement.

27. NO ASSIGNMENT

27.1 The Supplier must not assign, encumber or otherwise transfer any of its rights or obligations under this Agreement without the written approval of Wodonga Institute of TAFE which approval shall not be unreasonably withheld.

27.2 Subject to any contrary legislative intention, the Parties agree that if there is any Machinery of Government Change, this Agreement is deemed to refer to the new entity succeeding or replacing Wodonga Institute of TAFE and all of Wodonga Institute of TAFE's rights and obligations under this Agreement will continue and will become rights and obligations of that new entity.

28. MODIFICATION

No addition to or modification of any provision of this Agreement will be binding upon the Parties unless made by written instrument signed by the Parties.

29. SEVERANCE

29.1 Each word, phrase, sentence, paragraph and clause of this Agreement is severable.

29.2 Severance of any part of this Agreement will not affect any other part of this Agreement.

30. COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together constitute one (1) instrument. An executed counterpart may be delivered by email.

31. WORK HEALTH & SAFETY

31.1 The Supplier must comply with all applicable health and safety laws at all times, regardless of whether Wodonga Institute of TAFE issues direction in that regard or not.

31.2 If all or part of the work under this Agreement is to be provided on the premises of Wodonga Institute of TAFE and under the direction of Wodonga Institute of TAFE, the Supplier must comply with Wodonga Institute of TAFE's work health and safety policies, procedures and instructions. If the Supplier becomes aware of any potentially hazardous situation on Wodonga Institute of TAFE's premises, the Supplier must immediately bring it to Wodonga Institute of TAFE's attention.

32. ACTING ETHICALLY

The Supplier must conduct itself in a manner that does not invite, directly or indirectly, Wodonga Institute of TAFE's officers, employees or agents to behave unethically, to prefer private interests over Wodonga Institute of TAFE's interests and the Supplier shall not otherwise contravene the Supplier Code of Conduct published by the Victorian Government at <https://www.buyingfor.vic.gov.au/supplier-code-conduct> (as updated from time to time) as applicable to the Goods and Services under this Agreement.

33. DEFINITIONS AND INTERPRETATION

33.1 In this Agreement the following terms have the meanings set out below:

- (a) **"Acceptance Date"** means the date that the Goods are accepted by Wodonga Institute of TAFE;
- (b) **"Agreement"** means the contract made between the parties relating to the Goods and/or Services supplied by the Supplier to Wodonga Institute of TAFE comprised of these Standard Terms and Conditions, the Agreement Form (if any), the Purchase Order and those documents referenced in the Agreement Form (if any) and Purchaser Order which Wodonga Institute of TAFE intends to be binding between the parties. To avoid doubt, the Agreement does not include any quotation, proposal or other sales document or invoice issued by the Supplier unless specifically agreed in writing by Wodonga Institute of TAFE.
- (c) **"Agreement Form"** means the document titled 'Agreement Form' and signed by Wodonga Institute of TAFE and the Supplier to which these Terms and Conditions attach and if no such document exists shall mean the Purchase Order.
- (d) **"Approved Subcontractors"** means those subcontractors specified in the Agreement Form (if any);
- (e) **"Business Day"** means any day that is not a Saturday or Sunday or a public holiday in Victoria;
- (f) **"Cartel Conduct"** means conduct by two or more parties who are competitors (or would be but for the conduct) who enter into a contract, arrangement or understanding that involves price fixing, output restrictions, allocating customers, suppliers or territories, or bid-rigging, as defined in the *Competition and Consumer Act 2010* (Cth);
- (g) **"Code of Practice"** means a code of practice as defined in, and approved under, the Privacy and Data Protection Act 2014 (Vic).
- (h) **"Commencement Date"** means the date the Supplier is required to commence the delivery of the Goods or provision of the Services as notified by Wodonga Institute of TAFE to the Supplier.
- (i) **"Confidential Information"** means information which is identified either as confidential information (if disclosed by Wodonga Institute of TAFE) or proprietary information (if disclosed by the Supplier), but does not include this Agreement;
- (j) **"Contract Materials"** means any materials (including any intellectual property) which the Supplier creates (whether alone or jointly with any other person) in the supply of the Goods and/or the provision of the Services.
- (k) **"Delivery Date"** means the date and time specified in the Agreement Form for delivery of the Goods and if none is specified then the date and time stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;

- (l) **"Delivery Point"** means the location(s) specified in the Agreement Form, where the Goods and/or Services will be delivered and if none is specified then the date and time stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;
- (m) **"End Date"** means the date that the Supplier is scheduled to deliver the Goods to Wodonga Institute of TAFE and complete all activities for the provision of the Services which shall be set out in the Purchase Order, Agreement Form (if any) or otherwise confirmed in writing by Wodonga Institute of TAFE.
- (n) **"Extension Period"** means the period by which the Agreement may be extended as specified in the Agreement Form and if none is specified the period agreed by Wodonga Institute of TAFE in writing;
- (o) **"Goods"** means the goods specified in the Agreement Form or Purchase Order as applicable;
- (p) **"GST"** means the tax imposed by the GST Law;
- (q) **"GST Law"** has the meaning attributed in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (r) **"Health Privacy Principles"** means the health privacy principles set out in the Health Records Act 2001 (Vic).
- (s) **"Information Privacy Principles"** has the meaning given in the Privacy and Data Protection Act 2014 (Vic).
- (t) **"Installation Date"** means the date specified in the Agreement Form for the installation of the Goods and if none is specified then the date stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;
- (u) **"Intellectual Property Rights"** means all means all intellectual property rights at any time recognised by law, including all present and future copyright, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, 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.
- (v) **"Machinery of Government Change"** means a change to the structure, function or operations of the Victorian Government or Wodonga Institute of TAFE as a result of any government reorganisation, restructuring, legislative change or other organisational or functional change;
- (w) **"Measurement Period"** means the period over which the performance of a Service Level is measured;
- (x) **"Milestone Dates"** means dates by which Services must be delivered as specified in the Agreement Form and if none is specified then the dates stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;
- (y) **"Named Persons"** means the persons specified in the Agreement Form and if none is specified then the date and time stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;
- (z) **"Notice Period for Termination for Convenience"** means the time period specified in the Agreement Form and if none is stated means 14 Days;
- (aa) **"Other Termination Right"** means the additional termination rights specified in the Agreement Form (if any);
- (bb) **"Party"** means a party to this Agreement;
- (cc) **"Personal Information"** means information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonable be ascertained, from the information or opinion;
- (dd) **"Price"** means the price payable under this Agreement specified in the Agreement Form and if none is specified then and includes any price varied under clause 8;
- (ee) **"Pre-Existing Intellectual Property"** means any and all Intellectual Property Rights in any works, items or systems which are the property of either party and which existed in substantially the same form and with substantially the same contents prior to the commencement of the supply of the Goods and/or provision of the Services.
- (ff) **"Protective Data Security Standards"** means any standard issued under Part 4 of the Privacy and Data Protection Act 2014 (Vic) and any policies or protocols issued by Wodonga Institute of TAFE to ensure compliance with those standards.
- (gg) **"Purchase Order"** means an official purchase order for Goods and/or Services generated via Wodonga Institute of TAFE's finance system and submitted by Wodonga Institute of TAFE to the Supplier;
- (hh) **"Service Levels"** means the service levels (if any) specified by Wodonga Institute of TAFE in writing as relevant to the Services which are attached to the Purchase Order or otherwise incorporated by reference;
- (ii) **"Services"** means the services specified in the Agreement Form and if none is specified then the date and time stated in the Purchase Order or otherwise agreed by Wodonga Institute of TAFE;
- (jj) **"Special Conditions"** means any special terms and conditions agreed to in writing by Wodonga Institute of TAFE and signed by an authorised representative of Wodonga Institute of TAFE which modify, add to and/or delete from these standard purchase order terms and conditions;
- (kk) **"Specifications"** means the detailed description of the Goods/Services agreed by Wodonga Institute of TAFE in writing which are attached to the Purchase Order or otherwise incorporated by reference;
- (ll) **"State Purchase Contract"** means a whole of Victorian Government contract or NSW government contract;

(mm) “**Supplier Personnel**” means any Approved Subcontractors, employees, agents and any other person employed or engaged by the Supplier to perform this Agreement and includes the Named Persons;

(nn) “**Term**” means the period commencing on the Commencement and ending on the Expiry Date unless terminated earlier and includes any extension and;

(oo) “**Warranty Period**” means the period specified in the Agreement Form and if none is specified means 12 months or in the case of manufactured goods such longer period offered by the manufacturer under applicable manufacturer warrant or to consumers in accordance with applicable Australian consumer protection laws.

33.2 In this Agreement (unless the context requires otherwise):

(a) a reference to any legislation includes:

- (i) all legislation, regulations and other forms of statutory instrument issued under that legislation; and
- (ii) any modification, consolidation, amendment, re-enactment or substitution of that legislation;

(b) a word in the singular includes the plural and a word in the plural includes the singular;

(c) a reference to two or more persons is a reference to those persons jointly and severally;

(d) a reference to dollars is to Australian dollars;

(e) a reference to a Party includes that party's administrators, successors and permitted assigns.

34. SPECIAL CONDITIONS

The special conditions (if any) form part of this Agreement and to the extent of any inconsistency, take precedence over the other terms of this Agreement.