

THIS AGREEMENT is made on the 19th day of May 2023

BETWEEN

THE COMMONWEALTH OF AUSTRALIA as represented by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts
ABN 86 267 354 017
(Commonwealth)

AND

THE NORFOLK ISLAND REGIONAL COUNCIL a council constituted by section 219 of the *Local Government Act 1993* (NSW) (NI)
ABN 60 103 855 713
(NIRC)

RECITALS:

- A. The Commonwealth has agreed to provide the NIRC with \$7.35 million over two years to improve internet backhaul capacity to the Medical Facility and the Education Facility on Norfolk Island.
- B. The NIRC through its business operating under the trading name 'Norfolk Telecom' has agreed to use the \$7.35 million to ensure that it provides up to 300 Mbps to the Educational Facility during Core Hours and 50 Mbps to the Medical Facility at all times.

In that context, the Parties agree as follows:

1. TERM OF THE AGREEMENT

Commencement

1.1 This Agreement commences when signed by both Parties and, subject to the terms of this Agreement, shall end on 31 December 2024 unless terminated earlier or extended as agreed in writing by both Parties.

Extension

1.2 During the term, the Parties may commence discussions for renewal of this Agreement.

Variation

1.3 This Agreement may be varied by agreement in writing between the Parties.

2. DEFINITIONS AND INTERPRETATIONS

2.1. The following terms in this Agreement are defined as:

- (a) **Agreement** means this document and includes any Schedules.
- (b) **Australian Accounting Standards** means the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth).
- (c) **Australian Privacy Principle** has the same meaning it has in the Privacy Act.

- (d) **Budget** means the budget set out in Part B of Schedule 1.
- (e) **Business Day** means a weekday other than a public holiday in the Australian Capital Territory.
- (f) **Commonwealth** means the Commonwealth of Australia.
- (g) **Commonwealth Payments** means the amounts payable by the Commonwealth under this Agreement as specified in Part C of Schedule 1.
- (h) **Commonwealth Material** means any Material:
 - a. provided by the Commonwealth to the NIRC for the purposes of this Agreement; or
 - b. derived at any time from the Material referred to in paragraph a.
- (i) **Commonwealth Risk Management Policy** means the policy supporting section 16 of the *Public Governance, Performance and Accountability Act 2013 (Cth)* published by the Department of Finance, from time to time.
- (j) **Commonwealth Project Officer** is the person holding, occupying and performing the duties of the position set out in clause 21.1(a) and available at the address and email specified under that position.
- (k) **Confidential Information** means information, documents and data that is:
 - a. designated by a party as confidential;
 - b. which the receiving party knows or ought to know is confidential.
- (l) **Contract Material** means any Material:
 - a. created for the purposes of this Agreement;
 - b. provided or required to be provided to the Commonwealth as part of the Services or obligations under this Agreement; or
 - c. derived at any time from the Material referred to in paragraphs a. or b.
- (m) **Core Hours** means 8am to 4pm (Norfolk Island Time) Monday to Friday excluding gazetted public holidays and school holidays.
- (n) **Department** means the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.
- (o) **Educational Facility** means the Norfolk Island Central School and any other educational facility located on Norfolk Island and which the Commonwealth notifies the NIRC in writing is an educational facility directly associated with the Norfolk Island Central School.
- (p) **Eligible Data Breach** has the same meaning as it has in the Privacy Act.
- (q) **Financial Year** means each period 1 July to the following 30 June occurring during the term of this Agreement, or any part of such period occurring at the beginning or end of the term of this Agreement;
- (r) **Intellectual Property** includes:
 - a. all copyright (including rights in relation to phonograms and broadcasts);
 - b. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and
 - c. all other rights result from intellectual activity in the industrial, scientific, literary or artistic fields,

but does not include:

 - d. Moral rights;
 - e. the non-proprietary rights of performers; or
 - f. rights in relation to Confidential Information.
- (s) **Key Performance Indicators** means the key metrics set against the Services as outlined in Part A of Schedule 1.

- (t) **Material** means any thing in relation to which Intellectual Property rights arise.
- (u) **Medical Facility** means the Norfolk Island Health and Residential Aged Care Service and any other medical facility located on Norfolk Island which the Commonwealth notifies the NIRC in writing is a medical facility directly associated with the Norfolk Island Health and Residential Aged Service.
- (v) **Moral Rights** means the following non-proprietary rights of authors of copyright Material:
 - a. the right of attribution of authorship;
 - b. the right of integrity of authorship; and
 - c. the right not to have authorship falsely attributed.
- (w) **Official Information** means any information developed, received or collected by or on behalf of the Commonwealth to which the NIRC gains access under or in connection with this Agreement, and includes the Contract Material and the terms of this Agreement.
- (x) **Official Resources** includes:
 - a. Official Information;
 - b. people who work for or with the Commonwealth; and
 - c. assets belonging to (even if in the possession of the NIRC or its contracted providers) or in the possession of the Commonwealth.
- (y) **Parties** means the Commonwealth of Australia and the Norfolk Island Regional Council.
- (z) **Personnel** means:
 - a. in relation to the NIRC – any natural person who is an officer, employee, agent or professional advisor of the NIRC of its subcontractors; and
 - b. in relation to the Commonwealth – any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent or professional advisor of the Commonwealth.
- (aa) **Privacy Act** means the *Privacy Act 1988* (Cth).
- (bb) **NIRC** means the Norfolk Island Regional Council.
- (cc) **Personal Information** has the same meaning it has in the Privacy Act.
- (dd) **Schedule** means the schedule to this Agreement and may incorporate other documents by reference.
- (ee) **Services** means the services outlined in clause 5 and Schedule 1 of this Agreement.
- (ff) **Service Delivery** means the delivery of Services outlined in clause 5 and Schedule 1 of this Agreement.

2.2. Headings are for convenience only and do not affect the interpretation of this Agreement.

2.3. The singular includes the plural and vice versa.

2.4. A reference to a party includes its agents, successors and permitted assigns.

2.5. This Agreement includes all schedules and attachments to it.

3. NIRC ROLES AND RESPONSIBILITIES

3.1. The NIRC must:

- (a) deliver the Services specified in Schedule 1 to this Agreement;

- (b) ensure the Commonwealth Payments are spent in accordance with the Budget;
- (c) ensure the conduct of all necessary repair and maintenance in relation to assets used in Service Delivery;
- (d) apply the service delivery standards set out in this Agreement, including those set out in Part A of Schedule 1;
- (e) implement a working group, within 90 days of the date of this Agreement, to ensure technical requirements for the QLD Department of Education, Metro North Health and the Medical Facility are met prior to and after installation of satellite equipment;
- (f) within 90 days of the date of this Agreement, develop and administer the policies and procedures for:
 - i. management of information;
 - ii. protection of information;
 - iii. quality assurance systems;
 - iv. performance control system; and
 - v. performance audits.
- (g) develop appropriate internal monitoring and reporting mechanisms to meet the standards and key performance indicators specified in Part A of Schedule 1;
- (h) notify the Commonwealth immediately of any significant issues that come to the NIRC's attention which:
 - i. are currently impacting, or are likely to impact, Service Delivery; or
 - ii. are currently having or are likely to impact on the Budget;
- (i) keep financial accounts and records relating to the Commonwealth Payments and the Services that identify all receipts and payments related to the Services;
- (j) unless otherwise notified by the Commonwealth, prepare financial statements for the Services in accordance with Australian Accounting Standards including an income and expenditure statement for the Financial Year to date compared with the Budget;
- (k) provide reports for the Commonwealth as specified in clause 8 of this Agreement;
- (l) liaise and provide information to the Commonwealth as reasonably required by the Commonwealth; and
- (m) comply with all of the Commonwealth's reasonable requests, directions and monitoring requirements.

4. REFUND OF UNEXPENDED AND MISSPENT COMMONWEALTH PAYMENTS

4.1. If at any time during the term of this Agreement:

- (a) there remains any amount of Commonwealth Payments that has not been spent or legally committed for expenditure in accordance with this Agreement and the period in which that amount of Commonwealth Payment was expected to be spent or legally committed has passed; or
- (b) any amount of Commonwealth Payments has been spent in contravention of this Agreement,

the Commonwealth may (at its discretion and in addition to any other rights it may have) by notice in writing to the NIRC:

- (c) require the NIRC to refund this amount to the Commonwealth within 20 Business Days (or such other period specified in the notice); or
- (d) reduce any further Commonwealth Payments to the NIRC (if applicable) by amount up to this amount.

4.2. If clause 4.1(a) applies, the Commonwealth may by notice in writing require the NIRC to otherwise deal with this amount in accordance with any conditions that the Commonwealth considers appropriate, including conditions relating to the ongoing use and expenditure by the NIRC of that amount for particular goals or objectives associated with the Services.

5. PAYMENT

- 5.1. Subject to compliance by the NIRC with this Agreement and the invoicing requirements set out in Part C of Schedule 1, the Commonwealth agrees to make the payments to the NIRC for the performance of the Services at the times and in the manner specified in Part C of Schedule 1.
- 5.2. The Commonwealth will be entitled (in addition and without prejudice to any other right it may have) to defer payment or reduce the amount of any Commonwealth Payment if and for so long as the NIRC has not completed, to the satisfaction of the Commonwealth, any part of the Services.

6. TAXES, DUTIES AND GOVERNMENT CHARGES

- 6.1. Except as provided by this clause 6, the NIRC must pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.
- 6.2. Unless otherwise indicated, the Commonwealth Payments and all other consideration made under this Agreement is inclusive of any GST imposed on the supply.
- 6.3. If one party (the supplier) makes a taxable supply to the other party (the recipient) under this Agreement, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.
- 6.4. No party may claim or retain from the other party an amount relation to a supply made under this Agreement for which the first party can obtain an input tax credit or decreasing adjustment.

7. RISK MANAGEMENT

- 7.1. Both Parties agree to take a proactive approach to risk by putting in place quality assurance and risk control measures before commencement of relevant Services that ensures at least minimum agreed levels of service.
- 7.2. The Parties agree to apply and comply with the Commonwealth Risk Management Policy as updated or replaced from time to time.
- 7.3. Risks are to be managed at the service level by the Party best placed to do so. As such, both Parties agree:
 - (a) the NIRC will keep a register for each of the Services;

- (b) the NIRC will monitor risks with risks to be reported in the performance reports prepared in accordance with clause 8, or more frequently if required by the Commonwealth; and
- (c) a consolidated risk report will be prepared by the NIRC and the Parties will discuss the consolidated risk report biannually.
- (d) Any emerging risks will be communicated as soon as reasonable.

7.4. The NIRC must:

- (a) effect and maintain all appropriate insurances for the potential liability associated with the Services and in relation to any assets used in connection with the Services or purchased with Commonwealth Payments, including, but not limited to:
 - (i) workers compensation as required by law;
 - (ii) professional indemnity to a value of \$5 million per claim; and
 - (iii) public liability insurance to a value of \$10 million per claim; and
- (b) on request, provide proof of insurance acceptable to the Commonwealth.

8. REPORTING

8.1. The NIRC must provide the Commonwealth a written report quarterly which includes:

- (a) an annual summary of activity for the financial year for the Services including detailed reporting as to the extent to which the Educational Facility's and the Medical Facility's internet backhaul needs are being met, along with general use by the community of any surplus data;
- (b) progress achieved against outcomes, outputs and performance indicators specified in Schedule 1;
- (c) details of revenues and expenditures for the financial year the Services 1, including a comparison of actual spending of Commonwealth Payments against the Budget;
- (d) changes, reforms and improvements introduced during the period that may impact upon the performance of this Agreement;
- (e) any identified risks, issues or obstacles to effective and efficient delivery of Services during the term of this Agreement;
- (f) the condition of existing assets, the completion of planned asset maintenance schedules and the timing and nature of potential future asset needs; and
- (g) if any additional funds are required.

8.2. Within 20 Business Days of execution of this Agreement, the NIRC must develop and provide to the Commonwealth a plan for the long-term management, maintenance and renewal of assets owned or transferred by the NIRC for the provision of Services or assets purchased with Commonwealth payments (**Asset Plan**) for the Commonwealth's approval. If the Commonwealth requires any changes to the Asset Plan, the NIRC must make those changes within 10 Business Days of the Commonwealth requiring those changes.

9. AUDITS

9.1. The NIRC must:

- (a) give the Commonwealth Project Officer, or any persons authorised in writing by the Project Officer, access to assets, including any computer hardware or software or other equipment, or premises where the Services are being performed or where Official Resources are located; and
- (b) permit those persons to inspect and take copies of any Material relevant to the Services, including but not limited to the NIRC's compliance with all Australian standards.

9.2. The rights referred to in clause 9.1 are subject to:

- (a) the Commonwealth providing reasonable prior notice;
- (b) the reasonable security procedures in place at the premises; and
- (c) if appropriate, execution of a deed of confidentiality by the persons to whom access is given.

The Auditor-General and Information Officer (including their delegates) are persons authorised for the purposes of this clause 9.

9.3. This clause 9 does not detract from the statutory powers of the auditor-General or Information Officer (including their delegates).

10. RECORDS

10.1. The NIRC must create and maintain full and accurate accounts and records of the conduct of the Services including, without limitation, all:

- (a) progress and status of Service Delivery;
- (b) receipt and use of Commonwealth Payments; and
- (c) creation, acquisition and disposal of any assets used for Service Delivery or assets purchased with Commonwealth Payments.

10.2. The NIRC agrees to create and maintain records and accounts under clause 10.1 and retain them for a period of not less than 7 years after the end of the term of this Agreement.

11. WORK HEALTH AND SAFETY

11.1. The NIRC must, in carrying out this Agreement, comply with:

- (a) all relevant legislation, codes of practice and national standards relating to work health and safety, including in relation to consultation, representation and participation; and
- (b) all applicable policies and procedures relating to work health and safety, including those that apply to the Commonwealth's premises when using those premises.

11.2. In the event of any inconsistency between any of the policies and procedures referred to in clause 11.1, the NIRC must comply with those policies and procedures that produce the highest level of health and safety.

12. DISPUTE RESOLUTION

- 12.1. The Parties agree that a dispute arising under this Agreement will be dealt with as follows, and that, subject to clause 12.4, neither party will commence legal proceedings in relation to that dispute until this procedure is completed:
- (a) the party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
 - (b) within 5 Business Days (or such other period as agreed by the parties in writing) each party will nominate a representative not having any prior involvement in the dispute;
 - (c) the representatives will try to settle the dispute by direct negotiation between them;
 - (d) failing settlement within a further 10 Business Days or such other period as agreed by the parties in writing (or failure of one or both parties to nominate a representative within the period set out in clause 12.1(b)), the parties may agree to refer the dispute to an independent third person with power:
 - (i) to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - (ii) to mediate and recommend some form of non-binding resolution;
 - (e) the parties will co-operate fully with any process instigated under clause 12.1(d) in order to achieve a speedy resolution; and
 - (f) if the parties have been unable to agree to refer the dispute to an independent third person, or they have agreed and a resolution is not reached within a further 20 Business Days (or such other period as the parties) may agree in writing), either party may commence legal proceedings.
- 12.2. Each party will bear its own costs of complying with this clause 12, and the parties will bear equally the cost of any third person engaged under clause 12.1(d).
- 12.3. Despite the existence of a dispute, the NIRC will (unless requested in writing by the Commonwealth not to do so) continue to perform the NIRC's obligations under this Agreement.
- 12.4. This clause 12 does not apply to:
- (a) legal proceedings by either party for urgent interlocutory relief; or
 - (b) action by the Commonwealth under or purportedly under clauses 4, 9, 13 and 15.

13. TERMINATION OR REDUCTION IN SCOPE OF SERVICES

13.1. Termination for convenience

13.1.1. The Commonwealth may by notice, at any time and in its absolute discretion, terminate this Agreement or reduce the scope of the Services immediately.

13.1.2. The NIRC must, on receipt of a notice of termination or reduction:

- (a) stop or reduce work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction; and
- (c) continue work on any part of the Services not affected by the notice.

13.1.3. In the event of termination under clause 13.1.1, the Commonwealth will be liable only:

- (a) to pay any Commonwealth Payments relating to Services completed before the effective date of termination;
- (b) to reimburse any reasonably substantiated expenses the NIRC unavoidably incurs relating entirely to Services not covered under clause 13.1.3(a).

13.1.4. The Commonwealth will not be liable to pay amounts under clause 13.1.3(a) and 13.1.3(b) which would, added to any fees already paid to the NIRC under this Agreement, together exceed the total Commonwealth Payments set out in Part C of Schedule 1.

13.1.5. In the event of a reduction in the scope of the Services under clause 13.1.1, the Commonwealth's liability to pay Commonwealth Payments under clause 5.1 will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Services.

13.1.6. The NIRC will not be entitled to compensation for loss of prospective profits.

13.2. Termination for fault

13.2.1. If a party fails to satisfy any of its obligations under this Agreement, then the other party - *if it considers that the failure is:*

- (a) *not capable of remedy* - may, by notice, terminate this Agreement immediately; or
- (b) *capable of remedy* - may, by notice require that the failure be remedied within the time specified in the notice and, if not

remedied within that time, may terminate this Agreement immediately by giving a second notice.

13.2.2. The Commonwealth may also by notice terminate this Agreement immediately (but without prejudice to any prior right of action or remedy which either party has or may have) if the NIRC:

- (a) *being a corporation* - comes under one of the forms of external administration referred to in chapter 5 of the *Corporations Act 2001* (Cth), or has an order made against it for the purpose of placing it under external administration; or
- (b) *being an individual* - becomes bankrupt or enters into a scheme of arrangement with creditors.

14. BRANDING

14.1. Unless otherwise notified by the Commonwealth, the NIRC agrees, in all publications, promotional and advertising materials, public announcements and activities by the NIRC or on the NIRC's behalf in relation to the Services, to acknowledge the financial and other support the NIRC has received from the Australian Government in a form approved by the Commonwealth prior to its use.

14.2. The Commonwealth reserves the right to publicise and report on the provision of Commonwealth Payments to the NIRC. The Commonwealth may do (but is not limited to doing) this by including the Recipient's name, the amount of Commonwealth Payments given to the NIRC, the date this Agreement commences and its term, and the title, location, purpose and a brief description of the Services in media releases, general announcements, annual reports or through any other means as determined by the Commonwealth.

15. PRIVACY

15.1. The NIRC must, in providing the Services:

- (a) comply with its obligation under the Privacy Act and not otherwise do any act or engage in any practice which, if done or engaged in by the Commonwealth would be a breach of an Australian Privacy Principle under the Privacy Act.
- (b) comply with any directions, guidelines, determinations or recommendations relating to privacy and notified by the Commonwealth to the NIRC in writing.

15.2. If the NIRC becomes aware that there are reasonable grounds to suspect that there may have been an Eligible Data Breach in relation to any Personal Information held by the Service Provider as a result of this Agreement or its provision of the Services, the NIRC must:

- (a) notify the Commonwealth in writing as soon as possible, which must be no later than within 3 days of becoming aware; and

- (b) unless otherwise directed by the Commonwealth, carry out an assessment in accordance with the requirements of the Privacy Act.

15.3. Where the NIRC is aware that there are reasonable grounds to believe there has been, or where the Commonwealth notifies the NIRC that there has been, an Eligible Data Breach in relation to any Personal Information held by the NIRC as a result of this Agreement or its provision of the Services, the NIRC must:

- (a) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
- (b) unless otherwise directed by the Commonwealth, take all other action necessary to comply with the requirements of the Privacy Act; and
- (c) take any other action as reasonably directed by the Commonwealth.

15.4. The Service Provider must notify the Commonwealth immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 15.

16. CONFIDENTIALITY

16.1. Both Parties must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.

16.2. The obligations on the Parties under this clause 16 will not be taken to have been breached to the extent that confidentiality Information:

- (a) is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights under this Agreement;
- (b) is disclosed to a party's internal management Personnel, solely to enable effective management or auditing of Agreement-related activities;
- (c) is disclosed by the Commonwealth to the responsible Minister;
- (d) is disclosed by the Commonwealth, in response to a request by a House or Committee of the Parliament of the Commonwealth of Australia;
- (e) is shared by the Commonwealth (including other agencies), where this serves the Commonwealth of Australia's legitimate interests;
- (f) is authorised or required by law to be disclosed; or
- (g) is in the public domain otherwise than due to a breach of this clause 16.

16.3. Where a party discloses Confidential Information to another person pursuant to clauses 16.2(a) to 16.2(e), the disclosing party must notify the receiving person that the information is confidential.

16.4. In the circumstances referred to in clauses 16.2(a), 16.2(b) and 16.2(e), the disclosing party agrees not to provide the information unless the receiving person agrees to keep the information confidential (subject to the exceptions in this clause 16).

- 16.5. The NIRC agrees to secure all of the Commonwealth's Confidential Information against loss and unauthorised access, use, modification or disclosure.
- 16.6. The obligations under this clause 16 will continue, notwithstanding the expiry or termination of this Agreement.
- 16.7. This clause 16 does not detract from any of the NIRC's obligations under the Privacy Act or under clause 15.

17. SECURITY

- 17.1. Both Parties undertake to maintain the security of data provided to them by another person according to the requirements of the person providing the information.
- 17.2. As a minimum, both Parties agree to meet the following Australian Standards for information security or their equivalent:
 - (a) AS/NZS ISO/JIEC 27005:2012, Information Security Risk Management Guidelines;
 - (b) AS/NZS ISO/IEC 27002:2015, Information Technology — Security Techniques — Codes of Practice for Information Security Management; and
 - (c) AS/NZS ISO/PEC 27001:2013, Information Technology — Security Techniques — Information Security Management Systems — Requirements.

18. COMPLAINT AND QUERY HANDLING

- 18.1. The NIRC agrees that the handling of customer complaints and queries must be customer focused and that complaint handling processes must provide complainants with clear and timely resolutions.
- 18.2. The NIRC must ensure that Standard AS ISO 100002-2014 "Customer Satisfaction — Guidelines for Complaints Handling in Organizations (ISO 100004:2018, MOD)" is met in the Service Delivery.

19. INTELLECTUAL PROPERTY IN COMMONWEALTH MATERIAL AND CONTRACT MATERIAL

- 19.1. The Commonwealth grants a royalty-free, non-exclusive licence for the NIRC to use, reproduce and adapt the Commonwealth Material for the purposes of this Agreement.
- 19.2. The NIRC agrees to use the Commonwealth Material strictly in accordance with any conditions or restrictions the Commonwealth may notify to the NIRC.
- 19.3. Subject to this clause 19, Intellectual Property in Contract Material vests or will vest in the NIRC.
- 19.4. Clause 19.3 does not affect the ownership of Intellectual Property in any Commonwealth Material incorporated into the Contract Material.
- 19.5. The NIRC grants to (or will procure for) the Commonwealth a permanent, irrevocable, royalty-free, worldwide, non-exclusive licence (including a right of sublicense) to use, reproduce, exploit, communicate, adapt and distribute the Contract Material for any purpose.

- 19.6. The NIRC agrees, on request by the Commonwealth, to create, sign, execute or otherwise deal with any document necessary or desirable to give effect to this clause 19.
- 19.7. The Recipient warrants that:
- (a) it is entitled; or
 - (b) it will be entitled at the relevant time,
- to deal with the Intellectual Property in the Contract Material in the manner provided for in this clause 19.

20. MORAL RIGHTS

- 20.1. In this clause 20:

Permitted Acts

means any of the following classes or types of acts or omissions:

- a. using, reproducing, adapting or exploiting all or any part of the Contract Material, with or without attribution or authorship;
- a. supplementing the Contract Material with any other Material; and
- b. using the Contract Material in a different context to that originally envisaged;

but does not include false attribution or authorship.

- 20.2. The NIRC must obtain from each author of Contract Material a written consent which extends directly or indirectly to the performance of the Permitted Acts by the Commonwealth or any person claiming under or through the Commonwealth (whether occurring before or after the consent is given) and, on request, to provide the executed original of any such consent to the Commonwealth.
- 20.3. This clause 20 does not apply to any Commonwealth Material incorporated in the Contract Material.

21. NOTICES

Content of notice

- 21.1. A notice under this Agreement is only effective if it is in writing, and dealt with as follows:

- (a) if given by the NIRC to the Commonwealth — addressed to:

Director, Norfolk Island Policy Section, Territories Division
 GPO Box 594
 Canberra ACT 2601
 Phone: 0499 892 599
 Email: NI.infrastructure@infrastructure.gov.au

Or other recipients/address as notified by the Commonwealth.

(b) if given by the Commonwealth to the NIRC — addressed to:

General Manager, Norfolk Island Regional Council
39 Taylors Road
NORFOLK ISLAND 2899
Phone: 0011 6273 22001

Or other recipients/address as notified by the Recipient.

21.2. A notice is to be:

- (a) signed by the person giving the notice and delivered by hand; or
- (b) signed by the person giving the notice and sent by pre-paid post; or
- (c) signed and transmitted electronically by the person giving the notice by electronic mail.

21.3. For the avoidance of doubt, an electronic signature on an email will be taken to be a signed notice for the purpose of clause 26.1.

When effective notice is received

21.4. A notice is deemed to be effected:

- (a) if delivered by hand - upon delivery to the relevant address;
- (b) if sent by post - upon delivery to the relevant address;
- (c) if transmitted electronically - upon actual receipt by the addressee.

21.5. A notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be effected on the next Business Day in that place.

IN WITNESS whereof the Parties here to have entered into this Agreement the day and year first herein before written.

SIGNED on behalf of the
COMMONWEALTH OF AUSTRALIA
As represented by the **Department of Infrastructure, Transport, Regional Development, Communications and the Arts**

) s22(1)(a)(ii)
) [Redacted]

) *AARON O'NEILL*
) *ASSISTANT SECRETARY*

in the presence of:
Date:

) s22(1)(a)(ii)
) [Redacted]

) s22(1)(a)(ii)
) [Redacted]

) *19 MAY 2023*

SIGNED on behalf of the
NORFOLK ISLAND REGIONAL COUNCIL:
Andrew Roach
General Manager, NIRC
Date:

) s22(1)(a)(ii)
) [Redacted]

Attachments

Schedule 1

Released under the Freedom of Information Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

SCHEDULE 1: SERVICES TO BE PROVIDED UNDER THIS AGREEMENT**PART A: SERVICE SPECIFICATION**

The Norfolk Island Regional Council (NIRC) must ensure provision of the following services:

Function	Services	Prerequisites	Standards/KPIs
Data Provision	The NIRC must provide data to the Educational Facility and the Medical Facility.	The NIRC must provide data to the Medical Facility at all times and to the Educational Facility during Core Hours from the date of installation of the telecommunications infrastructure procured from the funding provided through this Agreement.	Up to 300 Mbps (at least 250/50 Mbps) must be provided to the Educational Facility during Core Hours and 50 Mbps must be provided to the Medical Facility at all times.

PART B: BUDGET

Expenditure Item	Amount of Commonwealth payment
Satellite Infrastructure & Software-defined wide area network	\$2,400,000.00
Annual Data Costs for FY2022-23	\$1,237,500.00
Annual Data Costs for FY2023-24	\$2,475,000.00
Annual Data Costs for FY2024-25	\$1,237,500.00

PART C: PAYMENT

Subject to receipt of a correctly rendered invoice, the Commonwealth will make payments to the NIRC as follows:

No.	Payment Amount (AUD)	Due Date
1.	\$3,637,500.00	30 June 2023
2.	\$618,750.00	30 September 2023
3.	\$618,750.00	10 December 2023
4.	\$618,750.00	31 March 2024
5.	\$618,750.00	30 June 2024
6.	\$618,750.00	30 September 2024
7.	\$618,750.00	10 December 2024
Total	\$7,350,000	

Invoicing

To be correctly rendered, invoices must include the following information:

- (a) NIRC's full name;
- (b) NIRC's ABN;
- (c) the Commonwealth's name and address;
- (d) the date of issue of the tax invoice;
- (e) the title of this Agreement and the contract number or purchase order number (if any);
- (f) details of payment amount;
- (g) the total amount payable.

An invoice is not correctly rendered where:

- a. it includes amounts that are not properly payable under this contract or are incorrectly calculated; or
- b. it relates to a payment in relation to which the Commonwealth has exercised its rights under clause 4 of the Agreement.

All invoices must be addressed to the Project Officer.