Some terms used in this document have been given a special meaning.

Their meanings are set out either in the Commonwealth Contracting Suite Glossary or the relevant Commonwealth ATM.

A.B.1 General
Responses are subject to these Commonwealth ATM Terms and the Commonwealth ATM – Special Conditions included in the ATM (if any).

Potential Suppliers must submit Responses using the Response to the ATM form provided (with all details provided in English and prices quoted in Australian currency).

No contract will be formed until executed by the Customer. Any such Contract will incorporate the Commonwealth Contract Terms.

The Customer, acting in good faith, may discontinue this ATM, decline to accept any Response; decline to issue any contract; or satisfy its requirement separately from this ATM process.

Participation in any stage of the process is at the Potential Supplier’s sole risk and cost.

A.B.2 Lodgement
The Customer will only agree to extensions to the Closing Time in exceptional circumstances and, if approved, the extension will apply equally to all Potential Suppliers. The Customer will not consider any Responses received after the Closing Time specified in this ATM unless the Customer determines, in its sole discretion, that the Customer has caused or contributed to the failure to lodge by the Closing Time.

The Response must be lodged as set out in clause A.A.5 [Lodgement Method].

A.B.3 Validity
By lodging a Response Potential Suppliers agree that the Response will remain open for acceptance for sixty (60) calendar days from the date set out in clause A.A.1 [Closing Time].

A.B.4 Alterations
The Customer may decline to consider a Response in which there are alterations, erasures, illegibility, ambiguity or incomplete details.

A.B.5 Inconsistencies
If there is inconsistency between any of the parts of this ATM, the following order of precedence shall apply:
(a) ATM – Statement of Requirement;
(b) Commonwealth ATM Special Conditions (if any);
(c) Commonwealth ATM Terms;
(d) Additional Contract Terms (if any);
(e) Commonwealth Contract Terms;
(f) Commonwealth Contract; and
(g) Commonwealth Contracting Suite Glossary, so that the provision in the higher ranked document will prevail to the extent of the inconsistency.

A.B.6 Amendments and Queries
The Customer may amend, or clarify any aspect of this ATM, prior to the Closing Time by issuing a formal amendment to the ATM in the same manner as the original ATM was distributed. Such amendments or clarifications will be issued simultaneously to all Potential Suppliers, as far as practicable.

Any queries regarding this ATM should be directed as set out in clause A.A.6 [Customer’s Contact Officer].

A.B.7 Clarification
The Customer may, at any time prior to execution of a contract, seek clarification or additional information from, and enter into discussions and negotiations with, any or all Potential Suppliers in relation to their Responses. In doing so, the Customer will not allow any Potential Supplier to substantially tailor or amend their Response.

A.B.8 Alternatives
Potential Suppliers may submit Responses for alternative methods of addressing the Customer’s Statement of Requirement described in this ATM, where the option to do so was stated in the ATM or agreed in writing with the Customer prior to the Closing Time. Potential Suppliers are responsible for providing a sufficient level of detail about the alternative solution to enable its evaluation.

A.B.9 Customer Material
The Customer will make available the Customer’s material (if any) specified in clause A.A.3(f) [Customer Material].

A.B.10 Reference Material
If this ATM references any other materials, including but not limited to, reports, plans, drawings, samples or other reference material, the Potential Supplier is responsible for obtaining the referenced material and considering it in framing their Response.

A.B.11 Price Basis
Prices quoted must show the GST exclusive price, the GST component, if any, and the GST inclusive price.
The Contract Price must be inclusive of GST and all other taxes, duties (including any customs duties) and any government charges imposed or levied in Australia or overseas.

The Contract Price, which will include any and all other charges and costs, will be the maximum price payable by the Customer under the Contract.

A.B.12 Evaluation
The Customer will evaluate Responses in accordance with the Commonwealth Procurement Rules to determine the best value for money outcome for the Customer.

The Customer will exclude from consideration any Response that does not meet clause A.A.2 [Mandatory Conditions of Participation], if any.

The criteria for evaluation will encompass the:
(a) extent to which the Potential Supplier’s Response meets the Customer’s requirement set out in this ATM;
(b) Potential Supplier’s proven capacity to provide the requirement; and
(c) total costs to be incurred by the Customer.

The Customer will notify unsuccessful Potential Suppliers of the final decision and, if requested, will debrief Potential Suppliers following the award of a contract.

A.B.13 Financial information
If requested by the Customer, the Potential Supplier must be able to demonstrate both its financial stability and ability to remain viable over the term of any contract.

If requested by the Customer, the Potential Supplier must promptly provide the Customer with such information or documentation as the Customer reasonably requires in order to evaluate the Potential Supplier’s financial stability.

A.B.14 Referees
The Customer reserves the right to contact the Potential Supplier’s referees, or any other person, directly and without notifying the Potential Supplier.

A.B.15 Reporting Requirements
Potential Suppliers acknowledge that the Customer is subject to legislative and administrative accountability and transparency requirements including disclosure to Parliament and its Committees.

Without limiting the Customer’s right to disclose other information, for any contracts awarded, the Customer will publicly disclose the Supplier’s name, postal address and a range of details about the Contract, including contract value.

The Customer may disclose the names of any subcontractors engaged in respect of the Contract. Potential Suppliers should also note the requirements of the Freedom of Information Act 1982.

A.B.16 Confidentiality of Potential Supplier’s Information
Potential Suppliers must identify any aspects of their Response or the proposed Contract that they consider should be kept confidential, including reasons.

Potential Suppliers should note that the Customer will only agree to treat information as confidential in cases that it considers appropriate. In the absence of such an agreement, Potential Suppliers acknowledge that the Customer has the right to publicly disclose the information.

A.B.17 Collusive Tendering and Unlawful Inducements
Potential Suppliers and their officers, employees, agents and advisors must not engage in any collusive, anti-competitive or any other similar conduct with any other Potential Supplier or person, or offer any unlawful inducements in relation to their Response or this ATM process.

A.B.18 Conflict of Interest
Potential Suppliers must notify the Customer immediately if any actual, potential or perceived conflict of interest arises (a perceived conflict of interest is one in which a reasonable person would think that the person’s judgement and/or actions may be compromised).

A.B.19 Criminal Code
Potential Suppliers should be aware that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the Criminal Code Act 1995 (Cth).

The Potential Supplier must ensure that any intended subcontractors participating in the Potential Supplier’s Response are aware of the information in this clause.