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**Statement of Work (General) – Enterprise Software**

**Introduction**

This is a Statement of Work (SOW) under the Subscription Agreement referred to below. The Subscription Agreement was formed pursuant to the Channel Terms for Enterprise Software (Standard) which are part of the Collaborative Marketplace Agreement at marketplace.govt.nz. The SOW records the terms on which the Provider named below will provide the specified Services to the Purchasing Agency stated below. Unless the context requires otherwise, terms defined or referred to in the Subscription Agreement have the same meaning in this SOW and the rules of interpretation in the Subscription Agreement apply to this SOW.

**Parties and Subscription Agreement / Statement of Work details**

|  |  |  |  |
| --- | --- | --- | --- |
| Provider: | [insert full name of Provider and, if a company, the company number or NZ business number] (**Provider**, **you**, **your**)] | | |
| Purchasing Agency: | [Insert full Purchasing Agency name and, if a company, the company number or NZ business number] (**Purchasing Agency**, **we**, **us**) | | |
| SOW for: | [insert short description] | | |
| SOW #: | [insert number] | | |
| Under Subscription Agreement dated: | [insert date] | | |
| Initial Term of Subscription Agreement  (Ref: Clause 1.1(b) Core Enterprise Software Terms) | [Under clause 1.1(b) of the Core Enterprise Software Terms, Subscription Agreements have an initial term of 2 years, unless the parties agree to a shorter initial term in their first Order or SOW. Parties may wish to agree to a shorter initial term where an agency is clear that it is only seeking a contained set of Associated Services (for example, design services or requirement verification services) in a single SOW that will last less than 2 years. They may want the whole Subscription Agreement to end at the end of the SOW (subject to extension under clause 1.2 of the Core Enterprise Software Terms). If so, the parties can enter in an initial term here that is less than 2 years. If not, this row can be deleted.] | | |
| SOW Start Date  (Ref: Clause 1.4 Core Enterprise Software Terms) | [Insert commencement date of work under SOW] | | |
| SOW End Date  (Ref: Clause 1.4 Core Enterprise Software Terms) | [Insert end date of work under SOW] | | |
| Key contacts  (Ref: Clause 4.2 Core Enterprise Software Terms) | The parties' Contract Managers are specified in the Subscription Form and their roles are listed in clause 4.1 of the Core Enterprise Software Terms. Other key contacts for this SOW (if any) are as stated below. | | |
|  | Contact(s) | Role(s) |
| Purchasing Agency |  |  |
| Provider |  |  |

**Service description and related matters**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Transition to Provider-Hosted Enterprise Software  (Ref: Clause 5.2 Core Enterprise Software Terms) | [Clause 5.2 of the Core Enterprise Software Terms contains obligations that apply where the Purchasing Agency is purchasing Associated Services that involve the transition or migration of functions or services from the Purchasing Agency or an incumbent provider to the Provider’s Provider-Hosted Enterprise Software. If such services are being provided, indicate that here. The details of the transition services could be entered here, or a brief entry here could cross-refer to the Services row below. If any changes to clause 5.2 of the Core Enterprise Software Terms are required, they can be entered here as well. If there are no transition services, enter “Not applicable”, or delete this row.] | | | | |
|  | Services  (Ref: Clauses 3 and 5 Core Enterprise Software Terms) | The Provider will provide the following Services to the Purchasing Agency and in accordance with the following timeframes.  (Specific Milestones/Deliverables and Milestone Dates (if any) are specified in the next row below.) | | | | |
| Service (Attach a more detailed Service description and statement of requirements if required) | | | | Timeframe |
| [For example, you may wish to insert details, either in this table or an attached document, of the various phases of work that may be required to (for example):   * verify that the requirements your agency has can be met by the Enterprise Software you are procuring or thinking of procuring; * design or assess the architecture, implementation and/or rollout of the Enterprise Software you wish to procure; * implement and configure the Enterprise Software; * migrate data and processes from an existing state to the Enterprise Software; * test the implementation of the Enterprise Software; * deal with business change management requirements as your agency transitions from using one system to the new system; * maintain and support your agency’s use of the Enterprise Software on an ongoing basis (including how incidents and problems will be addressed).   Your Services description will likely depend on the kind of Enterprise Software the SOW relates to and the scope of this particular SOW. For example, you might have a SOW dealing only with requirements verification or design, with subsequent work depending on satisfactory outcomes under that SOW (and you may choose not to make a binding Order for the Enterprise Software until that is done).] | | | |  |
|  | | | |  |
|  | Deliverables, Milestones, and Milestone Dates (if any)  (Ref: Clause 5.4 Core Enterprise Software Terms) | Deliverable / Milestone | | | | Milestone Date |
| [Insert relevant Deliverables / Milestones and their due dates. Remember to include documentary deliverables where relevant. If they are relevant, consider whether you need to specify the level of expected detail, e.g., if you're contracting for a design document, does it need to be a detailed design (and in what respects) or a high level design?] | | | |  |
|  | Liquidated damages  (Ref: Clause 5.4(c) Core Enterprise Software Terms) | [Complete the drafting below if liquidated damages will be payable upon a failure to meet one or more Milestones. If no liquidated damages will be payable, this row can be deleted]  If you fail to meet [a Milestone] *or* [insert details of particular Milestones] specified above by [its / their] corresponding Milestone Date[s] then, except to the extent that such failure has been caused by us or our Personnel or a failure in equipment (software or hardware) for which you are not responsible or a Force Majeure Event:  (a) we may withhold payment of Fees for the relevant Services until the Milestone is achieved; and  (b) you shall pay $[ ] in liquidated damages for each [day / week / month] that the completion of the Milestone is delayed, provided that the maximum liquidated damages payable shall not exceed [ ]% of the Fees paid and payable under this SOW.  You accept that the liquidated damages referred to above reflect our legitimate interests in performance and are not a penalty, and you will not seek to argue otherwise in any dispute or proceedings.  Your obligation to pay these liquidated damages is without limitation to any other remedy we may have under or in relation to the Subscription Agreement.  Provided you have complied with clause 5.4(d) (Project Delay caused by us or a third party) of the Core Enterprise Software Terms, you will not be liable to pay liquidated damages where a Milestone Date has not been met due to a Project Delay caused by us or a third party (excluding your subcontractors). | | | | |
|  | Interfaces  (Ref: Clause 5.5 Core Enterprise Software Terms) | [If the Provider is to be responsible for implementing, operating and maintaining Interfaces (as defined in clause 31 of the Core Enterprise Software Terms), the Interfaces for which the Provider is to be responsible need to be specified. The Interfaces could be interfaces between its own infrastructure and either the Purchasing Agency's infrastructure or the services and deliverables of Third Party Service Providers. If the Provider's responsibilities are to differ from the responsibilities in clause 5.5 of the Core Enterprise Software Terms, the differences need to be stated here too. If Interfaces are not relevant, this row can be deleted. If they are relevant, you may also wish to discuss them in more detail in your Services description.] | | | | |
|  | Service Levels (if any)  (Ref: Clause 5.8 Core Enterprise Software Terms) | [Choose one option, insert relevant details and delete remainder.]  You will meet or exceed the Service Levels specified in the Services Listings for the Services in the relevant Marketplace Catalogue.  **or**  You will meet or exceed the following Service Levels:  [insert details of Service Levels; make sure they're specific and measurable]   |  |  | | --- | --- | | **Name of Service Level** | **Details of Service Level** | |  |  | |  |  | |  |  |   **or**  There are no Service Levels beyond what is already stated in the Subscription Agreement. | | | | |
|  | Service Level Credits (if any)  (Ref: Clause 5.8 Core Enterprise Software Terms) | [Choose one option, insert relevant details and delete remainder. The drafting is only an example and may need to be amended to suit your circumstances.]  The Service Level Credits that are payable to us upon a Service Level Default are as specified in your Services Listings.  **or**  If you fail in a given month to meet the Service Levels referred to or specified above (a **Service Level Default**), we shall become entitled to the credits (**Service Level Credits**) specified in the table below:   |  |  | | --- | --- | | **Service Level** | **Service Level Credits for Service Level Defaults** | |  | An amount equal to [XX]% of the monthly Fees payable under this SOW, per Service Level Default. | |  | An amount equal to [XX]% of the monthly Fees payable under this SOW, per Service Level Default. | |  | An amount equal to [XX]% of the monthly Fees payable under this SOW, per Service Level Default. |   If a Service Level Default occurs for which Service Level Credits are payable, you will credit the applicable Service Level Credits against the Fees under this SOW that are next due to be paid.  Service Level Credits are agreed to reflect the reduced value of the relevant Services affected by the Service Level Default(s) and are acknowledged to be neither liquidated damages nor our sole and exclusive remedy in respect of Service Level Defaults or the consequences of such defaults.  In no event will the amount of all Service Level Credits credited against the Fees in each calendar month exceed, in total, [XX]% of the Fees payable in that month.  **or**  There are no Service Level Credits. | | | | |
|  | Purchasing Agency responsibilities  (Ref: Clause 5.6(a)(i) Core Enterprise Software Terms) | [If the Purchasing Agency is to have any specific responsibilities in relation to provision of the Services, beyond what may already be specified in the relevant Services Listings in the Marketplace or in the Subscription Form, state them here. If there are none, you can delete this row.] | | | | |
|  | Acceptance of Deliverables  (Ref: Clause 5.7 Core Enterprise Software Terms) | [A default approach to acceptance of Deliverables is specified in clause 5.7 of the Core Enterprise Software Terms but that clause recognises that the parties may agree upon an alternative approach. If the parties agree on an alternative approach for this SOW, the alternative approach can be specified here.] | | | | |
|  | Security clearances and probity checks  (Ref: Clause 8.1(b) Core Enterprise Software Terms) | [If Provider Personnel are required to obtain security clearances or if the Provider is required to undertake probity checks for Personnel engaged in providing the Associated Services, specify those clearances or checks here] | | | | |
|  | Pre-approved Subcontractors  (Ref: Clause 9.2 Core Enterprise Software Terms) | [If the Purchasing Agency pre-approves the Provider's use of particular Subcontractors, state the names and the roles they are authorised to perform below. If there are none, this row can be deleted.]  We authorise you to subcontract parts of the Services as described below:   |  |  | | --- | --- | | **Full name of Subcontractor** | **Role(s) Subcontractor is authorised to perform** | |  |  | | | | | |
|  | Purchasing Agency policies  (Ref: Clause 10.1(b) Core Enterprise Software Terms) | [Insert the names of any Purchasing Agency policies that the Provider must comply with. Be sure to provide copies to the Provider. If there are none, this row can be deleted.] | | | | |
|  | Fees  (Ref: Clause 18.1 Core Enterprise Software Terms) | The Provider’s Fees will be calculated as follows (all Fees are in NZD unless expressly stated otherwise): | | | | |
| [Choose one option, insert relevant details and delete remainder.]  **Fixed fee**  A fixed Fee of $[    ] excluding GST.  **or**  **Services Rates**  Time-based Fees[, up to a total maximum of $[    ] excluding GST], in accordance with your Services Rates set out in your Service Listings (as at the date of this SOW) in the Marketplace Catalogue, as [stated/summarised] below:  [Reproduce elements of those Services Rates here, by reference to the relevant Services Listings, if required.]  **or**  **Discounted Services Rates**  Time-based Fees[, up to a total maximum of $[    ] excluding GST], in accordance with the discounted Services Rates (i.e., lower than the standard Services Rates in the relevant Services Listings in the Marketplace Catalogue), as stated below:  [insert details of discounted Services Rates]  **or**  **Daily fee rate**  For each day worked a daily fee rate of $[    ] excluding GST[, up to a total maximum of $[    ] excluding GST]. One day's work is defined as 8 hours. If you work less than a full day the Fee shall be calculated based on the time worked at the agreed daily fee rate i.e. (daily fee rate ÷ 8) x hours worked. If you work more than 8 hours in a given day, the specified daily rate will still apply, i.e., you are not entitled to charge more for the additional time spent.  **or**  **[Some other pricing/fees mechanism]**  [insert details as required] | | | | |
|  | Invoicing  (Ref: Clause 18.2 Core Enterprise Software Terms) | [Choose one option for invoicing, insert relevant wording and delete remainder. Make sure all Fees are captured. Also, if relevant, make sure you are clear on when invoicing commences.]  You will invoice the Fees at the end of each month (or shortly thereafter) for Services and Deliverables provided during that month in accordance with the Subscription Agreement.  **or**  You will invoice the Fees on completion of the Services and supply of the Deliverables described in this SOW, in accordance with the Subscription Agreement.  **or [for fixed Fees]**  You will invoice the Fees in instalments on the dates set out below, subject to completion of the relevant Milestones, in accordance with the Subscription Agreement: | | | | |
| Deliverable / Milestone | | Due date | | Amount due (excl GST) |
|  | |  | |  |
|  | |  | |  |
| In addition to the matters set out in clause 18.2 of the Core Enterprise Software Terms, each invoice must contain [insert any specific requirements, such as responsibility codes or purchase order numbers] and be sent by email to [insert email address] | | | | |
|  | Expenses  (Ref: Clause 18.6 Core Enterprise Software Terms) | [Delete this entire row if not applicable]  You are entitled to reimbursement for reasonable third party expenses incurred in the provision of the Services and Deliverables provided that:   * we have given our prior written consent to you incurring the expenses; and * the expenses are charged at cost. | | | | |
|  | Administration Fee  (Ref: Clause 18.1(a)(ii) Core Enterprise Software Terms and clause 9 Channel Terms. Do not delete this row.) | The parties acknowledge that you may be required, under clause 18.1(a)(ii) of the Core Enterprise Software Terms and clause 9 of the Channel Terms for Enterprise Software, to collect an Administration Fee, calculated as per the Administration Fees table on marketplace.govt.nz. If you are required to collect this Administration Fee, you must add the fee as a separate line item to your invoices for the Services provided under this SOW. | | | | |
|  | Intellectual Property Rights  (Ref: Clause 20 Core Enterprise Software Terms) | [If the parties agree to change the default ownership and licensing provisions in clauses 20.2 and 20.4-20.6 of the Core Enterprise Software Terms, those changes should be recorded here.]  [If the parties wish to amend any other aspect of the default provisions of clause 20 of the Core Enterprise Software Terms, that should be specified here.]  [If no such changes are required, this row can be deleted.] | | | | |
|  | Purchasing Agency Data  (Ref: Clause 21.2 Core Enterprise Software Terms) | [Clause 21.2 contemplates that a Purchasing Agency may agree to the Provider transferring or storing Purchasing Agency Data in 'Additional Territories' when specified in a SOW, or agree to Purchasing Agency Data being processed or stored by Subcontractors, offshore cloud services or other Third Party Service Providers. If that is the case for this SOW, enter relevant details below. This isn't required if specific details are already contained in the Provider's Service Listings. If not relevant, this row can be deleted.]  You may transfer Purchasing Agency Data to and store it in the Additional Territories named below, and Purchasing Agency Data may be processed or stored by the Subcontractors, offshore cloud services or other Third Party Service Providers named below:   |  |  | | --- | --- | | Additional Territories to which Purchasing Agency Data may be transferred or in which it may be stored |  | | Purchasing Agency Data may be processed or stored by these Subcontractors, offshore cloud services or other Third Party Service Providers |  | | | | | |
|  | Security  (Ref: Clauses 5.1, 21 and 22.1(b)(ii) Core Enterprise Software Terms) | [If specific security requirements are needed for this SOW, or if changes to existing requirements are needed, they can be stated here (if not already addressed in the Services description in row 2 and any associated statement of requirements). The drafting that follows can be used to the extent required. If there are no specific security requirements beyond what's already in clauses 21 and 22 of the Core Enterprise Software Terms, and no changes to those requirements are needed, this row can be deleted]  You will ensure that the Provider-Hosted Enterprise Software or other ICT systems specified below comply with the standards and controls specified below:   |  |  | | --- | --- | | **Name of Provider-Hosted Enterprise Software or other ICT system** | **NZISM / PSR standards and controls with which it must comply** | |  |  |   ] | | | | |
|  | Liability  (Ref: Clause 23 Core Enterprise Software Terms) | [If there are to be any agreed changes to the default liability provisions in clause 23 of the Core Enterprise Software Terms for this SOW that have not already been covered off in the Subscription Form, then the changes should be recorded here. Otherwise, delete this row.] | | | | |
|  | Insurance  (Ref: Clause 25 Core Enterprise Software Terms) | [Under clause 25 of the Core Enterprise Software Terms, the Provider needs to maintain adequate insurance. If specific insurance requirements are needed beyond this general obligation, the requirements should be stated here. If not, this row can be deleted.] | | | | |
|  | Meetings  (Ref: Clause 5.9(a) Core Enterprise Software Terms) | [If there are any particular meeting requirements, specify them here. Otherwise delete this row.]  Your designated representatives will attend the following meetings at the following times: | | | | |
| Meeting details | Designated representatives of the Provider required to attend | | Frequency/Date | |
|  |  | |  | |
|  | Reports  (Ref: Clause 5.9(b) Core Enterprise Software Terms) | [If there are any particular reporting requirements (e.g., monthly status reports), specify them here. Otherwise delete this row.]  You will provide us with the following reports at the following times, by emailing them to our Contract Manager: | | | | |
| Report details | | | Frequency/date | |
|  | | |  | |
|  | Other governance requirements  (Ref: Clause 4.2 Core Enterprise Software Terms) | [Contract Managers are identified in the Subscription Form, other key contacts (if any) are identified earlier in this SOW, and meeting and reporting requirements (if any) are as specified in the two rows above. If additional governane arrangements are required, they can be set out here. If not, delete this row.] | | | | |
|  | Amendments to Core Enterprise Software Terms, and any Provider Standard Terms (if any), and any additional terms | [Insert any other amendments or additional terms that are to apply to the SOW.] | | | | |

**Execution**

**Signed as part of the Subscription Agreement**

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| --- | --- |
| **Signed** by the **[insert name of**  **Purchasing Agency]** by  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date | **Signed** by the **[insert name of the**  **Provider]** by  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |