



[Client] Group Legal Policy

Contracting Parameters



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PART A | INTRODUCTION

1. INTRODUCTION

- 1.1 Contracts that deliver reliable partnership and anticipated outcomes are essential to our business. We are heavily dependent on a significant number of third-party relationships that in turn gives rise to a complex web of contractual arrangements that we must manage as efficiently as possible.
- 1.2 Ultimately, our interest is not in binding counterparties to onerous contractual obligations – our interest is “outcome” based contracting whereby our suppliers, distributors and other counterparties perform successfully under each contract and what we have bargained for is fully delivered.
- 1.3 This document has been prepared by the [Client] Legal Team to help [Client] set the stage for contracting success – reliable relationships that deliver reliable outcomes in a transparent, consistent and predictable contractual legal risk profile.
- 1.4 This tool provides definitive guidance as to our required positions across the common legal concepts that are covered in the following legal templates and contracting scenarios:

Part	Contract Type	Comments
A	[Services Agreement]	Templates where we are the Customer.
B	[Variations to our Default Contracting Positions]	This asset covers positional deviations for the below listed agreement types: <ul style="list-style-type: none"> ▪ [●]; ▪ [●]; ▪ [●].

- 1.5 Unless otherwise stated, you should always follow [Client]’s general commercial default contracting position (“DCP”). However, where a specific agreement type requires an alternative DCP, then this tool will seek to capture that unique DCP, as and when it becomes available.
- 1.6 Where the [Client] Legal team finds that the DCP cannot consistently be obtained, or they believe a case for an agreement specific DPC is needed, this feedback should be provided, and where the GC/Head of Legal agrees, the tool can be updated accordingly.
- 1.7 Whilst we have our DCPs, so too do our counterparties. However, we have tried to document DCPs that we are likely to obtain 80%+ of the time. Because a DCP cannot be secured 100% of the time does not invalidate our policy asset. Nevertheless, your continuous feedback on “pushback” patterns against our DCPs is essential.
- 1.8 All contracts will still require final approval by the Legal team and relevant Business Teams in accordance with [[Client]’s Delegation of Authority].
- 1.9 Where we are unable to secure a DCP then note certain pre-approved Deviations may be available and should only be offered if the original DCP is genuinely the subject of an impasse.
- 1.10 Please ensure you are viewing this source document as our DCP is subject to regular review to ensure we remain aligned with both our internal compliance landscape and external market conditions.
- 1.11 In time, model clauses that reflect [Client]’s DCP may be made available via a [Client] Clause Bank. These model clauses, once published, can be considered “approved”. Any variation to the model clauses will still require final sign-off by the Legal team.



- 1.12 This tool should not be circulated outside of the legal team other than with the approval of [●]. This tool should not ever be printed out – and is strictly for online usage only given its commercial sensitivity.
- 1.13 Any deviations from [Client]'s DCP required by individual [Business Teams] are subject to the prior approval by the [Client] Legal Team and will need to be justified. Truly critical policy positions have been marked referenced in red text and require absolute adherence.
- 1.14 If you have any questions on this policy, please contact [●].



2. GLOSSARY

TERM	DEFINITION
Deliverables	means any output of work to be provided by Counterparty to [Client] under an agreement, and may include goods and / or services
Direct Loss	means any loss, expense, claim, penalty expenses or equivalent which is suffered, excluding any loss carved out as “indirect loss” under the contract, as may arise as a result of one party’s actions or inactions in respect of its obligations under an agreement
Insolvency Event	means any of the following: <ul style="list-style-type: none">(a) where a party makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors in any way;(b) an order that is made for the appointment of an administrator (or equivalent) to manage the affairs, business and property of a party; or documents are filed with a court of competent jurisdiction for the appointment of an administrator (or equivalent) of a party; or notice of intention to appoint an administrator is given by a party or its legal representative;(c) where a receiver (or equivalent) is appointed over any of a party’s assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager (or equivalent) of a party, or if any other person takes possession of or sells a party’s assets;(d) where an order is made or a resolution is passed for the winding-up of a party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of a party
Material Breach	means any of the following: <ul style="list-style-type: none">(a) a breach of an agreement that is not remedied by the breaching party within 30 days of being notified of the breach;(b) a persistent pattern of minor breaches of an agreement, which when taken as a whole, constitute a material breach; or(c) any breach of any term in an agreement which is designated as a Material Breach term;
Personnel	means in relation to each Party, means its employees, officers, directors, agents, contractors and subcontractors;
Supply Chain Scenario	means any event under a supply chain relationship / covered by a supply chain agreement
Service Cap Breach	means where the maximum amount of liquidated damages and/or service credits have been claimed by [Client] against the counterparty; and
Workplace Matters	means those matters pertaining to labour standards, income tax, workers’ compensation, annual leave, long service leave, superannuation (or any other mandatory employee benefits) or any applicable award, determination or agreement of a competent industrial tribunal and relates to the counterparty’s Personnel.



PART B | [CLIENT] STANDARD CONTRACTING POSITIONS

1. **LIMITATION OF LIABILITY**

1.1 **Purpose:** To adjust the variables that determine what liability can and cannot be excluded by each party and ultimately the overall liability that each party is required to assume.

CONTRACTING PARAMETER - LIMITATION OF LIABILITY (LOL)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviations
1.	Matters Not Excluded (i.e. unlimited liability scenarios)	<p>Our DCP on forms of liability that may not be excluded/limited is:</p> <ul style="list-style-type: none"> ▪ death or personal injury whether or not caused by negligence or wilful or reckless misconduct; ▪ fraud and fraudulent misrepresentation; ▪ gross negligence or wilful misconduct; ▪ Third Party IPR claims brought against us; ▪ breach of data protection obligations; (Deviation LOL1.1) ▪ breach of confidentiality obligations; (Deviation LOL1.2) ▪ [breach of statutorily implied warranties;] ▪ damage to physical property (sub-section (5) below); and ▪ matters which cannot be excluded by law. <p>[Note: We must ensure that the counterparties have obtained adequate insurance (Section 13) to cover these above liabilities.]</p>					<p>Deviation LOL1.1:</p> <p>A super cap on liability for DP breach can be agreed in the amount of US\$[●]</p> <p>Deviation LOL1.2:</p> <p>For strategic partners only: If unlimited liability for a breach of confidentiality becomes a deal breaker, we can agree to a separate cap of US\$[●]</p>
		[●]	[●]	[●]	[●]	[●]	Other
2.	Direct Loss Liability Cap (i.e. limits on Direct Loss scenarios)	<p>Our DCP on permitted counterparty limitations on Direct Loss is as follows:</p> <ul style="list-style-type: none"> ▪ Services Agreements: 100% of Contract Price or US\$[●] – whatever is higher. ▪ [Other]: [●] 					
		[●]	[●]	[●]	[●]	[●]	Other



CONTRACTING PARAMETER - LIMITATION OF LIABILITY (LOL)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviations
3.	Direct Loss Carve Outs (i.e. Direct Loss that does not contribute to the cap)	<p>Our DCP is that the following forms of loss shall not be taken into account when calculating the cap on Direct Loss (i.e. they would be recoverable in addition to the Direct Loss Liability Cap):</p> <ul style="list-style-type: none"> ▪ service credits that have been paid or are payable to us; ▪ liquidated damages (if any) that have been paid or are payable to us; ▪ compensation for any physical damage caused to our property and/or goods; or ▪ Indemnities. (Deviation LOL3.1) <p>Note: The Direct Loss Liability Cap should be covered by the counterparty's insurance levels (Section 13).</p>	<p>Deviation LOL3.1:</p> <p>See Deviations LOL1.1 and 1.2, in such cases, a cap on the applicable indemnities.</p>
	<p>[•] [•] [•] [•] [•] Other</p>		
4.	Total Liability Caps (i.e. how claims relate to the liability cap)	<p>Our DCP is that any stated total liability cap for Direct Loss should be the aggregate liability for all eligible claims arising under the contract, not each and every claim. (Deviation LOL4.1).</p>	<p>Deviation LOL4.1:</p> <p>If we get strong pushback we can consider offering a total cap that incorporates a per claim cap to slow the rate at which the overall cap is reached.</p>
	<p>[•] [•] [•] [•] [•] Other</p>		
5.	Physical Property Damage (1-for-1 Replacement)	<p>Our DCP is that physical damage for property (including products) that is caused by a counterparty must be compensated in full on an indemnified basis and outside of any caps on liability, payment on demand or offset.</p> <p>Or, at our election, counterparties causing physical property damage can replace the damaged item/product with a brand-new item.</p> <p>[Note: Where the loss is covered by insurance the counterparty is required to maintain, we must be noted as a beneficiary on their policy.]</p>	
	<p>[•] [•] [•] [•] [•] Other</p>		
6.	Time Bars to Claims	<p>Our DCP is that we do not impose nor accept non-statutory time bars to our right to claim under a contract. We will rely on statutory limitations.</p>	
	<p>[•] [•] [•] [•] [•] Other</p>		



CONTRACTING PARAMETER - LIMITATION OF LIABILITY (LOL)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviations					
7.	Exclusion of indirect loss (Recognised clauses of indirect loss for exclusion)	Our DCP is that we will not ever be liable (or accept liability) for any form of indirect loss. Supplier cannot exclude indirect loss. (Deviation LOL7.1)	Deviation LOL7.1: The counterparty may exclude liability for indirect losses [which are not reasonably foreseeable.]					
		<table border="1"> <tr> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>Other</td> </tr> </table>		[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	Other			
8.	General Relief from liability (General principles where liability relief is applicable)	<p>Our DCP is that all parties should generally be entitled to relief from performance (and the attendant liability should performance not occur as contemplated) in the event:</p> <ul style="list-style-type: none"> ▪ a Force Majeure Event has prevented their performance, but the relief is only to the extent of the Force Majeure Event and the impacted obligations – evidence and notification will be required; ▪ a change in Applicable Law has materially prevented performance; and ▪ where the other party solely and directly caused the liability to arise. <p>Note: Where the concept of Extension of Time is relevant in a contract, the counterparty will be entitled to relief where we grant them an Extension of Time.</p> <p>Note: The relief is in respect of performance impacted by the above conditions, and if performance is relieved, then so too is a liability for non-performance in the circumstances.</p> <p>Note: Termination consequences for FM causation typically do not follow the normal restitutionary principles for breach of contract.</p>						
		<table border="1"> <tr> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>Other</td> </tr> </table>		[•]	[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]	[•]	Other			



2. **INDEMNITIES**

2.1 **Purpose:** To regulate the indemnities required by us and/or that we may give under commercial contracts; and deal with how proceedings relating to indemnity claims should be conducted.

CONTRACTING PARAMETER – INDEMNITIES (IND)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Conduct of indemnity proceedings (What to do when faced with an indemnity claim)	<p>Our DCP is that where a party gives an indemnity with respect to third party claims, it should have the right to conduct proceedings.</p> <p>Our conduct of proceedings requirements is as follows:</p> <ul style="list-style-type: none"> ▪ any indemnity claim will be notified to the indemnifying party in writing; ▪ the conduct of proceedings is at the sole cost of the indemnifying party; ▪ the indemnified party must not settle any indemnified claim without the indemnifying party’s prior written consent; and ▪ where the indemnifying party exercises the conduct of proceedings the indemnity in favour of the indemnified party becomes unlimited (if not already). 					
		[•]	[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – INDEMNITIES (IND)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviation						
2.	Indemnities required by [•]	<p>Our DCP is that where an indemnity is given to us, we do not need to prove causation and it is sufficient that loss or damage has been suffered. If requested by the counterparty, we are prepared to provide supporting documentation of the loss or damage.</p> <p>All counterparties must provide us with indemnities against all <i>claims, demands, actions, proceedings, liabilities, losses, costs, damages and expenses</i> (these are usually captured by our defined terms “Losses” and “Claims”) incurred by or asserted against [Client] or its Affiliates in respect of any matter or event howsoever arising out of, or in connection with the following on an unlimited basis: (Deviation LOL2.1)</p> <ul style="list-style-type: none"> ▪ any grossly negligent act or omission or wilful misconduct by counterparties or their Personnel; ▪ any claim made against [Client] by any Personnel of the counterparty in respect of Workplace Matters; ▪ any death, personal injury or physical loss or damage to property caused by the counterparty or its Personnel; ▪ any Third Party IPR claims; ▪ any death, injury or loss of or damage to property of the counterparty and its Personnel; ▪ any breaches of confidentiality obligations; (Deviation LOL2.3); ▪ any data privacy breaches; and (Deviation LOL2.2); and ▪ [any Third Party claims / public liability arising from counterparties’ conduct]. <p>Note: We must ensure that counterparties have obtained adequate insurance (Section 13) to fulfil any of the above indemnity claims.</p>	<p>Deviation LOL2.1:</p> <p>We may accept a fallback to the re-cast indemnities below, and if we get further pushback then there are two further deviations which are acceptable:</p> <ul style="list-style-type: none"> ▪ any grossly negligent act or omission or wilful misconduct by the counterparty or their Personnel; ▪ any Third Party IPR claims; ▪ any data privacy breaches; and (Deviation LOL2.2); ▪ any breaches of confidentiality obligations. (Deviation LOL2.3). <p>Deviation LOL2.2:</p> <p>Note that we can approve super-caps for breach of data protection obligations but only for strategic partners – the cap should be US\$[•].</p> <p>Deviation LOL2.3:</p> <p>Note that we can approve super-caps for breach of confidential obligations but only for strategic partners – the cap should be US\$[•].</p>						
		<table border="1"> <tr> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>Other</td> </tr> </table>	[•]	[•]	[•]	[•]	[•]	Other	
[•]	[•]	[•]	[•]	[•]	Other				
2A.	Classes of Beneficiaries (Who benefits from the counterparty indemnities)	<p>Our DCP is that all counterparty indemnities must be expressed to be for the benefit of [Client], its employees, directors, subsidiaries, shareholders and its Affiliates.</p> <p>For indemnities given by [Client], the indemnity should only be provided to the counterparty alone and its direct employees to the extent that they are engaged solely in connection with the agreement.</p>							
		<table border="1"> <tr> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>[•]</td> <td>Other</td> </tr> </table>	[•]	[•]	[•]	[•]	[•]	Other	
[•]	[•]	[•]	[•]	[•]	Other				



CONTRACTING PARAMETER – INDEMNITIES (IND)

No.	Contract Parameter	Default Contracting Position (DCP)						Approved Deviation
2B.	Indemnity Causal Link (Link between event causation and loss suffered)	<p>Our DCP is that we are not required to prove direct pathway causation of Loss/Claims to be entitled to the indemnity; the provision in the contract must clearly provide the foregoing. It is sufficient that the loss was suffered.</p> <p>Note: we might have to provide evidence that the Loss/Claim has been encountered but the objective is to be able to invoice for the Loss/Claim – not have to engage in a protracted evidential exercise.</p>						
		[•]	[•]	[•]	[•]	[•]	Other	
3.	Indemnities granted by [Client]	<p>Our DCP is that we do not ever give indemnities. (Deviation IND3.1)</p>						<p>Deviation IND3.1:</p> <p>Our fall-back DCP on granting indemnities is that we only grant the following indemnities on an exceptional basis – subject to prior approval by the Legal Team and in relation to the following areas:</p> <ul style="list-style-type: none"> ▪ Third Party IPR claims; ▪ our breaches of confidentiality obligations but subject to a super-cap; (See Deviation LOL2.3) and/or ▪ our breaches of data protection obligations but this must be subject to a super-cap (See Deviation LOL2.2).] <p>Deviation LOL2.3:</p> <p>Generally, there will be no cap for the above indemnities however, we will cap the indemnity for the above to be reciprocal with the cap of the counterparty for the above matters (provided that the reciprocal cap itself is not unreasonable – reciprocity does not flow as a matter of default). Any amounts exceeding the cap will have to be pursued in court.</p> <p>Note: We do not ever cover indirect losses and should be limited to actual losses proven.</p>
		[•]	[•]	[•]	[•]	[•]	Other	



3. INTELLECTUAL PROPERTY RIGHTS

3.1 **Purpose:** To regulate the ownership of intellectual property rights, warranties relating to IPR required by us and use of both our and counterparty IPR.

CONTRACTING PARAMETER – INTELLECTUAL PROPERTY RIGHTS (IPR)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
1.	Ownership of Existing IPR	Our DCP on existing IPR is: <ul style="list-style-type: none"> existing IPR remains the possession of the originating party; and a licence must be granted to us to use the IPR of the counterparty on a non-exclusive, perpetual royalty-free licence for the duration of the Term or beyond where the context requires. 				
		[•]	[•]	[•]	[•]	Other
2.	Ownership of New IPR	Our DCP on New IPR is: <ul style="list-style-type: none"> New IPR created during the term of the agreement belongs to the creator, except where we request the counterparty to develop New IPR, in which case the New IPR is owned by us; and (Deviation IPR3.1) the counterparty must do everything necessary to give effect to our ownership in New IPR developed for us. <p>Note: always consider/identify/address any jurisdictional limitations on the unlimited/perpetual assignment of future IPR as well – some jurisdictions prohibit/limit this (e.g. UAE)</p>				Deviation IPR3.1: New IPR vests in, and belongs to, [Client] upon payment of fees.
		[•]	[•]	[•]	[•]	Other
3.	Counterparty access to [Client] IPR	Our DCP on counterparty access to our IPR is: <ul style="list-style-type: none"> we will grant counterparties licence(s) in respect of our IPR in our sole discretion and only where necessary for each counterparty to fulfil its obligations under the agreement; the counterparty must identify clearly which of our IPR it requires, if any. 				
		[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – INTELLECTUAL PROPERTY RIGHTS (IPR)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviation
4.	IPR License Restrictions	<p>Our DCP is that Licensee Party shall comply with the following: (Deviation IPR4.1)</p> <ul style="list-style-type: none"> ▪ the grant of the license to use the Licensed IPR shall be on a non-exclusive, revocable, royalty-free, and non-transferable basis; ▪ it shall use the Licensed IPR solely for the Authorised Purpose in the Territory and no other purpose except with the prior written approval of the Licensing Party; ▪ it shall not use or otherwise exploit the Licensed IPR or grant or permit any Third Party the right to do so, except with the prior written approval of the Licensing Party or as permitted by this Agreement; ▪ it shall comply with all guidelines, standards, and directions relating to the Licensed IPR as notified in writing by the Licensing Party from time to time; ▪ it shall comply with all Applicable Laws when using the Licensed IPR and safeguard the Licensing Party’s rights in the Licensed IPR; ▪ it shall not make or permit any Third Party to make any modification to any of the Licensed IPR without the prior express written approval of the Licensing Party; ▪ if and to the extent required, it shall obtain at its own expense all governmental licenses, permits, and consents necessary to use the Licensed IPR as contemplated under this Agreement; and ▪ it shall not, directly, or indirectly, do or omit to do anything that may adversely impact on or diminish the rights of the Licensing Party in the Licensed IPR. <p>Note: ensure you refer to “then current” and “approved” [Client] IPR usage guidelines.</p> <p>Note: [Client] has developed an IPR DCP for when it is a Licensee – granting broader rights – these will be documented by the team once finalised.</p>	<p>Deviation IPR4.1:</p> <p>[Client] can agree to be subject to the same restrictions when it is handling counterparty IPR.</p>
		<div style="display: flex; justify-content: space-between;"> [•] [•] [•] [•] [•] Other </div>	



CONTRACTING PARAMETER – INTELLECTUAL PROPERTY RIGHTS (IPR)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
5.	IPR Warranties required by [Client]	<p>Our DCP on IPR warranties is that counterparties must warrant and represent to us that:</p> <ul style="list-style-type: none"> ▪ we have been granted all licenses required and on the terms required for us to enjoy the full benefit of the agreement; and ▪ our use of IPR supplied by them does not and will not breach any Third Party IPR. <p>If requested by [Client], counterparties shall provide the relevant documentation / releases evidencing ownership over IPR.</p>					
		[•]	[•]	[•]	[•]	[•]	
6.	IPR use by [•] Group	<p>Our DCP is either:</p> <ul style="list-style-type: none"> ▪ all IPR license(s) granted to us must be extended to all our Affiliates; or ▪ if IPR licence(s) are not expressly extended to all our Affiliates, such IPR licence(s) must include a right to: <ul style="list-style-type: none"> ○ sub-licence; ○ transfer / assign; ○ perpetual use; and ○ make unlimited copies. 					
		[•]	[•]	[•]	[•]	[•]	
7.	General IPR Prohibitions	<p>Our DCP is not to offer or accept provisions relating to the following without [Client]'s approval:</p> <ul style="list-style-type: none"> ▪ transferring or assigning [Client] Group's brand or intellectual property to a third party; and/or ▪ use of [Client] Group's IPR for any of counterparty's materials, publications, websites, references or testimonials. 					
		[•]	[•]	[•]	[•]	[•]	



4. **REMEDIES**

4.1 **Purpose:** To regulate the remedies available to us in the event of a counterparty breach such that timely, proportionate and effective remediation is available to us.

CONTRACTING PARAMETER – REMEDIES (REM)			
No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviation
1.	Available Remedies (Remedies available to [Client] where counterparty breaches the contract)	<p>Our DCP is that we must reserve the following remedies in the event of a breach of contract by the counterparty as follows:</p> <p>Mandatory:</p> <ul style="list-style-type: none"> ▪ indemnities; ▪ suspension of payments (e.g. Force Majeure); ▪ fault-based termination (i.e. breach); ▪ termination for convenience; (Deviation REM1.1) ▪ audit rights to ascertain compliance with ISO and Supplier Code of Conduct and to remedy breaches (e.g. breach of [Client] Code of Conduct; ▪ return of advance payments; ▪ return of pro-rata payment; ▪ specific performance; ▪ injunctive relief. <p>Delivery Context Remedies:</p> <ul style="list-style-type: none"> ▪ liquidated damages, where relevant; ▪ service credits, where relevant; ▪ repair & replace defective Deliverables / products; ▪ as new replacement (or purchase price) for damage to physical property; and/or ▪ return of documents/equipment at the counterparty’s costs. <p>Advanced Remedies:</p> <ul style="list-style-type: none"> ▪ alternate suppliers / right of step-in; ▪ exit / transition assistance (e.g. phase out period for inventory or transfer to newly appointed provider); ▪ enforcement of guarantee / performance bond, where relevant; and 	<p>Deviation REM1.1:</p> <p>We can forego this if we secure a right to terminate for in the case of a persistent pattern of minor breaches which in aggregate would in our reasonable opinion constitute a material breach.</p> <p>Note, securing a right to terminate for convenience does carry an additional commercial cost but the rationale has been to allow [Client] to terminate for minor breaches where [Client] is dissatisfied with the counterparty’s performance in general.</p> <p>This is particularly important where we are unhappy with the contractual terms we have secured.</p>



CONTRACTING PARAMETER – REMEDIES (REM)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
		<ul style="list-style-type: none"> Cross-termination (e.g. in MSA / Framework arrangements/ ancillary agreements). <p>Note: consider the above menu of remedies and determine what is appropriate in context, noting that the Mandatory positions must be secured.</p>				
		[•]	[•]	[•]	[•]	Other
2.	Cumulative Rights	Our DCP is that any remedy available to us must be cumulative and in addition to those available at law / under applicable law.				
		[•]	[•]	[•]	[•]	Other
3.	Anticipated Breach Notice	Our DCP is that counterparties must be required to notify us of any actual or likely breach of contract.				
		[•]	[•]	[•]	[•]	Other
4.	No Remedies Waived	Our DCP is not to waive any remedy other than in writing.				
		[•]	[•]	[•]	[•]	Other



5. TITLE & RISK

5.1 **Purpose:** To regulate the context specific passage of title and risk to any Deliverable procured by us.

CONTRACTING PARAMETER - TITLE & RISK (T&R)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Transfer of title	Our DCP is that title to Deliverables (in the case of supply scenarios) will transfer to [Client] on our acceptance of the same (Deviation T&R1.1)					Deviation T&R1.1: Where the Deliverables do not require acceptance testing and if insisted by counterparty, we can accept for title to pass upon receipt of full payment of fees. However, this will be subject to [Client] having necessary remedies from counterparty to remedy any non-compliance.
		[•]	[•]	[•]	[•]	[•]	
2.	Transfer of risk	Our DCP is that: <ul style="list-style-type: none"> Risk in Deliverables will transfer to [Client] on our acceptance of such Deliverables. Note: Please refer to Acceptance (Section 8) on what constitutes acceptance.					
		[•]	[•]	[•]	[•]	[•]	
3.	Full title guarantee	Our DCP is that title to any Deliverable must pass to us with full title guarantee and free of any encumbrances, liens etc.					
		[•]	[•]	[•]	[•]	[•]	
4.	Returns (Transfer of risk)	Our DCP is that: <ul style="list-style-type: none"> Risk in returns of Deliverables will transfer to counterparty in accordance with the selected INCOTERM (e.g. upon pick up for ex-works). Note: the appropriate INCOTERMS must be stated in each case.					
		[•]	[•]	[•]	[•]	[•]	



6. DELIVERY, SERVICE LEVEL & KPI

6.1 **Purpose:** To regulate the context specific passage of title and risk to any Deliverable procured by us.

CONTRACTING PARAMETER – DELIVERY, SERVICE LEVEL & KPIs (DSK)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Delivery timeframes / dates	Our DCP is that time is of the essence and counterparties must deliver all Deliverables in accordance with the Delivery Schedule. (Deviation DSK1.1)					Deviation DSK1.1: In the face of extreme push back to “time of the essence” we can agree to key milestone dates being flagged in the Delivery Schedule and ideally backed up by Liquidated Damages.
		[•]	[•]	[•]	[•]	[•]	
2.	Revisions to Delivery Schedule	Our DCP is that counterparties must submit revisions to the Delivery Schedule to us for our approval in our sole discretion.					
		[•]	[•]	[•]	[•]	[•]	
3.	Delivery Incoterm	Our DCP is that all Goods must be delivered at their stipulated location according to the Incoterm as agreed (e.g. FOB, ex-works).					
		[•]	[•]	[•]	[•]	[•]	
4.	Service Level/ KPIs	Our DCP is that: <ul style="list-style-type: none"> ▪ service levels must be identified depending on the nature of the engagement. ▪ failure to comply with the service level will result in certain penalties to be imposed. ▪ all service levels/KPIs mandated under the contract will be reviewed every month / quarter, as determined by the Business Team. A joint working committee shall be appointed to conduct the review; ▪ counterparty will be given sufficient time to remedy the service levels/ KPIs, failing which [Client] shall at its sole discretion, be entitled to terminate the contract. ▪ If maximum service credit entitlement has been reached, then we should be allowed to terminate the agreement. ▪ Service credit entitlements that are paid shall not count as to the counterparties overall cap on liability. 					



CONTRACTING PARAMETER – DELIVERY, SERVICE LEVEL & KPIs (DSK)

No.	Contract Parameter	Default Contracting Position (DCP)						Approved Deviation
		[•]	[•]	[•]	[•]	[•]	Other	
5.	Mechanism for review of service level/ KPIs	<p>Our DCP is that:</p> <ul style="list-style-type: none"> ▪ [Client] has the right to conduct a monthly review of service provider’s performance. (Deviation DSK5.1) 						<p>Deviation DSK5.1:</p> <p>Performance review meetings critical in underperforming contracts. Frequency for meetings may be varied based on guidance from [Client]’s operational team.</p>
		[•]	[•]	[•]	[•]	[•]	Other	



7. ACCEPTANCE

7.1 **Purpose:** To regulate the context specific acceptance of Deliverables procured by us as it typically triggers a payment obligation, transfer of risk/title and commencement of warranty periods.

CONTRACTING PARAMETER – ACCEPTANCE (ACC)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Acceptance Scenarios	<p>Our DCP is, as per the Acceptance Schedule, confirm acceptance on delivery for products. If Acceptance Test not agreed in advance then to be whatever we say they are. (Deviation ACC1.1)</p> <p>The fact of taking delivery of the order does not constitute a presumption of acceptance of the order with regards to its conformity with the specifications.</p> <p>[Client] does not accept backorders, if the Supplier delivers a quantity less than the purchase order quantity on one shipment, Supplier has to apply for a new purchase order from [Client] to deliver the remaining Products.</p>					<p>Deviation ACC1:</p> <p>Bespoke acceptance criteria and testing may be agreed for appropriate/unusual/complex procurement scenarios – otherwise Acceptance Tests to be whatever we communicate them to be.</p>
		[•]	[•]	[•]	[•]	[•]	



8. REPRESENTATIONS & WARRANTIES

8.1 **Purpose:** To regulate the representations and warranties that we require from counterparties.

CONTRACTING PARAMETER – REPRESENTATIONS & WARRANTIES (R&W)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	General Commercial Warranties	<p>Our DCP is to require counterparties to provide us with the following general commercial representations / warranties:</p> <ul style="list-style-type: none"> ▪ it is duly incorporated and has the capacity to enter into the agreement; ▪ unless approved by [Client], it has not engaged any agent, intermediary or go between for the purposes of concluding the agreement; ▪ the agreement shall constitute valid and binding obligations on it; ▪ it shall obtain, maintain in force and at all times comply with all necessary consents and licences; ▪ shall always comply with Applicable Law, Customer Policies, [Client Code of Conduct] and Good Industry Practice; (Deviations R&W1.1, 1.2 & 1.3) ▪ the services / goods / deliverables will fully meet and comply with all descriptions and specifications provided by the agreement; ▪ it shall cooperate with [Client] in all matters relating to the Agreement and comply with [Client]'s instructions; ▪ it shall perform and provide the services / goods / Deliverables in accordance with Good Industry Practice; ▪ the Deliverables shall be rendered by appropriately experienced, qualified and trained Personnel and in appropriate number acting with all due skill, care and diligence; ▪ by entering into the Agreement it is not and will not be in breach of any express or implied obligation to any third party binding on it; and ▪ it has not entered into any conflicting agreements or agreements which may create a conflict of interest 					<p>Deviation T&R1.1:</p> <p>In practice, a supplier cannot comply with policies that are internal to [Client] and which may exist from time to time. However, let the counterparty raise these issues.</p> <p>We may have to agree that compliance is limited to [Client] policies that are known, communicated to them and relate to contract performance in a way that does not impose significant additional costs (in the case where those policies are updated).</p> <p>[•].</p> <p>Deviation T&R1.3:</p> <p>In the case of push back on compliance with our ABC Policy, we can accept that they must comply with ABC laws specifically.</p> <p>Also, they must commit that they have an ABC policy that when observed renders them compliant with ABC laws and that they rep and warrant they will update their policy to ensure ongoing compliance. However, we must be able to terminate if we suspect they are in breach of their ABC policies/or law. We must also be indemnified for any loss that ensues.</p>
		[•]	[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – REPRESENTATIONS & WARRANTIES (R&W)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
2.	Supplier Scenario Specific Warranties	Our DCP is to require counterparties to provide us with the following warranties where we are receiving the Deliverables: <ul style="list-style-type: none"> ▪ it shall ensure that all Goods shall be of a satisfactory and merchantable quality, free from Defects and fit for the purpose for which they are intended; (Deviation R&W 2.3) ▪ it has the right to sell, and we will receive, the Goods free of any Lien or impediment to Title; ▪ the Deliverables shall meet or exceed the Service Levels; ▪ our receipt of the Deliverables shall at no time during the Term result in us breaching our Approvals, Applicable Law and/or Good Industry Practice; ▪ it shall ensure that all Deliverables match the relevant Specifications; and ▪ it shall ensure that all Goods are factory new; ▪ it shall ensure its Personnel are all appropriately experienced, qualified and trained acting with all due skill, care and diligence; and ▪ it has adequate resources to meet its obligations under the agreement. <p>Note: be aware of the nuanced application in agreements where Deliverables include “goods” and “services”. We may be required to contour the language to ensure context specific fit.</p>					Deviation R&W2.3: Goods Warranty: certain equipment will be subject to manufacturers warranties and only those will be available. It may be appropriate to accept this position.
		[•]	[•]	[•]	[•]	[•]	
3.	Warranty Duration	Our DCP on warranty duration is to require all counterparty warranties to commence at the effective date of the agreement and remain valid for the longer of the duration of that agreement or the term of the warranty (e.g. if a warranty is associated with a Good).					
		[•]	[•]	[•]	[•]	[•]	
4.	Manufacturers' Warranties	Our DCP is to insist that the benefit of any manufacturer warranties relating to the Deliverables (or any part thereof) be extended to us.					
		[•]	[•]	[•]	[•]	[•]	



9. DEFECTS

9.1 **Purpose:** To regulate a counterparty’s obligation to remedy defects in Deliverables we procure from them.

CONTRACTING PARAMETER – DEFECTS (DEF)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
1.	Defects Liability Period	<p>Our DCP is that all Deliverables received by us should be subject to a defects liability period of at least [12] months. (Deviation DEF1.1)</p> <p>Note: Notwithstanding the DCP, check whether there are any jurisdictional nuances – e.g. in certain jurisdictions, goods sold via e-commerce have no time limit with respect to customers’ return for defective products.</p>				<p>Deviation DEF1.1:</p> <p>Goods & Defects: certain equipment will be subject to manufacturers warranties regarding Defects and only those will be available. It may be appropriate to accept this position.</p>
		[•]	[•]	[•]	[•]	
2.	Commencement of Defects Liability Period	<p>Our DCP is to require the defects liability period of all Deliverables to commence on Acceptance of the same.</p> <p>Note: See Acceptance (Section 7)</p>				
		[•]	[•]	[•]	[•]	
3.	Notification of Defects	<p>Our DCP is that [Client] may notify the counterparty upon the identification of an actual or likely defect in the design, materials or workmanship of any Deliverable.</p>				
		[•]	[•]	[•]	[•]	
4.	Defects Remedy	<p>Our DCP on remedy for defects is:</p> <ul style="list-style-type: none"> ▪ counterparties must, at our election, redesign, repair, replace or resupply (as appropriate) a defective Deliverable during the Defect Liability Period; and ▪ counterparties must bear all costs (including duties payable) arising out of or in connection with the redesign, repair, replacement or resupply (as appropriate) of defective Deliverables. 				
		[•]	[•]	[•]	[•]	
5.	Termination Right	<p>Our DCP is to be able to terminate an agreement in the event of repeat / persistent defects or material defect.</p>				



CONTRACTING PARAMETER – DEFECTS (DEF)

No.	Contract Parameter	Default Contracting Position (DCP)						Approved Deviation
		[•]	[•]	[•]	[•]	[•]	Other	



10. TAX

10.1 **Purpose:** To regulate responsibility for assumption of meeting tax impositions arising under or in connection with the agreements we enter.

CONTRACTING PARAMETER – TAX (TAX)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
1.	VAT	Our DCP is that all payments, prices or charges set out in an agreement shall clearly state whether they are inclusive or exclusive of all Taxes. Note: in most [Client] templates, charges are stated as being exclusive of taxes.				
		[•]	[•]	[•]	[•]	
2.	Withholding Tax	Our DCP is that fees paid are subject to applicable deductions and withholding of taxes. If [Client] is required by law to withhold any taxes, [Client] will pay the relevant amount to the relevant tax authority and provide a tax invoice credit. No gross up of the fees payable to counterparties to account for the withholding tax which [Client] had to pay to the authority.				
		[•]	[•]	[•]	[•]	
3.	Tax Invoices	Our DCP is that invoice amounts should specify VAT or equivalent as line items (and be the subject of a tax invoice).				
		[•]	[•]	[•]	[•]	
4.	Tax Indemnity	Our DCP is that counterparties must provide us with a tax indemnity for all taxes for which the counterparty is responsible. This must be unlimited in quantum.				
		[•]	[•]	[•]	[•]	



11. TERMINATION

11.1 **Purpose:** To regulate the termination rights that we should secure, the notice requirements to be complied with when we wish to terminate our agreements and the termination obligations that must be imposed on a counterparty.

CONTRACTING PARAMETER – TERMINATION (TERM)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	[Client] Termination Rights	<p>Our DCP is to have rights to terminate an agreement with immediate effect where any of the following events occur:</p> <p>Mandatory:</p> <ul style="list-style-type: none"> ▪ the counterparty commits a Material Breach which is incapable of remedy or which is not remedied within 30 days of receiving written notice to do so; ▪ the counterparty experiences, or is reasonably likely to experience, an Insolvency Event; ▪ the counterparty is prevented from performing its obligations as a result of a Force Majeure Event (duration will depend on the nature of the services); ▪ the counterparty ceases to trade, or threatens to cease trading; ▪ a change in Control of the counterparty occurs; ▪ the counterparty has failed to obtain and/or maintain any Approvals; ▪ the counterparty has breached any [Client] Supplier Policies; ▪ for convenience by giving 30 calendar days' notice of such termination (Deviation TERM1.1); ▪ [if the Suppliers total cap on liability has been achieved we can terminate immediately;] <p>Advanced Termination:</p> <ul style="list-style-type: none"> ▪ the maximum period of suspension prescribed in the agreement has elapsed; ▪ all available Service Credits have been exhausted (indicating a material service failure); ▪ an event defined as a critical services failure has occurred; ▪ [the counterparty has failed to maintain all necessary insurance policies;] or ▪ the counterparty has failed to satisfy a condition precedent. 					<p>Deviation TERM1.1:</p> <p>We can forego this if we secure a right to terminate for Minor Breaches, or in the case of persistent pattern of minor breaches which in aggregate would constitute a material breach.</p>
		[•]	[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – TERMINATION (TERM)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
2.	Partial / Full Termination	<p>Our DCP is to have the right to terminate any agreement either fully or partially and that the decision as to whether termination will be full or partial must be entirely at our discretion.</p> <p>Partial terminations could be applicable to:</p> <ul style="list-style-type: none"> ▪ [•] or ▪ [•]. 					
		[•]	[•]	[•]	[•]	[•]	
3.	Termination Notice	<p>Our DCP on termination notices is that the following procedural requirements must be followed:</p> <ul style="list-style-type: none"> ▪ termination notice must identify whether the terminating party intends to terminate the agreement wholly or partially; ▪ termination notice must be sent in writing not via email; and ▪ termination notice must be sent during business hours. 					
		[•]	[•]	[•]	[•]	[•]	
4.	Termination Obligations	<p>General:</p> <p>On termination / expiry of an agreement, a counterparty must:</p> <ul style="list-style-type: none"> ▪ return or destroy all confidential information and provide evidence of destruction where requested; ▪ return any [Client] property; ▪ refund any sums held on account (advance/upfront/ deposit payments etc. if any) less the agreed fees due and payable for services/ Deliverables performed up to date of termination, save where termination is by [Client] for convenience, or termination is by the counterparty for a breach on the part of [Client]. [Client] has no further obligation to make any payment except for work performed (to the satisfaction of [Client]) up to the date of termination; ▪ cease use of [Client]'s IPR which may have been granted to the counterparty for use under the agreement; and ▪ cease performance of their obligations to the extent specified in the termination notice. 					



CONTRACTING PARAMETER – TERMINATION (TERM)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviation						
		<p>Exit Management/ Hand Over</p> <p>Our DCP is that upon any termination of an agreement (howsoever occasioned):</p> <ul style="list-style-type: none"> ▪ [Client] shall be entitled to engage any other party or parties to continue with the provision of the goods / services; and ▪ Counterparty shall within 14 calendar days furnish, deliver, divulge, transfer, disclose, impart or otherwise communicate to [Client] at counterparty's cost, all Deliverables and all materials containing [Client]'s information, in whatever form or medium in its possession, and all copies, and counterparty shall certify that none of the Deliverables and materials or any copies have been made, reproduced, retained or distributed by the counterparty. ▪ Counterparty shall at no additional cost to [Client] co-operate fully with [Client] and comply with [Client]'s directions; ▪ Counterparty ensures a smooth handover of the Deliverables to [Client] or, at [Client]'s request, a replacement contractor and providing [Client] and/or [Client]'s replacement contractor with all information that is reasonably needed by [Client] or [Client]'s replacement contractor to carry out the activities that form part of the services. <p>Delivery Based:</p> <ul style="list-style-type: none"> ▪ both parties shall take all possible action to ensure the safety of its Personnel in the case of onsite service provision (e.g. return to base arrangements); <p>Advanced/Early Termination:</p> <ul style="list-style-type: none"> ▪ counterparty shall mitigate / minimise all liabilities which may arise as a result of such termination (e.g. deployment of Personnel, finding a replacement for any ongoing contractual obligations such as lease/ equipment); and ▪ counterparty shall provide assistance to migrate to other service providers etc; ▪ counterparty shall release data free of charge; ▪ provide assistance to novate contracts (where applicable); and ▪ [Client] shall be entitled to, at its sole discretion, purchase delivery / performance tools and equipment used by the counterparty in its performance of obligations under the agreement. 							
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[•]	[•]	[•]	[•]	[•]	Other				



12. WAIVER

12.1 Purpose: To regulate our position on waivers, and to ensure that we never inadvertently waive any rights we have under contract or at law.

CONTRACTING PARAMETER – WAIVER (WAV)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Implied Waiver	Our DCP is that implied waivers are never to be accepted or be effective.					
		[•]	[•]	[•]	[•]	[•]	
2.	Waiver in Writing	Our DCP is that written waivers will only be effective if served upon the relevant party's authorised representative.					
		[•]	[•]	[•]	[•]	[•]	



13. INSURANCE

13.1 **Purpose:** To regulate the insurance cover required to be placed (and maintained) by our counterparties to ensure our counterparty has insurance against liabilities and/or claims they may face under agreements with us.

CONTRACTING PARAMETER – INSURANCE (INS)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Insurance requirements	<p>Our DCP is to require counterparties to warrant and represent to us that they have adequate insurance (with reputable insurers) to cover their liability under the agreement. (Deviation INS1.1)</p> <p>Mandatory (depending on the nature of agreement):</p> <ul style="list-style-type: none"> ▪ public / third party liability ▪ professional indemnity (e.g. general professional services e.g. audit, legal) ▪ all risks ▪ workmen’s compensation or employee liability (e.g. warehouse management) ▪ product liability Including physical damage, bodily injury (e.g. distribution agreement) ▪ civil liability risks for product distribution (e.g. distribution agreement) ▪ business operations and any other insurances required by applicable law for performance of their obligations under the agreement. <p>Optional:</p> <ul style="list-style-type: none"> ▪ equipment use / replacement (accidental damage / theft). <p>Note: Counterparty to notify insurance company of [Client] as an “Additional Insured” (or equivalent) under such insurance policy/ies.</p>					<p>Deviation INS1.1:</p> <p>If counterparty pushes back, consider asking to see copies of the insurance policies required and receipts for the premiums paid. [Client] will decide which insurance policies are “must haves” [and whether we are prepared to jointly bear the costs].</p>
		[•]	[•]	[•]	[•]	[•]	
2.	Proof of insurance	<p>Our DCP on counterparty proof of insurance is that we must be entitled to request evidence of a counterparty’s insurance policy, such as certificates of insurance, receipts for the current year’s premiums etc.</p> <p>Our DCP is that [Client] does not give reps about its own insurance coverage.</p>					
		[•]	[•]	[•]	[•]	[•]	



14. DISPUTES

14.1 **Purpose:** To regulate how contractual disputes between us and our counterparties are formally resolved (if not settled amicably).

CONTRACTING PARAMETER – DISPUTES (DIS)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Dispute Resolution Process	Our DCP on dispute resolution is a two-staged dispute resolution process: <ul style="list-style-type: none"> the parties attempt to resolve disputes amicably (whether via the business team leads or senior management of each party); and if the parties are unable to resolve the dispute, the matter shall be referred for determination by the [•]. 					
		[•]	[•]	[•]	[•]	[•]	
2.	Governing jurisdiction	Our DCP on governing jurisdiction is that for performance of services in SEA, agreements should generally be governed by Singapore law. This applies to all agreement types entered into by [Client].					
		[•]	[•]	[•]	[•]	[•]	
3.	Disputes subject to Arbitration	When [Client] designates a dispute to be resolved by arbitration, our DCP is that the following terms are required: <ul style="list-style-type: none"> the arbitration to be administered by the [•]; the arbitration to be in accordance with the [•] Rules of [•]; the seat of the arbitration to be in [•]; the language of the arbitration to be English; and the costs of the arbitration to be borne by losing party or as determined by the arbitrator. 					The costs of the arbitration to be borne equally by both parties.
		[•]	[•]	[•]	[•]	[•]	



15. PAYMENT

15.1 Purpose: To regulate the conditions associated with payments in each agreement we enter.

CONTRACTING PARAMETER – PAYMENT (PAY)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Payment Schedule	Our DCP is that all our agreements should incorporate a payment schedule which sets out the terms of payment. <ul style="list-style-type: none"> Default position is [•] [calendar] day payment terms upon receipt of invoice where we are the customer or upon product shipment arrival in the territory (for distribution agreement). (Deviation PAY1.1) Avoid advance/ upfront payments – this is matter requiring approval as an exception. 					Deviation PAY1.1: [•] [calendar] day payment terms (upon receipt of invoice) acceptable as base line compromise position.
		[•]	[•]	[•]	[•]	[•]	
2.	Currency	Our DCP is: <ul style="list-style-type: none"> all payments made and received by [Client] will be in functional currency of the contracting entity; contracts must specify the currency, depending on where contract is being performed / where payments received etc. if a separate purchase order is raised, it should specify the currency. 					
		[•]	[•]	[•]	[•]	[•]	
3.	Withholding Tax / VAT	See Withholding tax / VAT (Section 10).					
		[•]	[•]	[•]	[•]	[•]	
4.	Revisions to Price	Our DCP is not to agree to any provisions permitting a counterparty to change the price and/or pricing mechanism set out in an agreement. (Deviation PAY4.1)					Deviation PAY1.4: In certain cases (long-term contracts exceeding [•] years), to permit price increases subject to validation by Business Teams and justification by counterparty. Price changes to be reasonable and subject to mutual agreement.
		[•]	[•]	[•]	[•]	[•]	



CONTRACTING PARAMETER – PAYMENT (PAY)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
5.	Pro-forma Invoice	Our DCP on invoices (as a minimum) is: <ul style="list-style-type: none"> ▪ [align with then current provisions of finance team] ▪ Cannot use counterparty “pro-forma” invoice ▪ Must incorporate our PO number ▪ Must reference relevant Contract Data reference in case of PO/Short Form templates] 				
		[•]	[•]	[•]	[•]	Other
6.	Payment Disputes	Our DCP on payment disputes is: <ul style="list-style-type: none"> ▪ we must not be obliged to pay disputed amounts of a disputed invoice until such a dispute is resolved; ▪ our right to dispute an invoice must not be subject to any time limits (Deviation PAY6.1); and ▪ counterparties must either reissue invoices for correctly disputed invoice (i.e. with disputed sum discounted) or issue credit notes for correctly disputed invoice amounts. 				Deviation PAY6.1: If insisted by counterparty, the right of dispute may be subject to limit of [30 calendar] days from date of receipt of invoice.
		[•]	[•]	[•]	[•]	Other
7.	Late Payments	Our DCP on late payments is: <ul style="list-style-type: none"> ▪ we do not accept penalties for late payment (Deviation PAY7.1); and ▪ interest on late payments may be accepted, but it must be set at the rate that a commercial party could reasonably be expected to receive if the Charges were deposited at a bank in good standing. 				(Deviation PAY7.1: Where we accept paying interest on late payments, the interest rate for late payments should be capped at [•]% per month ([•]% per annum).
		[•]	[•]	[•]	[•]	Other
8.	Set-Off	Our DCP is to retain the right of set-off where we are the customer. Where we are the supplier, we do not permit set-off.				
		[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – PAYMENT (PAY)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
9.	Liquidated Damages / Penalty	Our DCP is that for general service contracts requiring Deliverables or performance of Services within a stipulated timeline/ milestone, we retain the right to impose liquidated damages [at a formula to be determined by the Business Teams].					
		[•]	[•]	[•]	[•]	[•]	
10.	[•] Invoices	Our DCP is that any invoices we submit for payment (for example, in respect of liquidated damages) should be payable on demand.					
		[•]	[•]	[•]	[•]	[•]	
11.	General Payment Prohibitions	Our DCP is not to offer or accept provisions relating to the following without appropriate internal Legal/ Finance approval: <ul style="list-style-type: none"> ▪ requiring [Client] Group’s shareholders to give any payment/ bank guarantee, performance guarantee or comfort letter; and/or ▪ requiring [Client] directors to provide a personal guarantee. 					
		[•]	[•]	[•]	[•]	[•]	



16. CHANGE OF LAW

16.1 Purpose: To regulate the parties' obligations in the event there is a change of law affecting either party's performance of their obligations under the agreement.

CONTRACTING PARAMETER – CHANGE OF LAW (COL)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
1.	Change of Law	<p>Our DCP on change of law is to require a positive obligation on the parties to work together in good faith in the event of a change of law affecting either or both parties' ability to perform under the agreement.</p> <p>Note: avoid setting out a provision that compels price negotiation which, if not agreed, allows the counterparty to terminate. These types of provisions are frequently abused to vie for price increases or to engineer termination scenarios.</p>				
		[•]	[•]	[•]	[•]	



17. ASSIGNMENT AND SUB-CONTRACTING

17.1 **Purpose:** To regulate the potential assignment and sub-contracting of our agreements.

CONTRACTING PARAMETER - ASSIGNMENT AND SUB-CONTRACTING (ANT)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	[Client]'s Right to Assign	Our DCP is to always be permitted to assign our rights under any agreement. (Deviation ANT1.1)					Deviation ANT1.1: Our right to assign may be restricted to assignment to [our Affiliates] . Beyond that we cannot agree to any additional restrictions.
		[•]	[•]	[•]	[•]	[•]	
2.	Counterparty's Right to Assign	Our DCP is that counterparties must not be permitted to assign any of its rights (whether to third parties or group companies) under any agreement without our prior written approval. (Deviation ANT2.1)					Deviation ANT2.1: Right to assign to counterparties' group companies – again – subject to our approved definition of "Affiliates".
		[•]	[•]	[•]	[•]	[•]	
3.	Counterparty's Right to Sub-Contract	Our DCP is that counterparties shall not be permitted to sub-contract any of their obligations under the agreement without our prior written approval.					
		[•]	[•]	[•]	[•]	[•]	
4.	[Client]'s Consent	Our DCP is that we should be entitled to give / withhold consent to a counterparty's proposed sub-contracting or assignment in our absolute discretion. If the subcontracting is important for the counterparty, they should be nominated in the contract itself. Otherwise, it should be subject to our discretion.					
		[•]	[•]	[•]	[•]	[•]	
5.	Counterparty's Obligations / Liability	Our DCP where a counterparty has sub-contracted its obligations under the agreement is that any reference within that agreement to acts of the counterparty must be deemed to include acts of any sub-contractor and the counterparty shall remain liable for all acts of its sub-contractor(s).					
		[•]	[•]	[•]	[•]	[•]	



18. THIRD PARTY RIGHTS

18.1 Purpose: To regulate the rights of third parties under all our agreements.

CONTRACTING PARAMETER - THIRD PARTY RIGHTS

No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Third Party Rights	Our DCP is that no third party must ever be allowed to enforce any terms of any of our agreements. (Deviation TPR1.1)					Deviation TPR1.1: Where we agree, the agreement could extend or benefit the counterparty’s affiliates or subsidiaries where they are performing such obligations or are involved in the performance of the agreement.
		[•]	[•]	[•]	[•]	[•]	



19. AUDIT RIGHTS

19.1 **Purpose:** To regulate the audit rights of counterparties we must secure in agreements.

CONTRACTING PARAMETER – AUDIT RIGHTS (ART)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	[Client] Right to Audit	Our DCP is that we must have the right, on behalf of [•] and other relevant audit authorities including the government, to request for or carry out the following types of audits against any counterparty during or for 2 years after the term of agreement: <ul style="list-style-type: none"> ▪ internal audit; ▪ external audit; and ▪ government audit. 					
		[•]	[•]	[•]	[•]	[•]	
2.	Audit Provisions	[Our DCP is that we must be entitled to audit a counterparty on an [annual] basis, notwithstanding the fact that the government (or [Client] on behalf of the government or pursuant to government’s audit notice request on us) is entitled to carry out an audit at any time.]					
		[•]	[•]	[•]	[•]	[•]	
3.	Scope of Audit	Our DCP on scope of audit is: <ul style="list-style-type: none"> ▪ any audit carried out by or on behalf of us will be restricted to a counterparty’s obligations under or in connection with the relevant agreement; ▪ we require access to the relevant counterparty records, premises and third-party audit reports; and ▪ we will bear the cost of an initial audit 					
		[•]	[•]	[•]	[•]	[•]	
4.	Notice of Audit	Our DCP is to provide counterparties with two weeks’ notice of any proposed audit (except for government and/or government-requested audits which may have their own prescribed timings). (Deviation ART4.1)					Deviation ART4.1:



CONTRACTING PARAMETER – AUDIT RIGHTS (ART)

No.	Contract Parameter	Default Contracting Position (DCP)						Approved Deviation
		[•]	[•]	[•]	[•]	[•]	Other	Where we agree, we can accommodate 30 days' notice of any proposed internal or external audit.
5.	Adverse Audit Findings	<p>Our DCP on adverse audit findings is:</p> <ul style="list-style-type: none"> ▪ If an audit has an adverse finding, that audit will not count towards that year's annual audit count; ▪ such adverse findings must trigger an obligation on the counterparty to prepare a remediation plan; ▪ we must be entitled to carry out a secondary audit to ensure that the remediation plan has been properly executed; and ▪ the counterparty must bear the cost of the secondary audit. 						
		[•]	[•]	[•]	[•]	[•]	Other	



20. NOTICES

20.1 **Purpose:** To regulate the giving of formal notices under our agreements.

CONTRACTING PARAMETER – NOTICES (NOT)							
No.	Item	Default Contracting Position (DCP)					Approved Deviation
1.	Notice Requirements	Our DCP is that all notices must be: <ul style="list-style-type: none"> ▪ addressed to the relevant party’s authorised representative; ▪ addressed to the registered office or business premise address as indicated in the agreement; ▪ served in writing by letter via registered post; ▪ received during [Client]’s business hours, otherwise deemed receipt will be the following Business Day; and ▪ acknowledged by [Client] for proper receipt to have occurred. 					
		[•]	[•]	[•]	[•]	[•]	Other



21. GOVERNING LANGUAGE

21.1 **Purpose:** To regulate the governing language of all our agreements.

CONTRACTING PARAMETER - GOVERNING LANGUAGE (GOL)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Governing Language	Our DCP is that: <ul style="list-style-type: none">the governing language of agreements must always be English; and (the English version of any agreement will take precedence over any bi-lingual version or translated version of the same.					
		[•]	[•]	[•]	[•]	[•]	



22. PUBLICITY

22.1 **Purpose:** To regulate announcements and statements that counterparties may make in relation to agreements executed with us.

CONTRACTING PARAMETER – PUBLICITY (PUB)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Publicity	Our DCP on publicity is that:					
		<ul style="list-style-type: none"> ▪ our consent in writing is required for any announcement/press release issued by and/or publicity carried out by the counterparty; and ▪ we must be entitled to specify or vary the conditions of such consent at any time. 					
		[•]	[•]	[•]	[•]	[•]	Other
2.	Trade names / trademarks	Our DCP is that our consent in writing is required for all uses/references to our trade names or trademarks.					
		[•]	[•]	[•]	[•]	[•]	



23. SEVERENCE AND ILLEGALITY

23.1 **Purpose:** To regulate where a clause or clauses of our agreements with counterparties may be deemed invalid, illegal or void by operation of law.

CONTRACTING PARAMETER - SEVERANCE AND ILLEGALITY (S&L)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Severance & Illegality	Our DCP is that where any part of an agreement is deemed invalid, illegal or void, then the rest of the agreement must remain in full force and effect.					
		[•]	[•]	[•]	[•]	[•]	



24. CONFIDENTIALITY

24.1 **Purpose:** To regulate the exchange, non-disclosure and permitted disclosure of confidential information with our counterparties.

CONTRACTING PARAMETER – CONFIDENTIALITY (CON)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviations
1.	Confidentiality Obligations	<p>Our DCP is that confidentiality provisions must include, as a minimum:</p> <ul style="list-style-type: none"> ▪ the definition of “Confidential Information” approved by the [Client] Legal Team; ▪ permitted disclosures (including to [Client]’s affiliates / group members); (Deviation CON1.1) ▪ permitted exceptions, i.e. Confidential Information that: <ul style="list-style-type: none"> ○ is subject to mandatory disclosure; ○ is in or comes into the public domain other than by breach of agreement; ○ was within the receiving party’s knowledge through legitimate means before disclosure; ○ was subsequently disclosed to the receiving party lawfully by a third party who did not acquire the information under an obligation of confidentiality; ○ is independently developed by or for the receiving party at any time by persons who have had no access to or knowledge of the said information; ▪ a duty to keep confidential and establish adequate security measures and not to make copies or record of such confidential information save where strictly necessary for performance of obligations under the contract. Any such copies or records shall be the property of the disclosing party; ▪ employees deemed aware. Breach by such an employee / affiliate of a party shall be deemed to be a breach of by the party; ▪ not to use any confidential information save strictly necessary for performance of obligations under the contract; and ▪ all confidential information shall remain the property of the disclosing party. <p>Damages or monetary remedies may be inadequate in the event of breach of confidential obligations; injunctive relief may be sought.</p>				<p>Deviation CON1.1:</p> <p>Where we agree for permitted disclosures to counterparty’s affiliates/group members on a “need to know” basis or to their Personnel who are involved in the performance of the agreement, counterparty shall ensure that any disclosure made is to such person that is aware of confidentiality of information, and is bound by similar obligations of confidentiality.</p> <p>If necessary, consider requesting for counterparty to include a list of persons it further discloses confidential information to.</p>
		[•]	[•]	[•]	[•]	Other



CONTRACTING PARAMETER – CONFIDENTIALITY (CON)

No.	Contract Parameter	Default Contracting Position (DCP)	Approved Deviations
2.	Duration of Confidentiality Obligations	Our DCP is confidentiality obligations must last for the duration of the agreement and at least [3 years] post-termination. [•] [•] [•] [•] [•] Other	



25. DATA PROTECTION

25.1 **Purpose:** To regulate the data protection obligations of each party.

CONTRACTING PARAMETER – DATA PROTECTION (DPA)						
No.	Contract Parameter	Default Contracting Position (DCP)				Approved Deviation
1.	Data Protection Obligations	<p>Our DCP is all counterparties must:</p> <ul style="list-style-type: none"> ▪ comply at all times with all applicable data protection and privacy legislation; ▪ comply with [Client]'s data protection policies as are communicated to it; ▪ collect, use or process Personal Data strictly in accordance with [Client]'s Instructions and the relevant Agreement; ▪ utilise adequate organisational and technical measures so as to safeguard Personal Data from loss, destruction and/or unauthorised access; and ▪ where required, enter into a data transfer agreement and/or data processor agreement (or equivalent) in the form required under Applicable Law. 				
		[•]	[•]	[•]	[•]	[•]
2.	Sharing of Personal Information	<p>Our DCP is that we must have the right to share any Personal Data provided by counterparties to Third Parties contracted to perform services for us.</p> <p>Counterparty to undertake that it shall obtain the relevant consents for any personal data disclosed to us for the purposes of performance of the obligations under the agreement including whether further disclosure is necessary.</p>				
		[•]	[•]	[•]	[•]	[•]
3.	Data Protection Indemnity	<p>Our DCP is that we must be indemnified by counterparties against any loss or damage (of whatever nature) incurred by or awarded against [Client] relating to any breach of data protection obligations.</p>				
		[•]	[•]	[•]	[•]	[•]
4.		<p>Our DCP is not to offer or accept without appropriate internal approval any obligation on us to share, transfer or otherwise disclose customer data or other personal data.</p>				



CONTRACTING PARAMETER – DATA PROTECTION (DPA)

No.	Contract Parameter	Default Contracting Position (DCP)						Approved Deviation
	General Data Protection Prohibition	[•]	[•]	[•]	[•]	[•]	Other	



26. FORCE MAJEURE

26.1 **Purpose:** To regulate what does and what does not constitute a force majeure event and the consequences of force majeure events on the rights and obligations of the parties.

CONTRACTING PARAMETER – FORCE MAJEURE (FMR)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
1.	Exclusions from the Definition of Force Majeure	Our DCP is that the definition of Force Majeure shall NOT include: <ul style="list-style-type: none"> ▪ labour strikes or disputes; ▪ shortage of or increased price of labour, materials or utilities; ▪ pandemic/epidemic or government actions relating there to; ▪ any delays, inefficiencies, late performance or similar occurrences of subcontractors; and ▪ actions or circumstances caused by a party’s own fault or negligence. 					
		[•]	[•]	[•]	[•]	[•]	
2.	Force Majeure Obligations	Our DCP on impacted party obligations in the event of a Force Majeure is that the impacted party shall do the following: <ul style="list-style-type: none"> ▪ notify the other party as soon as reasonably practicable of the existence and potential duration of the Force Majeure Event, and the impacted obligations; ▪ inform the other party of measures it has taken or will take to mitigate the impact of the Force Majeure Event; ▪ use reasonable efforts to mitigate impact of the Force Majeure Event; ▪ resume performance of impacted obligations as soon as reasonably practicable; ▪ produce necessary documentation for the non-impacted party to validate the existence of the Force Majeure Event; and ▪ Supplier must promptly implement their Business Continuity Plan. The time for performance of such obligations shall be extended accordingly. The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the affected party.					
		[•]	[•]	[•]	[•]	[•]	



CONTRACTING PARAMETER – FORCE MAJEURE (FMR)							
No.	Contract Parameter	Default Contracting Position (DCP)					Approved Deviation
3.	Permitted Length of Force Majeure – linked to termination right	Our DCP is that where a Force Majeure Event lasts for more than [30 (thirty) calendar] days, the impacted party alone must have the right to terminate the agreement with immediate effect.					
		[•]	[•]	[•]	[•]	[•]	Other
4.	[Client] Payment Obligations during Force Majeure	Our DCP is that: <ul style="list-style-type: none"> our payment obligations in respect of affected services should cease for the duration of the Force Majeure Event; and our outstanding payment obligations will still be fulfilled, unless the Force Majeure Event is the cause of non-payment. 					
		[•]	[•]	[•]	[•]	[•]	Other
5.	Costs and Expenses	Our DCP is that each party will each bear its own costs and expenses incurred as a result of the Force Majeure Event.					
		[•]	[•]	[•]	[•]	[•]	Other



27. ANTI-BRIBERY & CORRUPTION

27.1 **Purpose:** To regulate obligations and minimum standards required in conjunction with our strong culture of, and commitment to anti-bribery and anti-corruption.

CONTRACTING PARAMETER – ANTI-BRIBERY & CORRUPTION (ABC)							
No.	Item	Default Contracting Position (DCP)					Approved Deviation
1.	Compliance with [Client]’s ABC policy and ethics clauses	Our DCP is that all counterparties must confirm it will comply with (and shall make its Personnel) comply with our Anti-Bribery & Corruption Policy as communicated and updated from time to time.					[•]
		[•]	[•]	[•]	[•]	[•]	
2.	No Inducement	Our DCP on inducements is: <ul style="list-style-type: none"> ▪ all counterparties must confirm that no inducement has been offered to us or any of our Personnel; and ▪ Personnel must include any employee, agent, director, shareholder, representative, or intermediary of [Client] and the [Client] Group. 					
		[•]	[•]	[•]	[•]	[•]	
3.	Anti-Bribery & Corruption Warranties	Our DCP is that all counterparties must provide the following ABC warranties: <ul style="list-style-type: none"> ▪ it is and shall remain knowledgeable about and will comply with all ABC Laws at all times during the Term and will ensure all of its Personnel are appropriately trained with respect to ABC Laws; ▪ no payment nor any other advantage that might give an improper advantage to our business has been or shall be, directly or indirectly, offered, promised or provided to any Person including specifically a Public Official; and ▪ neither it or its Personnel has engaged in Corrupt Behaviour to induce us (or any employee, agent, director, shareholder, representative, or intermediary of [Client] and the [Client] Group) to enter into any agreement. 					
		[•]	[•]	[•]	[•]	[•]	



PART C | OTHER AGREEMENT TYPES

1. [TBC]

1.1 [•]