

CONTRACT

**IN RELATION TO THE PROVISION OF GARRISON AND WELFARE
SERVICES AT REGIONAL PROCESSING COUNTRIES**

Commonwealth of Australia represented by the Department of Immigration
and Border Protection

Transfield Services (Australia) Pty Limited

ABN: 11 093 114 553

ACN: 093 114 553

1.	Definitions and interpretation	1
1.1.	Definitions	1
1.2.	Guidance on construction of Contract	7
2.	General	7
2.1.	Contract objectives	7
2.2.	Cooperation and good faith	7
2.3.	PNG and Nauru Memoranda of Understanding	7
2.4.	Term	8
2.5.	Transition-in	8
2.6.	New Sites	8
3.	Services	8
3.1.	Service obligations	8
3.2.	Facilities and assistance	9
3.3.	Compliance with laws	9
3.4.	Compliance with Fair Work Principles	10
4.	Management and governance	11
4.1.	Project management	11
4.2.	Department Personnel	11
4.3.	Liaison with Contract Administrator	11
4.4.	Performance management framework	11
4.5.	Reports	12
5.	Service Provider Personnel	12
5.1.	Key Personnel	12
5.2.	Replacement of Key Personnel	12
5.3.	Removal of Key Personnel	12
5.4.	Service Provider Personnel	12
5.5.	Behaviour of Service Provider Personnel at the Sites	13
5.6.	Illegal workers	14
5.7.	Removal of Service Provider Personnel	14
6.	Subcontractor arrangements	14
6.1.	Approval of subcontracts	14
6.2.	Extension of provisions to subcontractors and Personnel	14
6.3.	Copies of subcontracts	15
6.4.	Service Provider liability and obligations	15
6.5.	Subcontractor warranty	15
6.6.	Service Provider to be the Department's sole point of contact	15
6.7.	Locally engaged subcontractors	16
7.	Document approval	16
7.1.	Plans	16
7.2.	Review and approval of plans	16

8.	Payments	16
8.1.	Fees	16
8.2.	Taxes, duties and government charges	17
8.3.	Currency	17
9.	Confidentiality of Official Information and security	17
9.1.	Interpretation	17
9.2.	Confidentiality of Official Information	18
9.3.	Other security obligations of Service Provider	18
9.4.	Management of Copies	18
10.	Confidential Information of Service Provider	18
10.1.	Confidential Information not to be disclosed	18
10.2.	Exceptions to obligations	18
10.3.	Period of confidentiality	19
11.	Intellectual Property	19
11.1.	Use of Commonwealth Material	19
11.2.	Rights in Contract Material	19
11.3.	Moral Rights	20
12.	Indemnity and insurance	21
12.1.	Proportionate liability regimes excluded	21
12.2.	Indemnity	21
12.3.	Limitation of liability	21
12.4.	Insurance	22
12.5.	Performance securities	22
13.	Publicity, media and external relationship management	23
13.1.	Publicity and media to be managed by the Department	23
13.2.	Service Provider not to make public statements	23
14.	Dispute resolution	24
14.1.	Procedure for dispute resolution	24
14.2.	Continued performance	24
14.3.	Exemption	24
15.	Termination	25
15.1.	Termination without default	25
15.2.	Termination for default	25
15.3.	Transition out	26
16.	Notices	26
16.1.	Format, addressing and delivery	26
16.2.	When effective	27
17.	General provisions	27
17.1.	Excusable performance failure	27

17.2.	Conflict of interest	28
17.3.	Work health and safety	28
17.4.	Privacy	29
17.5.	Audit and access	29
17.6.	Access to documents	29
17.7.	Relationship of parties	30
17.8.	Waiver	30
17.9.	Variation	30
17.10.	Assignment	30
17.11.	Survival	31
17.12.	Applicable law	31
17.13.	Step in Rights	31
Schedule 1	Statement of Work	1
Schedule 2	Fees and Payments	85
Schedule 3	Confidentiality Deed	120
schedule 4	Deed of Non-Disclosure Personal Information	124
schedule 5	Service Provider Confidential Information	128
schedule 6	Performance Management Framework Principles	130
Schedule 7	Performance Guarantee	145
Schedule 8	Deed of Novation	149
Schedule 9	Minor Capital Works Contract	152

CONTRACT

IN RELATION TO THE PROVISION OF GARRISON AND WELFARE SERVICES AT REGIONAL PROCESSING COUNTRIES

Date

This Contract is made on 24 March 2014.

Parties

This Contract is made between and binds the following parties:

1. The **Commonwealth of Australia**, acting through and represented by the Department of Immigration and Border Protection ABN 33 380 054 835 (the Department)

2. Transfield Services (Australia) Pty Limited ABN 11 093 114 553 and ACN 093 114 553 (a company duly incorporated under the laws of Australia) and registered as:
 - (a) as an overseas company in Papua New Guinea (3-100193) of PO Box 130, Boroko, National Capital District, Papua New Guinea; and
 - (b) a foreign corporation in Nauru,

with its registered address in Australia being Level 10, 110 Pacific Highway North Sydney NSW 2060 (the Service Provider).

Recitals

The Department wishes to obtain the following services from the Service Provider:

- A. welfare services for Transferees located on Regional Processing Countries (RPCs);
- B. garrison services for Sites occupied by Transferees on RPCs; and
- C. garrison and accommodation management services for Sites occupied by Personnel on RPCs.

Operative Provisions

1. Definitions and interpretation**1.1. Definitions**

- 1.1.1. In this Contract, unless the context indicates otherwise:

Australian Privacy Principle	has the same meaning as it has in the <i>Privacy Act 1988</i> (Cth);
Business Day	means a weekday other than a public holiday in the place specified or, if no place is specified, in the Australian Capital Territory, Australia;
Code of Conduct	means the code of conduct provided by the Department to the Service Provider that outlines expectations and guidelines regarding the conduct of the Service Provider and its Personnel;
Commencement Date	means 24 March 2014;
Commonwealth Material	means any Material: <ul style="list-style-type: none"> a. provided by the Department to the Service Provider for the purposes of this Contract; or b. derived at any time from the Material referred to in paragraph a;
Confidential Information (of the Service Provider)	means information that is by its nature confidential and is described in Schedule 5;
Contract Administrator	means the person appointed by the Department Secretary to perform the duties of Contract Administrator and includes anyone acting in that position from time to time as notified to the Service Provider in writing;

Address:

Offshore Detention Services Branch
Department of Immigration and Border Protection
6 Chan Street
Belconnen ACT 2616
opc.service.delivery@immi.gov.au

Contract Authority	means the person occupying the position of First Assistant Secretary – Offshore Detention and Returns Task Group;
Contract Material	means any Material: <ul style="list-style-type: none"> a. created for the purposes of this Contract; b. provided or required to be provided to the

	Department as part of the Services; or
	c. derived at any time from the Material referred to in paragraphs a or b;
Department	means the Commonwealth of Australia as represented by any department, agency or authority of the Commonwealth which is from time to time responsible for administering this Contract;
Department Operations Team Leader	means the person (or delegate) appointed by the Department to perform the role of Department Operations Team Leader at the Site;
Excluded Items	means items that may not be brought to the Site under an applicable law or policy issued by the Department;
Execution Date	means the date on which the last of the parties executes this Contract;
Excusable Performance Failure Event	means any of the following events: <ul style="list-style-type: none"> a. a fire, flood, earthquake, pandemic, elements of nature or other acts of God; b. war or other state of armed hostilities, national emergency, embargo or action by customs; c. unavailability of essential services such as electricity, gas or water for more than 48 hours; d. a restraint by any government agency in a Regional Processing Country; e. any other event or occurrence beyond the control of the Service Provider, <p>other than as a result of the acts or omissions of the Service Provider or its Personnel or any of its subcontractors, which prevents or delays the performance of this Contract by the Service Provider;</p>
GST	has the meaning that it has in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth);
Incident	means an activity which threatens, harms or impacts, or has the potential to threaten, harm or impact upon: <ul style="list-style-type: none"> d. the welfare of Transferees; e. the good order, safety or security of a Site; f. the success of escort/transfer activities; or g. immigration processing;

Information Officer	means any of the information officers appointed under the <i>Australian Information Commissioner Act 2010</i> (Cth) when performing privacy functions as defined in that Act;
In Trust Property	means property of a Transferee that is stored by the Service Provider;
Intellectual Property	includes: <ul style="list-style-type: none"> h. all copyright (including rights in relation to phonograms and broadcasts); i. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts; and j. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include: <ul style="list-style-type: none"> k. Moral Rights; l. the non-proprietary rights of performers; or m. rights in relation to Confidential Information;
Key Performance Measure	means a Key Performance Measure in the Performance Management Framework;
Key Personnel	means the Service Provider Personnel specified under clause 5 as Key Personnel;
Maintenance	means work that maintains the functionality to applicable performance specifications (or where there are no specifications, to reasonable, safe operating standards) of the Site and includes preventative maintenance, repairs, replacement of lost or damaged items, refurbishment and restoration of work;
Material	means anything in relation to which Intellectual Property rights arise;
Migration Act	means the <i>Migration Act 1958</i> (Cth);
Moral Rights	means the following non-proprietary rights of authors of copyright Material: <ul style="list-style-type: none"> n. the right of attribution of authorship; o. the right of integrity of authorship; and p. the right not to have authorship falsely attributed;

Official Information	means any information developed, received or collected by or on behalf of the Department to which the Service Provider gains access under or in connection with this Contract and the terms of the Contract;
Open Access Licence	means a licence to the public on broad open access terms that allows any member of the public to perform a wide range of acts in respect of the material subject to certain restrictions. An Open Access Licence includes any Department or Australian Government open access licence and any Creative Commons Attribution licence (see http://creativecommons.org.au/learn-more/licences/);
Pass Through Cost	has the meaning given by Schedule 2 [Fees and Payment];
Performance Management Framework	means the Performance Management Framework developed in accordance with clause 4.4;
Personal Information	has the same meaning as it has in the <i>Privacy Act 1988</i> (Cth);
Personnel	means: <ul style="list-style-type: none"> q. in relation to the Service Provider - any natural person who is an officer, employee, agent or professional advisor of the Service Provider or of its subcontractors; and r. in relation to the Department - any natural person, other than a person referred to in paragraph a, who is an officer, employee, agent, contractor or professional advisor of the Commonwealth;
Regional Processing Country	means a country designated by the Minister for Immigration and Border Protection, acting under subsection 198AB(1) of the Migration Act as a regional processing country;
Schedule	means the schedules to this Contract and includes the Schedules as amended or replaced from time to time by agreement in writing between the parties;
Services	means the services described in Schedule 1 [Statement of Work];
Services Fee	has the meaning given in Schedule 2 [Fees and Payment];
Site	means the site notified by the Department to the Service Provider on the Republic of Nauru and Manus (Papua New Guinea) and includes any new

	sites established by the Department on respective RPCs;
Term	has the meaning given by clause 2.4;
Transferee	means a person transferred to a Regional Processing Country.
WHS Law	means all statutes, regulations, statutory instruments, subordinate legislation, codes of practice and standards (including those of the Commonwealth of Australia and of the location where the Services are being delivered) dealing with or relevant to health and safety in workplaces and of workers and others who may be affected by the carrying out of work and includes any approvals, permits, licences, directions or requirements of an authority exercising regulatory powers in respect of such matters.

- 1.1.2. In this Contract, unless the contrary intention appears:
- a. words importing a gender include any other gender;
 - b. words in the singular include the plural and words in the plural include the singular;
 - c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
 - d. words importing a person include a partnership and a body whether corporate or otherwise;
 - e. a reference to dollars is a reference to Australian dollars;
 - f. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
 - g. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
 - h. a reference to an Item is a reference to an Item in the Schedules;
 - i. the Schedules and any Attachments form part of this Contract;
 - j. if any conflict arises between the terms and conditions contained in the clauses of this Contract and any part of a Schedule (and Attachments if any), the terms and conditions of the clauses prevail;
 - k. if any conflict arises between any part of a Schedule and any part of an Attachment, the Schedule prevails; and
 - l. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

1.2. Guidance on construction of Contract

- 1.2.1. This Contract records the entire agreement between the parties in relation to its subject matter.
- 1.2.2. As far as possible all provisions of this Contract will be construed so as not to be void or otherwise unenforceable.
- 1.2.3. If anything in this Contract is void or otherwise unenforceable then it will be severed and the rest of the Contract remains in force.
- 1.2.4. A provision of this Contract will not be construed to the disadvantage of a party solely on the basis that it proposed that provision.

2. General

2.1. Contract objectives

- 2.1.1. The primary objectives of this Contract are to:
 - a. provide open, accountable and transparent Services (identified in Schedule 1 [Statement of Work] to this Contract) to Transferees and Personnel at the Sites on the RPCs; and
 - b. provide Services that is the best available in the circumstances, and utilising facilities and Personnel on the Sites and that as far as possible (but recognising any unavoidable limitations deriving from the circumstances of the Sites) is broadly comparable with services available within the Australian community.

2.2. Cooperation and good faith

- 2.2.1. The parties intend to conduct themselves and perform this Contract in the spirit of cooperation and good faith. For avoidance of doubt, the spirit of cooperation and good faith does not override or limit the provisions of this Contract.
- 2.2.2. The parties acknowledge that the terms of this Contract require them to reach agreement on a range of matters. The Service Provider must take all steps necessary to prepare relevant documentation and respond to any documentation provided by the Department in relation to these matters in a timely manner. For the avoidance of doubt and without limiting clause 15.1 or 15.2, if notwithstanding this, the parties fail to reach agreement, the Department may terminate this Contract in accordance with clause 15.1.

2.3. PNG and Nauru Memoranda of Understanding

- 2.3.1. The Service Provider agrees not to permit any act or omission that causes or may cause the Commonwealth to be in breach of its Memorandum of Understanding with the Republic of Nauru and the Memorandum of Understanding with PNG or with the related Administrative Arrangements (a copy of which will be provided by the Department to the Service Provider).

2.4. Term

- 2.4.1. Subject to clause 2.4.2 this Contract commences on the Execution Date and continues until the first to occur of:
- a. the Contract is terminated under clause 15; or
 - b. 31 October 2015.
- 2.4.2. The Department may (subject to clause 1.2 in Schedule 2 [Fees and payments]) extend the term of this Contract beyond the initial Term for one or more periods up to a total of 6 months on the terms and conditions of this Contract then in effect, by providing in each case at least 90 days written notice to the Service Provider.

2.5. Transition-in

- 2.5.1. The Service Provider must provide the Department with a draft Transition Plan no later than two (2) days after the Execution Date. The Service Provider must finalise the Transition Plan (subject to any amendments required by the Department) no later than four (4) days after the Execution Date.
- 2.5.2. The Service Provider must implement the Transition Plan no later than five (5) days after the Execution Date and must perform all activities required to ensure it is ready to provide Services in accordance with this Contract on and from the Commencement Date.
- 2.5.3. The Service Provider must commence the provision of Services on the Commencement Date.

2.6. New Sites

- 2.6.1. Where a country is designated by the Minister for Immigration and Border Protection acting under subsection 198AB(1) of the Migration Act as a Regional Processing Country, the Department may by written notice advise the Services Provider that it would like the Service Provider to provide services similar to the Services at a site on that country ('New Site').
- 2.6.2. Where the Department issues a notice under clause 2.6.1, the parties will promptly meet to negotiate amendments to this Contract to provide for the provision of services at the New Site. The parties acknowledge that, to the extent possible, the negotiations will be on the basis that the terms and conditions in this Contract (including the Services and the fees) will apply to the provision of services at the New Site.
- 2.6.3. Once the negotiations have been finalised, the parties will vary this Contract to include the New Site as a Site and the services provided at the New Site will be Services under this Contract.

3. Services

3.1. Service obligations

- 3.1.1. Schedule 1 [Statement of Work] of this Contract sets out the specific requirements for the Services to be performed at the Sites. The Department may

request the Service Provider to provide other services on terms to be agreed. Once agreed, the parties will amend this Contract to include the other services and the other services will be Services for the purposes of this Contract.

- 3.1.2. In accordance with clause 3.3 the Service Provider is required to comply with all applicable laws. The requirements in Schedule 1 [Statement of Work] are to be read subject to that requirement.
- 3.1.3. The Service Provider agrees to:
- a. provide the Services and meet the requirements described in Schedule 1 [Statement of Work];
 - b. adopt relevant best practice, including any applicable Department, Commonwealth or industry standards and guidelines;
 - c. once agreed, implement and comply with the performance management framework described in Schedule 6 [Performance Management Framework]; and
 - d. submit invoices, and any required supporting documents, in the manner specified in clause 9 in Schedule 2 or as otherwise specified by the Department.
- 3.1.4. The Service Provider acknowledges that powers and functions of the guardian of unaccompanied minors in Nauru have been currently delegated to Save the Children Australia under the *Asylum Seekers (Regional Processing Centre) Act 2012* (Nauru). The Department will keep the Service Provider informed at all times as to who is the current guardian of unaccompanied minors in Nauru and all the powers and functions that the guardian has. If any delegation is revoked or amended at any time the Department will immediately notify the Service Provider in writing.

3.2. Facilities and assistance

- 3.2.1. The Department will provide the Service Provider with facilities and assistance specified in clause 11 of Schedule 2 and such other facilities and assistance as agreed between the parties from time to time.
- 3.2.2. The Service Provider acknowledges that:
- a. it will be sharing some of the facilities referred to in clause 3.2.1 with other service providers and the Department Personnel; and
 - b. from time to time the Department may require the Service Provider to move out of part of the facilities or otherwise adjust the arrangements that apply to the access to the facilities or the assistance that is provided.
- 3.2.3. The Service Provider will cooperate with the other service providers and the Department in relation to the management and use of the facilities.

3.3. Compliance with laws

- 3.3.1. The Service Provider must, in performing its obligations in this Contract, comply, and ensure compliance by all its Personnel, with:

- a. all applicable laws, including those applicable in the Regional Processing Country where the Site is located and those Australian laws that are applicable to the Services or the Site; and
 - b. all applicable Commonwealth policies as notified to the Service Provider from time to time.
- 3.3.2. The Service Provider may seek assistance from the Department in complying with clause 3.3.1, for example in respect of Personnel and subcontractor clearances, resources imports and the establishment of facilities and, without limiting the Service Provider's obligations in connection with the Contract, the Department will provide assistance to the extent it is reasonably able to do so.
- 3.4. Compliance with Fair Work Principles**
- 3.4.1. The Service Provider must comply, and as far as practicable must ensure its subcontractors comply, with all relevant requirements of the Fair Work Principles as set out in the Fair Work Principles User Guide (available at http://docs.employment.gov.au/system/files/doc/other/fair_work_principles_user_guide.pdf including by:
- a. complying with all applicable workplace relations, occupational health and safety and workers' compensation laws;
 - b. informing the Department of any adverse court or tribunal decision for a breach of workplace relations law, occupational health and safety laws or workers' compensation laws made against it during the term of this Contract and any remedial action it has taken, or proposes to take, as a result of the decision;
 - c. providing the Department any information the Department reasonably requires to confirm that the Service Provider (and any subcontractor) is complying with the Fair Work Principles; and
 - d. participating in all compliance activities associated with its legal obligations, including those arising under the Fair Work Principles. Compliance activities may include responding to requests for information and/or audits undertaken by the Commonwealth, its nominees and/or relevant regulators.
- 3.4.2. Compliance with the Fair Work Principles shall not relieve the Service Provider from its responsibility to comply with its other obligations under this Contract.
- 3.4.3. If the Service Provider does not comply with the Fair Work Principles, without prejudice to any rights that would otherwise accrue to the Department, the Department or any other Commonwealth Department, shall be entitled to publish details of the Service Provider's failure to comply (including the Service Provider's name) and to otherwise provide those details to other Commonwealth agencies.
- 3.4.4. As far as practicable, the Service Provider must:
- a. not use a subcontractor in relation to this Contract where the subcontractor would be precluded from contracting directly with the Department under the requirements of the Fair Work Principles; and

- b. ensure that all subcontracts impose obligations on subcontractors equivalent to the obligations specified in clauses 3.4.1 to 3.4.4.

4. Management and governance

4.1. Project management

- 4.1.1. The Service Provider must comply with the project management and governance arrangements as outlined in Schedule 1 [Statement of Work] of this Contract.

4.2. Department Personnel

- 4.2.1. The Department will appoint a:
 - a. Contract Administrator; and
 - b. Department Operations Team Leader.

4.3. Liaison with Contract Administrator

- 4.3.1. The Service Provider agrees:
 - a. to liaise with the Contract Administrator and Department Operations Team Leader (if applicable) as reasonably required; and
 - b. to comply with directions of the Contract Administrator that are consistent with this Contract.

4.4. Performance management framework

- 4.4.1. The parties will jointly develop and agree a Performance Management Framework as soon as possible after, and in any event within 8 weeks of, the Execution Date. The Performance Management Framework will be consistent with the principles set out in Schedule 6 [Performance Management Framework Principles] and will include:
 - a. details of key deliverables and key performance measures;
 - b. processes and procedures for managing and responding to Excusable Performance Failure Events;
 - c. an abatement regime in respect of the level of performance achieved in the performance of the Services; and
 - d. details of the format, content and frequency of performance reports to be submitted in accordance with clause 4.5.
- 4.4.2. Once the Performance Management Framework has been developed and agreed, the parties will implement the Performance Management Framework.
- 4.4.3. The parties will periodically review the Performance Management Framework to ensure it remains current and relevant to this Contract and the overall operation and management of the Sites.

4.5. Reports

- 4.5.1. The Service Provider must as part of the Performance Management Framework and in collaboration with other service providers develop a draft performance report format to be used to report on its performance of its obligations under this Contract and the operation and management of the Sites.
- 4.5.2. The draft performance report format must address the issues set out in Schedule 6 [Performance Management Framework] and must be submitted to the Department for approval within 6 weeks of the Execution Date.
- 4.5.3. Once agreed, the Service Provider must develop and submit performance reports in the agreed performance report format:
 - a. on a monthly basis; or
 - b. once the Performance Management Framework has been agreed, in accordance with the Performance Management Framework.

5. Service Provider Personnel

5.1. Key Personnel

- 5.1.1. The Service Provider will notify the Department from time to time of Key Personnel that have been retained in relation to the performance and management of the Services and the Service Provider's obligations under this Contract.
- 5.1.2. The Service Provider must ensure that each of the Key Personnel occupy the positions and provide the Services advised to the Department.

5.2. Replacement of Key Personnel

- 5.2.1. Where Key Personnel cease to work in respect of this Contract, the Service Provider must notify the Department immediately and must provide replacement Key Personnel acceptable to the Department at no additional charge and at the earliest opportunity.
- 5.2.2. If the Service Provider is unable to provide replacement Key Personnel acceptable to the Department within 10 Business Days of their ceasing work in respect of this Contract, the Department may, at its discretion, terminate this Contract or remove Services from scope in accordance with clause 15.

5.3. Removal of Key Personnel

- 5.3.1. The Department may, in its absolute discretion, give notice requiring the Service Provider to remove any Key Personnel from work in respect of the Services. The Service Provider must promptly arrange for the removal of such Key Personnel from work in respect of the Services and their replacement with personnel acceptable to the Department and at no additional cost to the Department.

5.4. Service Provider Personnel

- 5.4.1. The Service Provider must ensure that all Service Provider Personnel that are to carry out work or perform duties under this Contract have signed:

- a. Confidentiality Deed Poll substantially in the form of Schedule 3 [Confidentiality Deed]; and
- b. Deed of Non-disclosure of Personal Information substantially in the form of Schedule 4 [Deed of Non-disclosure of Personal Information],

prior to commencing work or performing duties under this Contract or within 2 days of the Execution Date.

5.4.2. The Service Provider, at its own cost, must ensure that all Service Provider Personnel who carry out work or perform duties under this Contract:

- a. are, and remain, of good character and good conduct;
- b. are considered suitable by the Department having regard to any issues identified in an Australian Federal Police background check and brought to the attention of the Department;
- c. have a current 'working with children' check or certificate from an Australian jurisdiction or equivalent from the Australian Federal Police or, in the case of any local Personnel, any similar check or certificate where practicable;
- d. undergo induction, orientation and ongoing training that complies with the Department's requirements when commencing employment with the Service Provider or starting work in relation to the Services and during deployment, including training provided by other service providers;
- e. are appropriately skilled, trained and qualified to provide the Services described in Schedule 1 [Statement of Work];
- f. are authorised, registered or licensed in accordance with any applicable regulatory requirements for the purposes of or incidental to the performance of the Services;
- g. possess all relevant industry body, supplier, manufacturer accreditation or scheme memberships and professional association membership that might be reasonably expected of providers of the Services, and produce evidence of such authorisation, registration, license, accreditation or membership to the Department upon request at any time during the term of this Contract; and
- h. will be subject to internal disciplinary processes.

5.4.3. The Service Provider will ensure that the personnel levels at the Sites are adequate to deliver the Services in accordance with this Contract.

5.5. Behaviour of Service Provider Personnel at the Sites

5.5.1. The Service Provider must ensure that all Service Provider Personnel at a Site:

- a. are aware of, and comply with, the Code of Conduct at all times;
- b. comply with the Department's policy on smoking and other occupational health and safety matters as declared from time to time by the Department; and

- c. carry out their duties and behave in such a way as to maximise the seamless interface between the delivery of the Services and:
 - i. any other services provided by other service providers; and
 - ii. the day to day activities of the Department,so that services delivered by multiple service providers give the impression of being delivered by a single provider.

5.6. Illegal workers

- 5.6.1. The Service Provider must ensure that its Service Provider Personnel do not include any illegal workers and must notify the Department immediately if it becomes aware of any of its Service Provider Personnel being an illegal worker.
- 5.6.2. For the purposes of clause 5.6.1, an illegal worker is a person who:
 - a. has unlawfully entered and remains in Australia or the relevant Regional Processing Country;
 - b. has lawfully entered Australia or the relevant Regional Processing Country but remains in that country after his or her visa has expired; or
 - c. is working in breach of his or her visa conditions.

5.7. Removal of Service Provider Personnel

- 5.7.1. The Department may, in its absolute discretion, give notice requiring the Service Provider to remove any Service Provider Personnel from work in respect of the Services. The Service Provider must promptly arrange for the removal of such Service Provider Personnel from work in respect of the Services and their replacement with Personnel acceptable to the Department and at no additional cost to the Department.

6. Subcontractor arrangements

6.1. Approval of subcontracts

- 6.1.1. The Service Provider must not enter into a subcontract without the prior written approval of the Department (such approval not to be unreasonably withheld or delayed) if the total fees of that subcontract equal or exceed AUD\$50,000.
- 6.1.2. The Service Provider must notify the Department prior to entering into any proposed subcontract (regardless of value) that will or is likely to fall within the scope of or otherwise raise issues under the Memorandum of Understanding with the relevant Regional Processing Country referred to in clause 2.3.

6.2. Extension of provisions to subcontractors and Personnel

- 6.2.1. In this clause 6.2:

Requirement means an obligation, condition, restriction or prohibition binding on the Service Provider under this Contract.

- 6.2.2. The Service Provider agrees to ensure that:

- a. its subcontractors and Personnel comply with all relevant Requirements; and
 - b. any contract entered into in connection with this Contract imposes all relevant Requirements on the other party.
- 6.2.3. The Service Provider agrees to exercise any rights it may have against any of its subcontractors, Personnel or third parties in connection with a Requirement in accordance with any direction by the Department.
- 6.3. Copies of subcontracts**
- 6.3.1. The Service Provider must:
- a. maintain a record of each of the subcontractors and the Services being performed by each of them; and
 - b. promptly provide copies of any subcontracts to the Department at the request of the Contract Administrator.
- 6.4. Service Provider liability and obligations**
- 6.4.1. The Department's approval of any subcontract does not relieve the Service Provider from any liability or obligation under this Contract.
- 6.4.2. The Service Provider will be liable to the Department for the acts, omissions, defaults and neglect of any subcontractor or any representative of the subcontractor engaged in the performance of the Services as fully as if they were the acts, omissions, defaults or neglect of the Service Provider.
- 6.4.3. The Service Provider remains responsible for ensuring that:
- a. the work performed by each subcontractor meets the requirements of this Contract; and
 - b. no subcontractor further subcontracts any work valued at **Proposed** or more or where clause 6.1.2 applies without the prior written approval of the Department.
- 6.5. Subcontractor warranty**
- 6.5.1. The Service Provider warrants that each subcontractor:
- a. where applicable, is suitable to carry out the work under the subcontract and is accredited or qualified in accordance with relevant Laws, Australian Standards and Commonwealth requirements; and
 - b. will exercise the standard of skill, care and diligence that would be expected of an expert professional provider of services similar to the Services being provided by the subcontractor.
- 6.6. Service Provider to be the Department's sole point of contact**
- 6.6.1. The Service Provider acknowledges that the Department may, in its absolute discretion, contact any subcontractor directly as and when required in order to obtain information regarding the Services provided by that subcontractor.

6.6.2. Except as provided in clause 6.6.1, the Service Provider will be the Department's sole point of contact regarding the Services, including with respect to payment.

6.7. Locally engaged subcontractors

6.7.1. The parties intend that the Service Provider will seek to maximise local involvement in the delivery of the Services including engaging local entities as subcontractors. The parties recognise that it may not be possible for local entities or local Personnel to meet all of the Requirements of the Contract. The Service Provider will use its best endeavours to ensure that local Personnel meet the requirements of this Contract as much as possible. The terms on which local entities will be engaged will be agreed between the parties.

7. Document approval

7.1. Plans

7.1.1. The Service Provider will develop, update and deliver all draft plans to the Department in accordance with Schedule 1 [Statement of Work].

7.2. Review and approval of plans

7.2.1. The Department will:

- a. review; and
- b. approve or request changes to,

each draft plan. The Service Provider will promptly address any requested changes and deliver an updated draft plan to the Department in a timely manner. This clause 7.2.1 will apply to any updated draft plan.

7.2.2. Once approved, the Service Provider will comply with and perform the Contract in accordance with the approved plans.

7.2.3. Approval of a draft plan will:

- a. be construed as no more than an indication that the plan appears to the Department to be capable of being used as a basis for performing the Services;
- b. not be construed as limiting the Service Provider's responsibility to provide Services in accordance with the requirements of the Contract; and
- c. not be construed as a waiver of any right under this Contract or any cause of action arising out of any act or omission of the Service Provider or its Personnel or subcontractors.

8. Payments

8.1. Fees

8.1.1. Subject to this Contract, and in consideration of the Service Provider performing its obligations under this Contract, the Department agrees to make payment to the Service Provider in accordance with Schedule 2 [Fees and Payment].

8.2. Taxes, duties and government charges

8.2.1



8.2.2 Unless otherwise indicated, the fees and all other consideration for any supply made under this Contract is exclusive of any GST imposed on the supply.

8.2.3 If one party (the supplier) makes a taxable supply to the other party (the recipient) under this Contract, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.

8.2.4 No party may claim or retain from the other party any amount in relation to a supply made under this Contract for which the first party can obtain an input tax credit or decreasing adjustment.

8.2.5 For the avoidance of doubt, any goods and services tax imposed under the Goods and Services Tax Act 2003 of PNG on the supply of goods or services in or in relation to or import into PNG by the Service Provider pursuant to this Contract is considered under this clause 8.2 to be a Pass-Through Cost that the Department will reimburse to the Service Provider.

8.3. Currency

8.3.1. All payments will be made in Australian Dollars unless otherwise agreed.

9. Confidentiality of Official Information and security

9.1. Interpretation

9.1.1. In this clause 9:

- | | |
|---------------------------|--|
| Official Resources | includes: <ul style="list-style-type: none">s. Official Information;t. people who work for or with the Department; andu. assets belonging to (even if in the possession of contracted providers) or in the possession of the Department; |
|---------------------------|--|

9.2. Confidentiality of Official Information

9.2.1. The Service Provider will not, without prior written authorisation of the Department, disclose any Official Information to any person (unless required to do so by law).

9.2.2. The Service Provider is authorised, subject to clause 9.3, to provide Official Information to those Personnel and subcontractors who require access for the purposes of this Contract.

9.2.3. The Service Provider agrees to secure all Official Information against loss and unauthorised access, use, modification or disclosure.

9.3. Other security obligations of Service Provider

9.3.1. The Service Provider agrees to comply with any security requirements notified by the Department from time to time.

9.3.2. The Service Provider agrees to implement security procedures to ensure that it meets its obligations under this clause 9 and will provide details of these procedures to the Department on request.

9.4. Management of Copies

9.4.1. In this clause 9.4:

Copy means any document, device, article or medium in which Commonwealth Material, Contract Material or Official Information is embodied.

9.4.2. The Service Provider agrees, on expiration or termination of this Contract, to deal with all Copies as directed by the Department, subject to any requirement of law binding on the Service Provider.

10. Confidential Information of Service Provider

10.1. Confidential Information not to be disclosed

10.1.1. Subject to clause 10.2 the Department will not, without the prior written authorisation of the Service Provider, disclose any Confidential Information of the Service Provider to a third party.

10.2. Exceptions to obligations

10.2.1. The obligations of the Department under this clause 10 will not be taken to have been breached to the extent that Confidential Information:

- a. is disclosed by the Department to its Personnel solely in order to comply with its obligations, or to exercise its rights, under this Contract;
- b. is disclosed by the Department to its internal management Personnel, solely to enable effective management or auditing of Contract-related activities;
- c. is disclosed by the Department to the responsible Minister;

- d. is disclosed by the Department in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - e. is shared by the Department within the Department's organisation, or with another Commonwealth Department, where this serves the Commonwealth's legitimate interests;
 - f. is authorised or required by law to be disclosed; or
 - g. is in the public domain otherwise than due to a breach of this clause 10.
- 10.2.2. Where the Department discloses Confidential Information to another person pursuant to clauses 10.2.1.a - 10.2.1.e, the Department will notify the receiving person that the information is confidential.
- 10.2.3. In the circumstances referred to in clauses 10.2.1.a, 10.2.1.b, and 10.2.1.e the Department agrees not to provide the information unless the receiving person agrees to keep the information confidential.
- 10.3. Period of confidentiality**
- 10.3.1. The obligations under this clause 10 in relation to an Item of information described in Schedule 5 continue for the period set out there in respect of that Item.

11. Intellectual Property

11.1. Use of Commonwealth Material

- 11.1.1. The Department grants (or will procure) a royalty-free, non-exclusive licence for the Service Provider to use, reproduce and adapt Commonwealth Material provided to the Service Provider for the purposes of this Contract.
- 11.1.2. The Service Provider agrees to use the Commonwealth Material strictly in accordance with any direction from the Department.

11.2. Rights in Contract Material

- 11.2.1. Intellectual Property in all Contract Material vests or will vest in the Department.
- 11.2.2. Clause 11.2.1 does not affect the ownership of Intellectual Property in:
 - a. any Commonwealth Material incorporated into Contract Material; or
 - b. any Material in existence at the Execution Date and specified below
 - None
- 11.2.3. The Service Provider grants to (or will procure for) the Department a perpetual, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, adapt, modify, perform, distribute, communicate and exploit any existing Material referred to in clause 11.2.2.b incorporated into or that otherwise forms part of the Contract Material, for any purpose.

11.2.4. The Service Provider agrees that the licence granted in clause 11.2.3 includes a right for the Department to licence the existing Material in conjunction with the Contract Material to the public under an Open Access Licence.

11.2.5. The Service Provider agrees, on request by the Department, to create, sign, execute or otherwise deal with any document necessary or desirable to give effect to this clause 11.2.

11.2.6. The Service Provider warrants that:

- a. it is entitled; or
- b. it will be entitled at the relevant time,

to deal with the Intellectual Property in the Contract Material in the manner provided for in this clause 11.2.

11.3. Moral Rights

11.3.1. In this clause 11.3:

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

- v. using, reproducing, adapting or exploiting all or any part of the Contract Material, with or without attribution or authorship;
- w. supplementing the Contract Material with any other Material;
- x. using the Contract Material in a different context to that originally envisaged;
- y. releasing the Contract Material to the public under an Open Access Licence;

but does not include false attribution of authorship.

11.3.2. The Service Provider agrees:

- a. to obtain from each author a written consent which extends directly or indirectly to the performance of the Permitted Acts by the Department or any person claiming under or through the Department (whether occurring before or after the consent is given) and, on request, to provide the executed original of any such consent to the Department; and
- b. to ensure that each author's attention is drawn to the Department's general policies and practices regarding Moral Rights.

11.3.3. This clause 11.3 does not apply to any Commonwealth Material incorporated in the Contract Material.

12. Indemnity and insurance

12.1. Proportionate liability regimes excluded

12.1.1. To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Service Provider under or in connection with this Contract.

12.2. Indemnity

12.2.1. [Redacted]

- [Redacted]
- [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

12.2.2. The Service Provider's liability to indemnify the Department under clause 12.2.1 will be reduced proportionately to the extent that any act or omission involving fault on the part of the Department or its Personnel contributed to the relevant cost, liability, loss, damage or expense.

12.2.3. The right of the Department to be indemnified under this clause 12.2 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Department is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.

12.3. Limitation of liability

12.3.1. **Proposed Redaction** [Redacted]

- [Redacted]
- [Redacted]

12.3.2. Clause 12.3.1 does not apply in relation to liability relating to:
a. personal injury (including sickness and death);

- b. breach of another person's intellectual property rights;
- c. damage or loss to the property of a person other than the Department;
- d. malicious, wilful, fraudulent or illegal acts or omissions of the Service Provider or its Personnel.

12.3.3. The parties acknowledge that the limitation of liability specified in clause 12.3.1 will be subject to review in the event that the contract is varied or extended.

12.4. Insurance

12.4.1. Proposed Redaction [Redacted text block]

12.4.2. The Department may require the Service Provider to obtain additional insurance or higher levels of insurance. If this results in the Service Provider incurring an increased premium, the Department will reimburse the additional premium (without mark-up).

12.5. Performance securities

12.5.1. The Service Provider must provide to the Department, within [Redacted] of the Execution Date, financial security [Redacted].

12.5.2. The financial security must be unconditional, from a financial institution acceptable to the Department and in a form approved by the Department. The financial security must have an expiry date at least 6 months after the expiration of the initial Term. In the event the Contract is extended, the financial security must be extended or replaced with a new financial security with an expiry date at least 6 months after expiration of the extended Term.

12.5.3. The financial security will be exercisable by the Commonwealth for either or both of the following:

- a. to obtain compensation for loss suffered in the event that the Service Provider fails to perform the Contract, including upon termination of the Contract; or
- b. to recover any amounts due to the Department in relation to the Contract.

13. Publicity, media and external relationship management

13.1. Publicity and media to be managed by the Department

13.1.1. The Service Provider acknowledges and agrees that the Department will have management and control of:

- a. all publicity, dealings with, inquiries from, comments to or other matters related to the media that are directly or indirectly related to this Contract including, without limitation, regarding the Department and any matter related to the Services, any Transferees, or the relationship or issues between the Service Provider and the Department; and
- b. the relationship and dealings with stakeholders and external parties (including industry groups, special interest or lobby groups, and the community), except to the extent that such contact has been approved by the Department in writing.

13.1.2. Any contact with or release to the media which specifically names the Service Provider is to be approved by the Service Provider prior to any statement being made or material being released, which consent or approval must not be unreasonably withheld or delayed.

13.2. Service Provider not to make public statements

13.2.1. The Service Provider must not, and will ensure that its Personnel and subcontractors do not:

- a. make any public statement;
- b. release any information to, make any statement or comment to, deal with any inquiry from or otherwise assist or advise the media;
- c. publish, distribute or otherwise make available any information or material to third parties,

that concerns or is related to or which might reasonably be expected to affect:

- d. an individual Transferee;
- e. the processing of a claim for asylum for an individual or group of Transferees;
- f. the health or wellbeing of an individual or group of Transferees;
- g. the wellbeing of the relatives of a Transferee;
- h. the Department, its Personnel or its subcontractors (whether specifically referred to or not);
- i. the Services;

- j. the relationship between the parties; or
- k. any other matter directly or indirectly related to this Contract,
other than:
 - l. to direct any such inquiry to the Department;
 - m. as is specifically authorised by and to the minimum extent necessary to fulfil the Service Provider's obligation under this Contract or comply with the Law;
or
 - n. as may be otherwise specifically authorised in writing by the Department.

14. Dispute resolution

14.1. Procedure for dispute resolution

- 14.1.1. The parties agree that a dispute arising under this Contract will be dealt with as follows:
 - a. a party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
 - b. within 5 Business Days of the notice, the Contract Administrator and a senior representative of the Service Provider will meet and try to settle the dispute by direct negotiation between them;
 - c. if the parties are not able to resolve the dispute within a further 15 Business Days, the parties will refer the dispute to the Contract Authority and a more senior representative of the Service Provider who will meet and try to settle the dispute.
- 14.1.2. If the parties have been unable to resolve the dispute within 20 Business Days of the dispute being referred under clause 14.1.1.c;
 - a. the parties may agree to refer the dispute to mediation on terms to be agreed between the parties at the time; or
 - b. where the parties do not agree to refer the dispute to mediation or where the dispute remains unresolved after 20 Business Days of the dispute being referred to mediation, either party may commence legal proceedings in relation to the dispute.
- 14.1.3. Each party will bear its own costs of complying with this clause 14.

14.2. Continued performance

- 14.2.1. Despite the existence of a dispute, the Service Provider will (unless requested in writing by the Department not to do so) continue to perform the Services in accordance with the Contract to the extent possible.

14.3. Exemption

- 14.3.1. This clause 14 does not apply to:
 - a. action by the Department under or purportedly under clause 15;

- b. legal proceedings by either party seeking urgent interlocutory relief.

15. Termination

15.1. Termination without default

- 15.1.1. In addition to any right to terminate at law, the Department may by written notice at any time and in its absolute discretion:
 - a. terminate this Contract, in which case at least 4 weeks notice will be given; or
 - b. reduce the scope of the Services, in which case the notice will unless specified otherwise by the Department in the notice take effect immediately.
- 15.1.2. The Service Provider agrees, on receipt of a notice issued under clause 15.1.1:
 - a. to stop or reduce work as specified in the notice;
 - b. to take all available steps to minimise loss resulting from that termination or reduction; and
 - c. to continue work on any part of the Services not affected by the notice.
- 15.1.3. In the event of termination under clause 15.1, the Department will be liable only:
 - a. to pay any fees relating to Services completed before the effective date of termination; and
 - b. to reimburse any expenses the Service Provider unavoidably incurs relating entirely to Services not covered under clause 15.1.3.a including for the avoidance of doubt any demobilisation costs reasonably incurred.
- 15.1.4. The Department will not be liable to pay amounts under clause 15.1.3.a and 15.1.3.b which would, added to any fees already paid to the Service Provider under this Contract, together exceed the fees set out in Schedule 2 [Fees and Payment].
- 15.1.5. In the event of a reduction in the scope of the Services under clause 15.1, the Department's liability to pay fees under clause 8 will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Services.
- 15.1.6. The Service Provider will not be entitled to compensation for loss of prospective profits.

15.2. Termination for default

- 15.2.1. In addition to any right to terminate at law, if the Service Provider fails to perform any obligation under this Contract, the Department - if it considers that the failure is:
 - a. not capable of remedy – may, by notice, terminate this Contract immediately;
 - b. capable of remedy – may, by notice require that the failure be remedied within the time specified in the notice (being a reasonable period having

regard to the circumstances of the failure) and, if not remedied within that time, may terminate this Contract immediately by giving a second notice.

- 15.2.2. The Department may also, by notice, terminate this Contract immediately (but without prejudice to any prior right of action or remedy which the Department has or may have) if the Service Provider:
- a. being a corporation, comes under one of the forms of external administration referred to in chapter 5 of the *Corporations Act 2001*, or an order has been made for the purpose of placing the corporation under external administration; or
 - b. being an individual, becomes bankrupt or enters into a scheme of arrangement with creditors.

15.3. Transition out

- 15.3.1. If this Contract is terminated for any reason, the Service Provider must comply with any reasonable directions issued by the Department to achieve an orderly transition of the Services to the Department or an alternative provider. A transition out plan must be provided to the Department within 6 months of the Execution Date.

16. Notices

16.1. Format, addressing and delivery

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

- a. if given by the Service Provider to the Department - addressed to the Contract Administrator at the address specified in the definition of Contract Administrator under clause 1 or as otherwise notified by the Department; or
- b. if given by the Department to the Service Provider - given by the Contract Administrator (or any superior officer to the Contract Administrator) and addressed to (and marked for attention) of:

Commercial, Strategy and Systems Director

Transfield Services (Australia) Pty Ltd
Level 10, 110 Pacific Highway
North Sydney, NSW, 2060

- 16.1.2. A notice is to be:
- a. signed by the person giving the notice and delivered by hand; or
 - b. signed by the person giving the notice and sent by pre-paid post; or
 - c. transmitted electronically by the person giving the notice by electronic mail or facsimile transmission.

16.2. When effective

- 16.2.1. A notice is deemed to be effected:
- a. if delivered by hand - upon delivery to the relevant address;
 - b. if sent by post - upon delivery to the relevant address;
 - c. if transmitted electronically - upon actual receipt by the addressee.
- 16.2.2. A notice received after 5.00 pm, or on a day that is not a Business Day in the place of receipt, is deemed to be effected on the next Business Day in that place.

17. General provisions

17.1. Excusable performance failure

- 17.1.1. Where an Excusable Performance Failure Event occurs, the Service Provider must immediately notify the Department in writing of the event specifying:
- a. the nature of, reason(s) for, and estimated duration of the Excusable Performance Failure Event; and
 - b. the obligations and Key Performance Measures affected by it and the extent of its effect.

A copy of any notice issued under this clause must be provided at the same time it is issued to the Department Operations Team Leader.

- 17.1.2. The Department will notify the Service Provider whether it accepts that an Excusable Performance Failure Event has occurred and the extent of its effect.

- 17.1.3. Where the Department accepts that an Excusable Performance Failure Event has occurred and the extent of its effect, subject to the Service Provider's compliance with its obligations under this clause, the Service Provider's obligations under this Contract and the relevant Key Performance Measures are suspended for so long as and to the extent they are affected by the Excusable Performance Failure Event (Excusable Performance Failure Period) and no failure or omission by the Service Provider to perform or meet a suspended obligation or Key Performance Measure during the Excusable Performance Failure Period will be a breach of this Contract or [REDACTED] under the Performance Management Framework.

- 17.1.4. During the Excusable Performance Failure Period, the Service Provider must:
- a. use its reasonable endeavours to remove, overcome or minimise the effects of that Excusable Performance Failure Event as quickly as possible;
 - b. continue providing the Services and complying with its obligations under this Contract and meeting the Key Performance Measures not affected by the Excusable Performance Failure Event;
 - c. implement and comply with the processes and procedures set out in the Performance Management Framework relating to the management of Excusable Performance Failure Events;

- d. provide the Department Operations Team Leader with daily updates on the Excusable Performance Failure Event and its impact on the performance or meeting of any suspended obligations or Key Performance Measures; and
- e. notify the Department in writing as soon as the Excusable Performance Failure Period ceases.

17.2. Conflict of interest

- 17.2.1. In this clause 17.1, **Conflict** means any matter, circumstance, interest, or activity affecting the Service Provider, its Personnel or subcontractors which may or may appear to impair the ability of the Service Provider to provide the Services to the Department diligently and independently.
- 17.2.2. The Service Provider warrants that, to the best of its knowledge after making diligent inquiry, at the Execution Date no Conflict exists or is likely to arise in the performance of the Services.
- 17.2.3. If, during the period of this Contract, a Conflict arises, or appears likely to arise, the Service Provider agrees:
 - a. to notify the Department immediately;
 - b. to make full disclosure of all relevant information relating to the Conflict; and
 - c. to take any steps the Department reasonably requires to resolve or otherwise deal with the Conflict.

17.3. Work health and safety

- 17.3.1. The Service Provider must at all times:
 - a. comply with, and ensure that its Personnel and subcontractors comply with WHS Law in the provision of the Services;
 - b. co-operate and ensure its Personnel and subcontractors co-operate as required with the Department in the Service Provider's performance of its work health and safety obligations under WHS Law, including participating in any consultation and representation required by the Department;
 - c. prepare and provide any report required under the WHS Law to the Department;
 - d. comply with any direction or requirement of the Department in relation to work health and safety;
 - e. not permit any act or omission that causes or may cause the Department to be in breach of the WHS Law;
 - f. immediately notify the Department of any notifiable incident as defined in the WHS Law; and
 - g. immediately notify the Department of any circumstance which may give rise to a work health and safety risk or a failure by the Service Provider, its Personnel, subcontractors or the Department to comply with WHS Law.

17.4. Privacy

- 17.4.1. The Service Provider agrees, in providing the Services:
- a. not to do any act or engage in any practice which, if done or engaged in by the Department, would be a breach of an Australian Privacy Principle; and
 - b. to comply with any directions, guidelines, determinations or recommendations specified by the Department, to the extent that they are consistent with the Australian Privacy Principles.
- 17.4.2. The Service Provider agrees to notify the Department immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 17.4.

17.5. Audit and access

- 17.5.1. The Service Provider agrees:
- a. to give the Contract Administrator, or any persons authorised in writing by the Contract Administrator, access to premises where the Services are being performed or where Official Resources are located; and
 - b. to permit those persons to inspect and take copies of any material relevant to the Services.
- 17.5.2. The rights referred to in clause 17.5.1 are subject to:
- a. the Department providing reasonable prior notice;
 - b. the reasonable security procedures in place at the premises; and
 - c. if appropriate, execution of a deed of confidentiality by the persons to whom access is given.
- 17.5.3. The Auditor-General and Information Officer (including their delegates) are persons authorised for the purposes of this clause 17.5.

17.6. Access to documents

- 17.6.1. In this clause 17.6, 'document' and 'Commonwealth contract' have the same meaning as in the *Freedom of Information Act 1982 (Cth)*.
- 17.6.2. The Service Provider acknowledges that this Contract is a Commonwealth contract.
- 17.6.3. Where the Department has received a request for access to a document created by, or in the possession of, the Service Provider or any subcontractor that relates to the performance of this Contract (and not to the entry into the Contract), the Department may at any time by written notice require the Service Provider to provide the document to the Department and the Service Provider must, at no additional cost to the Department, promptly comply with the notice.
- 17.6.4. The Service Provider must include in any subcontract relating to the performance of this Contract provisions that will enable the Service Provider to comply with its obligations under this clause 17.6.

17.7. Relationship of parties

17.7.1. The Service Provider is not by virtue of this Contract an officer, employee, partner or agent of the Department, nor does the Service Provider have any power or authority to bind or represent the Department.

17.7.2. The Service Provider agrees:

- a. not to misrepresent its relationship with the Department; and
- b. not to engage in any misleading or deceptive conduct in relation to the Services.

17.8. Waiver

17.8.1. A failure or delay by a party to exercise any right or remedy it holds under this Contract or at law does not operate as a waiver of that right.

17.8.2. A single or partial exercise by a party of any right or remedy it holds under this Contract or at law does not prevent the party from exercising the right again or to the extent it has not fully exercised the right.

17.9. Variation

17.9.1. The Department may, including in response to a suggestion from the Service Provider, request that the Service Provider develop a change proposal to address a proposed variation to the Contract. The Service Provider will prepare a contract change proposal, outlining the impact on the Contract of the proposed variation, including on Schedule 1 [Statement of Work] and Schedule 2 [Fees and Payment]. The parties will discuss any contract change proposal in a timely manner.

17.9.2. For the avoidance of doubt, this clause 17.9 will apply where there has been a change in any law or regulatory requirement that applies to the Services or this Contract where the change has a material impact on the provision of the Services or the performance of the obligations under this Contract and the change could not have been reasonably contemplated by an experienced service provider.

17.9.3. A variation of this Contract is binding only if agreed in writing and signed by the Parties.

17.10. Assignment

17.10.1. The Service Provider cannot assign its obligations, rights or interests under this Contract, or novate this Contract, without prior written approval by the Department.

17.10.2. The Department will not withhold its prior written approval if the Service Provider intends to fully assign its obligations, rights or interests under this Contract, or fully novate this Contract, to a subsidiary or related body-corporate.

17.10.3. The Department and Service Provider must discuss (in good faith) any intention by the Service Provider to partially assign its obligations, rights or interests under

this Contract, or partially novate this Contract, to a subsidiary or related body-corporate.

- 17.10.4. The Department may require the Service Provider (as a condition precedent for full or partial assignment and/or novation of this Contract) to execute:
- a. a performance guarantee in relation to the performance of all or partial obligations in this Contract (refer to Schedule 7); and/or
 - b. a deed of novation to fully or partially novate this Contract from the Service Provider to the subsidiary or related body-corporate (refer to Schedule 8).

- 17.10.5. The Service Provider must reimburse the Department for any unavoidable and reasonable costs associated with full or partial assignment and/or novation of this Contract.

17.11. Survival

- 17.11.1. Unless the contrary intention appears, the expiry or earlier termination of this Contract will not affect the continued operation of any provision relating to:

- a. confidentiality;
- b. privacy;
- c. intellectual property;
- d. audit and access;
- e. an indemnity;

or any other provision which expressly or by implication from its nature is intended to continue.

17.12. Applicable law

- 17.12.1. This Contract is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory.

- 17.12.2. The parties submit to the jurisdiction of the courts of that Territory.

17.13. Step in Rights

- 17.13.1. At any time if:

- a. the Department is entitled under clause 15 to terminate this Contract; or
- b. the Secretary considers that circumstances exist which require the Department's intervention,

the Department may, in its absolute discretion, suspend the performance of any service by the Service Provider, arrange for the Department or a third party to perform such suspended service or otherwise intervene in the provision of the Services by giving written notice to the Service Provider (Step-in Right).

- 17.13.2. The Department's Step-in Right will continue until the circumstances giving rise to the Step-in Right have been rectified or cease to exist.

- 17.13.3. The Service Provider must cooperate with the Department during the period that it exercises a Step-in Right by (but not limited to) ensuring compliance by the Service Provider and its Personnel with all directions given by the Department.
- 17.13.4. Nothing in this clause 17.13 obliges the Department to exercise the powers given under this clause 17.13.
- 17.13.5. The exercise of the powers under this clause is without prejudice to any other rights the Department may have to enforce or terminate this Contract.

Executed by **the Commonwealth of Australia represented by Department of Immigration and Border Protection** by its duly authorised delegate:

..... Signature of witness Signature of delegate
..... Name of witness (print) Name of delegate (print)
 Position of delegate (print)

Executed by **Transfield Services (Australia) Pty Ltd**
by its duly authorised representative:

..... Signature of witness Signature of authorised representative
..... Name of witness (print) Name of authorised representative (print)
 Position of authorised representative (print)

SCHEDULE 1 STATEMENT OF WORK

PART 1: NATURE OF THE SERVICES

1. General background and nature of services

1.1. Background

- 1.1.1. The Department has a requirement for the provision of garrison and welfare services, outlined in this Schedule, to Transferees and Personnel at Offshore Processing Countries (OPCs). The Department has a key role in developing and implementing an appropriate and sustainable offshore processing model (Offshore Processing) as part of the regional solution to combat people smuggling (Operation Sovereign Borders). The model will support the government policy that all people arriving in Australia by boat will be transferred to an Offshore Processing Country. This will include appropriate accommodation and services including enhanced medical facilities onsite.
- 1.1.2. The Department is working to design, develop and facilitate an efficient and effective model for infrastructure and services to support Offshore Processing both in the Manus Province, Papua New Guinea (PNG), and the Republic of Nauru (Nauru). The focus is on an end to end process, encompassing transfers, coordination and logistical services, governance, Offshore Processing Centre (OPC) services, refugee determination assessment and review and outcomes, removals and returns and settlement in host countries. Host governments are responsible for in-country arrangements and operations with support being provided by the Australian government.
- 1.1.3. A key requirement for the Service Provider is achieving innovation and efficiency in service delivery and to enhance value for money for the Commonwealth.
- 1.1.4. Security infrastructure at existing sites will be improved and security arrangements are to be enhanced to reduce the risk of damage from major disturbance such as occurred on 19 July 2013 on Nauru. The Service Provider is expected to put in place policies and procedures to support security enhancements and to minimise tensions at OPCs.
- 1.1.5. The parameters within which Offshore Processing will operate include Australian and Host country legislation, Ministerial directions, Joint Agency Task Force (JATF) arrangements, Regional Resettlement Arrangement Memoranda of Understanding and Regional Resettlement Arrangement Administrative Arrangements. Australia's international obligations, such as the United Nations Refugee Convention and Convention on the Rights of a Child, also provide parameters.
- 1.1.6. The longer term objective is to support Regional Processing Countries to manage and administer the suite of Offshore Processing activities with a view to them becoming increasingly independent in this regard.
- 1.1.7. In addition, the development of supporting infrastructure and services in Regional Processing Countries will contribute to their nation building. Alignment

with stakeholders' expectations is therefore critical and an effective working relationship with the respective governments of Nauru and PNG needs to be maintained.

- 1.1.8. The current focus for the Department is on rapidly increasing OPC infrastructure, operations and service capacity to support and effect an increase in Transferee numbers. Manus Province is to accommodate 2400 Transferees and Nauru 3200 Transferees. A description of the Sites (including indicative capacity) requiring services is outlined below:

Nauru

- a. Marquee-style temporary accommodation at both OPC2 (1300 beds) and OPC3 (1900 beds) and accommodation for at least 900 staff at various sites including OPC1.

PNG

- b. 2400 Transferee beds in marquee style accommodation at Lombrum Naval Base and accommodation for approximately 800 Personnel.
- c. A high security facility in Lombrum for up to 600 Transferees who receive a negative refugee status determination. The Service Provider should note that Services for this facility will be provided as agreed between the parties.

Other Sites (currently not requiring services under the scope of this contract)

- d. A 600 bed site or smaller sites comprising a similar quantity of accommodation on Nauru suitable to house those families whose claims have been found to engage Nauru's protection but for whom accommodation on Nauru is not yet available.
- e. At East Lorengau in Manus Province, re-scope the currently approved OPC to provide 750 beds for single adult men who have been found to engage PNG's protection but settlement places are not yet available.

- 1.1.9. OPCs accommodate individuals in accordance with the Minister's direction under s 198AD(5) of the Migration Act 1958 of 29 July 2013. At this stage, Manus accommodates Single Adult Males (SAMs) only whereas Nauru accommodates SAMs, families, single adult females and it is expected, in due course, unaccompanied minors. It will be important that services are able to scale up and down in an effective and timely manner to meet forecasted requirements.

- 1.1.10. Offshore Processing is subject to significant scrutiny and the Service Provider is required to liaise with stakeholders and manage expectations effectively.

- 1.1.11. The Service Provider must perform the Services in a manner that is:
- a. adaptable to and readily accommodates changes in Commonwealth policy during the term of the Contract to ensure that the Services are delivered in accordance with Commonwealth policy;
- b. appropriate to the individual needs of each Transferee; and

- c. adaptable to and readily accommodates changes in Transferee numbers (which may significantly increase or decrease during the term of the Contract).

1.2. Provision of works and services in Papua New Guinea (PNG) and Nauru

- 1.2.1. The Service Provider must hold all necessary local PNG and Nauru company registration and accreditation requirements to be able to carry on business in PNG and Nauru.
- 1.2.2. The Service Provider will provide Services that are the best available in the circumstances, and utilising facilities and Personnel on the Sites and that as far as possible (but recognising any unavoidable limitations deriving from the circumstances of the Sites) are broadly comparable with services available within the Australian community.
- 1.2.3. The Service Provider should note that the Australian Government is committed to promoting employment and training opportunities for local PNG and Nauruan people and businesses.
- 1.2.4. The Service Provider is required to identify and provide training and employment opportunities to local people and to demonstrate that best efforts have been undertaken to engage local contractors to the maximum extent possible within the parameters of the services.

1.3. Stakeholder management

- 1.3.1. The Service Provider will have significant stakeholder management and consultation requirements including with the Department and PNG and Nauruan government authorities. The Service Provider must adopt a collaborative approach to the complex stakeholder and governance issues.

1.4. Service Provider Personnel

- 1.4.1. The Service Provider is responsible for ensuring that the Personnel levels at each Site are adequate to deliver the Services.
- 1.4.2. The Service Provider must engage with the local community to employ local personnel or subcontract local businesses who meet the requirements of this Statement of Work. The following levels of local personnel should be maintained as a minimum:

<i>Service</i>	<i>Percentage</i>
██████████	████
██████████	████
██████████	████
██████████	████

- 1.4.3. Where local capacity exists, the Service Provider is required to utilise this capacity as far as possible.
- 1.4.4. The Service Provider must ensure that all Personnel:
- i. are, and remain, of good character and good conduct;
 - ii. have a current 'working with children' check or certificate, where required from an Australian jurisdiction or equivalent from the Australian Federal Police or, in the case of any local Personnel, where any similar check or certificate is required by local law taking into account the nature of their involvement in the Services, such check or certificate;
 - iii. are considered suitable by the Department having regard to any issues identified in an Australian Federal Police background check and brought to the attention of the Department;
 - iv. undergo induction and orientation training that complies with the Department requirements when commencing employment with the Service Provider or starting work in relation to the Services;
 - v. are appropriately skilled, trained and qualified to provide the Services described in this Statement of Work;
 - vi. are authorised, registered or licensed in accordance with any applicable regulatory requirements for the purposes of or incidental to the performance of the Services;
 - vii. possess all relevant industry body, supplier, manufacturer accreditation or scheme memberships and professional association membership that might be reasonably expected of providers of the Services, and produce evidence of such authorisation, registration, license, accreditation or membership to the Department upon request at any time during the term of this Agreement; and
 - viii. will be subject to internal disciplinary processes.

1.5. Offshore Processing Guidelines

- 1.5.1. The Service Provider must, in collaboration with other relevant service providers, develop Offshore Processing Centre Guidelines (OPC Guidelines). The Service Provider's contribution to the OPC Guidelines shall be limited to only such matters as are relevant to the scope of services being provided by the Service Provider under this Agreement.
- 1.5.2. The Service Provider must provide a draft version of its contribution to the OPC Guidelines to the Department for review/approval.
- 1.5.3. The Service Provider must amend its draft section of the draft OPC Guidelines (as directed by the Department) and provide the amended/updated draft version to the Department for review/approval.

- 1.5.4. The Service Provider must not implement the OPC Guidelines until it receive prior written approval from the Department.
- 1.5.5. The Service Provider must ensure that its Personnel receive timely and adequate training and/or information about the OPC Guidelines.
- 1.5.6. The Service Provider must (in conjunction with other relevant service providers) complete a review of the OPC Guidelines upon each 12-month anniversary of the Execution Date of this Contract.
- 1.6. Service Provider Personnel Medical Screening & Immunisation**
- 1.6.1. The Service Provider must ensure its Personnel and Australian-based Subcontractors complete and pass a medical screening consistent with accepted industry standards prior to initial deployment to the Regional Processing Countries (or as soon as possible once persons are deployed to the Regional Processing Countries).
- 1.6.2. The Service Provider must ensure its Personnel and Australian-based Subcontractors receive appropriate immunisations for the location in which they will work as advised by a qualified medical practitioner (or directed by the Department) prior to initial deployment to the Regional Processing Countries (or as soon as possible once persons are deployed to the Regional Processing Countries).
- 1.7. Service Provider Personnel Mental Health Training**
- 1.7.1. The Service Provider must develop and implement a training programme for its Personnel and Australian-based Subcontractors that addresses the Department's Psychological Support Program policy (PSP) and any other mental health and wellbeing policy (as notified by the Department from time to time).
- 1.7.2. The Service Provider must ensure that the training programme for the PSP and other mental health and wellbeing policy reflects amendments to the respective policy as notified by the Department.
- 1.7.3. The Service Provider must ensure its Personnel and Australian-based Subcontractors complete PSP training programme prior to initial deployment to the Regional Processing Countries (or as soon as possible once persons are deployed to the Regional Processing Countries).
- 1.7.4. The Service Provider must (if directed by the Department) participate in any quality assurance and/or evaluation activity that relates to the Service Provider's training programme for the PSP and other mental health and wellbeing policy.
- 1.7.5. Notwithstanding any other provision of the Contract, Schedule 2 [Fees and Payment] does not include the Service Provider's fees, costs or expenses for providing the services described in this clause 1.7. The fees, costs and expenses to be paid to the Service Provider for such services shall be as agreed or where not so agreed, determined by the Department having regard to reasonable rates and prices (including profit and overhead).

PART 2 TRANSFEREE WELFARE SERVICES

1. General Services

1.1. Overview

- 1.1.1. The Service Provider is required to provide and assist with a range of Transferees Services at the Sites, and facilitate and encourage Transferees to access these Services.
- 1.1.2. All Service delivery decisions taken by the Service Provider will take account of the individual needs of Transferees, and will aim to improve health, welfare and well-being outcomes for each Transferee.
- 1.1.3. The Service Provider will provide a range of Services to promote the welfare and well-being of Transferees and create an environment that supports security and safety at the Site.
- 1.1.4. The Service Provider is required to take reasonable steps to ensure that it and all its Personnel treat Transferees equitably and fairly, with dignity and respect.
- 1.1.5. The Service Provider is required to focus on the well-being of each Transferee and will make every effort to ensure visits from support groups are facilitated, while maintaining safety of all Transferees.
- 1.1.6. The Service Provider will encourage interaction between Transferees, where safe and appropriate.
- 1.1.7. The Service Provider will develop and facilitate activities to enhance the ongoing emotional and mental health of each Transferee.

2. Individual Management

2.1. General

- 2.1.1. The Service Provider is required to:
 - a) promote and maintain an environment conducive to the health and welfare of Transferees where the needs of Transferees are identified and responded to openly and with integrity;
 - b) establish processes to prevent Transferees being subjected to illegal and anti-social behaviour and, where such behaviour becomes apparent, to deal with the issues cooperatively with the local authorities, the Department and other Service Providers;
 - c) promote a culture in which Personnel interact with Transferees on a regular basis in both formal and informal settings, developing trust and effective communication channels in undertaking their duties;
 - d) take all reasonable steps to ensure all interaction between Personnel and Transferees is conducted in a culturally appropriate manner; and
 - e) ensure all interaction between Personnel and Transferees is conducted in a professional manner.

2.2. Interaction with Transferees

2.2.1. The Service Provider is required to implement and support:

- a) policies and procedures at the Site that promote high levels of positive and culturally sensitive interaction between Personnel and Transferees to deliver a healthy environment and assist Transferees to achieve greater self-sufficiency over their daily routine in preparation for post-release;
- b) policies and procedures that set out the standards and qualities the Service Provider expects of its Personnel when they interact with Transferees, other Service Providers and stakeholders, including:
 - i. Personnel being required to clearly identify themselves when communicating with Transferees, other Service Providers and other stakeholders including wearing a name badge; and
 - ii. supporting Personnel to develop communication skills to interact and communicate with Transferees, other Service Providers and other stakeholders in a positive and effective manner.

2.2.2. The Service Provider must ensure that all Personnel:

- a) read, sign and understand the code of conduct and confidentiality forms provided by the Department before commencing duty in the Site;
- b) maintain regular contact with Transferees;
- c) coordinate access by Transferees to available Services;
- d) proactively manage issues relating to Transferees as they arise and before they impact on the Transferee's well-being or that of other Transferees in the Site; and
- e) document and report any matters they consider material to the welfare of Transferees in individual management plans and advise the Department.

The Service Provider must ensure that its Personnel do not provide any form of advice in relation to the visa status or other migration related matters of any Transferee. The Service Provider should also ensure that their Personnel are aware of government policies and that all communications with Transferees are consistent with these policies.

2.3. Individual management plans

2.3.1. The Service Provider is required to develop and implement Individual Management Plans for each Transferee in line with Departmental Guidelines issued from time to time.

2.3.2. The Service Provider is required to review Individual Management Plans in line with Department Guidelines issued from time to time.

2.3.3. The Service Provider is required to ensure that each Individual Management Plan:

- a) identifies and tailors ongoing care and services required for the wellbeing of each Transferee; and
- b) maintains a historical record of the care and services provided to Transferees.

2.4. Case Management Training

- 2.4.1. The Service Provider is required to develop and provide case management Personnel with appropriate training prior and during deployment to a RPC.
- 2.4.2. Case Management training must be implemented as soon as possible and finalised Case Management material will be provided to the Department six weeks after Contract Execution for approval by the Department.

2.5. Transferee Records

- 2.5.1. The Service Provider is responsible for the development and management of Transferee Records. Other Service Providers will contribute information for inclusion in the Transferee Records.
- 2.5.2. The Service Provider is required to develop and implement a Transferee Records management system for use by all Service Providers. The Service Provider and the Department will develop guidelines that set out in more detail the minimum requirements that are to be met by the Transferee Records management system ('Transferee Records Guidelines') including:
 - a) minimum categories of information to be recorded;
 - b) timeframes for updating Transferee Records;
 - c) reporting and data analysis, including frequency and format of standard reporting templates; and
 - d) format and processes for the transfer of data to the Department at regular intervals during the Term and at the expiration or termination of the Contract.
- 2.5.3. The Service Provider must ensure that other Service Providers and their Personnel are provided with training in the use of the Transferee management system.
- 2.5.4. The Service Provider is required to ensure that all relevant information relating to a Transferee is recorded in the management system in a timely manner in accordance with the Transferee Records Guidelines to assist with Transferee welfare and management of the Site.
- 2.5.5. The Service Provider is required to, on request from the Department and otherwise in accordance with the Transferee Records Guidelines, promptly provide reports and other information from the Transferee Records management system.
- 2.5.6. The Service Provider acknowledges that all Transferee information is accessible by the Department at all times, at request by the Department.

2.6. Referral of Transferee identity issues

- 2.6.1. The Service Provider has a duty of care to immediately refer any doubts or concerns regarding a Transferee's identity to the Department.
- 2.6.2. Where the Service Provider identifies that a Transferee that claimed to be 18 or over is under the age of 18, the provider must inform the Department and manage that Transferee in accordance with any Department instructions.

2.7. Provision of Services to people under the age of 18

- 2.7.1. The Service Provider is required to, in addition to the Services outlined elsewhere in this Schedule, take all reasonable steps to ensure that the best interests of any child/children are taken into account when performing or delivering Services involving children.

2.8. Families with children

- 2.8.1. The Service Provider will provide support to other Service Providers in delivering specialised services for the care and wellbeing of Transferee families with children.
- 2.8.2. The Service Provider will provide support to other Service Providers for Transferee families with children to understand and exercise parental responsibility while accommodated at the Site.

2.9. Health of Transferees

- 2.9.1. The Service Provider must ensure that any Transferee who requests, or appears to be in need of medical attention, is referred for appropriate medical attention.
- 2.9.2. Where it appears that a Transferee requires emergency medical attention, the Service Provider must:
- a) provide first aid by suitably qualified Personnel;
 - b) seek emergency medical attention for the Transferee immediately, including arranging for transport of the Transferee to the nominated medical facility at the Department's cost;
 - c) inform the Service Provider responsible for health services of the Transferee's condition as soon as the initial response is complete; and
 - d) inform the Department of the Transferee's condition as soon as the initial response is complete.

2.10. Transferees under the influence of drugs or alcohol

- 2.10.1. The Service Provider is required to:
- a) ensure that a Transferee who appears to be under the influence of drugs or alcohol is supervised by Personnel until the Transferee appears to be no longer affected; and
 - b) refer the Transferee for assessment by the Health Service Provider within 12 hours, unless emergency medical attention is required.

2.11. Mental health awareness

- 2.11.1. The Service Provider is required to ensure all relevant Personnel attend mental health awareness training provided by the Department.

2.12. Behavioural management of Transferees

- 2.12.1. The Service Provider is required to develop a behavioural management strategy within six (6) weeks of execution of the Contract for submission to the Department for approval. The strategy will include:

- a) agreed behavioural management strategies for an Incident or unforeseen event requiring immediate intervention; and
 - b) agreed behavioural management strategies that aim to defuse tensions and conflict before they escalate or become serious or violent, or to manage behaviour following an Incident or unforeseen event.
- 2.12.2. The Service Provider is required to take the lead on the implementation of agreed behavioural management strategies during an Incident, or any unforeseen event which requires immediate intervention, which may include, but is not limited to, placement in managed accommodation.
- 2.12.3. The Service Provider is required to implement agreed behavioural management strategies that aim to defuse tensions and conflict before they escalate or become serious or violent, or to manage behaviour following an Incident or unforeseen event.
- 2.12.4. The Service Provider must develop and implement Behavioural Management Plans in line with Department Guidelines issued from time to time.
- 2.12.5. The Service Provider is required to review Behavioural Management Plans in line with Department Guidelines issued from time to time.

2.13. Managed Accommodation

- 2.13.1. The Service Provider is responsible for the establishment of and provision of Services at Managed Accommodation at OPCs, including:
- a) the decision to place or remove a Transferee in Managed Accommodation in consultation with other Service Providers and the Department;
 - b) maintenance, cleaning and catering;
 - c) provision of welfare services; and
 - d) provision of security services.
- 2.13.2. The Service Provider is responsible for developing procedures for the provision of Services at the Managed Accommodation, to be approved by the Department.

2.14. Illegal and anti-social behaviour

- 2.14.1. The Service Provider is required to develop and implement processes, in cooperation with the Department, local authorities and other Service Providers, for managing instances where Transferees are engaged in behaviour that is illegal, has breached the rules applicable at the Site or is anti-social in nature.
- 2.14.2. For the purposes of this clause undesirable behaviours may include:
- a) bullying;
 - b) verbal abuse;
 - c) sexual or other forms of harassment;
 - d) assault;
 - e) malicious destruction of property; and
 - f) possession of weapons or illegal drugs.
- 2.14.3. The Service Provider is required to communicate the Site policy on anti-social behaviour to all Transferees during the induction process.

2.14.4. Where the Service Provider has identified, or suspects, that a Transferee has engaged in illegal, non-compliant or antisocial behaviour, the provider must immediately inform the Department and other relevant service providers and develop and implement behavioural management strategies, as specified in Clause 2.12 of this Schedule 1, for:

- a) dealing with the perpetrator(s);
- b) preventing recurrence;
- c) the recording of details of and responses to known or suspected instances of individual illegal, non-compliant or antisocial behaviour by Transferees; and
- d) ensuring that Transferees identified as victims of anti-social behaviour are supported by Personnel and other Service Providers, with relevant details recorded.

2.14.5. The Department is responsible for involving the police or other authorities as required, except where reporting is mandatory under the law.

2.15. Complaints Management System

2.15.1. The Service Provider will provide Transferees in their care access to a complaints procedure whereby issues of concern can be resolved effectively, fairly and efficiently.

2.15.2. The Service Provider is required to develop and implement a Complaints Management System within 10 days of execution of the contract and to respond to all Transferee complaints within a reasonable timeframe, as approved by the Department.

2.15.3. The Service Provider is required to allocate complaints to other Service Providers, where appropriate, and coordinate responses from other Service Providers to meet a reasonable timeframe.

2.15.4. Transferee complaints will be treated with confidentiality and integrity, and no Transferee will be prevented from providing their complaint to an external party.

2.15.5. The Service Provider will develop a complaints handling process, including:

- a) promoting informal early rectification of issues;
- b) referring complaints to relevant stakeholders; and
- c) responding in a timely manner to transferees.

2.16. Private interview rooms

2.16.1. The Service Provider will:

- a) where possible, facilitate Transferee contact in a private interview room with the Australian and relevant RPC government officials and representatives; and
- b) where possible, facilitate contact in a private interview room with any other visitor approved by the Department

3. Programmes and activities

3.1. Overview

- 3.1.1. The Service Provider is required to:
- a) develop, manage and deliver structured and unstructured programmes and activities designed to provide educational and recreational opportunities, and provide meaningful activities that will enhance the mental health and wellbeing of individuals accommodated at the Site;
 - b) develop strategies to encourage Transferees to participate in programmes and activities, but enable Transferees at the Site to determine their own level of participation and involvement;
 - c) ensure programmes and activities cater for the diverse needs of Transferees;
 - d) take feedback from Transferees into account when developing programmes and activities;
 - e) arrange, in accordance with the procedures for the sourcing of equipment advised by the Department, for the supply of equipment required to support the activities; and
 - f) ensure suitably qualified Personnel are provided to support the activities.
- 3.1.2. The Service Provider is required to develop a consolidated Programmes and Activities Plan that sets out in more detail the programmes and activities that meet the requirements of this Statement of Work and the processes that will be used to monitor compliance with these requirements within 10 days of execution of the Contract.
- 3.1.3. The Service Provider must update the Programmes and Activities Plan on a quarterly basis.
- 3.1.4. The Programmes and Activities Plan will include the following programme and activity programme areas:
- a) education programme;
 - b) religious programme;
 - c) recreation programme;
 - d) sporting programme; and
 - e) excursions.
- 3.1.5. The Service Provider is required to provide a Programmes and Activities Schedule to the Department on a monthly basis, which outlines the consolidated programmes and activities available to Transferees.
- #### **3.2. Education Programme**
- 3.2.1. The Service Provider is required to develop and implement a robust education programme, which provides Transferees an opportunity to develop and learn a range of skills including English language skills.
- 3.2.2. The Service Provider is required to develop an Education Programme Plan.

3.3. Religious Programme

- 3.3.1. The Service Provider must ensure all Transferees are free to practice their religion of choice individually or communally in accordance with Departmental guidelines issued from time to time and subject to the overriding safety and security of Transferees.
- 3.3.2. The Service Provider will provide religious services to Transferees including religious activities and cultural liaison, transport to and from the religious service and appropriate equipment for use during the religious service.
- 3.3.3. The Service Provider is required to develop and update a Religious Programme Plan.
- 3.3.4. The Service Provider is required to provide space for Transferees to practice all religious faith including religious classes.

3.4. Recreation Programmes

- 3.4.1. The Service Provider is required to provide opportunities for Transferees to participate in unstructured recreational activities within the OPC. This may include arts and crafts, chess, table tennis games and television.
- 3.4.2. The Service Provider is required to ensure adequate recreational equipment is available to Transferees.
- 3.4.3. Swimming may be offered as a recreational activity. The Service Provider will provide suitably qualified supervision of Transferees with varying swimming abilities to participate in activities in or near water.
- 3.4.4. The Service Provider is required to develop and update a Recreation Programme.

3.5. Sporting Programme

- 3.5.1. The Service Provider is required to provide opportunities for Transferees to participate in structured sporting activities both within and outside of the OPC. This may include soccer, cricket and volleyball.
- 3.5.2. The Service Provider is required to ensure adequate sporting equipment is available to Transferees.
- 3.5.3. The Service Provider is required to develop and update a Sporting Programme.

3.6. Excursions

- 3.6.1. The Service Provider is required to provide opportunities for Transferees to participate in structured excursions outside the RPC. This may include, but is not limited to, sporting tournaments, community activities and religious services.

- 3.6.2. The Service Provider will develop and update an Excursion Plan.
- 3.6.3. The Service Provider must work in collaboration with other Service Providers and the host country community in developing a schedule of excursions and encourage community participation.

3.7. Individual Allowance Programme and Canteen

- 3.7.1. The Service Provider is responsible for the operation and management of the Individual Allowance Programme (IAP) for Transferees in accordance with the guidelines issued by the Department from time to time.
- 3.7.2. The Service Provider is required to:
- a) stock and manage a shop that trades IAP points for items including, but not limited to, personal care products, telephone cards, stamps, writing paper, tobacco and snack food;
 - b) consider requests of Transferees when determining what items are to be stocked in the shop;
 - c) seek the Department's approval for all items available to Transferees at the canteen;
 - d) prominently display prices and opening hours in the shop, with signage in all relevant languages as appropriate to the Site's population; and
 - e) adequately stock the canteen to meet Transferee needs.
- 3.7.3. The Service Provider is responsible for managing all procurement associated with the operation of the canteen.

3.8. Gym

- 3.8.1. The Service Provider will provide fair and equitable Transferee access to a gymnasium, where available.
- 3.8.2. The Service Provider is required to develop a procedure for the equitable use and access to the gymnasium for all Transferees.
- 3.8.3. The Service Provider is required to support other Service Providers in the maintenance and security of gymnasium equipment, including a daily records log of gymnasium equipment.
- 3.8.4. All Personnel who supervise use of gymnasium facilities by Transferees are required to hold at least a Certificate III in gymnasium management or equivalent.

4. Reception, transfer and discharge of Transferees

4.1. General responsibilities

- 4.1.1. The Service Provider will coordinate the reception, transfer and discharge processes at the Site.
- 4.1.2. The Service Provider is required to:

- a) conduct reception processes upon the arrival of Transferees at the Site;
- b) provide transfer processes to ready a Transferee for transfer to other locations, advised by the Department;
- c) provide discharge processes in a manner that promotes the Transferee's well-being, dignity and safety;
- d) ensure that Transferees are regularly informed about what is happening to them in a language they understand through the use of interpreters provided by other Service Providers if required; and
- e) take primary responsibility for induction including provision of an induction booklet.

4.2. Processing times

4.2.1. The Service Provider is required to:

- a) ensure Personnel are available to undertake reception, transfer and discharge activities at any time;
- b) commence the reception process, immediately after a Transferee arrives at the Site and complete the reception process within 12 hours of their arrival at the Site;
- c) commence the induction processes as soon as reasonably practicable after the Transferee's arrival at the Site and complete the induction processes within two (2) days of the Transferee arriving at the Site - the induction process includes providing information regarding how the Site operates and explaining relevant policies, procedures and roles;
- d) undertake transfer and discharge processes in accordance with timeframes determined by the Department on a case by case basis; and
- e) undertake discharge processes immediately after the Service Provider is advised by the Department of a Transferee's release.

4.3. Reception

4.3.1. The Service Provider is required to:

- a) set up and manage a reception area;
- b) develop and implement a reception process and checklist;
- c) review, update and, if necessary, reissue identification cards to Transferees;
- d) ensure the reception process is coordinated with the Department and any other relevant stakeholders;
- e) ensure that Personnel involved in the reception process are specifically trained to manage the reception process in a non-threatening and threat-reducing way, with a focus on the well-being of Transferees at all times;
- f) ensure that before new Transferees arrive at the Site, culturally appropriate food is available and other Transferees at the Site are informed of the new arrival/s;
- g) record skills of Transferees;
- h) make available leaflets on the reception and induction processes in a range of languages to explain the reception and induction processes;
- i) offer food and drink and access to bathroom facilities and toiletries to Transferees upon admission to the Site; and
- j) provide a copy of reception reports to the Department within 48 hours of a Transferee being received at the Site.

- 4.3.2. The reception process will include providing clear information to Transferees regarding their right to complain and the process to be followed.

4.4. Transferee health induction assessment

- 4.4.1. The Service Provider will provide all necessary support to enable each Transferee to undergo a health induction assessment during the reception process in conjunction with other Service Providers.
- 4.4.2. Where a Transferee undergoes a health induction assessment, the Service Provider may request a summary of relevant and non-confidential health information about the Transferee from the health Service Provider for the Transferee Record, as soon as practicable. The health Service Provider will make a determination on what information is considered confidential.

4.5. Bedding, clothing, footwear and Items

- 4.5.1. The Service Provider must ensure each Transferee is allocated with the following items during the reception process:
- a) bedding that is clean and fit for purpose;
 - b) freshly laundered linen that is in good condition and suited to the local climate;
 - c) where required, clothing and footwear that is new, suited to the local climate and the Transferee's cultural needs;
 - d) a starter pack of toiletries that includes:
 - i. soap, shampoo and conditioner;
 - ii. toothbrush and toothpaste;
 - iii. hairbrush or comb;
 - iv. deodorant, moisturiser and talcum powder;
 - v. sanitary items (for female Transferees)
 - vi. razor and shaving cream (if required on a one for one basis);
 - vii. nail clippers;
 - viii. sunscreen and insect repellent; and
 - e) where required, information and equipment required for self-catering.
- 4.5.2. Bedding, clothing, footwear and self-catering items are to be replenished as required or to be purchased by IAP points in accordance with Departmental Guidelines issued from time to time.

4.6. Arrival phone call

- 4.6.1. As part of the induction process, the Service Provider must advise Transferees that they may make a telephone call to advise family, friends or other support networks of their arrival at the Site. The Service Provider will facilitate this phone call.

4.7. Transferees security risk assessment

- 4.7.1. During the reception process, and within 24 hours of arrival, the Service Provider must conduct a security risk assessment for each Transferee, which includes an examination of any previous risk assessments and information about the Transferee that might be provided by the Department or other government agencies.

4.7.2. The Service Provider may:

- a) use a Transferees security risk assessment framework provided by the Department; or
- b) develop and use an alternative framework, providing it has been developed in accordance with the AS NZS 4360:2004 Standard for Risk Management and approved by the Department.

4.7.3. The Service Provider is required to:

- a) review the security risk assessment for each Transferee at the Site monthly;
- b) re-assess the Transferee's security risk assessment after the Transferee has been involved in any disturbance or received information that may adversely impact on their disposition; and
- c) consider the Transferee's security risk assessment when developing individual management plans and when conducting accommodation placement reviews.

4.8. Induction Briefing

4.8.1. The Service Provider will develop and provide induction briefing information to Transferees, relevant to each Site including:

- a) a description of facilities and services that are available;
- b) the roles and responsibilities of the Department, Personnel and other Service Providers;
- c) how to communicate with Personnel;
- d) information on Transferees' committees and how to be involved;
- e) photographs or basic identifiers of key Personnel;
- f) which items are not permitted at the Site and why; and
- g) other relevant information as determined by the Service Provider or as notified by the Department.

4.9. Placement review

4.9.1. The Service Provider is required to:

- a) notify the Department, where the Service Provider believes that existing placement is inappropriate for the Transferee and include reasons why they formed this view; and
- b) record accommodation details for Transferees.

4.10. Stores Management

4.10.1. The Service Provider is required to provide fair and equitable Transferee access to a Store Room for replacement clothing and toiletries.

4.10.2. The Service Provider is required to develop a procedure for the allocation and replacement of clothing and toiletries, to be approved by the Department.

4.10.3. The Service Provider is required to support the effective procurement and stock of appropriate and climate specific clothing and toiletries.

4.11. Transfer

- 4.11.1. When notified by the Department, the Service Provider is required to support and prepare Transferees for transfer including:
- a) providing briefing notes for the next party that will take the Transferee into its care that outline any known management or behavioural issues relevant to the Transferee;
 - b) ensuring that the Transferee's security risk assessment has been reviewed and updated;
 - c) ensuring that medications and other essential items are prepared, in consultation with the health Service Provider;
 - d) ensuring that all personal property of the Transferee is transferred with the Transferee and the Transferee signs an agreement for this to occur;
 - e) ensuring that all hard copy Transferee Records are provided to the escort for transfer to the same destination as the Transferee;
 - f) taking all reasonable steps to ensure that the Transferee has been provided with clothing that is appropriate for the journey and the destination climate; and
 - g) cooperating with the Department and any other stakeholders involved in the transfer process.

4.12. Discharge

- 4.12.1. When notified by the Department, the Service Provider is required to support the preparation of a Transferee for discharge from the Site including:
- a) confirming that the identity of the Transferee matches that in the Department's documentation;
 - b) taking all reasonable steps to ensure the Transferee has been provided with clothing appropriate to the journey and destination climate; and
 - c) ensuring all personal belongings are returned to the Transferee on discharge, or the Transferee's escort if required by the Department.

4.13. Discharge for return

- 4.13.1. When notified by the Department that a Transferee is being returned, the Service Provider must:
- a) update the Transferee's security risk assessment before they travel and complete the Service Provider assessment of a Transferee for aviation travel;
 - b) organise packing and weighing of the property of Transferees; and
 - c) assist the Department and any other Service Providers or government officials to facilitate the return.

5. Property of Transferees

5.1. General

- 5.1.1. The Service Provider is required to develop and implement a procedure to:
- a) inform Transferees of the procedures for management of their property;
 - b) manage the secure storage of:

- i. all property of Transferees provided voluntarily by the Transferee for storage; and
- ii. all excluded Items.

5.2. Storage of and access of Transferees property

5.2.1. The Service Provider is required to develop and implement a procedure to:

- a) securely and separately store Transferees property;
- b) document all property of the Transferee which has been handed to the Service Provider for storage;
- c) provide Transferees with a receipt for all property that is to be stored by the Service Provider;
- d) provide Transferees with access to their property, while ensuring they do not have access to excluded Items ; and
- e) maintain a register to record all access to the secure store and ensure that all access is monitored.

5.3. Recording of Transferees property in storage

5.3.1. The Service Provider is required, in accordance with Departmental Guidelines, to:

- a) record all property of Transferees in the Transferee's presence;
- b) record all property retained by a Transferee while in the Site;
- c) record all property provided to the Service Provider for storage;
- d) record all illegal and excluded Items which have been removed and held in trust by the Service Provider; and
- e) provide a receipt to the Transferee.

5.4. Returning property to Transferees

5.4.1. The Service Provider is required to:

- a) provide the opportunity for Transferees to inspect their property in storage on discharge; and
- b) provide the opportunity for the Transferee to sign a statement indicating their satisfaction or otherwise with the items returned and their condition.

5.5. Lost, stolen or damaged property of Transferees in the care of the Service Provider

5.5.1. Where property in care of the Service Provider is lost, stolen or damaged, the Service Provider is required to reimburse, at its own cost, the Transferee for the commercial replacement value of the property.

5.5.2. Subject to the above, the Service Provider is not responsible for any property retained by the Transferee at the Site that is lost, stolen or damaged.

5.5.3. The Service Provider is responsible for costs associated with any property retained by the Transferee in the Site that is lost, stolen or damaged where that loss, theft or damage is caused by any act, omission or neglect on the part of the Service Provider or its Personnel.

5.6. Excluded and Illegal Items

- 5.6.1. The Service Provider is required to identify and continually review a list of excluded and illegal items which cannot enter the Site, either through risk assessment or to meet requirements of host country law and legislation.
- 5.6.2. The Service Provider is required to advise Transferees what items are excluded and illegal, in accordance with any Departmental policies and procedures notified to the Service Provider. The Service Provider is required to notify the Department if an excluded or illegal item is observed at the Site or in the possession of a Transferee that has not been surrendered.
- 5.6.3. Where a Transferee surrenders an excluded item, the Service Provider is required to:
- a) record the excluded Item;
 - b) securely store the excluded Item;
 - c) return all excluded items that the Transferee may legally possess to the person immediately upon release; and
 - d) provide all excluded items that the Transferee may legally possess to an escorting officer where required by Departmental policy.
- 5.6.4. Where a Transferee surrenders an illegal item, the Service Provider will be required to:
- a) ensure the illegal item does not pose an ongoing safety risk to the Site or any persons at the Site;
 - b) notify the Department and local authorities in accordance with incident management reporting requirements issued by the Department;
 - c) record all identifying details concerning the illegal items; and
 - d) securely store the illegal item in a manner that protects the integrity of any evidence until custody of the illegal item can be transferred to the relevant authority.

6. Communication management

6.1. Access to communication services

- 6.1.1. The Service Provider will ensure Transferees have access to communication services, unless advised by the Department, including:
- a) all required equipment and infrastructure;
 - b) telephones - in the Transferee area;
 - c) computers and printers - for Transferees to perform functions such as word processing, spread sheets, internet and email for their private use and for the preparation of documents related to their immigration outcome;
 - d) internet services - ensuring appropriate filtering software and other measures as necessary are in place, in accordance with Departmental requirements, to control and limit access at the Site by Transferees to:
 - i. pornographic and other prohibited Sites, containing or promoting illegal acts;
 - ii. personal software;
 - iii. file transfer protocol Sites, software or data; and

- iv. prohibited Sites in foreign languages.
- e) television and other media - with services covering news, current affairs and other content that the Service Provider or other Service Providers may recommend to promote the well-being for Transferees; and
- f) mail services.

6.2. Management of access

- 6.2.1. The Service Provider will provide management and supervision of access to and use of the communications services by Transferees.
- 6.2.2. The Service Provider is required to inform Transferees that their access to communication services may be recorded and/or monitored for security purposes.

6.3. Access and use of mail services and facsimiles

- 6.3.1. The Service Provider is required to:
 - a) register all received mail and facsimiles which are addressed to a Transferee;
 - b) ensure mail does not contain prohibited goods; and
 - c) manage the distribution of mail and facsimiles to Transferees.
- 6.3.2. Postage costs for mail sent by a Transferee will be at the Transferee's expense except when a Transferee does not have the means to pay for postage, in which case the Service Provider will be required to refer to the Department for instructions.

6.4. Television and other media

- 6.4.1. The Service Provider is required to, where available, facilitate access to free-to-air television and other broadcast services, covering news, current affairs and other content that the Service Provider or other Service Providers may recommend to promote the well-being of Transferees.
- 6.4.2. Television and other media must be appropriate for the viewing audience.

PART 3 GARRISON SERVICES

1. Garrison Services

1.1. General

1.1.1. The Service Provider is required to provide a range of garrison services to Transferees and Personnel, including:

- a) management and maintenance of assets;
- b) Cleaning;
- c) Security;
- d) Catering;
- e) Environmental management;
- f) Work health and safety;
- g) Management of emergencies;
- h) Logistics;
- i) Personnel accommodation; and
- j) Transport and escort.

1.1.2. The Service Provider is not responsible for project management of capital works at OPCs (subject to clause 12.2 in Part 3 in Schedule 1).

2. Management and maintenance of assets and the Site

2.1. General

2.1.1. The Service Provider is responsible for a range of maintenance and asset management tasks. During the Term of the Contract, unless additional requirements are notified by the Department, the Service Provider's responsibilities in relation to assets are to:

- a) manage assets at the Site, including:
 - i. operating and maintaining assets in a manner that ensures, to the greatest extent possible, that they achieve their design life;
 - ii. that the incidence of emergency and breakdown repairs is minimised having regard to the condition in which the assets were on the Commencement Date of the Contract and the local conditions, such as exposure to weather and proximity to the ocean.
- b) ensure that the assets are always safe to use and comply with all applicable laws and Australian Standards (or are withdrawn from use if they are not);
- c) procure and manage loose assets (such as sports equipment, books, kitchen utensils, DVDs), ensuring appropriate security and meeting the amenity requirements of the Transferees and as agreed with the Department;
- d) only dispose of or write-off an asset that is owned or paid for by the Department with the prior written approval of the Department; and
- e) provide details of all new, replacement and written-off assets to the Department.

2.1.2. The Service Provider is required to immediately notify the Department in writing of any loss, destruction, damage to or defect in the Site facilities or Departmental assets (or any part thereof).

2.2. The Service Provider and Departmental assets

2.2.1. The Service Provider is required to provide all assets which are required in order to perform its obligations under this Contract, that are not otherwise provided by the Department. Assets required to perform the Services in the OPC will be at the Department's expense, subject to any requirements detailed by the Department from time to time. The Department will not be responsible for costs associated with any assets used by the Service Provider in Australia or for assets used in the RPC in relation to activities of the type covered by the Corporate Overhead Fee.

2.2.2. The Service Provider is required to label its own assets located in the OPC to enable the parties to distinguish between the Service Provider's assets and other assets.

2.2.3. Where the Department provides or pays for an asset at the Sites (including as a Pass Through Cost), the asset will remain or become the property of the Department.

2.2.4. The assets provided by the Department will include a fleet of vehicles. The fleet profile will be determined by the Department having regard to population at the Site, the environment of the Site and its surrounds, maintenance and Personnel requirements.

2.2.5. Where any asset (defined as any portable or attractive item valued between [REDACTED] and any other item valued over [REDACTED]) breaks down and is irreparable prior to the date scheduled for disposal of that asset (as specified in the Maintenance Management Plan, refer to clause 2.4.4), the Service Provider will seek the Department's approval prior to replacing the relevant asset. If the Service Provider substantiates to the Department's satisfaction that an asset is critical to the delivery of the Services, the Department will approve the replacement of the asset on any conditions it sees fit.

2.2.6. The Service Provider will be responsible for indemnifying the Department in respect of loss, destruction or damage to assets to the extent that it is caused by:

- a) any breach of this Contract by the Service Provider; or
- b) any negligent act or omission, fraudulent, criminal actions, or wilful default of the Service Provider in connection with this Contract.

2.2.7. The Service Provider will not be liable for the costs of repair or replacement of assets where, in the reasonable opinion of the Department, the repair or replacement results from reasonable wear and tear of the asset.

2.3. Asset register

2.3.1. The Service Provider is required to work with the Department and other service providers to set up a system for identifying and managing assets at the Sites to be recorded in a register.

2.3.2. The Service Provider is required to undertake an entry stocktake of all assets at the Sites.

2.3.3. The Service Provider is required to ensure that the asset register is up to date, including:

- a) undertaking quarterly stocktakes of all assets at the Sites;
- b) adding new assets as soon as they arrive at the Sites; and
- c) providing a report to the Department of any damaged, lost or replaced assets.

2.4. Maintenance of Assets, Infrastructure and Grounds

2.4.1. The Service Provider is responsible for the management and maintenance of assets and infrastructure. The Department will be responsible for accepting and commissioning all infrastructure. The Service Provider must ensure that all required technical manuals and information are available for use at the Site and that Service Provider Personnel receive the associated operations, maintenance and safety training inductions and information.

2.4.2. The Service Provider must maintain assets and infrastructure to provide a safe, secure and healthy environment, including:

- a) planning, scheduling and performing maintenance; and
- b) planning, scheduling and performing modifications where approved by the Department.

2.4.3. The Service Provider is required to manage and maintain all grounds, including landscaping, planting and horticultural services and built infrastructure (such as roads, stormwater, drains and fences), to ensure the amenity of the Site is maintained in accordance with local community standards and sound environmental management practices (excluding construction works to (for instance) roads, stormwater drains and fences, and any works requiring any specialist or large equipment). Works beyond the capacity of the Service Provider's nominated manning levels and equipment are also considered out of scope.

2.4.4. A maintenance management plan is required to be developed by the Service Provider for assets and infrastructure at the Sites. The maintenance management plan will be required to set out arrangements for the Service Provider to maintain all assets at the Sites, including all building, fittings, plant and equipment, vehicles, engineering services, grounds and infrastructure elements. The maintenance plan will address all maintenance activities, including inspection, testing and servicing. The Service Provider will be required to implement and manage that plan.

2.4.5. When directed by the Department, the Service Provider is required to develop a Maintenance Management Plan for the Sites for approval. This Maintenance Management Plan will set out arrangements for the Service Provider to maintain all assets at the Site to preserve their functionality and value, including all buildings, fittings, plant and equipment, vehicles, engineering services, grounds and infrastructure elements, by conducting maintenance activities that include all inspection, testing and servicing. The Maintenance Management Plan will also address the integration and management of relevant third party arrangements, including any manufacturer or builder warranties or defects liability obligations which may apply to the assets.

2.4.6. The Service Provider is responsible for implementing and managing maintenance in accordance with the developed maintenance management plan.

2.5. Emergency and breakdown repairs

2.5.1. The Service Provider is required to:

- a) repair all Site service breakdowns as soon as possible; and
- b) record all details related to each defect, fault or damage and subsequent action taken in response to emergency breakdowns.

2.6. Alternative arrangements during Maintenance

2.6.1. In the event that an asset is defective or must be taken out of service for maintenance, the Service Provider must:

- a) make reasonable alternative arrangements to maintain security and work health and safety and environmental standards until the asset is returned to service; and
- b) notify the Department of the alternative arrangements and any impact these arrangements may have on the provision of the Services.

2.7. Damage or loss by Transferees

2.7.1. If Transferees damage or lose assets, the Service Provider must:

- a) notify the Department Operations Team Leader;
- b) repair or replace the assets as requested by the Department; and
- c) record the cost of repairing or replacing assets damaged by Transferees as a separate item.

2.7.2. The Service Provider is responsible for the costs to repair or replace damaged or lost assets where the damage or loss has occurred due to the Service Provider's negligence, such as ineffective asset management practices.

2.8. Security systems

2.8.1. The Service Provider is required to, in accordance with arrangements notified by the Department, maintain and test security systems at the Site to ensure the security systems remain functional at all times.

2.9. Emergency systems and services

2.9.1. The Service Provider is required to maintain and test emergency installed systems processes and equipment at the Site in accordance with applicable law, emergency services recommended procedures, manufacturer's instructions and any other requirements notified by the Department.

2.9.2. For the purposes of this section, emergency systems include:

- a) firefighting systems, including suitably qualified Personnel;
- b) alarm systems;
- c) safety and emergency signage;
- d) systems for managing power outages, in particular standby diesel generators and uninterrupted power supplies; and
- e) first aid equipment.

2.10. Work practices

2.10.1. The Service Provider is required to:

- a) ensure all maintenance work practices are compatible with the Sites; and
- b) where maintenance or modifications are conducted at the Sites:
 - i. maintain safety in the Sites;
 - ii. organise for maintenance or modifications to be done during Business Hours as far as is reasonably practicable (this requirement does not apply to repairs to critical systems);
- c) ensure tools are controlled at all times and remain inaccessible to Transferees; and
- d) ensure all the Service Provider Personnel abide by any conditions of entry to the Sites.

2.10.2. The Service Provider is required to provide interested Transferees with the ability to participate in gardening activities, and where this occurs the Service Provider must:

- e) ensure that all maintenance tools are controlled by the Service Provider Personnel as far as is reasonably practicable, in accordance with a documented control of tools procedure;
- f) closely supervise Transferees during any gardening activities;
- g) develop and implement specific induction procedures to be delivered to Transferees participating in gardening activities; and
- h) satisfy any specific Departmental requirements regarding the use of tools.

2.11. Communication about maintenance and modifications

2.11.1. The Service Provider is required, as far as is reasonably practicable, to:

- a) ensure all people affected by any maintenance work or modifications being undertaken at a Site are aware of the nature and extent of the activity; and
- b) communicate details of actions required to maintain safety, such as:
 - i. prevention of unauthorised access to areas under maintenance, repair or modification;
 - ii. erecting barriers and signage in accordance with the requirements of all relevant work health and safety laws and Australian Standards; and
 - iii. notifying Transferees and other people affected of any alternative arrangements and the duration that they may be in place.

3. Cleaning services

3.1. General

3.1.1. The Service Provider is responsible for all routine and non-routine cleaning of the Sites to ensure the safety, hygiene and well-being of Transferees, and all other people at the Sites.

- 3.1.2. Cleaning includes cleaning of all infrastructure (including temporary arrangements) that forms part of the Sites including areas occupied by the Department, other government agencies and other service providers.
- 3.1.3. The Service Provider is required to conduct all cleaning services in accordance with *Work Health and Safety legislation*.
- 3.1.4. The Service Provider is required to undertake routine and non-routine cleaning at the Sites. Such cleaning must:
- a) meet the detailed requirements as agreed with the Department; and
 - b) be in accordance with Work Health and Safety law requirements, including codes of practice.
- 3.1.5. The Service Provider is required to implement cleaning comment books in appropriate locations throughout the Sites within 14 days of the Execution Date of the Contract, including:
- a) the cleaning schedule for each area;
 - b) a section for 'last cleaned' entry by cleaning Personnel; and
 - c) details to allow for a quick assessment of cleaning effectiveness and conformance to the cleaning schedule.

3.2. Cleaning services plan

- 3.2.1. The Service Provider is required to develop a cleaning services plan which explains how cleaning services will be delivered on site, including schedules for routine cleaning within one week of Transition.

3.3. Non-routine cleaning

- 3.3.1. The Service Provider must ensure there are Personnel available at all times to respond to non-routine cleaning requirements, which may be required after:
- a) accidents;
 - b) equipment malfunction; and
 - c) incidents.
- 3.3.2. Where non-routine cleaning of occupied Transferee accommodation is required, the Service Provider is required to gain the consent of the Transferee prior to conducting the cleaning.
- 3.3.3. The Service Provider is required to ensure that training is provided to Personnel to ensure that, where an emergency cleaning requirement cannot be met by the available cleaning Personnel, contingency plans are enacted to reduce the potential impact on Transferees.

3.4. Cleaning accommodation

- 3.4.1. The Service Provider is responsible for cleaning all accommodation on the Site, including accommodation occupied by Transferees and Personnel.
- 3.4.2. In addition, the Service Provider is required to clean accommodation occupied by Transferees and Personnel in the following circumstances:

- a) before a Transferee or Personnel member, or group of Transferees or Personnel, occupies the accommodation; and
- b) when it is necessary, especially for Transferees or Personnel who may not be able to clean their accommodation themselves.

3.5. Housekeeping services for Personnel accommodation

3.5.1. The Service Provider is required to provide housekeeping services specifically for Personnel accommodation, including but not limited to:

- a) cleaning of the room;
- b) replacing linen;
- c) ensuring adequate linen and consumables are provided and re-stocking where required; and
- d) emptying of waste bin.

3.5.2. The Service Provider is responsible for ensuring that there is an appropriate level of linen and consumables at all times by re-stocking and servicing rooms:

- a) on a weekly basis whilst occupied;
- b) after staff have vacated the accommodation/room; and
- c) after an incident or accident.

3.5.3. Linen for each room will include at a minimum:

- a) 2 x pillows and pillow cases per bed;
- b) 2 x sheets per bed;
- c) 2 x towels per bed;
- d) 1 x bath mat per bathroom;
- e) 1 x coverlet per bed; and
- f) 1 x mattress cover per bed.

3.5.4. The Service Provider is required to service the room when the room is vacated by Personnel and prior to the room being occupied, including the changing of used linen and towels.

3.6. Laundry Services

3.6.1. The Service Provider is responsible for the laundering (on a regular basis and as required):

- a) Transferee linen and clothing (clothing as provided by Transferees to the Service Provider); and
- b) Personnel linen.

3.6.2. The Service Provider must ensure Transferees and Personnel are aware of:

- c) the frequency of the laundry service;
- d) where to access the laundry service; and
- e) the availability of self-laundering facilities.

3.6.3. Subject to departmental approval, the Service Provider is required to make arrangements for laundry services at all Accommodation Sites for all linen including

the collection, transportation and laundering of linen used at the Accommodation Site.

- 3.6.4. The Service Provider must ensure Transferees and Personnel have access to clean linen.
- 3.6.5. The Service Provider may from time to time discuss with the Department alternative ways and means of delivering the laundry services. The Service Provider must advise any proposed changes to the Department, and the Department will in its sole discretion determine the changes to the delivery of those services.
- 3.6.6. The Service Provider is responsible for the procurement of all assets associated with laundry services, as directed by the Department.

3.7. Minimise disturbance to Transferees and exposure to hazards

- 3.7.1. The Service Provider is required to minimise disturbance to Transferees, and must not expose Transferees or any other person to hazards caused by cleaning activities, including:
 - a) coordinating cleaning schedules with the daily routine of Transferees;
 - b) placing warning signs where cleaning operations may create a hazard; and
 - c) preventing Transferees from accessing areas that are being cleaned or treated.

3.8. Cleaning equipment and chemicals

- 3.8.1. The Service Provider is required to take all reasonable steps to ensure all equipment and chemicals used by the Service Provider for cleaning are safe, suitable for purpose, environmentally friendly (such as biodegradable) and stored securely when not in use, subject to access to secure storage facilities.
- 3.8.2. The Service Provider is required to ensure cleaning equipment is available to Transferees and Personnel to enable them to self-clean their accommodation, if appropriate and subject to availability.

4. Security Services

4.1. General

- 4.1.1. The Sites need to provide a safe and secure environment for Transferees and Personnel at the Sites, ensuring that each individual's human rights, dignity and well-being are preserved.
- 4.1.2. The Service Provider is required to deliver structured security services at the Sites that are consistent with the goals of the Sites, enable the Service Provider to manage routine events at the Sites and respond promptly and flexibly to any incident.
- 4.1.3. The Department will provide security infrastructure at the Sites, which may include perimeter fencing, lighting towers and an entry gate.

- 4.1.4. The approach to safety and security will be required to ensure that the needs of Transferees are met. The approach and procedures should emphasise communication and interaction strategies that address potential or actual risks before they escalate and effect their de-escalation.
- 4.1.5. Security services should be supported and informed by intelligence collection and analysis measures.

4.2. Integrity of the Site

- 4.2.1. The Service Provider is required to take reasonable steps to ensure:
- a) Transferees and Personnel behave at all times in accordance with relevant provisions of the visa granted to them by the host country Government; and
 - b) relevant authorities and the Department are immediately notified if a Transferee does not return to a Site at a time required by local authorities.

4.3. Safety and security plan

- 4.3.1. The Service Provider is required to draft and comply with an interim safety and security plan.
- 4.3.2. The Service Provider is required to develop a more detailed safety and security plan that will:
- a) be based on AS/NZS ISO 31000:2009 Risk management – Principles and guidelines; and
 - b) include details of:
 - i. how the Service Provider plans to implement the security services contained in this Schedule;
 - ii. how the Service Provider will brief all service providers on safety and security matters; and
 - iii. how the Services will be delivered in accordance with Clause 1.1.2 and 1.2.2 contained in this Schedule.

4.4. Security Personnel

- 4.4.1. The Service Provider must provide trained Personnel to:
- a) deliver security services 24 hours a day and seven days a week at the Site;
 - b) respond effectively to unforeseen Incidents while treating Transferees with dignity and respect; and
 - c) engage with Transferees and other stakeholders to detect possible incidents before they occur.
- 4.4.2. The Service Provider is required to provide dedicated Personnel drawn from outside of its normal staffing levels to deal with major incidents, without reducing business as usual capability.
- 4.4.3. Personnel will be responsible for:
- a) collecting biometric information;
 - b) operating surveillance systems; and

- c) completing a training course developed by a Level IV accredited trainer in security operations prior to commencing work at the Site.

4.4.4. The Service Provider is required to implement arrangements for refresher training of relevant Personnel when necessary.

4.4.5. The Service Provider is required to:

- a) ensure daily rosters of Personnel for the Sites provide a reasonable number of Personnel with the skills, experience and fitness required to manage the security environment in a manner that addresses identified risks in the security risk assessment; and
- b) provide the Department with rostering arrangements at the commencement of each alternate business week for the coming fortnight.

4.5. Safety and security information obligation

4.5.1. The Service Provider is required to:

- a) gather and record safety and security information to inform the development of the Sites and Transferees' security risk assessments, and maintain the safety and security of the Sites;
- b) gather and store safety and security information in accordance with the record keeping obligations, including privacy and confidentiality obligations, set out in the Contract; and
- c) provide this information to the Department as directed.

4.5.2. Safety and security information includes information to be provided by other service providers and covers, amongst other things:

- a) unusual occurrences;
- b) information received from a Transferee;
- c) a Transferee or group of Transferees, acting unusually or out of character;
- d) Incident Reports;
- e) trends in incidents; and
- f) relevant information received from any source.

4.6. Site security risk assessment

4.6.1. The Service Provider must comply with the security risk assessment for the Sites.

4.6.2. The Service Provider will develop a more detailed security risk assessment which accords with AS 4360 Risk Management Standard. In developing the security risk assessment, the Service Provider is required to take account of:

- a) the number and risk profile of the Transferees at the Sites;
- b) the overall security situation (including any information that might be made available by the Department, other government agencies or other sources), including:
 - i. visits;
 - ii. arrivals and departures of Transferees;
 - iii. protests and rallies;
 - iv. special events;

- v. significant dates;
- vi. availability of and response times for emergency services; and
- vii. the condition and arrangement of built infrastructure and associated technology, including any temporary arrangements for new construction or facilities maintenance.

- 4.6.3. The Service Provider is required to review the Site security risk assessment as requested by the Department or following any significant incident. The Service Provider and the Department will agree on timeframes for periodic review of the assessment.
- 4.6.4. The Service Provider is required to provide the Department with a copy of the current security risk assessment, in the form requested by the Department, within five Business Days of any Department request.
- 4.6.5. The Service Provider is required to make available to the Department copies of all security audits conducted, at the completion of the audit or report, including any operational responses to issues raised in the findings of these audits.

4.7. Communication of safety and security requirements

- 4.7.1. The Service Provider must communicate Site safety and security requirements to all people on Site (including Transferees, Personnel and visitors). This communication is required to:
 - a) contain only information required by the target audience;
 - b) encourage compliance with the Site safety and security rules;
 - c) be in a language and form understood by the target audience; and
 - d) accommodate people with special needs, such as illiteracy or visual impairment.
- 4.7.2. The Service Provider is required to ensure Transferees and other people in the Sites are aware of contingency plans for the Site.

4.8. Entry control

- 4.8.1. The Service Provider is required to facilitate controlled and efficient access to the Site by all persons (including Personnel, visitors, government agency officials and Transferees), vehicles and goods in an efficient manner. The access control procedures will be required to be sufficiently robust to eliminate the possibility of unauthorised access and enable tracking Personnel movements in the event of an emergency.
- 4.8.2. The Service Provider must ensure that all visitors to the Site are treated with dignity and respect throughout the entry process.
- 4.8.3. The Service Provider is required to develop entry and egress procedures for all persons requesting access to the Sites.

4.9. Identification

- 4.9.1. The Service Provider is required to develop and implement a system to identify all people seeking access to the Site and provide a visual means of readily identifying all people while they remain on the Site, including:

- a) confirming access rights and escort requirements;
- b) creating and issuing identification passes; and
- c) discreetly monitoring the movement and location of all people on the Site.

4.10. Access to controlled areas

4.10.1. The Service Provider is required to develop and implement systems to manage access to controlled areas within the Site, including implementing a strict control regime for access keys and locks, and static guarding where required. Controlled areas are:

- a) secure storage areas;
- b) administration areas;
- c) hazardous materials stores;
- d) medical facilities;
- e) control room;
- f) tool and vehicle stores;
- g) plant and equipment; and
- h) other areas designated by the Department or the Service Provider as controlled areas.

4.11. Operations logs

4.11.1. The Service Provider is required to:

- a) maintain operations logs at the Site as needed to record the date, time and location for all security related events and actions taken, and constitute an official record of activities and events within the Site;
- b) ensure operations logs provide a comprehensive and accurate account of all Site operations;
- c) inform the Department Operations Team Leader of the range, intent and scope of operations logs in use, and will be required to advise any changes; and
- d) provide operations logs as soon as is reasonably practicable to the Department Operations Team Leader upon receiving a written request.

4.12. Digital records

4.12.1. The Service Provider is required to digitally record an audio and visual record of all instances where there is any incident where the Service Provider, acting reasonably, knows that the Department or local authorities may require evidence of the actions of Personnel.

4.12.2. Where such recordings have been made, the Service Provider must within one hour of producing the recording:

- a) make an unedited copy of the recording;
- b) label the original and copy of the recording with the date and time of the recording and the names of people who appear in the recording; and
- c) provide the original recording to the Department.

4.13. Incidents

4.13.1. The Service Provider is required to:

- a) take all reasonable steps to manage all incidents to ensure the safety and welfare of Transferees and other people at the Sites;
- b) seek to resolve all incidents using negotiation and other de-escalation techniques; and
- c) restore safety and security in the Site as quickly as possible.

4.14. Checks to verify all Transferees are present and safe

- 4.14.1. The Service Provider is required to, in conjunction with other service providers, verify that all Transferees are present and safe in the Site at least twice each day, at times which take account of any curfew arrangements.
- 4.14.2. The Service Provider is required to work with other service providers to implement processes and procedures for random identification checks and movement restrictions to be able to better account for Transferees.
- 4.14.3. The check conducted by the Service Provider must be conducted in a manner that respects the cultural, religious, gender and privacy needs of Transferees.
- 4.14.4. Personnel undertaking checks need to be skilled in identifying Transferees who may be unwell or not coping, including in circumstances where the Transferee may be attempting to hide a problem.
- 4.14.5. The Service Provider must immediately report to the Department Operations Team Leader any concerns about a Transferee's safety, well-being and security.

4.15. Searches

- 4.15.1. The Service Provider is required to only conduct searches within the Site:
 - a) with the prior approval of the Department; or
 - b) on request of the Department.

4.16. Use of Force

- 4.16.1. The Service Provider is required to exercise use of force within the Site only:
 - a) in unavoidable and unforeseen circumstances, to avoid the risk of Transferee self-harm or harm to Personnel; and
 - b) in accordance with the relevant RPC legislation.

4.17. Visitor escorts

- 4.17.1. The Service Provider must ensure that:
 - a) visitors to the Sites who are assessed by the Service Provider as requiring a visitor escort are accompanied by Personnel at all times;
 - b) visitor escorts are conducted as discreetly as possible, allowing for private conversations between Transferees and visitors; and
 - c) contractors requiring access are provided with an escort.

4.18. Perimeter security

- 4.18.1. The Service Provider must ensure that the security of the perimeter of the Site is maintained at all times in accordance with departmental policies and procedures as notified from time to time by the Department.

4.19. Contingency plans and procedures

4.19.1. The Service Provider is required to:

- a) develop and implement an interim contingency plan for the Site within 7 days of execution of the Contract for approval by the Department, that details the control arrangements, communications, and other processes and procedures required for the Service Provider to maintain the safety and security of Transferees and other people who may be in the Site at the time;
- b) develop a more detailed plan in accordance with clause 1.1.2 of this Schedule 1. The contingency plan will address a range of plausible contingencies, be developed and maintained in accordance with ASNZS 3745 and include:
 - i. procedures for notifying the Department and other service providers that the contingency plan is in effect;
 - ii. coordination procedures with the Department and other service providers and other authorities;
 - iii. processes for communicating emergency procedures to Transferees, Personnel and all other people at the Site to ensure they understand the emergency procedures;
 - iv. plans and arrangements for applicable emergency services (such as ambulance services, fire services, police services, utilities and nominated contractors) to access and move through the Site;
 - v. procedures which apply to a variety of emergency situations (to include evacuation where warranted); and
 - vi. frequency of emergency drills and tests.

4.20. Safety and security exercises

4.20.1. The Service Provider is required, in conjunction with other service providers, to:

- a) implement a departmental approved schedule of monthly (or fortnightly, if otherwise required by the Department) safety and security exercises to test security and Incident response capabilities for Personnel of all service providers; and
- b) at the conclusion of each safety security exercise, provide a written report to the Department on the outcomes from the exercise, including any proposals for continuous improvement.

5. Catering at the Site

5.1. Nutritional and Food Safety

5.1.1. The Service Provider is required to:

- a) ensure Transferees and all Personnel requiring catering are provided with access to food and beverages that are sufficient in quantity, offer variety and are nutritious and culturally appropriate;
- b) ensure compliance with all applicable health and food safety regulations; and
- c) accommodate catering for dietary requirements, where possible and as requested, such as allergies, gluten intolerance, vegetarian and vegan.

5.2. Quantity of food and beverages

- 5.2.1. The Service Provider must provide food and beverages in quantities that are at least 10% more at lunch times and 10% more at dinner times than the quantities identified in the Dietary Guidelines for Australian Adults published by the National Health and Medical Research Council.

5.3. Halal arrangements

- 5.3.1. The Service Provider is required to ensure that food prepared for Transferees of Islamic faith is halal, including:
- a) sourcing produce certified as halal by a recognised halal food certification organisation; and
 - b) preventing any cross-contamination between halal food and preparation areas and any other food and preparation areas.

5.4. Self-service snacks

- 5.4.1. The Service Provider must provide self-service snacks and refreshments that are available at all times.

5.5. Transport of food and beverages

- 5.5.1. The Service Provider is required to :
- a) comply with all applicable laws and food safety standards in Australia and New Zealand applying to the transport of food and beverages at all times to the extent reasonably possible, considering the logistic supply routes; and
 - b) clean and maintain hot boxes and eskies used to transport food and beverages.

5.6. Cleaning of food preparation and service areas

- 5.6.1. The Service Provider must keep all food transportation, storage preparation, service, dining and waste storage areas (including designated self-catering and barbeque areas) and associated equipment clean and hygienic in accordance with:
- a) food safety standards in Australia and New Zealand;
 - b) food safety standards applicable to the RPC; and
 - c) any applicable manufacturer's or supplier's specifications for cleaning and catering equipment.
- 5.6.2. The Service Provider must ensure that sufficient Personnel are employed on each shift to allow for efficient cleaning of all food transportation, storage, preparation, service, dining and waste storage areas and equipment.
- 5.6.3. The Service Provider is required to organise periodic inspections of all catering facilities to ensure relevant standards are maintained.

5.7. Catering

- 5.7.1. Personnel responsible for managing catering at the Site will be required to:
- a) hold at least a Certificate III in Hospitality (Kitchen Operations) or equivalent; and

- b) have acquired at least three years' experience in managing a commercial kitchen.

5.7.2. All other catering Personnel engaged by the Service Provider for the preparation of food and beverages will be required to hold at least a Certificate II in Hospitality (Kitchen Operations) or equivalent.

5.7.3. All staff engaged by the Service Provider for the serving of food and beverages will be required to hold at least a Certificate II in Hospitality or have relevant work experience and be supervised by a person holding a Certificate II in Hospitality, other than Transferees who volunteer to assist.

5.8. Display of signage

5.8.1. The Service provider is required to develop and implement within 21 days of the Commencement Date a document that contains instructions for the cleaning and maintenance of hygiene and safety in food preparation and designated self-catering areas in accordance with any departmental instructions. Once developed, the document will be required to be displayed prominently.

5.9. Dining room

5.9.1. The Service Provider is required to:

- a) provide lunch and dinner in designated dining rooms (where a dining room exists in the Site);
- b) provide breakfast and snacks in designated common areas;
- c) open the dining area for lunch between 1230 and 1400 and dinner between 1830 and 2000 except where agreed with the Department; and
- d) open the dining area to serve meals to Transferees of the Islamic faith before dawn and after sunset during Ramadan.

5.10. Late Arrivals

5.10.1. The Service Provider is required to provide a meal and beverage within one hour to Transferees who arrive at a Site between 1830 and 0600.

6. Environmental management

6.1. Environmental management principles

6.1.1. The Service Provider is required to develop environmental management principles for the Sites in accordance with this Schedule 1 to manage energy consumption, the use of natural resources, waste disposal and vermin and pest control that include:

- a) objectives for environmental management;
- b) a risk assessment of the environmental impacts of the individual Site operations;
- c) measures to manage energy consumption, the use of natural resources, waste disposal and pest control;
- d) procedures and documentation for the implementation, development, review and continuous improvement of the environmental management principles;
- e) a self-assessment programme; and

- f) a process for independent annual auditing of the environmental management principles.

6.2. Energy and water

6.2.1. The Service Provider is required to implement any reasonable and cost-effective measures to minimise energy and water use in the Site, including:

- a) identifying and correcting any wasteful operation or practices;
- b) conducting routine Maintenance of systems to achieve peak operational efficiency;
- c) promoting the responsible use of energy, natural resources and water to Transferees and Service Provider Personnel to acknowledge the local conditions; and
- d) complying with any applicable local water restrictions or other water saving measures notified by the Department.

6.2.2. The Service Provider is responsible for ensuring sufficient supplies of water at the Site. For the avoidance of doubt, water carting at Manus Island is not required and outside of scope.

6.3. Waste management

6.3.1. The Service Provider will work with the Department to implement cost effective measures to manage, in accordance with all applicable laws, disposal of:

- a) general liquid, sanitary and solid waste;
- b) non-serviceable or unused fixtures, fittings and equipment (such as white goods, mattresses and fluorescent light tubes);
- c) hazardous materials and waste; and
- d) garden waste

6.3.2. When undertaking disposals, the Service Provider must seek to maximise recycling and, where applicable, composting of waste.

6.3.3. Waste management practices will be required to acknowledge the surroundings and local conditions.

6.4. Vermin and pest control

6.4.1. The Service Provider is required to develop and implement a vermin and pest control plan in accordance with this Schedule 1, that:

- a) is based on Australian Pest Controllers Association best practice;
- b) is compliant with all applicable Law; and
- c) includes measures that will be required to be taken to prevent or eradicate vermin or pest infestations (including mosquitoes, vector, fleas, bed bugs, poisonous animals such as snakes and spiders, rats, mice and other rodents), such as:
 - i. environmental and habitat measures to disrupt breeding and life-cycles;
 - ii. low level chemical measures such as localised dusting and misting; and
 - iii. the scope of the measures to be implemented and the frequency.

6.5. Disruption and health implications of vermin or pest control activities

6.5.1. The Service Provider is required to, to the extent possible having regard to the available infrastructure and facilities, avoid exposing any person to hazards caused by vermin and pest control activities and will be required to minimise disturbance to Transferees caused by vermin and pest control activities by implementing measures, including:

- a) coordinating vermin and pest control activities with the daily routine of Transferees;
- b) preventing Transferees from accessing areas that are being treated with hazardous chemicals; and
- c) consulting with the Department before commencing any pest or vermin control activities that will significantly disrupt daily activities in a Site.

7. Work Health and Safety

7.1. General

7.1.1. The Service Provider is required to:

- a) develop and implement a work health and safety (WHS) plan in consultation with other service providers and the Department;
 - b) comply with all applicable Laws for WHS, which include for the avoidance of doubt the *Work Health and Safety legislation*, regulations and codes of practice as well as any applicable local laws and, where there is any conflict, comply with the highest standard;
 - c) establish a WHS committee to oversee compliance with WHS requirements for the site as a whole - representation from other service providers is encouraged; and
- a) participate, with other service providers, in the WHS committee to oversee compliance with WHS requirements for the Site as a whole.

7.1.2. An interim WHS plan must be in place within 14 days of execution of the Contract. A more detailed WHS plan must be developed and implemented within six weeks of the Contract Commencement Date.

7.1.3. The Service Provider is required to comply with the interim WHS plan until the more detailed WHS plan has been developed and approved by the Department.

7.2. Safety precautions in performing the Services

7.2.1. The Service Provider is required to take all reasonable steps to ensure all people within the Sites observe all the WHS rules for that Site, including rules applicable to:

- a) the storage, transport, and use of materials; and
- b) safe work processes and the incorporation of any safety precautions.

7.2.2. The Service Provider is required to provide appropriate employment assistance programmes for all Personnel, where appropriate. The Service Provider must ensure that all Personnel are aware of and have access to these programmes at all times, particularly while working at a Site and after any deployment.

7.3. Use of hazardous substances and chemicals

- 7.3.1. The Service Provider must take all reasonable steps and work with the other service providers to ensure that:
- a) Transferees, visitors and Personnel are not exposed to hazardous chemicals; and
 - b) the material safety data sheets of all chemicals used in the delivery of Services are readily available in case of emergency to be available within 28 days of the Commencement Date of the Contract.
- 7.3.2. For the purposes of this section, hazardous chemicals have the meaning given in the *Work Health and Safety legislation*.

8. Management of emergencies

8.1. General

- 8.1.1. The Service Provider is required to:
- a) operate and maintain the Site as a safe and secure environment for people to live and work in; and
 - b) comply with all applicable Laws (which may include both RPC and Australian laws) and Australian Standards for the control and management of emergencies.
- 8.1.2. The Service Provider must, within 7 days of execution of the Contract, develop and implement an interim emergency management plan to be approved by the Department (including the Service Provider's procedures for managing and responding to all emergencies) for the Site, to ensure the safety and security at the Site of all Transferees, Personnel and visitors. A more detailed plan is to be developed within six weeks of the Contract Commencement Date.
- 8.1.3. The Service Provider must comply with the interim emergency management plan until the more detailed emergency management plan has been developed and approved by the Department.

8.2. Compliance with Australian Standards

- 8.2.1. The Service Provider must comply with all applicable Australian Standards including Australian Standard 3745: Emergency Control Organisation and Procedures for Buildings, Structures and Workplaces and any update to that standard.

8.3. Emergency Control Organisation

- 8.3.1. The Service Provider is required to develop and implement, in conjunction with the Department Operations Team Leader and other service providers, an Emergency Control Organisation at each Site, which will be responsible for:
- a) implementing emergency procedures as prescribed in the emergency plan and procedures;
 - b) ensuring that all Personnel within the Site are trained for their role in an emergency;
 - c) reporting any matters likely to affect the viability of the emergency plan and procedures;

- d) checking on the effectiveness of emergency systems and equipment; and
- e) controlling emergency situations until the appropriate emergency service arrives to take control, at which time the Emergency Control Organisation will work in conjunction with that service.

8.3.2. The Emergency Control Organisation will be required to meet quarterly and after any emergency.

8.4. Emergency exercises

8.4.1. The Service Provider must in conjunction with other service providers:

- a) conduct all emergency exercises required by law or as directed by the Department Operations Team Leader at the Sites; and
- b) maintain records of all emergency exercises conducted.

8.5. Access to the Site

8.5.1. The Service Provider is required to, at all times, with or without notice, provide access to any part of the Site to Department personnel, the Auditor-General and the Privacy Commissioner and members of the Council for Immigration Services and Status Resolution.

8.5.2. Subject to their compliance with any applicable security requirements, the Service Provider is required to facilitate access to the Site by representatives of those government agencies who have entered into a Memorandum of Understanding with the Department, in order to enable them to provide the Services referred to therein.

8.5.3. The Service Provider must not knowingly provide access to the Site for media visits and external agencies except with the approval of the Department and in accordance with the procedures and conditions specified by the Department.

8.5.4. The Service Provider must develop entry and egress procedures for all persons requesting access to the Sites, which includes Personnel and visitors.

8.6. Fire Fighting Services for the Regional Processing Centre on Manus Island

8.6.1. The Service Provider is required to use best endeavours to provide fire fighting services for the Regional Processing Centre at Manus Island equivalent to the standard provided by its predecessor prior to the Commencement Date. For avoidance of any doubt:

- (a) this shall require the Service Provider to use equipment made available to the Service Provider by the Commonwealth at the Commencement Date;
- (b) this shall not require the Service Provider to use standards and equipment comparable to Australian standards and requirements relating to the provision of fire fighting services;
- (c) the fire fighting services shall be provided initially by using the limited local resources available until such time as the Services Provider is able to procure sufficient other resources.

8.6.2 Within a reasonable period after the Commencement Date, the Services Provider is required to have fire fighting services that consist of:

- a) a minimum of 2 lead fire fighters with appropriate Australian qualifications per shift;
- b) a minimum of 4 fire fighters per shift who are employed locally; and
- c) equipment available on the site at Manus Island at the Commencement Date.

9. Logistics

9.1. General

9.1.1. The Service Provider is required to work cooperatively with the Department, local authorities and other service providers to ensure that logistics are completed in a timely manner.

9.1.2. The Service Provider is required to develop a logistics plan that sets out in more detail the logistics arrangements that will apply at the Site. This plan should include the procurement of consumables required on a regular basis and appropriate storage and inventory management. All procurement for items specified in clause 6.1.1) in Schedule 2 [Fees and Payment] must comply with Commonwealth Procurement Rules and other guidelines issued by the Department. Once approved, the service provider will be required to comply with and implement the plan.

10. Personnel accommodation

10.1. General

10.1.1. The Service Provider is required to provide the Services set out in this Schedule at Personnel accommodation sites (Accommodation Site) (# of beds are subject to change by the Department):

Nauru:

Site number	Location/description	# of beds
1	Site 1 Anibare	272
2	Site 2 location TBC	32
3	Site 3 OPC 1 Construction Camp	900
4	Baitsi District (4 bed house)	12
5	Anabar District (2 bed house)	8
6	Anibare Bay (3 bed house)	12
7	Meneng District (2 bed house)	8

8	Meneng District (3 bed house)	12
9	Nursery Camp Construction	102

Manus:

Site number	Location/description	# of beds
1	Bibby Progress	635
2	Hardstand Site 1	188

10.1.2. The Department will provide the Service Provider with two weeks' notice prior to the requirement of Services at a new Accommodation Site. The Service Provider is required to provide Services in the timeframe specified by the Department.

10.1.3. The Department may vary existing capacity or add an Accommodation Site to the Contract at any time by providing two weeks' notice in writing.

10.2. Reception

10.2.1. The Service Provider is required to provide all administration and reception services associated with the Accommodation Sites.

10.2.2. The Service Provider is required to develop and implement a booking system to:

- (a) identify all Personnel seeking access to the Accommodation Site;
- (b) confirm and advise whether staff are able to be accommodated on the dates requested;
- (c) fulfil record keeping requirements;
- (d) manage the check-in and out process; and
- (e) avoid duplication of bookings.

11. Transport and Escort

11.1. General

11.1.1.1. The Service Provider is required to:

- (a) supply transport and escort services for the Sites;
- (b) transport and escort Transferees and their property in accordance with the Department's requests, where the transport is voluntary or due to medical evacuation;
- (c) transport Transferees for the purposes of programmes and activities and local appointments;

- (d) supply transport via a shuttle bus service for Transferees and Personnel; and
- (e) transport Personnel to and from accommodation facilities for the commencement and end of each shift.

11.2. Delivery of transport and escort Services

- 11.2.1. The Service Provider is required to:
 - (a) deliver transport and escort services in a manner that takes into account the Department's requirements, the needs and wellbeing of passengers, the integrity of other service providers and contingency situations and related risks;
 - (b) operate appropriate vehicles and inclusions, including communication devices;
 - (c) provide appropriately trained Personnel to undertake the Services;
 - (d) where the transport and escort is for a Transferee voluntary return, ensure the Transferee being transported is the person nominated in the transport request before the task commences;
 - (e) ensure that passengers are aware of where they are going and the expected time of departure and arrival;
 - (f) develop and distribute schedules for scheduled transport and escort Services; and
 - (g) provide all meals, beverages and medications for the transport and escort task where appropriate.

- 11.2.2. Modes of transport applicable for transport could be by air, sea or vehicle.

11.3. Vehicles

- 11.3.1. The Service Provider is required to:
 - (a) provide vehicles in types and quantities of vehicles suitable for transporting Transferees and Personnel;
 - (b) ensure all vehicles:
 - i. comply with applicable laws for passenger transport vehicles;
 - ii. are clean and tidy;
 - iii. are appropriate to the number of people being transported;
 - iv. carry the appropriate equipment, such as a first-aid kit and fire extinguisher;
 - v. are serviced and maintained;
 - vi. are insured and registered;
 - vii. are operated by licenced drivers; and
 - viii. have log books and supporting records maintained.

12. Facilities Maintenance Programme and Minor Capital Works

12.1. Facilities Maintenance Programme and Fund

- 12.1.1. The Service Provider must provide, no later than 8 weeks after the Execution Date (or as otherwise reasonably agreed), a draft Facilities Maintenance Programme (FMP) to the Department that includes:
- (a) an itemisation of recommended maintenance and upgrades to the Sites (excluding Services specified in Part 3 of Schedule 1 of this Contract);
 - (b) an estimate total cost for each FMP item and overall total cost for the FMP;
 - (c) estimate timeframe to practically complete each FMP item (the Service Provider must complete the approved FMP within the Term of this Contract);
 - (d) identification of subcontractors (if any) that the Service Provider intends to engage a FMP item (wholly or partially); and
 - (e) any assumptions, qualifications or issues in relation to each FMP item (if any).
- 12.1.2. The Department will provide written notification to the Service Provider that it approves the FMP or specific FMP items.
- 12.1.3. The Service Provider must amend FMP items (as rejected by the Department) and provide the amended/updated FMP items to the Department for review/approval within 1 month after any item is so rejected by the Department.
- 12.1.4. The Service Provider must not implement the FMP or specific FMP items until it receives prior written approval from the Department.
- 12.1.5. The Service Provider may submit updated FMPs to the Department during the Term of the Contract (subject to the Service Provider's obligations specified clause 12.1.1 – 12.1.4 in Schedule 1 (as above)).
- 12.1.6. The Department will pay a Facilities Management Cost (FMC) of ~~Proposed~~ [REDACTED] each month to the Service Provider (subject to the Service Provider's requirements specified Clause 9.1 of Schedule 2 of this Contract) to facilitate the approved FMP items (such amount is included in the monthly Service Delivery Fee calculation as set out in clause 3.1 of Schedule 2).
- 12.1.7. The Service Provider and the Department acknowledge and agree that the FMC will not exceed (in aggregate) ~~Proposed Redaction~~ [REDACTED] during the Term unless varied in accordance with clause 17.9 of this Contract.
- 12.1.8. The Service Provider will consult with the Department so as to agree to a reasonable timetable for commencement of one or more of the approved FMP items at a time where sufficient FMC has been accumulated by the Service Provider to reasonably cover the costs and expenses of carrying out the approved FMP item or items.
- 12.1.9. The Service Provider must ensure that hourly rates for its Personnel to undertake the any FMP item does not exceed the hourly rates specified in Attachment A in Schedule 2 (excluding hourly rates for subcontractor personnel that undertake an FMP item (as approved by the Department)).

12.1.10. The Service Provider must substantiate (to the Department's reasonable satisfaction) the final actual cost for each FMP item and the overall total actual cost for carrying out the FMP no later than 2 weeks after completion of the FMP (but no later than 2 weeks before expiry of the Term). The Department agrees that all goods, materials, consumables, equipment and any specialist subcontractors engaged will be invoiced and charged to the Department at cost plus **Proposed** mark-up.

12.1.11. The Service Provider must reimburse the Department any unexpended amount of the FMC no later than 2 weeks before expiry of the Term.

12.1.12. The Service Provider is not entitled to payments that exceed the FMC (notwithstanding the Service Provider's substantiation of actual expenditure that exceeds the FMC) unless approved in writing by the Department.

12.2. Minor Capital Works

12.2.1. In this clause, **Minor Capital Works (or MCW)** means construction services as defined in the Commonwealth Procurement Guidelines (not Site maintenance or upgrades) that are valued (in total) less than **100000** (inc. GST).

12.2.2. The Department may, during the Term of this Contract, submit a brief to the Service Provider to undertake MCW. The Department must ensure that the brief includes (as a minimum):

- (a) Site and location for the MCW;
- (b) required functionality of the MCW;
- (c) preliminary design/specifications for the MCW (if available);
- (d) required lifetime of the MCW;
- (e) any assumptions, qualifications or issues in relation to the MCW;
- (f) anticipated date for practical completion for the MCW; and
- (g) preferred defects liability period for the MCW (if required);
- (h) draft proposed contract terms

12.2.3. If the Service Provider is agreeable to providing a MCW proposal to the Department, the Service Provider will submit a MCW proposal to the Department no later than 2 weeks after it receives the Department's brief (as above) that includes (as a minimum):

- (a) total cost (and preferred payment milestones) of the MCW;
- (b) earliest commencement date for the MCW;
- (c) full design/specifications for the MCW;
- (d) date for practical completion for the MCW;
- (e) any assumptions, qualifications or issues in relation to the MCW; and
- (f) confirmation as to whether the proposed contract terms for the MCW are acceptable.

12.2.4. The Service Provider must amend its MCW proposal (if rejected by the Department) and provide the amended/updated MCW proposal to the Department no later than 1

week after it receives the Department's notification that it rejected the initial MCW proposal.

- 12.2.5. The parties will execute a MCW contract (on such terms as are to be reasonably agreed between the parties) if the Department accepts the Service Provider's MCW proposal.

PART 4 GOVERNANCE

1. Governance arrangements

1.1. General:

1.1.1. This Part:

- a) outlines the Department's governance framework to support the effective delivery of Services; and
- b) discusses the partnering approach expected of the Service Provider, the Department and other Service Providers to build long term relationships and improve service delivery for Transferees; and
- c) describes the contract management structure that will be in place at a Site and national level, including the committees and joint initiatives the Service Provider is required to participate in.

1.2. Governance framework

1.2.1. The Service Provider is required to comply with the governance framework developed by the Department, which may change from time to time.

1.2.2. The Service Provider is required to cooperate with the Department by actively participating in committees and meetings that have been (or will be) established. The Department will notify the Service Provider in writing of any changes to governance arrangements.

1.2.3. The Service Provider is required to cooperate with the Department, other Service Providers, and stakeholders, to meet the needs of Transferees and assist the Department to meet its obligations.

1.2.4. The Service Provider is required to attend, but is not limited to, the following local management meetings:

- a) daily morning meetings with the Department and other Service Providers;
- b) Transferee consultative committee meetings with Transferees, other Service Providers and the Department;
- c) weekly Individual and Behavioural Management Committee meetings with the Department and other Service Providers to review Transferee Individual Management Plans, Behavioural Management Plans and to identify Transferees at risk;
- d) Work Health and Safety (WHS) Committee meetings with the Department and other Service Providers to review WHS concerns at an OPC;
- e) weekly Departmental review meetings with the Department and other Service Providers to review performance and service delivery at an OPC;
- f) OPC Security Committee meetings with the Department and other Service Providers to review security arrangements; and
- g) monthly OPC level board meetings with the Department and other Service Providers to review the effectiveness of governance arrangements, risks and issues affecting the OPC.

Unless otherwise advised by the Department, local management meetings will be held on Site.

- 1.2.5. The Service Provider is required to participate in, and action agreed items resulting from all meetings, consultative committees and forums at the request of the Department.
- 1.2.6. In certain situations, and particularly at the local management level of governance, the Service Provider is required to chair and lead a meeting.
- 1.2.7. The Service Provider is required to provide updates, reports and briefings for meetings, consultative committees and forums at the request of the Department. These meetings may be held at the Department's National office in Canberra and the frequency will be agreed between the parties.
- 1.2.8. The Service Provider with the Department, relevant OPC government and communities will be required to:
 - a) participate in and contribute to regular meetings with community leaders; and
 - b) develop and maintain good working relationships with key community members.The Department will take a lead role in the development and implementation of any community consultations or meetings.

SCHEDULE 2 FEES & PAYMENTS

1. Service Fee

1.1. Elements of the Service Fee

1) The Service Fee for the Services will comprise the following elements which are described further below:

- a. a Corporate Overhead Fee;
- b. a Service Delivery Fee (which for the avoidance of doubt includes the FMC referred to in clause 12.1.6 of Part 3 of Schedule 1);
- c. Personnel Accommodation Services Fee;
- d. Transition-In Fee and Transition-Out Fee;
- e. Pass-Through Costs (without mark-up);
- f. Payments under the cost reduction and incentive framework;
- g. Any other amounts payable under this Contract.

2) The Service Provider is not entitled to any other payments in relation to the delivery of the Services.

1.2. Adjustment of Service Fee for Contract extension

1) [REDACTED]

2) The Service Provider must submit the proposal to the Department no later than 2 weeks after the date it receives notification from the Department that it proposes to extend the Contract.

3) The parties will negotiate and finalise (in good faith) the proposed adjustment to the relevant fees prior to the commencement date of the extension to the Term.

4) [REDACTED]

5) [REDACTED]



1.3. Exchange Rate

- 1) If the Department and the Service Provider are required (for any reason) to convert local currency on the Regional Processing Countries to AUD\$ (or vice versa) the parties will utilise the following currency conversion rate:

P



- 2) The exchange rate is to apply to all transactions denominated in Kina and includes the reimbursement of meal monies to the Department.
- 3) No variation to this exchange rate will be considered in the initial Term of the Contract.
- 4) If the Department extends the Contract in accordance with clause 2.4.2, adjustment to the PNG Kina exchange rate will be made by having regard to any change between the exchange rate in clause 1.3 1 above and the PNG Kina exchange rate (expressed in AUD) published by the Reserve Bank of Australia at commencement date of the extension to the Term.
- 5) Conversion of currency other than PNG Kina will be at the rate published on the Reserve Bank of Australia website on the date the invoice or closest business day if the date of the invoice is a bank holiday or weekend.

1.4. Performance Linked Fee

- 1) The Performance Linked Fee comprises the total financial amount put at risk by the Service Provider for any Financial Abatement for Performance Failures for which the Service Provider may be liable under Schedule 6, Part 9.2 in any month.
- 2) The maximum Performance Linked Fee put at risk for each month is the sum of the applicable 'Monthly Corporate Overhead Fee at Risk' for Nauru and Manus Sites as listed in Column 1 - Nauru and Column 2 – Manus in Attachment C of Schedule 2, calculated at the applicable Transferee Band for that Site for the relevant month.
- 3) If the number of transferees fluctuates between bands throughout the course of the month on a Site, for which the Service Provider is determined to be liable under the Contract for any Financial Abatement for Performance Failures, the Performance Linked Fee for that month will be calculated on a pro-rata basis based on the number of calendar days in that month as relevant to each Site.

2. Corporate Overhead Fee

- 1) The Corporate Overhead Fee is a monthly fee linked to capacity bands based on the number of transferees on island, calculated daily. See below.

- 2) The Service Delivery Fee comprises all costs, excluding Personnel Accommodation Services and approved Pass Through Costs (without mark up), relating to the Statement of Work outlined in Schedule 1.
- 3) If the number of transferees moves between capacity bands throughout the course of the month, the monthly fee will be applied on a pro-rata basis based on the number of calendar days in that month.

4. Personnel Accommodation Services Fees on Nauru and Mannus

- 4.1. Personnel Accommodation Services Fee is a fixed daily fee for each bed located in Personnel Accommodation Sites on Nauru and Mannus for performing the garrison services outlined in clause 10 of Part 3 in Schedule 1 at the Personnel Accommodation sites. No additional corporate overheads fee will apply to the Personnel Accommodation Services Fee. The Personnel Accommodation Services Fee is linked to capacity bands. See below.

Proposed																				
Redaction																				

Proposed																				
Redaction																				

4.2. The 'Components of the Service Charge' specified in clause 4.1 in Schedule 2 (as above) are based on Personnel Accommodation Sites on the Execution Date, being:

- a. Nauru – 1,358 beds; and
- b. Manus – 823 beds.

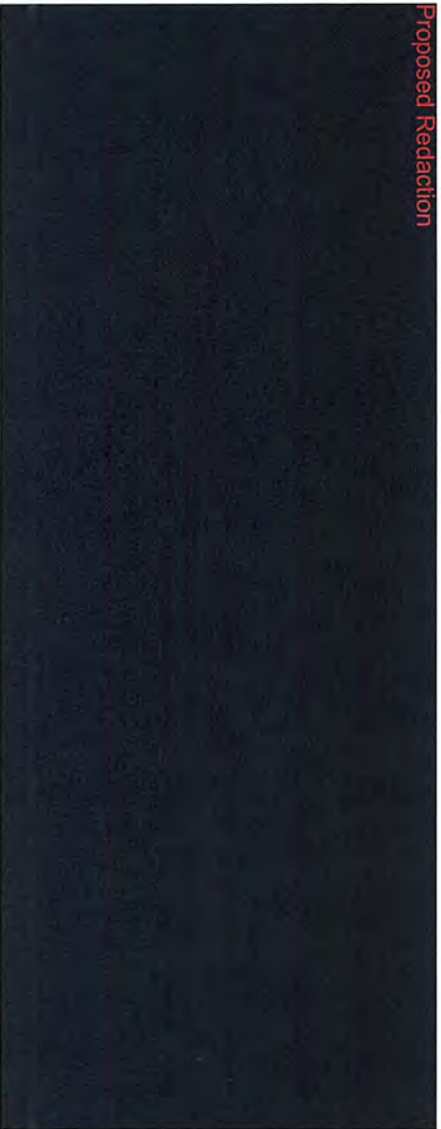
4.3. In the event the Department increases the bed capacity in the Personnel Accommodation Sites during the Term of the Contract, the 'Components of the Service Charge' specified in clause 4.1 in Schedule 2 (as above) will be multiplied by the revised number of beds .

4.4. If the number of transferees fluctuates between capacity bands throughout the course of the month, the monthly fee will be applied on a pro-rata basis based on the number of calendar days in that month.

5. Transition-In and Transition-Out Fees

5.1. Transition-In Fees and Transition-Out Fees are fixed, reflecting the maximum transition fee payable, and apply for the timeframes specified in the Service Provider's Transition-In Plan and Transition-Out Plan (as approved by the Department in accordance with the clause 2.5 and 15.3).

Proposed Redaction



6. Pass-Through Costs and Pass Through Costs Fee

6.1. Approval of Pass-Through Costs

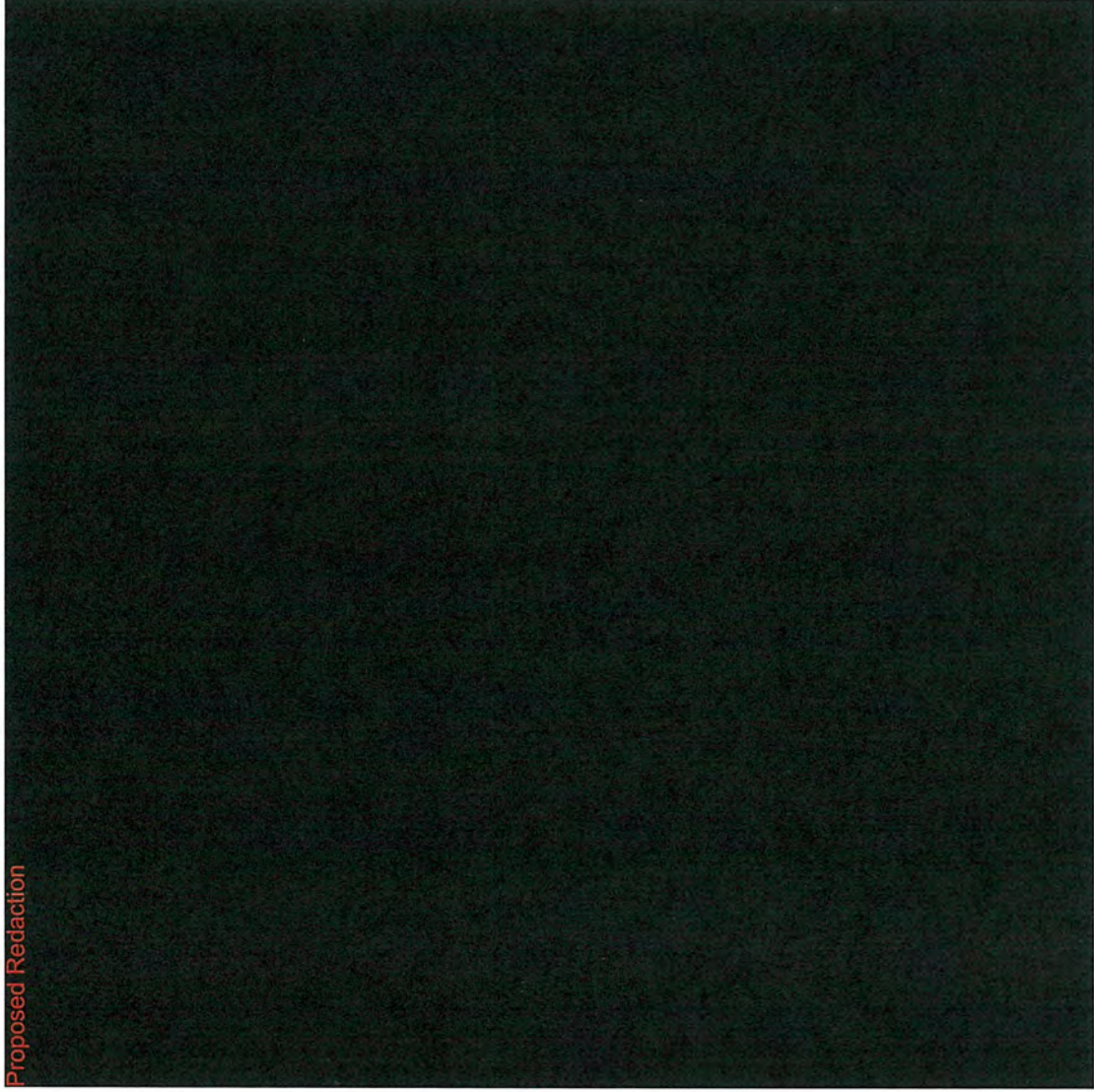
1) The Department will reimburse reasonable approved costs incurred by the Service Provider that are not covered by the Corporate Overhead Fee or the Service Delivery Fee in relation to the following:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED];
- d. [REDACTED];
- e. [REDACTED];
- f. [REDACTED];
- g. [REDACTED];

h. [Redacted]

2) Pass-Through Costs are linked to capacity bands and are estimated as follows:

Proposed Redaction



- 3) The Department will reimburse any requirement to replace Transferee property or compensate a Transferee for loss or damage to their own property other than where the loss or damage was caused or contributed to by an act or omission of the Service Provider. No mark-up is to be applied to reimbursement of these costs.
- 4) The parties will develop a joint procedure for the management, approval and reporting of procurement and Pass-Through Costs that are subject to approval

- by the Department within the scope of the Contract. All Pass-Through Costs subject to Departmental approval must:
- a. be approved by the Department in advance in writing; and
 - b. be claimed within 3 months of the date on which the relevant goods or services are provided to the Service Provider, with no Pass-Through Costs able to be claimed more than 60 days after the expiration or earlier termination of the Contract.

7. Additional Services

- 7.1. The Department may (from time to time) request the Service Provider to provide additional or out-of-scope services (i.e. services not currently specified in the Statement of Work). Hourly rates for labour for the Service Provider Personnel to undertake the additional or out-of-scope services are specified in the Attachment A.
- 7.2. No additional fees will apply to additional or out-of-scope services unless approved by the Department prior to commencement of the particular services.
- 7.3. Additional fees may include reimbursement for pass through costs such as materials, consumables, equipment and any specialist subcontractors, which will be invoiced at cost plus **Proposed** mark-up. Reimbursements will only be processed if prior approval for the expenditure has been obtained by the Service Provider from the Department.
- 7.4. Exchange rate provisions included at section 1.3 of Schedule 2 will apply to any additional fees.
- 7.5. Additional Services under clause 7 should be invoiced separately from regular Service Fees.
- 7.6. Respondents may also specify additional types of Personnel and respective hourly rates for further consideration by the Department.

8. Cost Reduction Incentive Framework

8.1. Reduction of Corporate Overhead Fee and Service Delivery Team Fee

- 8.1.1 The Service Provider is entitled to **Pro** of any saved amount of the Corporate Overhead Fee that is determined as follows:

Proposed Redaction

Proposed Redaction

F
r
o
p
o
s
9
1
R

[REDACTED]

8.2.2 The Service Provider must separately substantiate (to the Department's reasonable satisfaction) the saved amount for Period 1, 2 and 3.

8.2.3 The Department will pay the approved saved amount **Propo** for Period 1, 2 and 3 no later than 30 days after the expiry date of Period 1, 2 and 3 (subject to the Service Provider's requirements specified Clause 6.1 of Schedule 2 of this Contract).

9. Payment Arrangements

9.1. Invoices

- 1) The Service Fee (including the monthly component of the FMC (refer clause 12.1.6 of Part 3 of Schedule 1) will be invoiced and submitted as soon as possible and in any event no more than 3 Business Days after the last working day of each month and be paid by the Department monthly in arrears within 14 days of receipt by the Department of a correctly rendered invoice.
- 2) Approved Pass Through Costs, Additional Services Fees and Transition In and Transition-OutFees will be invoiced and submitted as soon as possible after the 15th day of each month and be paid by the Department monthly in arrears within 21 days of receipt by the Department of a correctly rendered invoice.
- 3) Unless otherwise agreed, any payments under this Contract will be made by electronic transfer directly to a nominated bank account. Payments will be net of payment reductions for abatement for which the Service Provider is liable under the Agreement.
- 4) An invoice must:
 - a. meet Australian Taxation Office requirements of a tax invoice as required by GST Law;
 - b. be accurate;
 - c. meet the requirements of the Financial Management and Accountability Act 1997;
 - d. provide disclosure of the basis of all components of the Services Fee and FMC charged to the Department (including relevant calculations); and
 - e. provide full substantiation for any Pass-Through Costs claimed by the Service Provider and include confirmation that the Pass-Through Costs are

properly recoverable (including compliance with clause 6.1.4 in Schedule 2 (as above)).

- 5) An invoice will not be considered correctly rendered until the end of the relevant service period.

9.2. Disputes about invoices

- 1) If the Department in good faith disputes the whole or any portion of the amount claimed in an invoice, the Department:
 - a. may withhold payment of any part of the Service Delivery Fee, any Pass-Through Costs or FMC that are in dispute until the dispute is resolved; and
 - a. must notify the Service Provider in writing (within 30 days of receipt of the invoice) of the reasons for disputing the remainder of the invoice.

9.3. Incorrect Invoices

- 1) If an invoice is found to have been rendered incorrectly, any underpayment or overpayment will be recoverable by or from the Service Provider, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due from the Department to the Service Provider. In such circumstances the Service Provider must provide to the Department a correctly rendered Tax Adjustment Note.

9.4. Insurance

- 1) From time-to-time there may be a need to seek reimbursement of items that will be subject to an insurance claim. These items should be invoiced to the Department separately from regular Service Fees and Pass Through Costs and should clearly identify the claim number on the face of the invoice.

10. Petty Cash

10.1. Nauru

- 1) To replenish the Nauru float, the Advance Holder should forward an email to odrtg.finance@immi.gov.au requesting approval for a cash advance, usually of **Prop**
- 2) Once approved, the Finance Manager for ODRTG will email the Advance Holder and the Service Provider, advising that the cash advance of **Prop** has been approved and that the Service Provider may add the **Prop** expense to the DIBP Invoice.
- 3) The Advance Holder may then physically collect the **Prop** cash and receipt, from the Finance Section in the Service Provider's office.
- 4) The Advance Holder should scan and save the collection receipt, then email it to revenue.management.unit@immi.gov.au and odrtg.finance@immi.gov.au.

- 5) When completing the monthly reconciliation, the Advance Holder should record the new cash advance as a payment to the float in the Petty Cash Ledger.
- 6) Once the monthly reconciliation is completed, the Advance Holder should scan and email all of the receipts to revenue.management.unit@immi.gov.au and odtfg.finance@immi.gov.au by 2:30pm Tuesdays.

7) Manus

- 8) To replenish the Manus float, the Advance Holder should forward an email to odtfg.finance@immi.gov.au requesting approval for a cash advance, usually of **Prop**

- 9) Once approved, the Finance Manager for ODRTG will email the Advance Holder and the Service Provider, advising that the cash advance of **Prop** has been approved and that the Service Provider may add the **Prop** expense to the DIBP Invoice.

- 10) The Advance Holder may then physically collect the **Prop** cash and receipt, from the Finance Section in the Service Provider's office.

- 11) The Advance Holder should scan and save the collection receipt, then email it to revenue.management.unit@immi.gov.au and odtfg.finance@immi.gov.au.

- 12) When completing the monthly reconciliation, the Advance Holder should record the new cash advance as a payment to the float in the Petty Cash Ledger.

- 13) Once the monthly reconciliation is completed, the Advance Holder should scan and email all of the receipts to revenue.management.unit@immi.gov.au and odtfg.finance@immi.gov.au by 2:30pm Tuesdays.

11. Meal monies

- 11.1. Meal monies collected from Departmental staff and Service Providers should be separately banked and returned to the Department monthly.

11.2. Nauru

- 1) Meal monies will be collected in \$AUD.
- 2) Following the end of the month, and no later than 5 business days after the end of the month, the Service Provider should advise the Department the amount that has been collected for meal monies.
- 3) The advice should be accompanied by a reconciliation confirming the amount.
- 4) Following acceptance of this advice and reconciliation, the Department will raise an invoice to the Service Provider requesting reimbursement of this amount within 30 days.
- 5) The Service Provider must pay this invoice and cannot provide a credit note or request that these monies be offset against outstanding invoices.

a. subsidised meals for Personnel in accordance with Department policy.

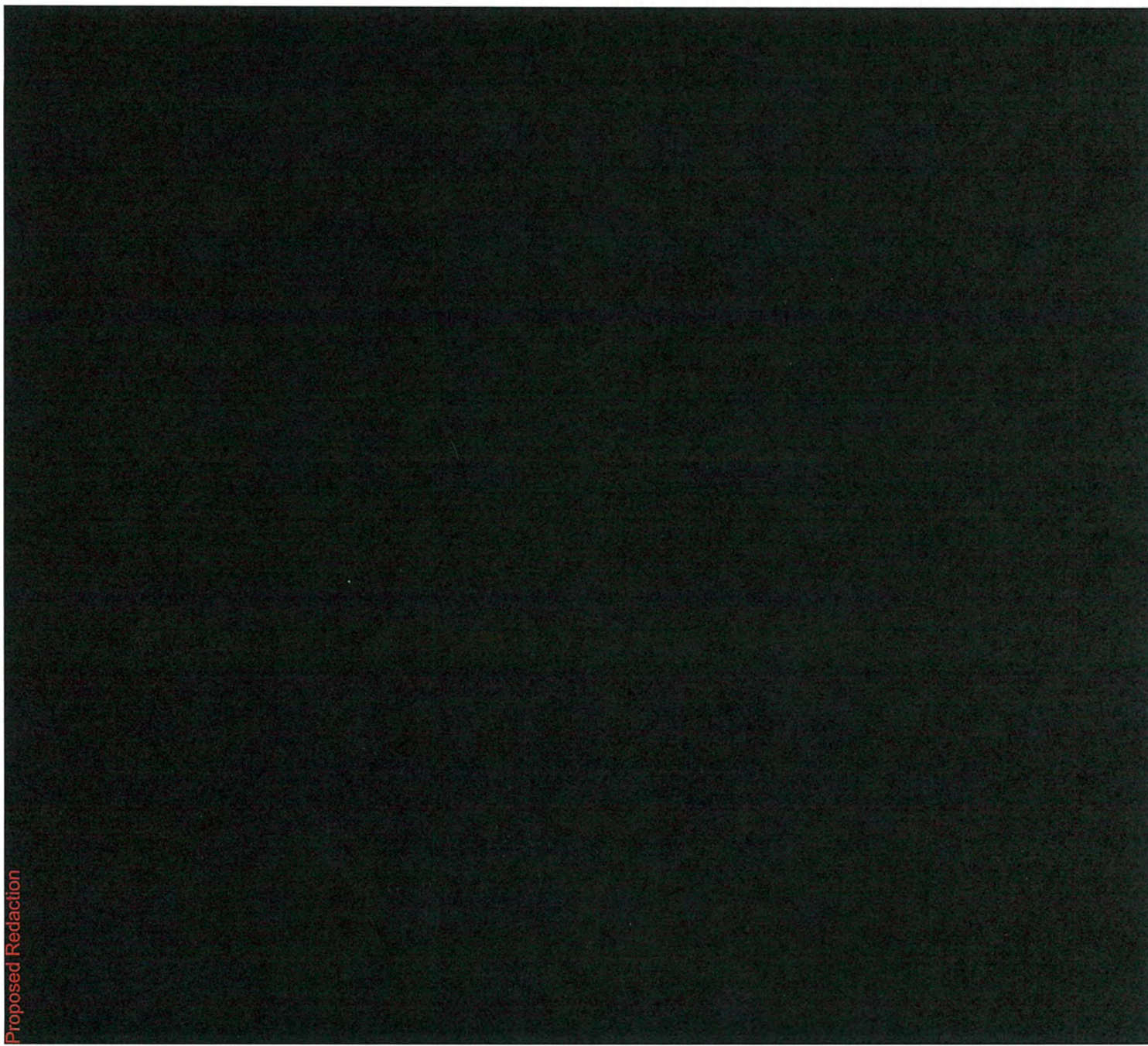
13. Cost assumptions

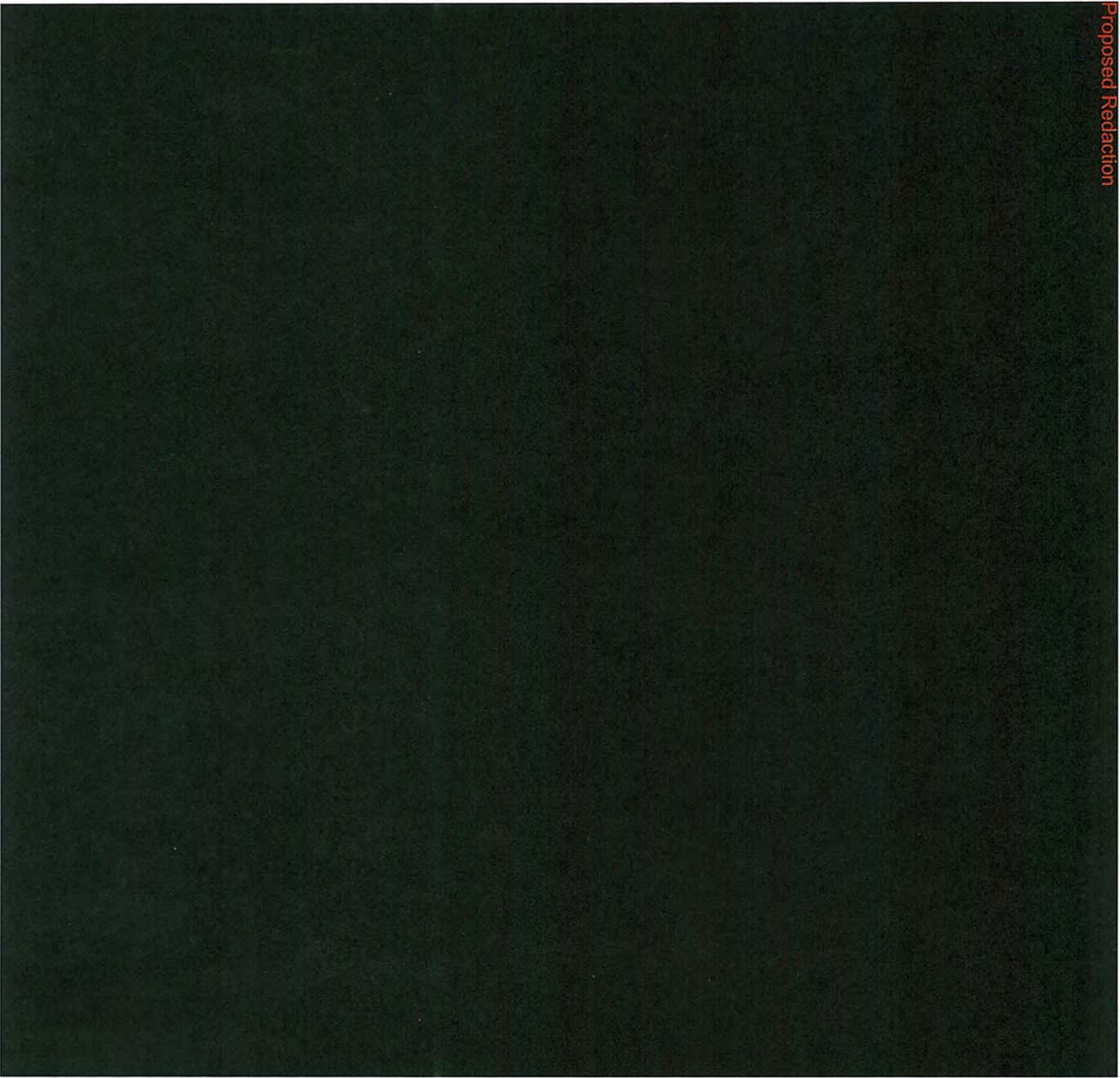
1) The Service Provider's agreed cost assumptions are at Attachment B.

Attachment A – Additional Services

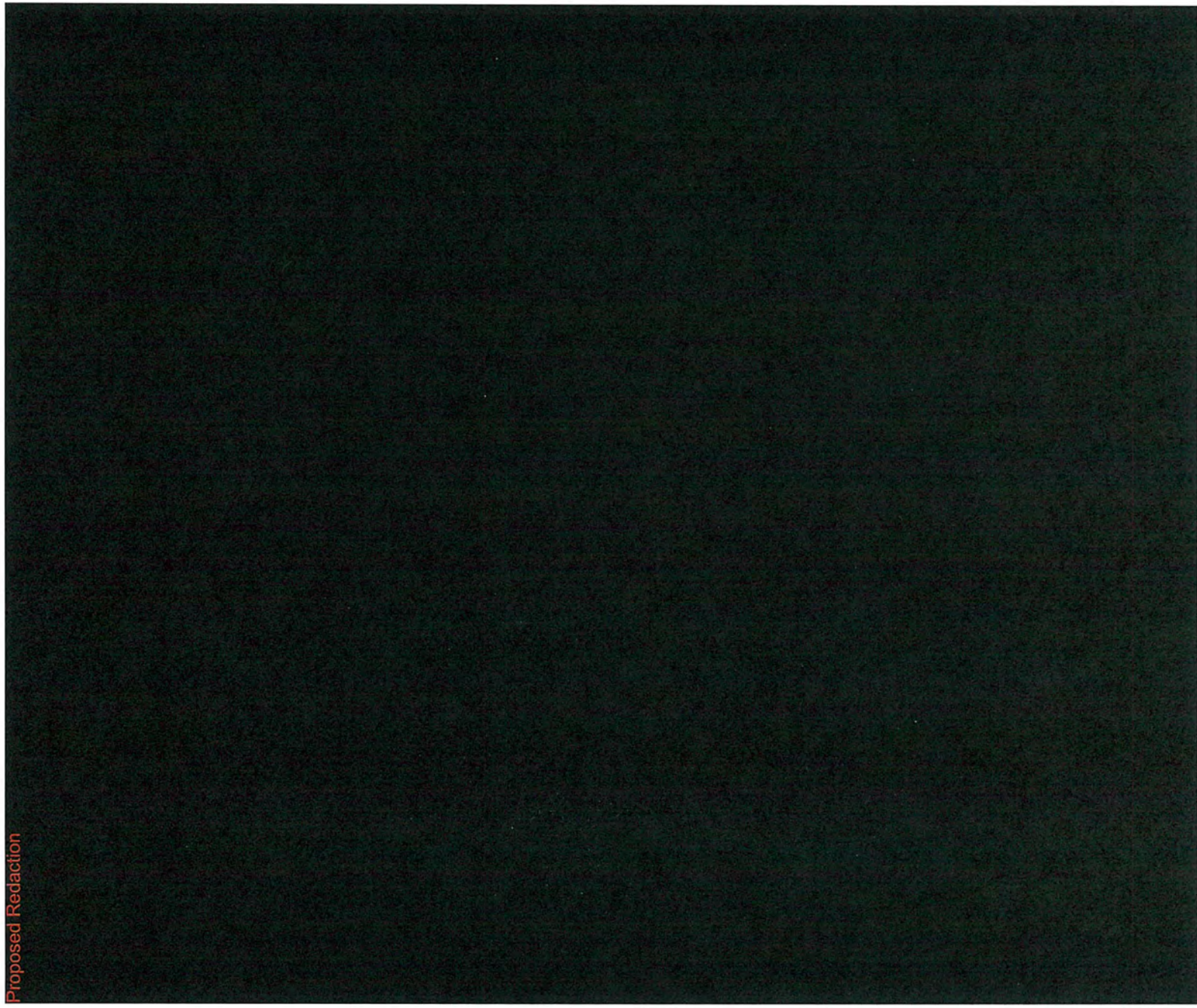
The Additional Services Fee will be determined using the following hourly rates for labour:

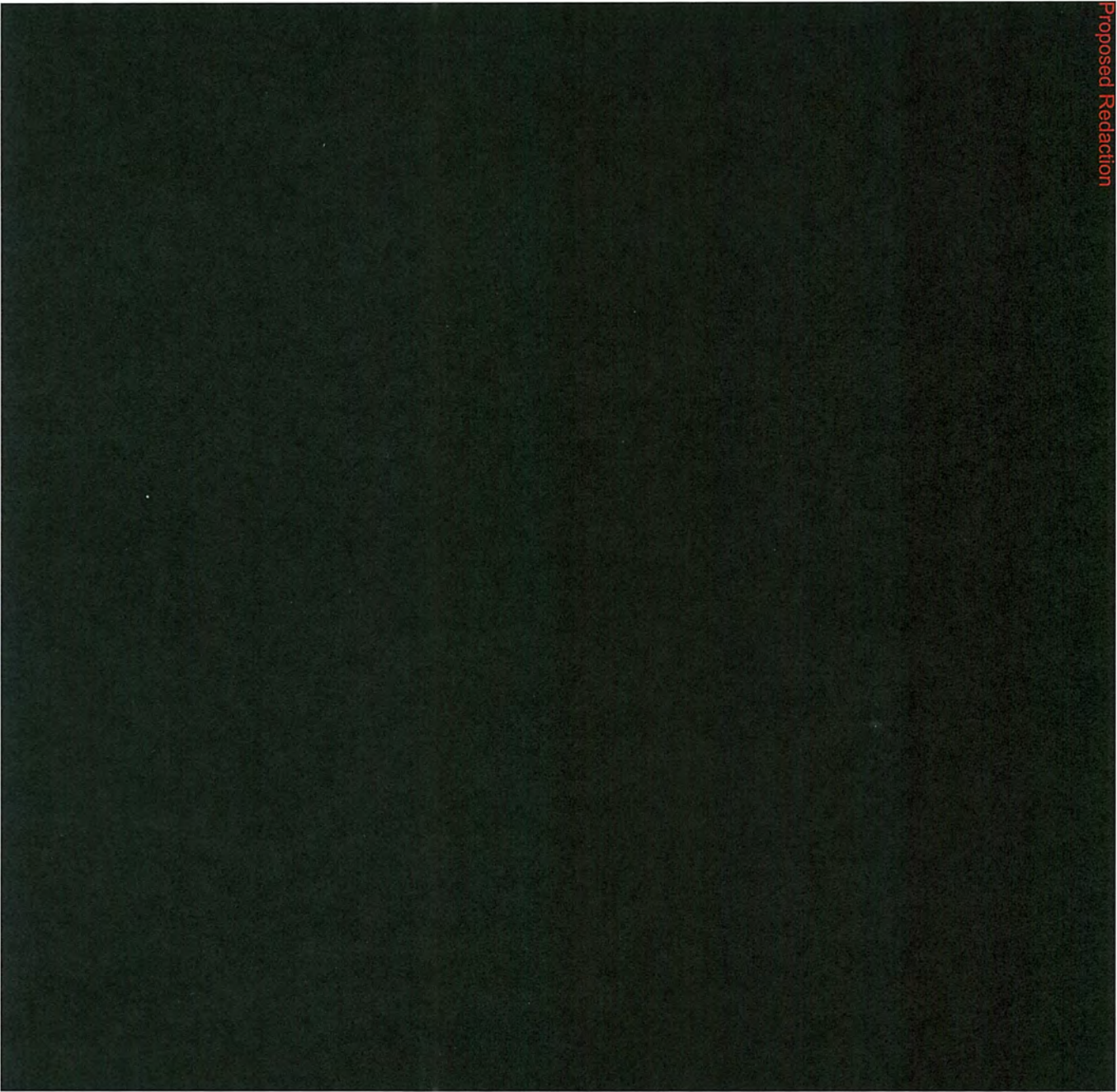
Proposed Redaction



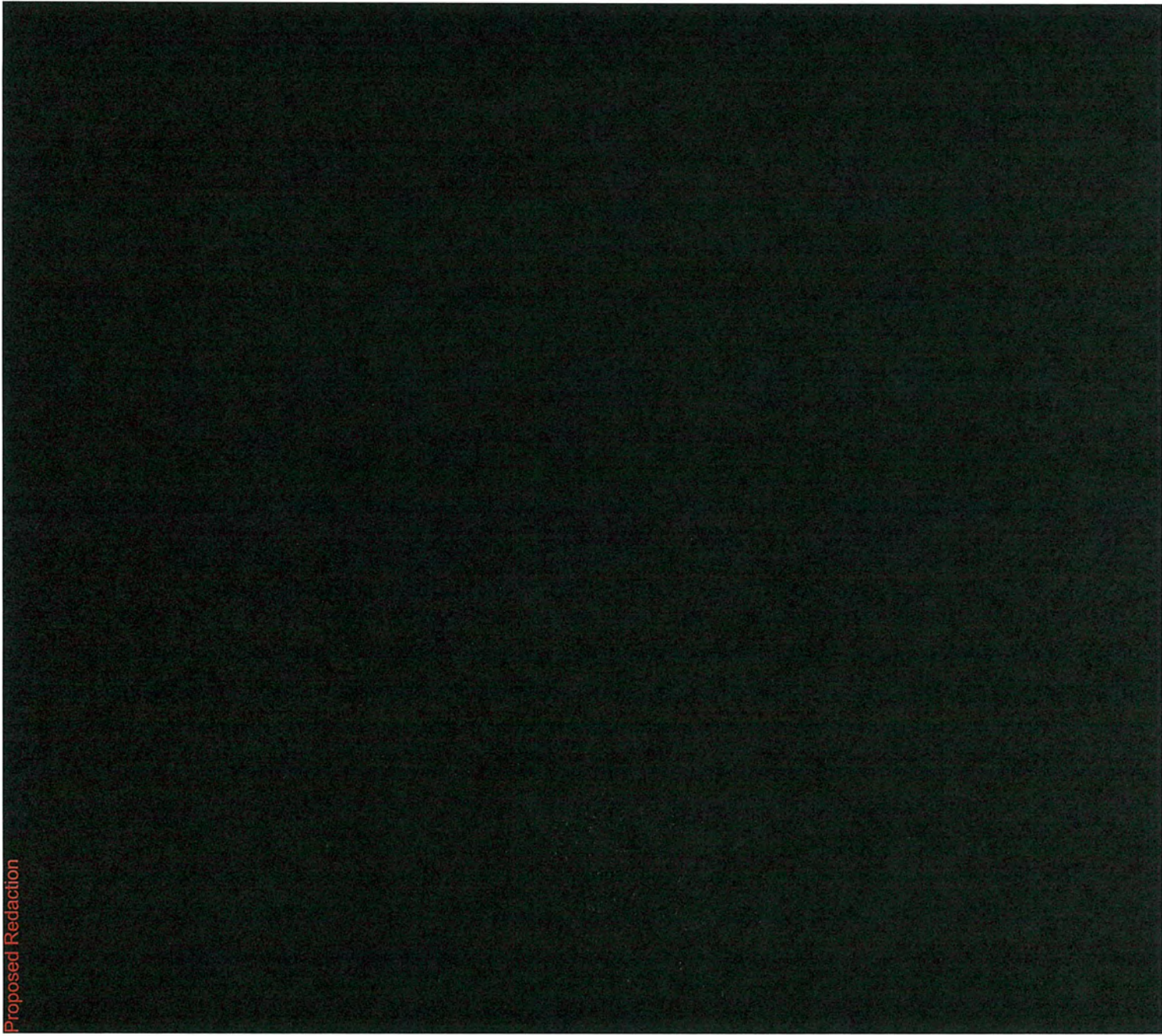


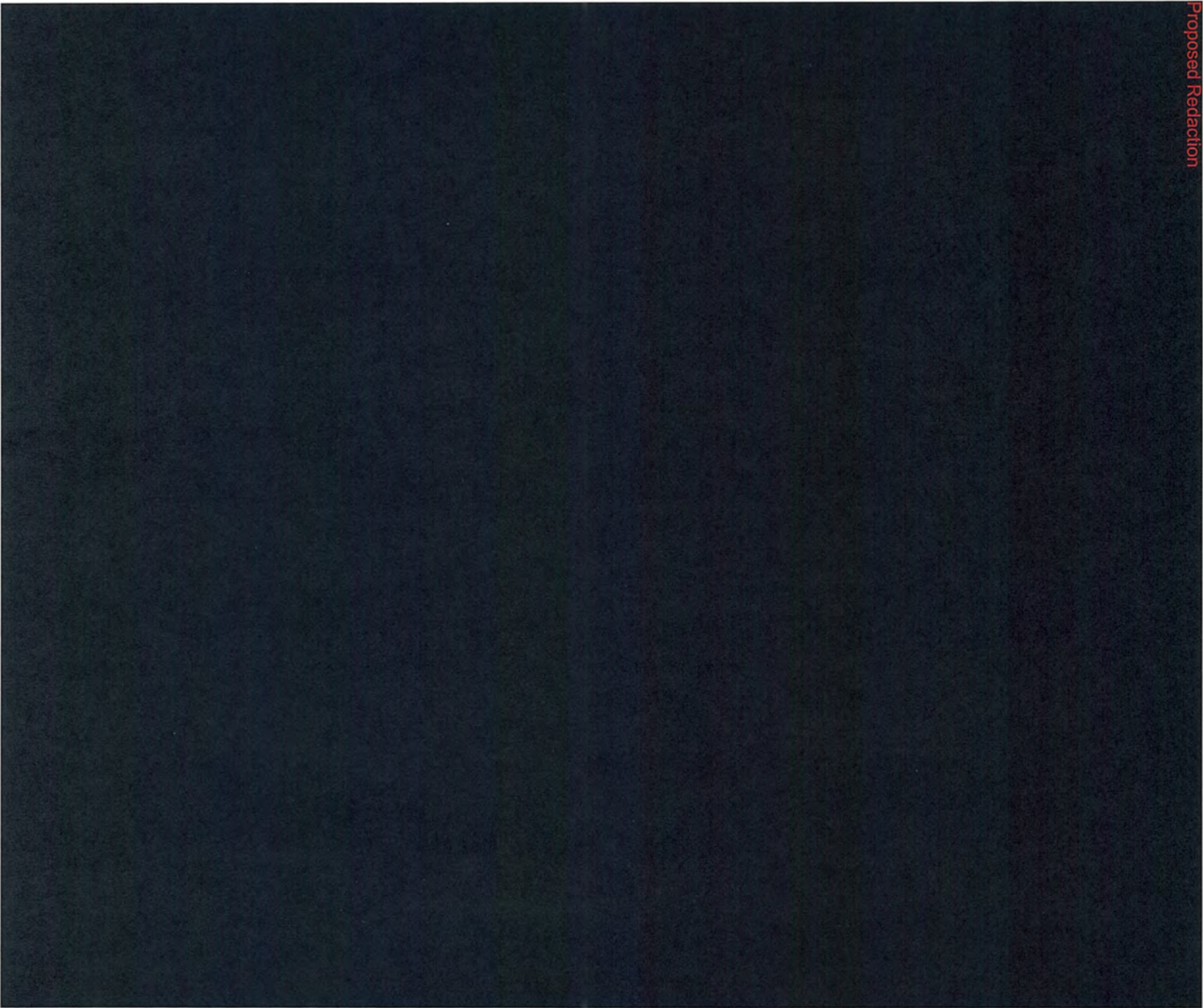
Proposed Redaction



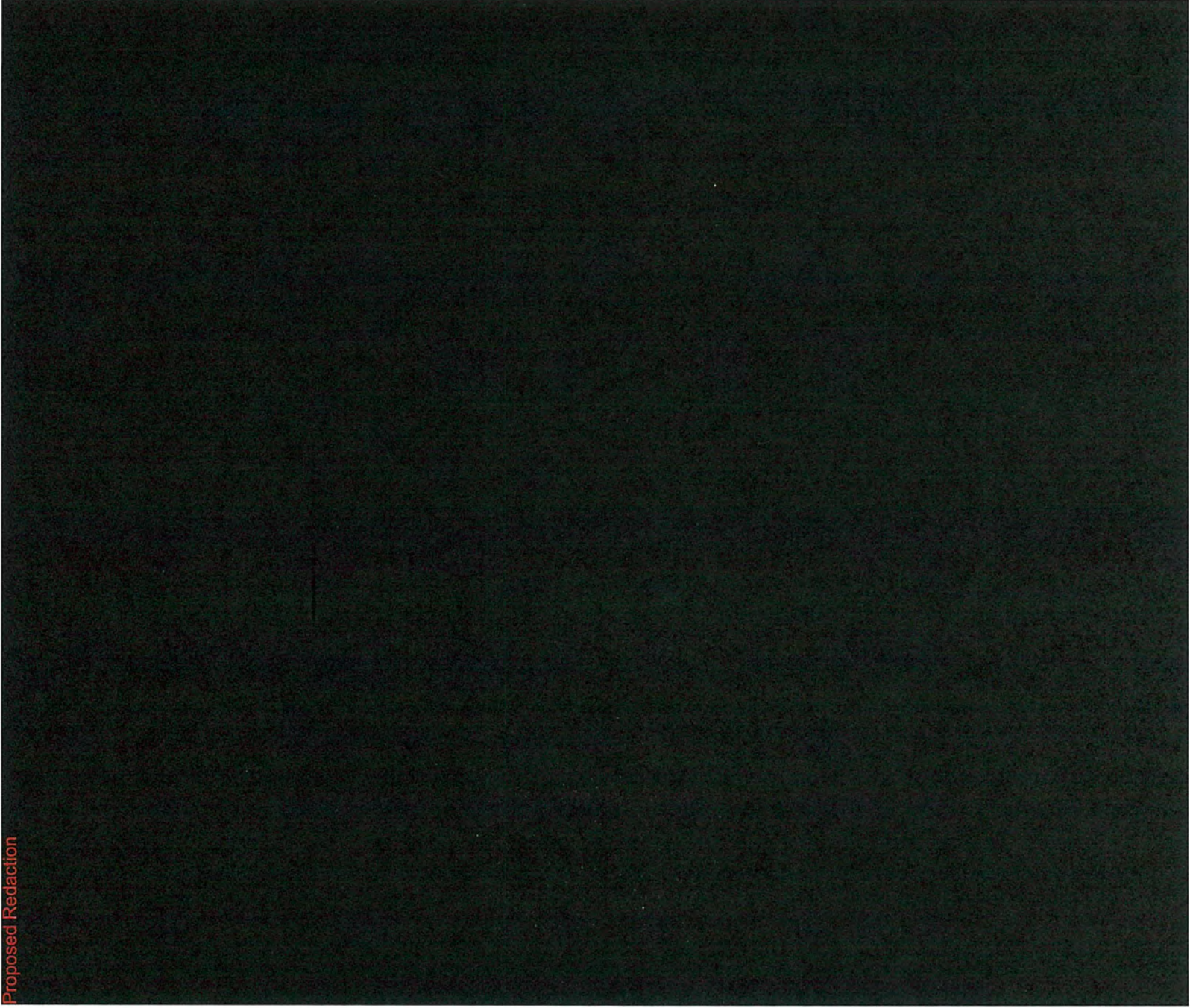


Proposed Redaction

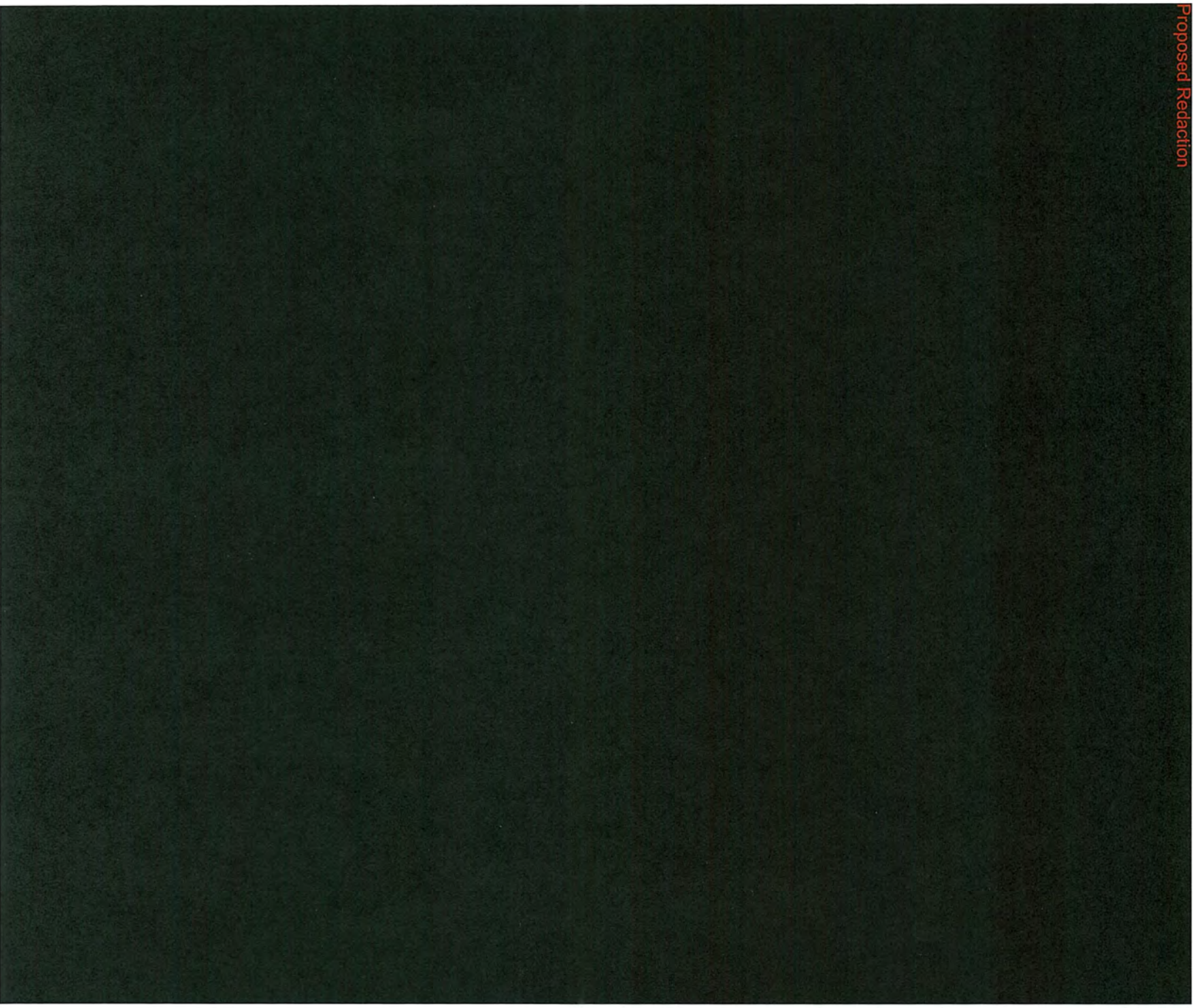




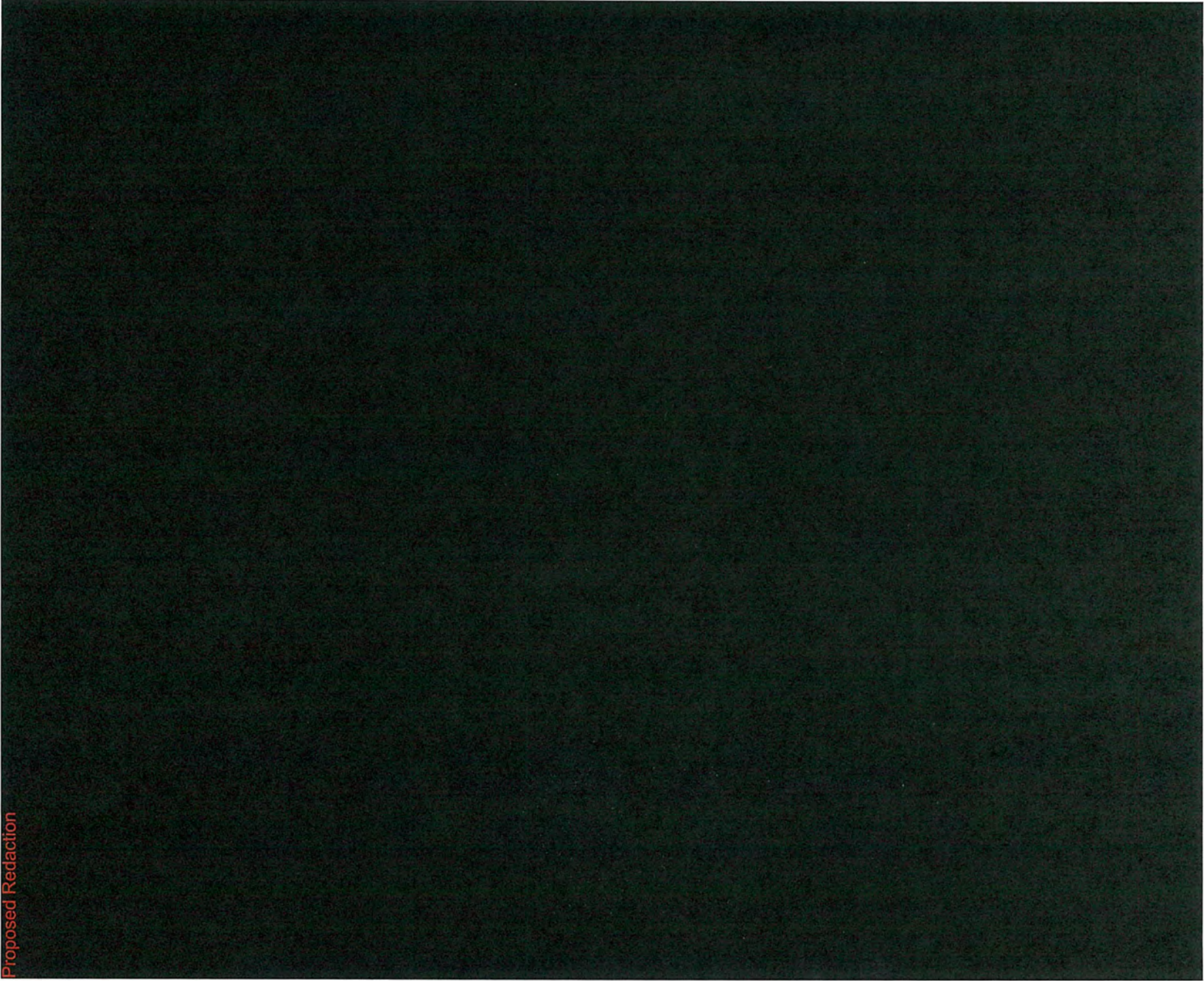
Proposed Redaction

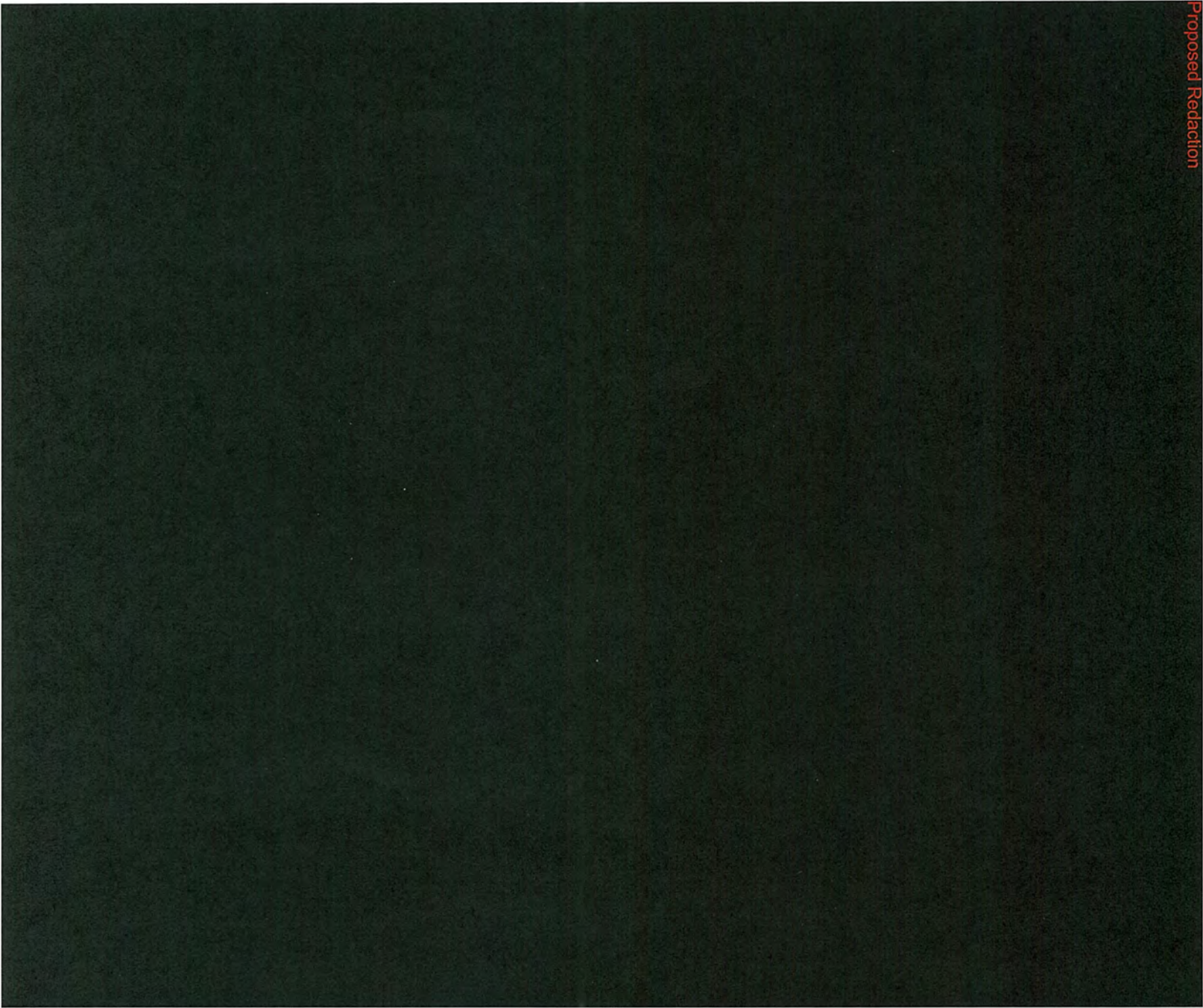


For Official Use Only

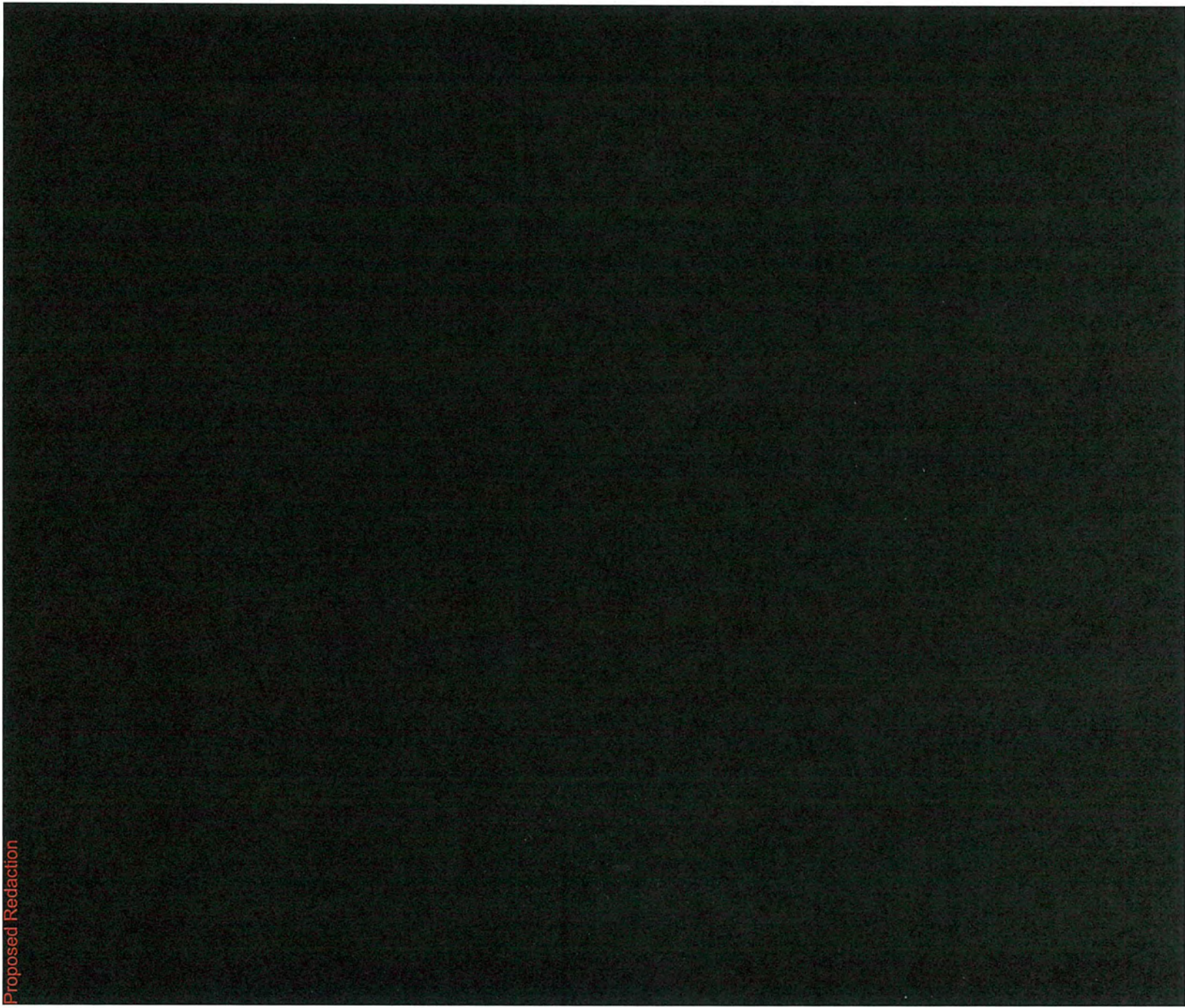


Proposed Redaction

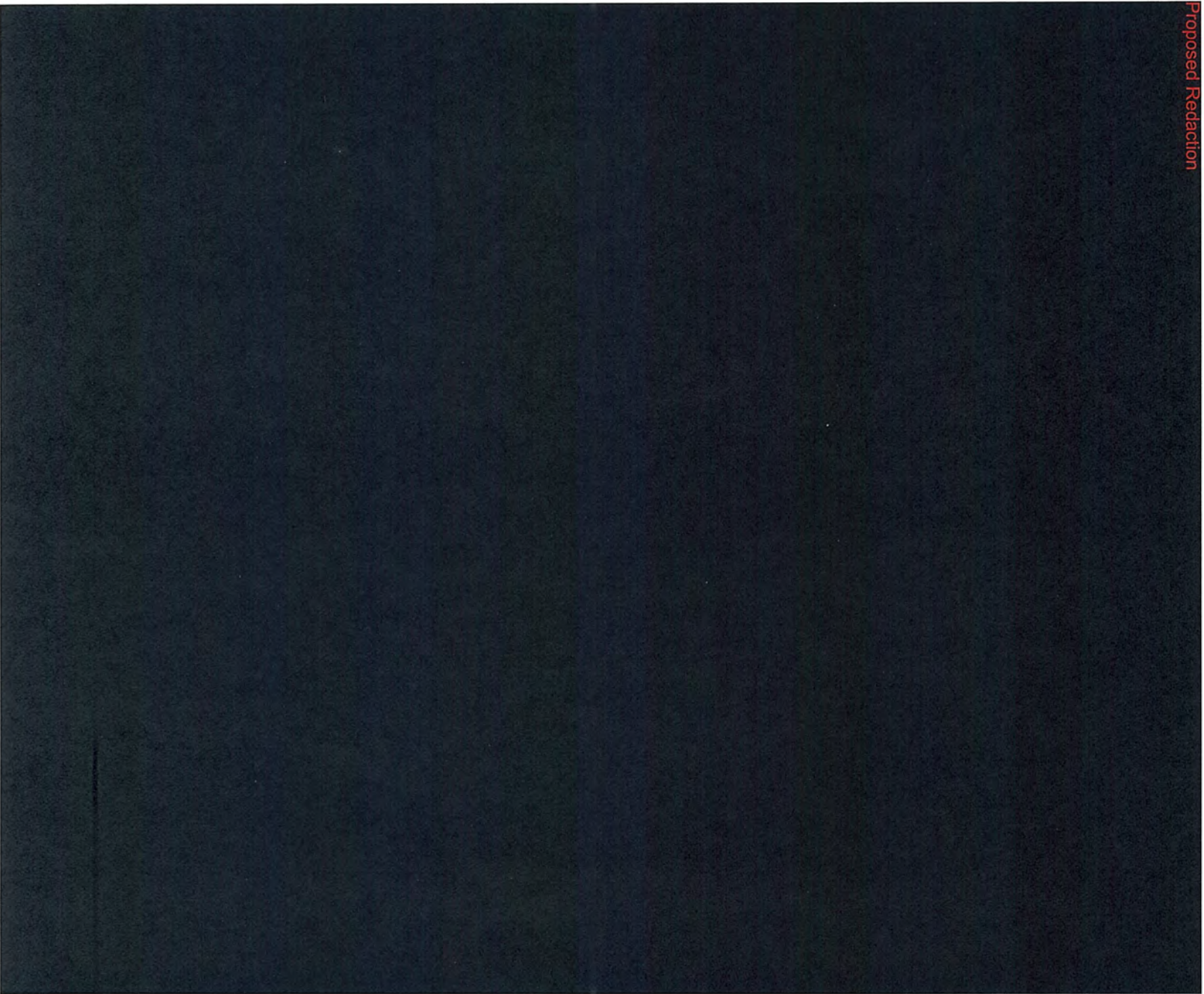




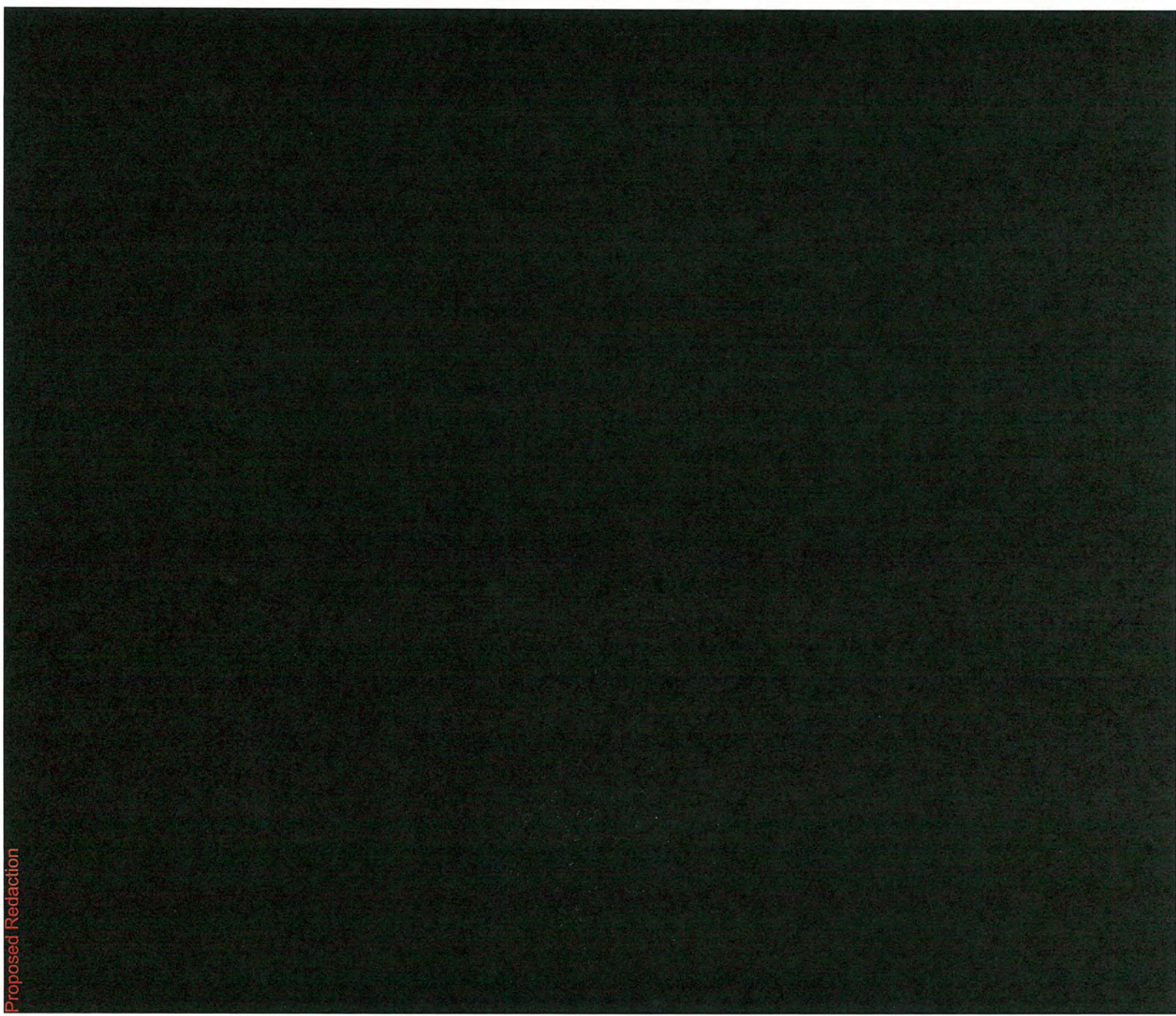
Proposed Redaction

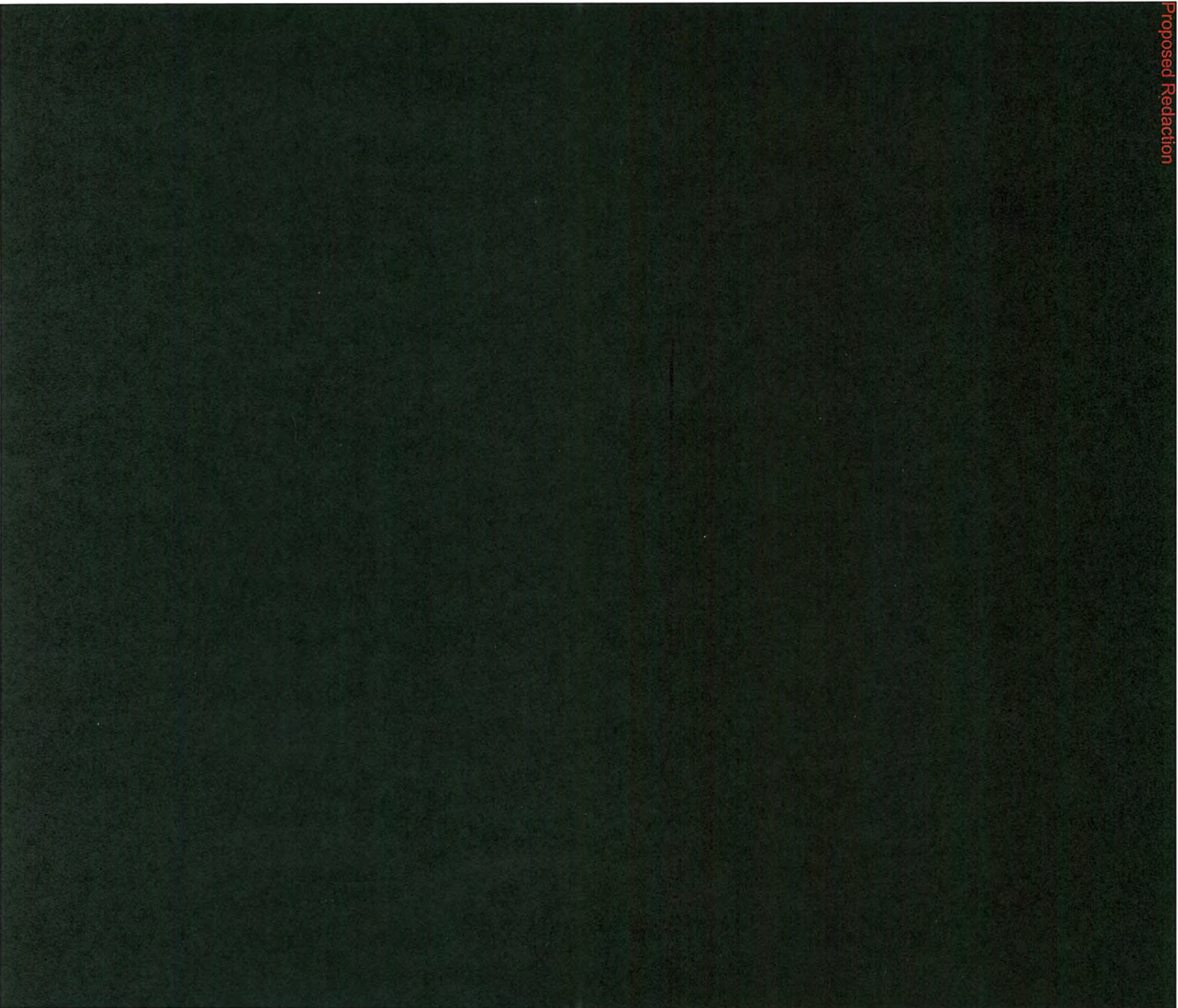


For Official Use Only

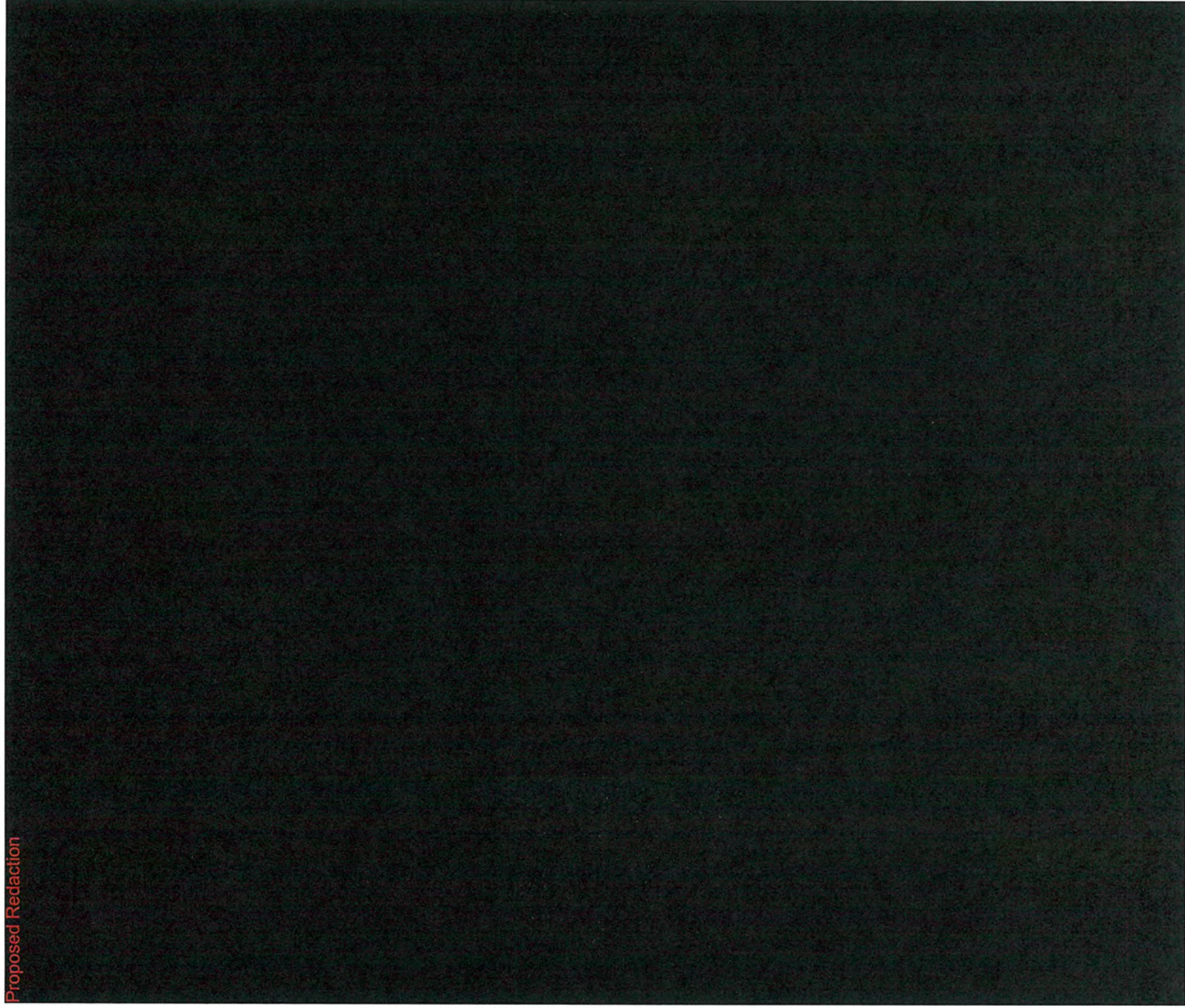


Proposed Redaction



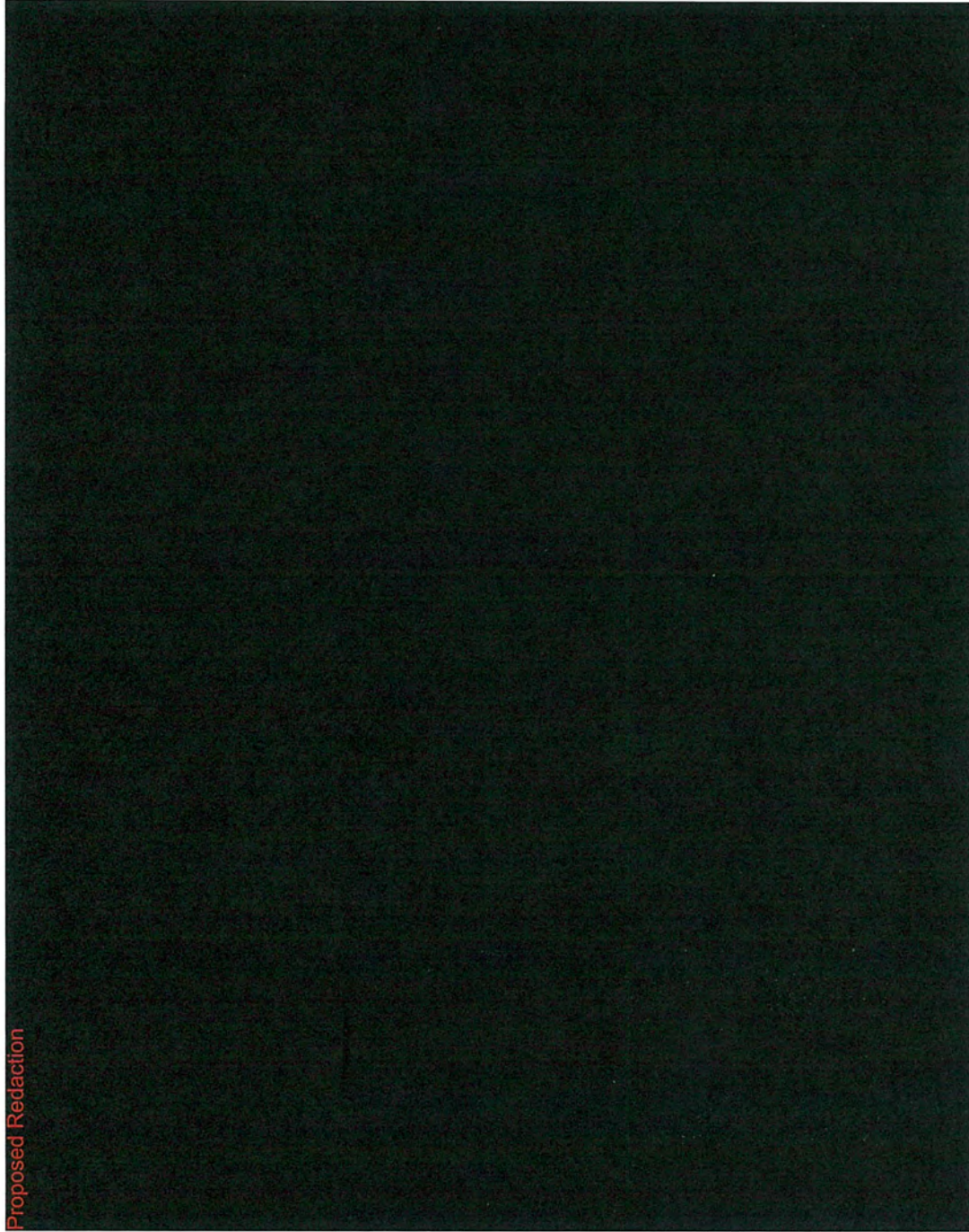


Proposed Redaction



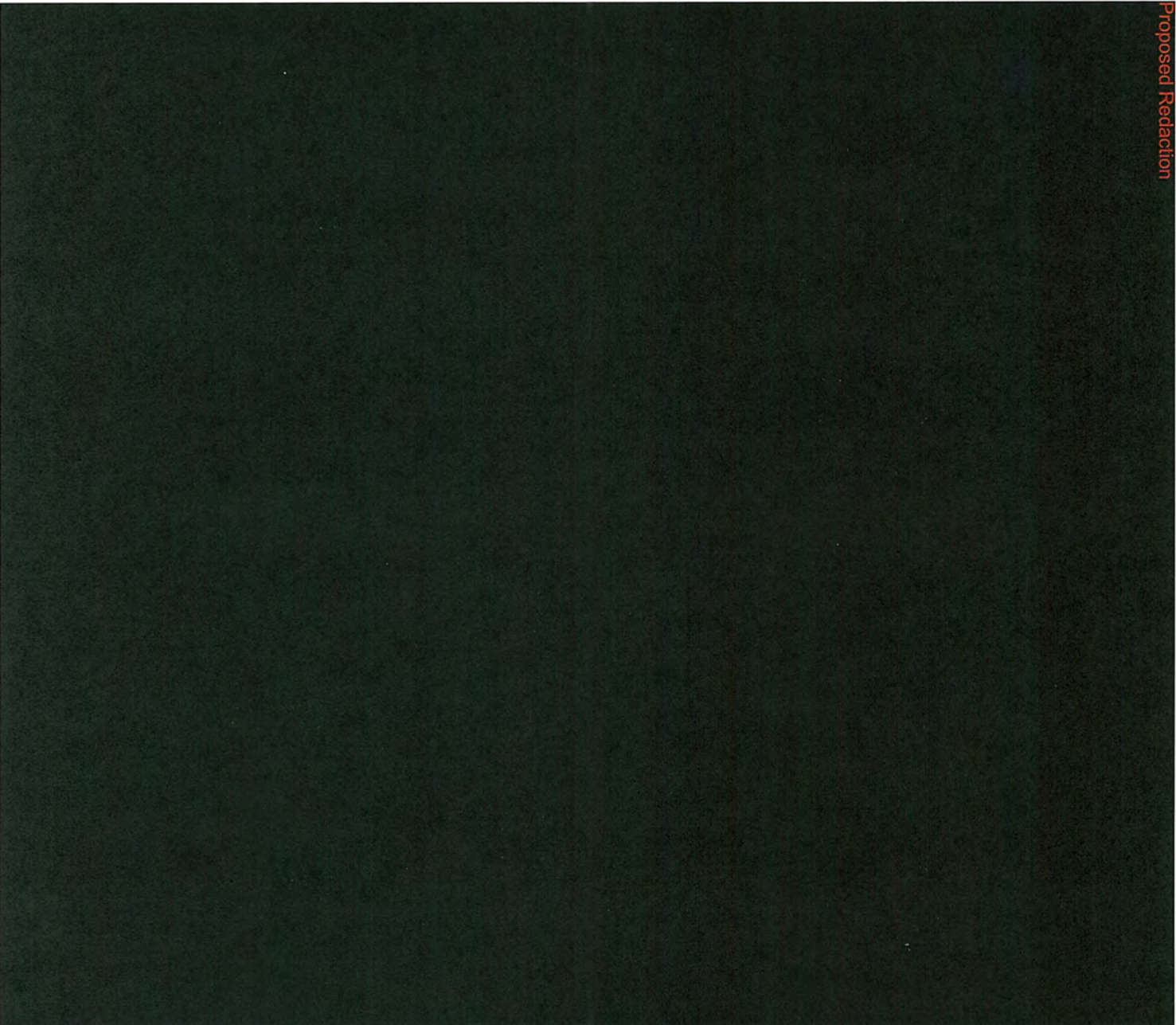
For Official Use Only

Proposed Redaction

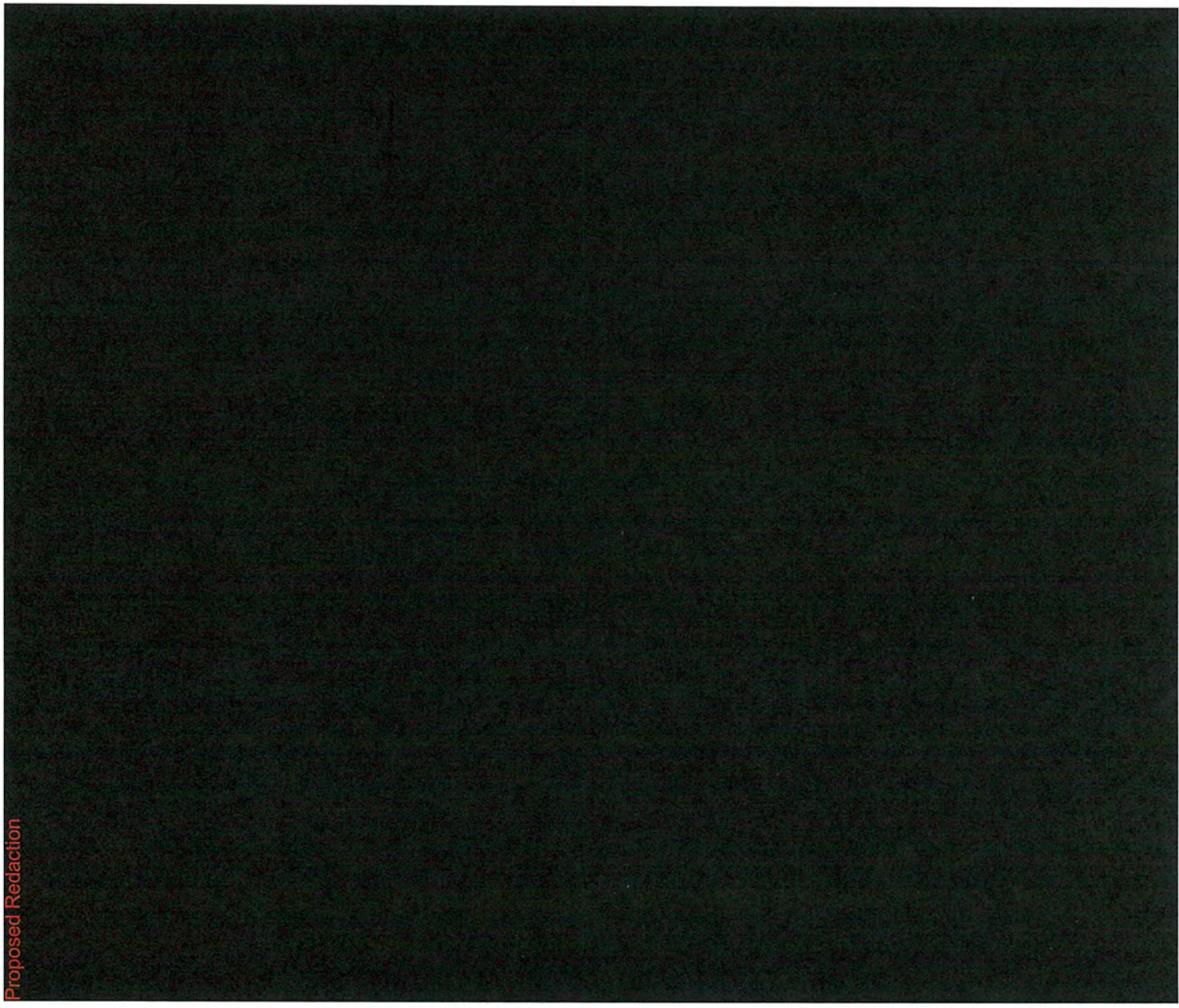


Attachment B – Cost Assumptions

Proposed Redaction

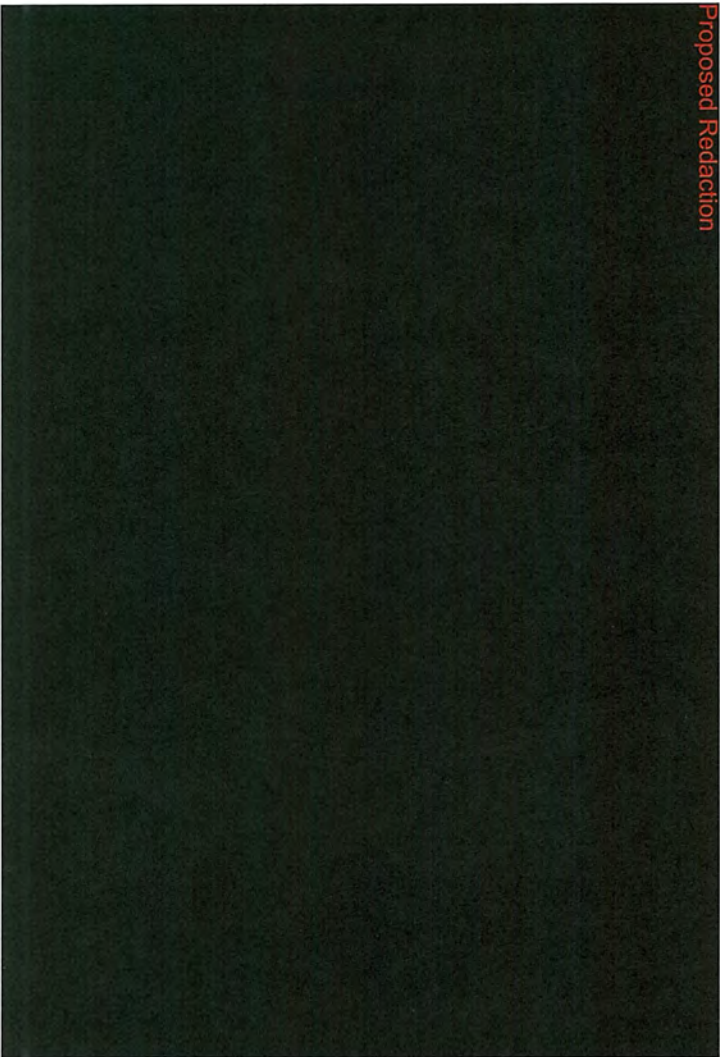


Proposed Redaction



**Attachment C – 'Monthly Corporate Overhead Fee at Risk' for Nauru and Manus Sites
for Performance Linked Fee**

Proposed Redaction



NB: All fees quoted in in this Attachment C (Columns 1, 2 and 3) above are GST excl.

SCHEDULE 3 CONFIDENTIALITY DEED

THIS DEED POLL is made the _____ day of _____ 2013 in favour of the **COMMONWEALTH OF AUSTRALIA** represented by the Department of Immigration and Border Protection (**the Department**)

BY _____
(the **Confidant**)

RECITALS

A The Department and Transfield Services (Australia) Pty Limited (**Service Provider**) have entered into a Contract under which the Service Provider will provide the Services to the Department.

B. The performance of the Services requires access to information confidential to the Department.

C. The Confidant will be performing Services.

THE CONFIDANT DECLARES AS FOLLOWS:

1. INTERPRETATION

1.1 All terms used in this Deed have the same meaning as is given to them in the Contract, and in particular, the following terms have the following meaning:

Contract means the Contract between the Department and the Service Provider for the provision of Services on Regional Processing Countries.

Department Confidential Information means information that:

- a. is by its nature confidential;
- b. is designated by the Department or any law as confidential; or
- c. the Confidant knows or ought to know is confidential; and includes to the extent that it is confidential:

 - d. information comprised in or relating to any Intellectual Property of the Department;
 - e. information relating to contractors or suppliers to the Department; and
 - f. information relating to Department Data, but does not include information which:
 - g. is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligation; or
 - h. has been independently developed or acquired by the Confidant as established by written evidence.

Department Data means all data and information relating to the Department, and its operations, facilities, customers, clients, constituents, personnel, assets and programs in whatever form that information may exist and whether entered into, stored in, generated by or processed through the Services by or on behalf of the Department and any other data in relation to which the Services are provided.

Intellectual Property or IP includes business names, copyrights, and all rights in relation to inventions, patents, registered and unregistered trade marks (including service marks), registered designs, and semi-conductor and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Services means the Services specified in the Contract.

2. NON DISCLOSURE

2.1. Subject to **clause 3** of this Deed, the Confidant must not copy, reproduce or disclose any Department Confidential Information without the prior written consent of the Department, which consent the Department may grant or withhold in its absolute discretion.

3. RESTRICTION ON USE

3.1. The Confidant must use Department Confidential Information only for the purpose of performing the Services. In particular the Confidant must not access, use, modify, disclose or retain any Personal Information the Confidant has acquired through the performance of the Services except for the purpose of performing the Services.

4. CRIMES ACT

4.1. The Confidant acknowledges that section 3(1) of the *Crimes Act 1914* (Cth) states that the term "Commonwealth officer" includes a person who "performs services for or on behalf of the Commonwealth".

4.2. The Confidant acknowledges that the publication or communication by the Confidant of any fact or document which has come to their knowledge or into their possession or custody by virtue of the performance of the Contract (other than to a person to whom the Confidant is authorised to publish or disclose the fact or document) may be an offence under the *Crimes Act 1914*, punishment for which may include imprisonment.

5. DELIVERY UP OF DOCUMENTS

5.1. The Department may, at any time and without notice, demand, either orally or in writing, the delivery to the Department of all documents in the possession or control of the Confidant which contain Department Confidential Information.

6. CONFLICT OF INTEREST

6.1. The Confidant warrants that no conflict of interest exists or is likely to arise in the performance of the Services.

6.2. The Confidant warrants that it will not permit any situation to arise or engage in any activity during the performance of the Services which may result in a conflict of interest.

7. SURVIVAL OF OBLIGATIONS

7.1. The obligations in this Deed are perpetual.

8. INDEMNITY

Note: This clause can be deleted where the *Confidant* is an individual.

8.1. The Confidant indemnifies the Department and its officers, employees and agents against any claim, loss, liability or expense incurred by them which is caused or contributed to by:

- a. the Confidant's failure to comply with this Deed; or
- b. the act or omission of the Confidant's employees, agents or subcontractors in relation to Department Confidential Information.

8.2. The Services Provider agrees that the Department may enforce the indemnity in clause 8.1 in favour of any Department officers, employees or agents.

Executed as a Deed

Drafting Note: *Signature block appropriate to the nature of the Confidant to be used.*

SIGNED, SEALED and DELIVERED by

[Confidant] in the presence of:

Signature of Recipient

Signature of witness

Name

THE COMMON SEAL of **[Confidant]**, the
fixing of which was witnessed by:

Signature of director

Signature of director/secretary

Name

Name

SCHEDULE 4 DEED OF NON-DISCLOSURE PERSONAL

THIS DEED POLL is made the

day of

2013

in favour of the COMMONWEALTH OF AUSTRALIA represented by the Department of Immigration and Border Protection (**the Department**)

BY (the **Confidant**)

1. The Confidant understands that in the course of performing duties in relation to a Contract between the Department and Transfield Services (Australia) Pty Limited (**Service Provider**) (**Contract**) for the services on Regional Process Countries, the Confidant may have access to personal information, being information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion (**Personal Information**).
2. The Confidant acknowledges and agrees that it may not access, use, disclose, publish, communicate or retain, or otherwise deal with in any way, Personal Information except in the course of, and for the purpose of, performing its duties in relation to the Contract.
3. The Confidant agrees, with respect to all Personal Information to which it has access in the course of performing duties in relation to the Contract, to:
 - a. not do any act, or engage in any practice that would breach:
 - i. the Services Provider's obligations under the Contract to protect Personal Information if done or engaged in by the Services Provider; or
 - ii. the Australian Privacy Principles set out in the *Privacy Act 1988* (Cth) (**Privacy Act**) if done or engaged in by the Department;
 - b. implement all reasonable measures to assist the Department in meeting the obligations under the Privacy Act concerning the security, use and disclosure of information to which the Department is subject in respect of that Personal Information;
 - c. co-operate with any reasonable demands or enquiries made by the Commonwealth Privacy Commissioner;
 - d. not disclose such Personal Information without the written authority of the Department except in the course of, and for the purpose of, performing the Contract, and it will immediately notify the Department where it becomes aware that a disclosure of such information may be required by law;
 - e. ensure that any person who has an access level which would enable that person to obtain access to any information in respect of which the Department has obligations under the Privacy Act is made aware of, and undertakes in writing, to observe the provisions of this Deed;

- f. take all reasonable measures to ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and that only Service Provider Personnel have access to it. For the avoidance of doubt, Personal Information must not be used for, or in any way relating to, any direct marketing purpose;
- g. not transfer such Personal Information outside Australia, or allow parties outside Australia to have access to it, without the prior approval of the Department;
- h. inform any person, on his or her request, in writing of the content of any provision of the Contract that is inconsistent with an approved privacy code binding the Service Provider or a Australian Privacy Principle as set out in the Privacy Act, in accordance with the Service Provider's obligations under section 95C of the Privacy Act;
- i. immediately to notify the Department when the Confidant becomes aware of a breach of any obligation concerning security, use and disclosure of such Personal Information relating by itself or any representative, employee or officer;
- j. notify the Department of, and co-operate with the Department in the resolution of, any complaint alleging an interference with privacy;
- k. give to any person, on his or her request, having taken reasonable steps to satisfy itself of that person's identity, access to that person's Personal Information held by the Service Provider, except to the extent that the Service Provider is required or authorised by law to refuse to provide the person with access to that Personal Information;
- l. if requested to correct or update such Personal Information by a person to whom the Personal Information relates, take reasonable steps to correct or update the Personal Information;
- m. upon written notice from the Department, destroy or permanently de-identify any Personal Information as soon as practicable after it is no longer required for the purpose for which it was originally collected;
- n. not adopt as its own identifier of a person an identifier that has been assigned by the Department, or use or disclose any such identifier except for the purpose of fulfilling its obligations under the Contract, or where required or authorised by law; and if the Personal Information is sensitive information or health information, as those terms are defined in the Privacy Act, not collect, use or disclose such information without the consent of the person to whom that information relates, subject to any exception provided for by law.

4. The Confidant agrees that its obligations under this Deed and to perform duties in relation to the Contract:
 - a. to the extent of any inconsistency with the Australian Privacy Principles in the *Privacy Act 1988* (Cth) or any privacy codes or privacy principles contained in, authorised by or registered under any law, take priority to the fullest extent permitted by applicable law; and
 - b. to the extent not so inconsistent, are in addition to any obligations the Confidant may have under the *Privacy Act 1988* (Cth) or any privacy codes or privacy principles contained in, authorised by or registered under any law.
5. The Confidant acknowledges that failure by it to comply with the obligations under the Privacy Act in accordance with paragraph 3 may result in the Service Provider or the Department taking action against the Confidant (including, without limitation, disciplinary action).
6. The Confidant acknowledges that any unauthorised access, alteration, removal, addition, possession, control, supply or impediment to the access, reliability, security or operation of data held in any computer (or, in some cases, any storage device) in the course of performing a Contract with the Commonwealth may be an offence under Part 10.7 of the *Criminal Code 1995* (Cth) for which there are a range of penalties, including imprisonment.
7. The Confidant acknowledges that:
 - a. section 3(1) of the *Crimes Act 1914* (Cth) states that the term "Commonwealth officer" includes a person who "performs services for or on behalf of the Commonwealth";
 - b. the publication or communication by the Confidant of any fact or document which has come to its knowledge or into its possession or custody by virtue of the performance of the Contract (other than to a person to whom the Confidant is authorised to publish or disclose the fact or document) may be an offence under the *Crimes Act 1914* (Cth), punishment for which may include imprisonment; and
 - c. it is an offence under Division 137 of the *Criminal Code 1995* (Cth) to give false and misleading information to the Commonwealth or its officers or agents.
8. The Confidant agrees to treat all Personal Information with the utmost care and to protect that information at all times in accordance with all security and privacy requirements imposed by the Contract on persons performing duties in relation to the Contract.
9. The Confidant acknowledges and agrees that this Deed survives the termination or expiry of any contract providing for the performance of services by it (whether directly or indirectly) in relation to the Contract.
10. This Deed will be governed by, and construed in all respects in accordance with, the law of the Australian Capital Territory and the Confidant agrees to submit to the applicable jurisdiction of the Courts of that Territory in respect of all matters arising under, or in relation to, this Deed.

11. Without limiting the rights of the Department to enforce this Deed, the Department may also enforce this Deed against the Confidant.

Executed as a Deed

SIGNED, SEALED and DELIVERED by

[Confidant] in the presence of:

Signature of Recipient

Signature of witness

Name

THE COMMON SEAL of
[Confidant], the fixing of which
was witnessed by:

Signature of director

Name

Signature of director/secretary

Name

SCHEDULE 5 SERVICE PROVIDER CONFIDENTIAL INFORMATION

(a) Information contained in Contract:

Item	Period of Confidentiality
Schedule 2 [Fees and Payments] of the Contract and all references to pricing information and calculations (including those of the Service Provider's subcontractors and suppliers), and including financial information such as bank accounts.	Indefinitely
Any information that enables one to identify an individual personally or by name, including all personal information of the Service Provider's Personnel.	Indefinitely
Any organisational structures prepared or provided by the Service Provider to the Department.	Indefinitely
Any part of the Service Provider's offer to the Department.	Indefinitely
Details of insurances held by the Service Provider.	Indefinitely
Any clauses that describe any limitations of liability on (or indemnities from) the parties.	Indefinitely
Schedule 6 – Performance Management Framework Principles	Indefinitely
Schedule 7 – Performance Guarantee	Indefinitely

(b) Information obtained or generated in performing Contract:

Item	Period of Confidentiality
Any amendments or other documents referring to or describing the matters set out in (a) above.	Indefinitely
Management plans, policies, programs, recordings, reports, forms and procedures (including all drafts) prepared or provided by the Service Provider to the Department, including those prepared by its Personnel.	Indefinitely
Any information regarding the performance management framework, including any KPIs, performance against KPIs and any abatement.	Indefinitely
Any other documents that are commercially confidential to the Service Provider or its Personnel.	Indefinitely

SCHEDULE 6 PERFORMANCE MANAGEMENT FRAMEWORK PRINCIPLES

SCHEDULE 6 PERFORMANCE MANAGEMENT FRAMEWORK PRINCIPLES

1. Introduction to the Performance Management Framework

1.1. Overview

1.1.1. The Performance Management Framework (the Framework) describes the performance assessment process and outlines Key Performance Indicators that are expected of the Service Provider. The Framework has been designed to assist the Department in monitoring and evaluating the performance of the Service Provider against its contractual requirements and the Department's expected outcomes.

1.1.2. The Framework requires a collaborative approach between the Department and the Service Provider. The performance assessment process is risk based, and focuses primarily on performance against the responsibilities of the Service Provider as described in the Statement of Work. Successful performance by the Service Provider is expected to be achieved through quality service delivery, addressing identified risks and providing the Department with evidence of performance.

1.2. Attachment to Schedule 6

1.2.1. Attached to this Schedule 6 is the Individual Service Provider Report (ISPR) Instruction Manual which sets out the format, content and timing for completing the Monthly Performance Reporting process. Attached to the ISPR Instruction Manual, at appendix 1, is the ISPR Template that is used to record the results of the monthly performance assessment.

2. Key commercial principles of the Framework

2.1.1.

[Redacted]

a.

[Redacted]

[Redacted]

b.

[Redacted]

c.

[Redacted]

[Redacted]

benefit of the Department under Schedule 2, clause 8.1 'Reduction of Corporate

[REDACTED]

d.

[REDACTED]

3. Key elements of the Framework

3.1.1. The Framework applies to the Service Provider's performance at all Sites.

3.1.2.

[REDACTED]

a.

[REDACTED]

b.

[REDACTED]

c.

[REDACTED]

d.

[REDACTED]

e.

[REDACTED]

f.

[REDACTED]

- g. [REDACTED]
- h. [REDACTED]

4. Key Performance Indicators

4.1.1. The Service Provider's performance is assessed against Key Performance Indicators (KPIs). The KPIs represent critical areas or service lines that frame the Department's expected outcomes. The KPIs and the associated expected outcomes are summarised in Table 1:

Table 1 KPI areas and KPI Outcomes

KPI areas and service lines	KPI Outcomes
1. Welfare	The cultural, spiritual, social, mental and emotional wellbeing of transferees and transferee community is maintained and positively influenced by service provider involvement where practical.
2. Care	The physical wellbeing of transferees and the overall transferee community is maintained and positively influenced by service provider involvement.
3. Security	The safety, integrity and good order of the facility, its people and its operations are maintained.
4. Health and Medical	N/A to this Contract.
5. Education and recreation	Transferees are given the opportunity to access education services, achieving reasonable education and training outcomes to accepted professional standards.

KPI areas and service lines	KPI Outcomes
6. Counselling	Transferees are given the opportunity to access counselling services to accepted professional standards.
7. Interpreters	Transferees are given the opportunity to access interpreting services to facilitate communication
8. Logistics, Reporting and Support	The efficient, effective and economical operation of the centre is maintained. Performance reports are completed accurately and submitted in a timely manner.
9. Strategic and Relationships	The Service Provider takes a collaborative and integrated approach to the provision of services, will be effective in managing complex stakeholder and governance issues, and builds long term relationships with the Department and other service providers. The Service Provider drives continuous improvements in service delivery and actively puts forward innovative, value for money proposals that are for the benefit of Transferees and the Department.

5. Contract Responsibilities

- 5.1.1. The Service Provider's performance for each KPI will be assessed through the use of Contract Responsibilities (CRs) that reflect the services set out in the Statement of Work. The CRs are identified and defined in the ISPR Template.
- 5.1.2. An example of CRs for selected KPIs are provided in table 2 below (full definitions are set out in the ISPR Template).

Table 2 Example of Contract Responsibilities

Contract Responsibilities			
KPI service line	Garrison Services	Transferee Welfare Services	Governance
Welfare	[n/a]	Ensure access to communication services {SOR 6.1}	[n/a]
Security	Effectively and efficiently manage and review security processes {SOR 4}	[n/a]	[n/a]
Strategic and	[n/a]	[n/a]	Build long term

Contract Responsibilities		
KPI service line	Garrison Services	Transferee Welfare Services
Relationships		Governance
		relationships and improve service delivery for Transferees {SOR3.1}

6. Risk assessment

6.1. Risk of non-compliance of Contract Responsibilities

- 6.1.1. In accordance with contract clause 4.4, within 8 weeks of the Execution Date the Service Provider and the Department will jointly agree on a Performance Management Framework which will include joint agreement on the Service Provider's risk of non-compliance against each identified CR, that is provide a Risk Rating against each CR. Risk Ratings are defined as either; Extreme, High, Medium, Minor or Low as explained in the ISPR Instruction Manual attached to this Schedule 6. The Service Provider is required to record its Risk Ratings in the ISPR Template (as set out in appendix 1 to the ISPR Instruction Manual).
- 6.1.2. For each CR with an assigned Risk Rating the Service Provider is required to detail its risk mitigation strategies setting out the controls and procedures it has in place to mitigate the risks.
- 6.1.3. At the commencement of each quarter following the Execution Date, the Service Provider is required to review, and if necessary update the Risk Ratings and submit them to the Department for approval. The Risk Ratings that were agreed and recorded in the ISPR Template for the previous quarter will remain in place until the updated Risk Ratings have been jointly agreed by Department and the Service Provider.
- 6.1.4. The Risk Ratings agreed at the commencement of each quarter are to be submitted to the Department's National Office for approval. The final decision on a Risk Rating rests with the Department's National Office.

7. Performance Measures

- 7.1.1. Performance Measures (PMs) measure the Service Provider's performance against its CRs and are used to inform Performance Ratings. The PMs provide a benchmark of expected performance standards.
- 7.1.2. The Service Provider's performance against each CR is either quantitatively or qualitatively assessed using the PMs described in the ISPR Template, as agreed between the Department and the Service Provider. The result of this performance assessment, referred to as the Performance Measure Result, is to

be supported by data recorded by the Service Provider and provides an evidence base to support the Performance Rating. Table 3 provides an example of a PM definition and PM Result.

Table 3 Example of Performance Measure

Proposed Redaction



7.1.3. The PMs will be jointly reviewed by the Department and the Service Provider on a six-monthly basis. The purpose of the review will be to examine the effectiveness and practicality of the PMs. If certain PMs are found to be ineffective or are unable to be accurately measured as described in the definition of the PM, the Department and the Service Provider may agree to amend the PMs. The updated PMs will be approved by the Department and the ISPR Template updated accordingly.

8. Performance Ratings

8.1.1. As part of the Framework's Monthly Performance Reporting process, the Service Provider is required to assess its performance against the CRs and assign a Performance Rating. The Service Provider is required to inform its Performance Rating by reference to the quantitative and qualitative results of the Performance Measure Results. The Performance Rating definitions are summarised in table 4 below.

Table 4 Performance Rating definitions

Performance Rating	Definition
Exceptional (5)	Performance far exceeded expectations due to exceptionally high quality of work performed in all essential areas of responsibility, resulting in an overall quality of work that was excellent

Exceeds expectations (4)	Performance consistently exceeded expectations in all essential areas of responsibility and the quality of work overall was good.
Meets expectations (3)	Performance consistently met expectations in all essential areas of responsibility and the quality of work overall was satisfactory
Improvement needed (2)	Performance did not consistently meet expectations – performance failed to meet expectations in one or more essential areas of responsibility and/or one or more of the most critical goals were not met.
Unsatisfactory (1)	Performance was consistently below expectations in most essential areas of responsibility and/or reasonable progress toward critical goals was not made. Significant improvement is needed in one or more important areas.

8.2. Performance Failures

- 8.2.1. Performance Ratings of either a 2 (Improvement needed) or 1 (Unsatisfactory) are considered to be Performance Failures.
- 8.2.2. Performance Failures are subject to either financial Abatement and/or additional reporting through submission of Action Plans, as described under the Abatement regime at section 9 below.

8.3. Performance Rating Disputes

- 8.3.1. Performance Rating disputes between the Service Provider and the Department should be dealt with in the manner described in the ISPR Instruction Manual.

8.4. Excusable Performance Failure Event

- 8.4.1. An Excusable Performance Failure Event (EPF) is a circumstance or event which the Department recognises as being beyond the reasonable control of the Service Provider. EPFs are defined in clause 1.1 of the Contract.
- 8.4.2. An EPF may be requested by the Service Provider to excuse instances where a Performance Failure has occurred. If the Service Provider is seeking EPF relief, the Service Provider is required to notify the Department within three (3) business days of identification of the EPF and subsequently make a submission to the Department for consideration within five (5) business days of identification of the relevant EPF.
- 8.4.3. The process and format for making EPF submissions and the timeframe for approval by the Department is described in the ISPR Instruction Manual attached to this Schedule.

9. Abatement Regime

9.1.1. Where a Performance Rating of either 1 (Unsatisfactory) or 2 (Improvement needed) has been assigned to a CR, that is, a Performance Failure has occurred, the Service Provider may incur a financial Abatement and/or be required to provide additional reports to the Department as described below.

9.2. Financial Abatements for Performance Failures

9.2.1. Performance deductions (financial Abatements) may be applied in respect of the Service Provider's Performance Failures. The financial Abatement is in the form of a percentage deduction of the Service Provider's monthly Performance Linked Fee for the Sites. The Performance Linked Fee is defined in clause 1.4 of Schedule 2 Fees and Payment.

9.2.2. The percentage level of Abatement is dependent on:

- a. the Risk Rating assigned to the CR for which a Performance Failure has occurred and;
- b. the Frequency of Occurrence of the Performance Failure.

9.3. Frequency of Occurrence of Performance Failures

9.3.1. The Frequency of Occurrence of Performance Failures, together with the Risk Ratings, will determine whether a financial Abatement is to be: applied immediately or; a percentage of the monthly Performance Linked Fee withheld or; nil financial abatement is to be applied.

9.3.2. The Performance Failure Frequency of Occurrence is defined as:

- a. A first occurrence of a Performance Failure is referred to as an Initial Failure; a second occurrence of a Performance Failure is referred to as a Secondary Failure; and a third occurrence of a Performance Failure is referred to as a Third Failure.
- b. For a Performance Failure to become a Secondary or Third Failure, the same Performance Failure must have occurred in two or three consecutive reporting periods. For example, a Performance Failure occurring in July and August would constitute a Secondary Failure. A Performance Failure occurring in July, August and September would constitute a Third Failure. If a Performance Failure occurs in July and then again in September, it would not constitute a Secondary Failure, but would be considered an Initial Failure.

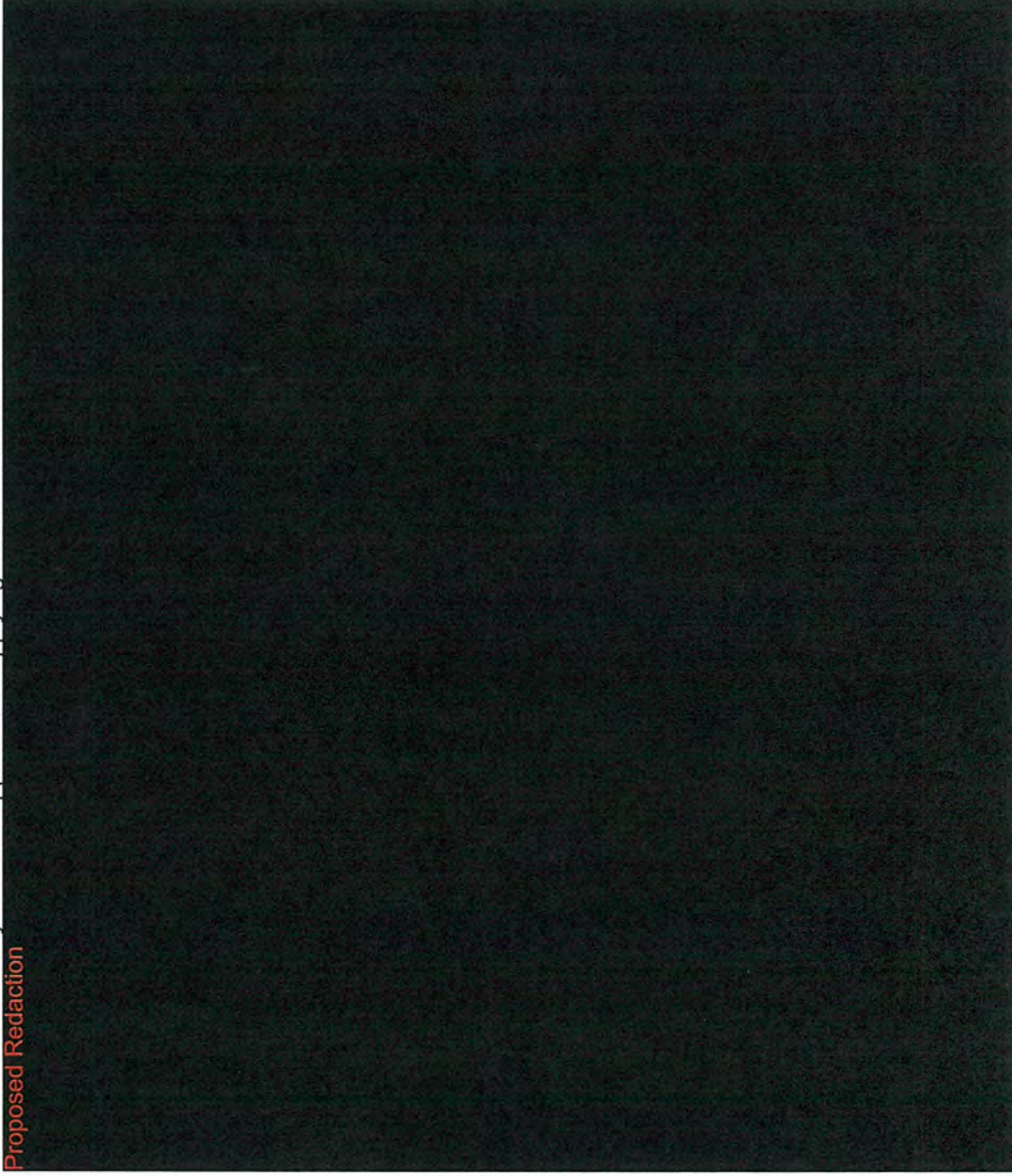
9.3.3. If a Performance Failure occurs in more than three consecutive monthly reporting periods, it will be treated as a Third Failure.

9.4. Tiered approach to applying financial Abatements

9.4.1. Based on the Risk Rating assigned to the Performance Failure and the Frequency of Occurrence, a tiered approach to financial Abatement is applied.

- 9.4.2. Where there has been a Performance Failure and the Risk Rating is:
- a. Extreme, a financial Abatement will be applied immediately (i.e. on invoicing at the end of the relevant Monthly Reporting period) regardless of the Frequency of Occurrence.
 - b. High or Medium, a percentage of the monthly Performance Linked Fee will be withheld until the Department approves that the Performance Failure has been rectified/addressed, unless the Frequency of Occurrence is a Secondary or Third Failure in which case immediate financial Abatement will apply.
 - c. Minor or Low, no financial abatement will apply unless the Frequency of Occurrence is a Secondary Failure in which case a percentage of the monthly Performance Linked Fee will be withheld until rectified, or Third Failure in which case immediate financial Abatement will apply.
- 9.4.3. Table 5 summarises the tiered approach to applying financial Abatements to the Service Provider's monthly Performance Linked Fee.

Table 5 Summary of tiered approach to applying financial Abatements
Proposed Redaction



9.4.4. Withholding financial Abatements

9.4.5. In Table 5, where an asterisk (*) appears next to 'yes' in the "Financial Abatement applicable" column, the corresponding financial Abatement will be withheld from the Service Provider (Withholding financial Abatement). The amount withheld will be released upon the Department approving that the Performance Failure has been rectified/addressed.

9.4.6. Action Plans to address Performance Failures

9.4.7. For each Performance Failure that is reported as part of the Monthly Performance Reporting, the Service Provider is to prepare an Action Plan. The Action Plan is required to outline the activities that the Service Provider will undertake to address the issues that led to the Performance Failure and include a timeframe for the implementation of a rectification strategy. The format of the Action Plan is set out in the ISPR Instruction Manual attached to this Schedule.

9.4.8. Where a Performance Failure has occurred in relation to a CR with an Extreme or High Risk Rating, an Action Plan is to be submitted to the Department within 48 hours of the Performance Failure being identified.

9.4.9. Example scenarios

9.4.10. The ISPR Instruction Manual attached to this Schedule 6 contains a number of examples of how the performance Framework would be applied given a range of scenarios.

9.4.11. Calculation of financial Abatement

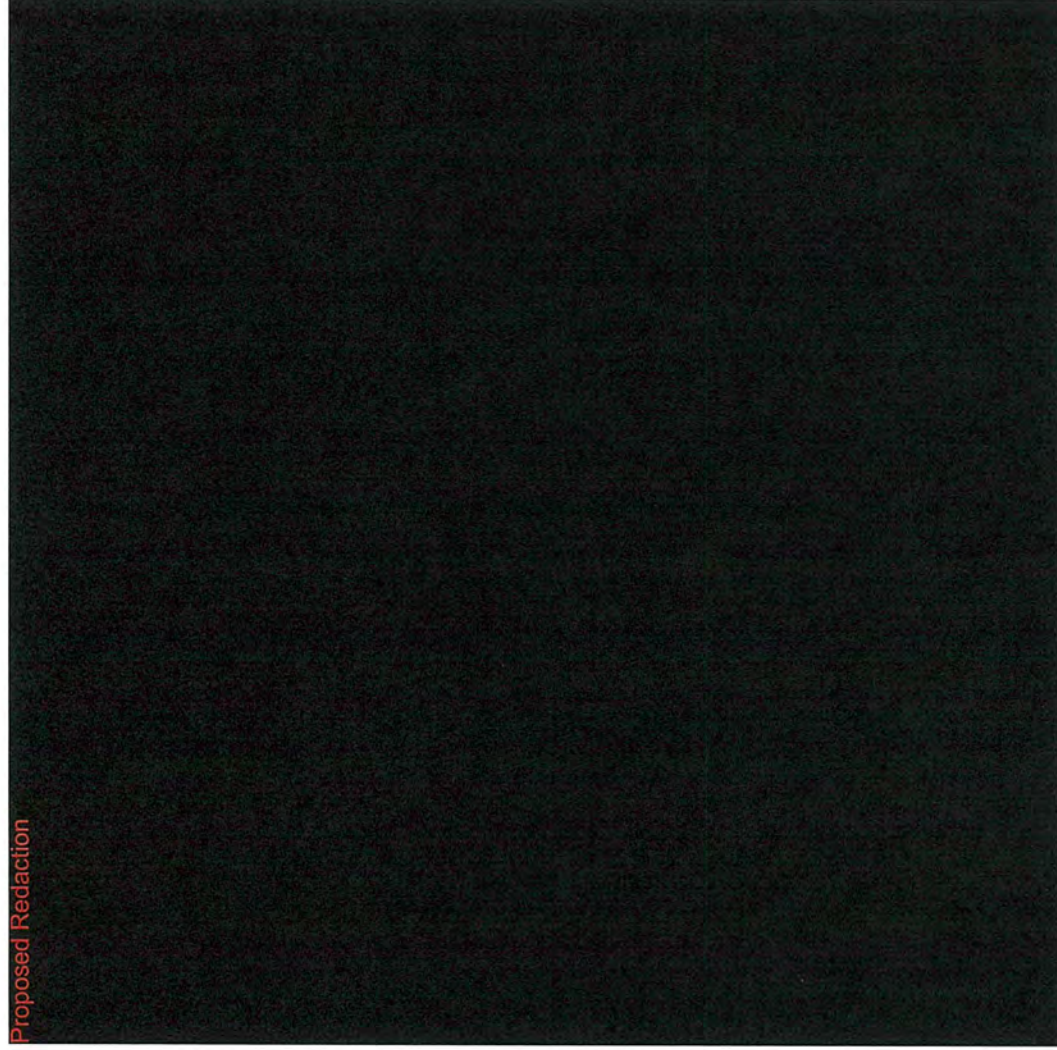
9.4.12. The financial Abatement for each Performance Failure shall be calculated in accordance with the following formula [a detailed breakdown of the payment mechanism will be included in Schedule 2 Fees and Payment] :

Proposed Redaction



Proposed Redaction





10. Performance and efficiency incentive

- 10.1.1. The Department expects that the Service Provider will, at least, meet performance expectations across all KPI areas as a whole (that is, KPIs 1 to 9 inclusive), and across all Sites.
- 10.1.2. To encourage the Service Provider to actively seek continuous improvements in service delivery that have the effect of achieving cost efficiencies for the benefit of Department, any Pass Through Cost savings that are identified and implemented by the Service Provider may be shared between the Department and the Service Provider on a **Propose** basis respectively and will be payable under the terms outlined in Schedule 2.

11. Strategic and relationship KPI – Qualitative survey

11.1.1. Qualitative survey

- 11.1.1.2. The extent to which the Service Provider has contributed to a collaborative relationship with the Department and other service providers, and has delivered a culture of continuous improvement, will be assessed based on the results of the qualitative survey for the Strategic and Relationship KPI (KPI 9).
- 11.1.1.3. The Department will conduct a quarterly survey questionnaire (completed by selected Department representatives) to assess the Service Provider's performance against KPI 9. The quarterly survey questions are set out in the ISPR Template.
- 11.1.1.4. The Department will qualitatively assess the Service Provider's performance against each survey and assign a Performance Rating. The average of the Performance Ratings for all survey questions will be recorded in the ISPR Template.

12. Innovation Bonus

- 12.1.1. The Department expects that the Service Provider will drive continuous improvements in service delivery and actively put forward innovative, value for money proposals that identify performance improvements and/or cost savings for the benefit of Department.
- 12.1.2. Where the Service Provider proposes to implement a new or changed service or system/procedure which has the effect of leading to cost savings for the benefit of the Department, the Service Provider may submit an Innovation Application (IA) to the Department. The Innovation Application should detail the nature of the innovation and incorporate a business case which demonstrates how it will benefit the Department.
- 12.1.3. An Innovation Bonus of **Prop** of the Department's cost savings as set out in the IA will be shared with the Service Provider under the terms outlined in Schedule 2.

13. Management of underperformance in KPIs

- 13.1.1. The Department may exercise the following options at its discretion to manage underperformance of KPIs:
 - 13.1.2. If at any time the Service Provider has received, or is on a trajectory where it is likely to receive, three consecutive Performance Failures, then:
 - a. The Department may require the Service Provider to submit a Rectification Plan with respect to the Performance Failures. The content and format of a Rectification Plan is set out in the ISPR Instruction Manual.
 - b. If performance is not fully rectified in accordance with the Rectification Plan and within the agreed timeframe, then the Department may terminate the Service Provider's Contract.

14. Performance Framework Reporting

14.1.1.

[REDACTED]

15. Audits of Monthly Performance Reports

15.1.1.

The Department may periodically conduct audits of the Service Provider's compliance with its performance obligations under the Performance Management Framework, including the Service Provider's:

- a. Monitoring, measuring or reporting against any Performance Measure, for the purpose of verifying the derivation and calculation of any measure
- b. Implementation of an Action Plan.

15.1.2.

The audit may involve:

- a. Cross-checking and verification of data produced by the Service Provider
- b. Site visits to any or all of the Sites; and
- c. Interviews with key personnel.

Appendix 1 – ISPR Instruction Manual

Refer to ISPR Instruction Manual

consent of the Guarantor, or by any alteration, amendment or variation in the obligations assumed by the SDP or by any forbearance whether as to payment, time, performance or otherwise. The guarantee by the Guarantor in this Deed to assume the obligations of the SDP will continue in force and effect until the earlier of:

(a) completion of all the SDP's obligations under the Agreement or until the completion of the undertakings under this Deed by the Guarantor; or

(b) 31 October 2015 or if the Term of the Agreement is extended by the Commonwealth beyond that date, such date to which it is extended.

6. The undertakings of the Guarantor under this Deed will not exceed the obligations of the SDP under the Agreement. Any liability of the Guarantor shall be coextensive, but not in excess of any liability of the SDP to the Commonwealth under the Agreement. The Guarantor shall be entitled to all rights, privileges and defences otherwise available, to the SDP with respect to any such liability, including without limitation all provisions of the Agreement relating to the limitation of liability and the resolution of disputes.

7. This Deed is subject to, and is to be construed in accordance with, the laws in force in the Australian Capital Territory and the Parties agree that the courts of that Territory have jurisdiction to entertain any action in respect of, or arising out of, this Deed and the Parties submit themselves to the jurisdiction of those courts.

8. For the purpose of this Deed, where an obligation of the SDP under the Agreement has not been performed, the SDP will be taken to have failed to perform that obligation notwithstanding that the SDP has been dissolved or is subject to external administration procedures under any law.

9. The guarantee in this Deed is a continuing guarantee to the Commonwealth until the obligations and liabilities of the SDP under the Agreement have in all respects been performed, observed and discharged.

10. The following notice arrangements apply:

(a) notice or other communication which may be given to or served on the Guarantor under this Deed will be deemed to have been duly given or served if it is in writing, signed on behalf of the Commonwealth and is either delivered by hand, posted or faxed or a copy transmitted electronically to the Guarantor or its agent at any registered office of the Guarantor or posted to the Guarantor's address set out above or such other address as is notified in writing to the Commonwealth from time to time;

(b) a notice or other communication which may be given to or served on the Commonwealth under this Deed will be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Guarantor and is either delivered by hand, posted or faxed or a copy transmitted electronically to the Commonwealth at the address set out above or such other address as is notified in writing to the Guarantor from time to time;

(c) a notice sent by post will be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent; and

- (d) a notice sent by facsimile transmission or transmitted electronically will be deemed to have been given when the machine on which the notice is sent reports that the notice has been transmitted satisfactorily.
11. A statement, signed on behalf of the Commonwealth by any of its authorised representatives, as to any matter or any amount at the date specified in the statement is conclusive evidence in the absence of manifest error.
12. Until the obligations of the SDP have been performed in full, the Guarantor may not:
- (a) take any steps to enforce a right or claim against the SDP relating to any money paid by the Guarantor to the Commonwealth under this Deed;
 - (b) have or exercise any rights as surety in competition with the Commonwealth;
 - (c) receive, claim or have the benefit of any payment (including a payment under a guarantee), distribution or security interest from or on account of the SDP or any other person; and
 - (d) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any agreement or document to which the Commonwealth is a party.
13. If, after the Commonwealth applies any amount against any of the obligations of the SDP, it forms the view that it is obliged to make a payment in respect of the amount so applied by it to any person under any law relating to bankruptcy, winding up or the protection of creditors the Guarantor shall immediately do anything (including the signing of documents) required by the Commonwealth to restore to the Commonwealth any guarantee to which it was entitled immediately before that application or the payment or transaction giving rise to it.

SIGNED, SEALED AND DELIVERED)
by the COMMONWEALTH OF)
AUSTRALIA represented by the)
Department of Immigration and)
Citizenship in the presence of:)

Signature of witness

Commonwealth Representative

Name of witness (print)

THE COMMON SEAL of (Guarantor))
was affixed in the presence of, and the)
sealing is witnessed by:)
)

Secretary

Director

Name (Printed)

Name (Printed)

SCHEDULE 8 DEED OF NOVATION

THIS DEED is made

BETWEEN

THE COMMONWEALTH AS REPRESENTED BY THE DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION (DIBP), of the first part.

AND

YYY [the original party] of the second part

AND

ZZZ [the new party] of the third part

WHEREAS:

- A. *(Details of original agreement (the 'Agreement') – possibly attach a copy)*
- B. YYY desires to be released and discharged from the Agreement and DIBP has agreed to release and discharge YYY upon ZZZ assuming the obligations of YYY under the Agreement as a party in lieu of YYY.
- D. The parties have agreed to novate the Agreement on the terms and conditions contained in this Deed.

IT IS AGREED as follows:

- 1. This Deed shall be deemed to enter into full force and effect as from **(Effective Date)**.
- 2. As from the Effective Date, ZZZ agrees to:
 - (a) assume all the liabilities of YYY subsisting under the Agreement;
 - (b) duly, punctually and faithfully observe, perform and be bound by the terms of the Agreement in every way as if ZZZ were a party to the Agreement in lieu of YYY; and
 - (c) accept any liability incurred by YYY under the Agreement from the date of execution of the Agreement.
- 3. As from the Effective Date, DIBP agrees to:
 - (a) accept the liability of ZZZ upon the Agreement in lieu of the liability of YYY; and

- (b) be bound by the terms of the Agreement in every way as if ZZZ was named in the Agreement as a party in place of YYY;
- and YYY releases and discharges DIBP from all actions, proceedings, claims, demands and all damages, costs and expenses (including on a solicitor and own client basis) which may exist against DIBP by YYY arising out of an act or omission by YYY in connection with the Agreement prior to the Effective Date.
4. ZZZ represents and warrants in favour of DIBP that:
- (a) it possesses the right and capacity to perform and fulfil its obligations under this Deed and the Agreement;
- (b) it is not as at the Effective Date engaged in any litigation or aware of any proposed litigation or claim by any third party against it which would jeopardise or seriously affect the performance of its obligations under the Agreement;
- (c) no application or order has been made for the winding up or liquidation of it; no action has been taken to seize or take possession of any of its assets; there are no unsatisfied judgments against it; and it is able to pay its debts as they fall due.
5. YYY and ZZZ acknowledge that DIBP has entered into this Deed in reliance on the representations and warranties in Clause 4.
6. ZZZ shall reimburse DIBP for its costs and expenses of and relating to the enforcement of, or preservation of any rights under this Deed, including legal costs and expenses on a full indemnity basis.
7. In the event of conflict between this Deed and the Agreement, the provisions of this Deed shall prevail.
8. Except as set out in this Deed, all other terms and conditions applying to the services provided to DIBP under the Agreement remain unchanged.
9. This Deed and the Agreement, when read together, contain the entire agreement of the parties with respect to the parties' rights and obligations under the Agreement and supersede all prior understandings and representations between the parties with respect to the parties' rights and obligations under the Agreement.
10. The provisions of this Deed shall not be varied either in law or in equity except by agreement in writing signed by the parties.
11. This Deed shall be governed by and construed in accordance with the laws of the Australian Capital Territory.
12. ZZZ shall pay any stamp duty payable on this Deed.

SIGNED as a Deed:
for and on behalf of the
COMMONWEALTH OF AUSTRALIA

by: _____)
_____)
_____)
_____)
_____)

[Name of Authorised Officer] _____)
(Position) [Signature of Authorised Officer]

Department of Immigration and Border Protection)

in the presence of: _____)

[Name of Witness] _____)
[Signature of Witness]

_____/_____/_____
(Date)

SIGNED as a Deed
for and on behalf of
YYY

by: _____)
_____)
_____)
_____)
_____)
_____)
_____)

[Name of Director/Secretary] _____)
[Signature of Director/Secretary]

in the presence of: _____)

[Name of Director/Secretary] _____)
[Signature of Director/Secretary]

_____/_____/_____
(Date)

SIGNED as a Deed
for and on behalf of
ZZZ

by: _____)
_____)
_____)
_____)
_____)

[Name of Director/Secretary] _____)
[Signature of Director/Secretary]

in the presence of: _____)

[Name of Director/Secretary] _____)
[Signature of Director/Secretary]

_____/_____/_____
(Date)

SCHEDULE 9 MINOR CAPITAL WORKS CONTRACT

[Not Used]