[SPECIAL CONDITION FOR USE WITH DSCI-2022]

14. EARLY CONTRACTOR INVOLVEMENT

***[COMMONWEALTH AND TENDER/CONTRACT ADMINISTRATOR TO INCLUDE THIS SPECIAL CONDITION WHERE THE APPROVED PROJECT DELIVERY METHODOLOGY INVOLVES ECI DELIVERY.***

***IN ADDITION:***

* ***THE BRIEF AND THE FEE PAYMENT SCHEDULE (IF APPLICABLE) SHOULD BE TAILORED TO REFLECT THE ECI DELIVERY MODEL AND SO AS TO INCLUDE ECI RELATED SERVICES; AND***
* ***THE METHODOLOGY STATEMENT OUTLINE IN TENDER SCHEDULE A SHOULD BE UPDATED TO REFLECT ECI DELIVERY, INCLUDING TO CONTAIN THE CONSULTANT’S PROPOSED APPROACH TO COMPLYING WITH THIS SPECIAL CONDITION AND WORKING WITH THE CONTRACTOR UNDER THE ECI DELIVERY MODEL]***

14.1 ECI Delivery Model and ECI Objectives

* + 1. The Commonwealth is delivering the Project on the basis of an ECI delivery model, a key purpose of which is to provide for early involvement of the Contractor in the design, planning, programming and cost planning of the Works and to maximise the achievement of the ECI Objectives.
    2. The Consultant acknowledges that, under the ECI delivery model:
       1. the Contractor is to perform the ECI Activities, including to review and provide input into the design and undertake cost planning and programming; and
       2. the Consultant has prime responsibility to prepare, program and integrate the Design Documentation and otherwise perform the Services in accordance with the Contract.
    3. Without limiting the Consultant's other obligations under the Contract or otherwise at law or in equity, the Consultant must:
       1. prepare the Design Documentation and perform the Services in a manner which maximises the achievement of the ECI Objectives;
       2. proactively work to identify and propose options to maximise achievement of the ECI Objectives;
       3. consult with the Contract Administrator and the Commonwealth, if required, as to any recommendations proposed by the Contractor in respect of the ECI Objectives or arising from the ECI Activities;
       4. meet at such times and with such other persons as the Contract Administrator may require from time to time to review the progress of the planning and design of the Works against the ECI Objectives; and
       5. comply with any directions of the Contract Administrator for the purposes of facilitating the performance of the ECI Activities by the Contractor.

14.2 Consultant's Obligations with Respect to the ECI Contractor

* + 1. Without limiting clause 2.6 of the Conditions of Contract, the Consultant must:
       1. fully cooperate with the Contractor and carefully coordinate and integrate the Services with the ECI Activities;
       2. ensure the Contractor is provided with all draft and final Design Documentation and other information necessary to enable the Contractor to fully participate in all design review and other meetings and perform the ECI Activities in accordance with the Commonwealth's Program;
       3. meet regularly and consult with the Contractor to review the progress of the planning and design of the Works against the ECI Objectives, including in the context of any recommendations made by the Contractor and the outcome of any ECI Activities;
       4. provide all other reasonable assistance to the Contractor to allow the Contractor to perform the ECI Activities; and
       5. use its best endeavours to ensure that the Contractor is in a position to perform the ECI Activities so as not to cause any delay or disruption to the performance of the Services.
    2. The Consultant must consider all recommendations made, and other matters raised, by the Contractor and, with each submission of Design Documentation under clause 6.1 of the Conditions of Contract, provide the Contract Administrator with a detailed register setting out:
       1. all recommendations made, and other matters raised, by the Contractor; and
       2. how the recommendation or other matter raised has been addressed in the Design Documentation (if at all) and an explanation or justification as to the approach taken in respect of that recommendation.

14.3 Responsibility for Design

The Consultant agrees that:

* + 1. the warranties given in the Contract will remain unaffected;
    2. it will comply with its obligations to complete the Services as required by the Contract; and
    3. it will bear full liability and responsibility for the Services in accordance with the Contract (including the risk of any errors and omissions which may arise (whether directly or indirectly) out of or in connection with any ECI Activities) and that this will not affect its obligations to complete the Services in accordance with the Contract,

notwithstanding:

* + 1. the Contractor's performance or failure to perform any of the ECI Activities;
    2. that the Consultant adopts or rejects any recommendation proposed, or other activity performed, by the Contractor;
    3. the requirements of this clause [14]; or
    4. any act or omission of the Commonwealth, the Contract Administrator, the Contractor or any other person arising out of or in connection with the ECI Objectives or ECI Activities.

14.4 Definitions

For the purposes of this clause [14], "Contractor"means the Contractor engaged or to be engaged by the Commonwealth under an Early Contractor Involvement Head Contract International (ECI HCI-2022) and:

* 1. **ECI** means early contractor involvement;
  2. **ECI Activities** means the activities to be performed by the Contractor in the Planning Phase (as defined in the relevant Construction Contract);
  3. **ECI Objectives** means the following objectives:
     1. risk management - the optimal management of all project risks including the identification and implementation of all relevant risk reduction studies;
     2. schedule management - the programming, staging and sequencing of the Works to minimise disruption to operations at or in the vicinity of the Site and enable the Works to achieve Completion within agreed timeframes;
     3. buildability - the design of the Works is fit for the Commonwealth’s intended purposes, maintainable and useable by the Host Nation, free from Defects and otherwise completed to a high standard;
     4. ESD, environmental protection, heritage and biodiversity design input - the design of the Works helps to meet the priorities of the Host Nation by promoting ESD and connectivity, enhancing the capabilities and capacity of the Host Nation by strengthening resilience against natural disasters and providing facilities that are culturally and climatically suitable;
     5. local industry engagement - increases economic benefits for local Host Nation communities by increasing access jobs created by infrastructure investments;
     6. logistics management - the design of the Works considers logistical issues associated with accessing the Site, movements of equipment and personnel to the Site and the operation of the Site following occupation;
     7. value management - the design of the Works ensures that all required scope is delivered within the Indicative Contract Price and so as to maximise value for money;
     8. maintenance and WOL considerations - the design of the Works delivers quality infrastructure that reduces WOL Cost by including provisions for the ongoing maintenance and operation of the asset; and
     9. ***[COMMONWEALTH AND TENDER/CONTRACT ADMINISTRATOR TO INCLUDE ANY PROJECT-SPECIFIC ECI OBJECTIVES, NOTING THIS SHOULD BE CONSISTENT WITH THE ECI OBJECTIVES UNDER THE PROJECT CONTRACT]***.