



AUSTRALIAN CAPITAL TERRITORY

PANEL DEED

Date

8 JULY 2011

Parties

AUSTRALIAN CAPITAL TERRITORY
represented by
EDUCATION AND TRAINING
DIRECTORATE

PHILLIPS CLEANING SERVICE PTY
LIMITED TRADING AS
PHILLIPS CLEANING SERVICES PTY
LIMITED
ACN 069 780 883
PANEL OF CLEANING CONTRACTORS
FOR ACT PUBLIC SCHOOLS

DEED NUMBER: 2011.14370.236

Prepared by

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Version

Final: 6 June 2011

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Panel of Cleaning Contractors for ACT Public Schools - Panel Deed Number 2011.14370.236

PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the **Education and Training Directorate**.

PHILLIPS CLEANING SERVICE PTY LIMITED
trading as **PHILLIPS CLEANING SERVICES PTY LIMITED ACN 069 780 883** of 4 Lyell Street FYSHWICK in the Australian Capital Territory 2609 (**Panel Member**).

BACKGROUND

- A. The Territory has undertaken a procurement process under Request for Tender Number 14370.110 to establish a Panel of suppliers to provide the Services. The Panel Member wishes to become a member of the Panel on the terms and conditions of this Deed.
- B. The Territory may invite one or more members of the Panel to respond to requests to deliver Services at Schools from time to time.
- C. From time to time the Territory may purchase and, if selected to provide services as a preferred respondent for a School in accordance with the provisions of this Deed, the Panel Member has agreed to provide the Services in accordance with the provisions of this Deed and the relevant Services Contract.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Deed and each Services Contract, unless the context otherwise requires.

Confidential Text means any text of this Deed that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 6 Schedule 1**.

Contact Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means, for each Services Contract, the amounts which the Territory will pay for the Services as specified in, or calculated in accordance with the relevant Services Contract and based on the Hourly Fee Rate.

Deed	means this deed, including all schedules and attachments.
GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Hourly Fee Rate	means the amount specified in Item 3 Schedule 1 or as otherwise agreed by the parties from time to time.
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	<p>means, with respect to a Services Contract, an invoice that:</p> <ol style="list-style-type: none"> (1) is a valid tax invoice (if GST is payable in respect of the provision of the Services under the relevant Services Contract); (2) clearly sets out the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Deed and the relevant Services Contract; (3) sets out details of the Services provided, and sets out or is accompanied by any other details or reports required under this Deed and the relevant Services Contract; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and the relevant Services Contract and addressed to the Territory's Contact Officer.
Material Safety Data Sheet	<p>means, for a product, a form containing information on:</p> <ol style="list-style-type: none"> (1) the identity of chemicals, their reactivity and toxicity, health and physical effects, exposure limits, as well as safe storage, handling and disposal precautions for that product; and (2) protective equipment requirements, spill handling procedures and first aid relevant to that product.
Panel	means the panel of cleaning services providers established in accordance with request for tender number 14370.110.
Panel Member's Personnel	means a person who is employed or otherwise engaged by the Panel Member and performs the Services at a School.

- Personal Information** means 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 a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
- Photo Identification Pass** means a pass issued by the Panel Member to each Panel Member's Personnel stating the name of the Panel Member and bearing the photograph and name of the person who is required to wear the pass in accordance with this Deed.
- Predecessor** means, with respect to a School, the Territory-contracted provider of services (if any) that (before the date of this Deed) provided the services at the School required to now be provided by the Panel Member under this Deed and the relevant Services Contract.
- Prescribed Insurer** means, in relation to:
- (1) public liability insurance, an insurer that is:
 - (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination;
 - (b) authorised by the Australian Prudential Regulation Authority (APRA) to conduct new and renewal insurance business in Australia, or
 - (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA, or any other insurer prescribed under the Insurance Determination from time to time; and
 - (2) other insurance, an insurer having a Standard and Poor's or Best's rating of A- or better.
- Procurement Act** means the *Government Procurement Act 2001* (ACT).
- Request for Offer** means a request issued to a member of the Panel asking it to offer to provide Services at a School in accordance with **clause 2.2**.
- School** means a Territory public school the Panel Member may be required to provide the Services at under this Deed and the relevant Services Contract.

- Services** means the cleaning services required to be provided at a School as specified at **Schedule 2** or as varied by the relevant Services Contract for that School.
- Services Contract** means a contract for the provision of particular Services at a School by the Panel Member substantially in the form of **Attachment C**.
- Special Condition** means any provision set out in **Schedule 3**.
- Term** means the term of this Deed specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.
- Territory** means:
- (1) when used in a geographical sense, the Australian Capital Territory; or
 - (2) when used in any other sense, a body politic established under section 7 of the Australian Capital Territory (Self-Government) Act 1988 (Cth).
- Territory Information** means the kind of information that:
- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
 - (2) is notified (whether in writing or not) by the Territory to the Panel Member as being confidential;
 - (3) is specified in **Item 5 Schedule 1**; or
 - (4) is Personal Information;
- but does not include information that:
- (5) is or becomes public knowledge other than by breach of this Deed or the relevant Services Contract;
 - (6) has been independently developed or acquired by the Panel Member; or
 - (7) has been notified by the Territory to the Panel Member as not being confidential.

1.2 General

In this Deed and any Services Contract, unless a contrary intention is expressed:

- (1) references to "Panel Member" and to "Territory" include any employees, agents or subcontractors of that party, including, with respect to the Territory, a principal of a School and including, with respect to the Panel Member, the Panel Member's Personnel; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Panel Arrangements

2.1 Appointment to Panel

The Panel Member is appointed to the Panel for the Term.

2.2 Allocation of work

- (1) The parties agree that work will be allocated to Panel Members as follows;
 - (a) from time to time as the need arises for Services to be provided at a particular School, the Territory may issue a Request for Offer to one or more members of the Panel selected at the Territory's discretion, inviting those members of the Panel to submit a response;
 - (b) the Territory is not obligated to issue any Request for Offer to a Panel Member;
 - (c) the Panel Member acknowledges that the Territory may choose any process it considers appropriate including a competitive process, for allocating work to members of the Panel;
 - (d) upon receipt of a Request for Offer the Panel Member may either:
 - (i) submit a response to the Request for Offer within the time specified in the Request for Offer; or
 - (ii) reject the Request for Offer;
 - (e) if the Panel Member rejects the Request for Offer or does not respond in the time specified in the Request for Offer the Territory may not consider that Panel Member for the purpose of allocating work under the Request for Offer;
 - (f) the Territory may, in its absolute discretion, accept a response from the Panel Member to a Request for Offer that is not received within the time specified in the Request for Offer; and

- (g) the Panel Member may be required to attend a mandatory site inspection prior to responding to a Request for Offer and, if so, failure to attend may result in the Panel Member's response not being considered by the Territory.
- (2) If the Panel Member is selected as the preferred respondent to a Request for Offer, the Panel Member will be required to enter into a Services Contract prior to commencing Services at the School.
- (3) A Request for Offer is not a binding agreement and no binding agreement with respect to provision of Services exists until the parties properly execute a Services Contract.

2.3 No guarantee of volume of Services

The Territory does not guarantee to the Panel Member that a particular volume of Services will be sought from the Panel Member. The Territory reserves the right to obtain services similar to those provided under this Deed from any third party (including a third party outside the Panel). The Territory may appoint new supplies as members of the Panel from time to time.

3. Services

If the Panel Member is selected to provide Services at a School following the submission of a response to a Request for Offer, the Panel Member must perform the Services in accordance with the provisions of this Deed and the relevant Services Contract for the term of that Services Contract and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Panel Member is engaged.

4. Term

This Deed is for the Term unless terminated under the provisions of this Deed.

5. Contract Price

5.1 Invoice

The Territory must pay the Panel Member the Contract Price for a Services Contract following its receipt of an Invoice and otherwise in accordance with this Deed and the relevant Services Contract.

5.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Panel Member, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Panel Member.

5.3 Deferral of payment

Notwithstanding its other rights under this Deed or the relevant Services Contract, the Territory may, without limiting any other right it may have, defer payment of the Contract Price payable to the Panel Member until the Panel Member has completed the Services to the satisfaction of the Territory.

6. Panel Member's obligations

6.1 Occupational Health and Safety

If providing Services the Panel Member must:

- (1) comply with relevant work safety legislation as it relates to the cleaning industry; and
- (2) liaise with the departmental workplace safety delegate (if any) notified by the Territory to the Panel Member on matters relating to health and safety.

6.2 Equipment and supplies

- (1) The Panel Member must provide at its own cost and expense all labour, cleaning materials, plant and equipment necessary for the completion of the Services, unless otherwise stated in this Deed or the relevant Services Contract or approval has been given by the Territory to use specified Territory equipment.
- (2) The Panel Member must supply to the Territory copies of Material Safety Data Sheets for all cleaning chemicals used from time to time in its provision of Services, at least 3 days prior to using those chemicals.
- (3) In the provision of Services the Panel Member:
 - (a) must not store dangerous, flammable or corrosive substances on School premises;
 - (b) must ensure all cleaning materials are stored in their appropriate correctly labelled containers; and
 - (c) ensure that all equipment and supplies are returned to proper storage places identified by a relevant School representative after cleaning and that such areas are cleaned and orderly by 8:00am.
- (4) The Territory accepts no responsibility for any articles, belonging to the Panel Member or the Panel Member's Personnel, left on School premises.
- (5) The Panel Member must:
 - (a) ensure that where practicable all products, substances and materials used in the performance of the Services are supplied by a quality assured company whose processes meet the

AS/NZS ISO 9001:2008 *Quality Management Systems Requirements Standard* and/or AS/NZS ISO 14001:2004 *Environmental Management Systems*, are not harmful to any person if used in accordance with their manufacturer's directions for use and are "environmentally friendly" in that they:

- (i) contain no hazardous ingredients;
 - (ii) do not need to be disposed of as hazardous waste;
 - (iii) have a pH closer to Neutral;
 - (iv) do not ignite easily;
 - (v) have low levels of volatile organic compounds (being those that readily produce vapours at room temperature and normal atmospheric pressure, including petrol, solvents and fuel oxygenates);
 - (vi) are biodegradable;
 - (vii) have a phosphate content not above 0.5%;
 - (viii) contain no fragrances or dyes, and
 - (ix) have minimal packaging required, and such packaging preferably being recyclable.
- (b) on request from the Territory:
- (i) provide a detailed list and description of all materials being used in the performance of the Services under a Services Contract, and
 - (ii) replace materials that are deemed and notified by the Territory to be unsuitable for use in schools or Territory premises, with suitable materials at no cost to the Territory.
- (c) ensure that when a product is disposed of, it will not constitute a hazardous waste;
- (d) ensure that all equipment used in performing the Services is of suitable design and safety and that all equipment utilised is available for inspection upon request by the Territory. Any equipment that is considered unsuitable by the Territory must be removed by the Panel Member from the School premises and replaced by acceptable equipment at no cost to the Territory.
- (e) The Panel Member must produce evidence of the inspection and testing by way of tagging of all equipment and must comply with AS3760:2000 - *In-service safety inspections and testing of electrical equipment* in relation to electrical equipment.

- (6) For clarity, any requirement for the Panel Member to supply information to the Territory under this **clause 6.2** regarding its equipment, suppliers and other materials does not relieve the Panel Member of its obligations in respect of those matters under this **clause 6.2**.

6.3 Prevention of Disturbance

- (1) The Panel Member must ensure that when working in areas of the School premises that are close to areas occupied by any person, Services are performed in a manner that does not disturb or adversely affect the occupants or their use of those parts or areas.
- (2) If classes or any other school activities are in progress on the School premises, the Panel Member must ensure cleaning is not to be carried out until the classroom or area is vacated.

6.4 Log book etc

- (1) The Panel Member must, for each School at which it provides Services, maintain an inspection log at all times showing each time a site inspection of the provision of Services has been carried out and the areas inspected including comments and ensure the inspection log is made available to the Territory when requested.
- (2) The Panel Member must, for each School at which it provides Services, maintain a sign on/off book and ensure all Panel Member Personnel accurately sign on and off in that book when starting and finishing work each day.
- (3) The Panel Member must, for each School at which it provides Services, maintain a communications and instructions book for the Panel Member and the Territory to record communications and instructions to the other party regarding the Services to enable day to day communications and notifications.
- (4) The books must not be removed by the Panel Member from the relevant School premises and must be made available to the Territory when requested.
- (5) The Territory Contract Manager will advise the Panel Member where the books are to be located.
- (6) The books will be provided by the Territory through the relevant School and remain the property of the Territory.

6.5 Security of School premises

- (1) The Panel Member:
 - (a) must ensure all School offices are locked when unattended and that all exterior doors are locked unless otherwise instructed and that all entrances, access and exit doors to the building are

- securely locked at all times during cleaning unless otherwise directed by the Territory;
- (b) upon leaving the School premises, ensure all windows and doors opened in the course of cleaning are closed and locked and that the security system is armed if there are no other authorised persons remaining on the premises; and
 - (c) will be issued and must sign for keys for the School to facilitate it providing the Services.
- (2) If the Panel Member or Panel Member's Personnel activates an alarm at a School which requires the security company to attend the site unnecessarily the call out charges from the security company may be deducted from the amounts payable to the Panel Member under the relevant Services Contract and the Panel Member will be notified by the Territory if such an activation has occurred which will incur a charge.
 - (3) If issued keys are lost or misplaced by the Panel Member or are stolen, the Panel Member may be required by the Territory pay for the cost of re-cutting the keys, or, if a master (skeleton) key is lost or stolen, the reasonable cost of re-keying the Premises which may be deducted from any amounts payable to the Panel Member.
 - (4) The Panel Member must return keys for a School to the Territory upon termination or expiration of the relevant Services Contract, and all keys termination of this Deed.

6.6 Other Requirements

The Panel Member must:

- (1) comply with Australian Standard AS/NZS 3733-1995 in regard to cleaning maintenance of commercial carpeting;
- (2) not use deodorant crystals in urinals;
- (3) use a minimum of electricity during cleaning operations and ensure that all electric lights, water taps and appliances are turned off immediately after use and that all lights in vacant rooms are turned off; and

6.7 Panel Member's Personnel

- (1) The Panel Member must submit to the Territory, at least 5 days prior to the commencement of Services under a Services Contract, or within such time as the Territory agrees:
 - (a) a list of the names, addresses, dates of birth and specimen signatures of all Panel Member's Personnel who are proposed to perform the Services under that Services Contract; and

- (b) a police check from the Australian Federal Police conducted within the last 12 months for all Panel Member's Personnel who are proposed to perform the Services under that Services Contract.
- (2) Where there is a change of Panel Member's Personnel during the term of a Services Contract the Panel Member must:
- (a) notify the Territory of the name of each new Panel Member's Personnel ("New Staff") as soon as practicable before he or she enters onto School premises;
- (b) provide the details set out in **clause 6.7(1)** for New Staff as soon as practicable after the appointment and no later than 6 weeks; and
- (c) ensure New Staff work with another of the Panel Member's Personnel who's details have been provided to the Territory under **clause 6.7(1)** while on School premises, until the New Staff's details are received by the Territory.
- (3) The Panel Member:
- (a) must ensure that the Services are performed by persons who are fit and proper, and suitable to perform the Services in a school environment, having regard to **clause 6.9**, the security, safety and other requirements to perform the Services; and
- (b) must not employ or engage any person to perform the Services or permit any person to participate in carrying out the Services:
- (i) who has been found guilty of an indictable offence (within the meaning of *Legislation Act 2001* (ACT)), or
- (ii) whom the Territory has previously notified the Panel Member not to employ or engage for the Services.
- (4) If, having regard to the requirements in **clause 6.7(3)** the Territory notifies the Panel Member in writing of a concern in respect of a person proposed to be engaged to perform the Services:
- (a) the Panel Member shall provide such further evidence or perform such further enquires in relation to the person as may reasonably be required in the notice; and
- (b) the Territory will, acting reasonably having regard to the requirements relevant to the performance of the Services:
- (i) consider all the information provided in respect of such person and such further information (if any) including any police report which the Territory may obtain;

- (ii) determine if such person is fit and proper, and suitable to perform the Services; and
 - (iii) give written notice to the Panel Member of whether the person is or is not considered fit and proper, and if that person is not considered fit and proper, the Panel Member must ensure that person immediately ceases performance of all Services.
- (5) Before any Panel Member's Personnel performs any Services the Panel Member must provide (to the person) a Photo Identification Pass.
- (6) If any of the Panel Member's Personnel cease to be employed by the Panel Member or engaged in relation to the Services, or ceases to be a person who is fit and proper, and suitable to perform the Services, the Panel Member shall immediately notify the Territory in writing and require the Panel Member's Personnel to surrender his or her Photo Identification Pass.
- (7) Failure by the Panel Member to provide reasonable notification or to provide all necessary details of the Panel Member's Personnel as required in this Deed may result in delays in obtaining the Territory's approval for entry of those persons onto School premises and/or termination of this Deed or suspension of the Panel Member in accordance with **clause 10**.
- (8) For clarity, any requirement for the Panel Member to supply information to the Territory under this **clause 6.7** regarding the Panel Member's Personnel does not relieve the Panel Member of its obligations under this **clause 6.7**.

6.8 Identification of Panel Member's Personnel

- (1) The Panel Member must ensure:
- (a) each of the Panel Member's Personnel (including supervisors) wears visibly at all times when on the School premises a Photo Identification Pass and an identifiable uniform bearing the Panel Member's name; and
 - (b) only the Panel Member's Personnel with the correct Photo Identification Passes are permitted on the School premises during the hours when the Services are being performed, including that children of the Panel Member's Personnel are not permitted on the School premises during the performance of Services.
- (2) The Panel Member must ensure all Photo Identification Passes of all the Panel Member's Personnel whose employment or engagement has ceased, are returned to the Panel Member.

6.9 Qualifications, Training and Knowledge

- (1) The Panel Member must ensure that all Panel Member's Personnel:
 - (a) have training, skills and knowledge appropriate to undertake the Services and in a safe manner; and
 - (b) are adequately supervised to ensure that all Services are delivered in accordance with the requirements of this Deed and the relevant Services Contract and any relevant legislation and Australian Standards.
- (2) Without limiting the requirement in **clause 6.9(1)**, the Panel Member must ensure that, unless such training has been provided within the prior 6 months, then:
 - (a) within one month of commencement of a Services Contract; and
 - (b) for not less than two half days per year thereafter,

the Panel Member's Personnel undertake training which will enhance their understanding of safe work practices and other operational requirements as relevant to the performance of the Services required under this Deed and the relevant Services Contract.

6.10 Award Wages and Conditions

- (1) The Panel Member must ensure all Panel Member's Personnel are paid wages at rates and employed under conditions of employment and safety not less favourable than those established by any law of the Commonwealth or Territory in which the person is employed to perform the Services of the same character in the trade or industry concerned. All increases in wages or other entitlements applicable to the Panel Member's Personnel must be passed on to them in full and promptly.
- (2) Before paying any monies to the Panel Member under this Deed and the relevant Services Contract, the Territory may require the Panel Member to give the Territory a statutory declaration by the Panel Member, or, where the Panel Member is a corporation, by a representative of the Panel Member who is in a position to know the facts attested to, that:
 - (a) all employees who have at any time been engaged to perform the Services under this Deed and the relevant Services Contract have been paid in full all amounts payable to them whether by the Panel Member or a subcontractor in respect of their employment on the Services under this Deed; and
 - (b) all subcontractors have been paid all monies payable to them in respect of the Services performed under this Deed,

and if, within two days after the request, the Panel Member fails to provide the statutory declaration, the Territory may withhold payment of monies due to the Panel Member until the statutory declaration is received.

- (3) The Panel Member must ensure all eligible persons engaged or employed for carrying out the Services have been paid their correct superannuation and long service leave entitlements.
- (4) At the request of the Panel Member and out of monies payable to the Panel Member the Territory may on behalf of the Panel Member make payments directly to an employee or subcontractor.
- (5) The Panel Member must ensure that all persons engaged or employed for carrying out the Services under this Deed are not prevented or deterred by it from joining and participating in their respective union.

6.11 Continuity of Employment

If at any time the Panel Member does not have a sufficient number of employees to perform the Services under a Services Contract, in the first instance it is Territory's preference that the Panel Member remedy this issue by using its reasonable endeavours:

- (1) to communicate to the Predecessor its desire to offer employment to such of the Predecessor's employees who are suitably experienced in the provision of any of the Services and who wish to apply for employment with the Panel Member and gain the permission of the Predecessor to approach its employees; and
- (2) offer employment to those of the Predecessor's employees who apply for employment with the Panel Member and are suitably experienced, on terms no less favourable than those terms that apply to the Panel Member's Personnel.

6.12 Ethical Suppliers Declaration

The Panel Member must provide on each anniversary of this Deed to the Territory a completed ethical supplier's declaration in the form of **Attachment A**.

6.13 Security and Directions

The Panel Member must, if using the Territory's premises or facilities including a School premises or facilities to perform the Services, comply with all security and office regulations in effect at those premises or regarding those facilities, as notified or directed by the Territory and comply with all reasonable directions of the Territory.

7. Records, audit and performance review

- (1) The Panel Member must maintain accurate records in relation to its provision of the Services and with respect to the Panel Member's Personnel including keeping proper wages books and time sheets showing the wages paid to and, so far as practicable, the time worked by all Panel Member's Personnel in connection with this Deed.
- (2) The Panel Member must:
 - (a) cooperate with any reasonable request by the Territory to enter upon its premises and conduct audits (at the Territory's cost) with respect to any records required to be maintained or other requirements under this Deed and each Services Contract including inspecting its wages books and time sheets;
 - (b) if required by the Territory, verify any matter relating to the Services; and
 - (c) if such authorised officer thinks fit, allow the Territory to interview any persons employed on the Services in connection with this Deed as to their rates of wages, hours and conditions of employment to ascertain the Panel Member's compliance with **clause 6.10**.
- (3) The Territory will use its reasonable endeavours not to unreasonably disrupt the Panel Member's conduct of its business and its performance of this Deed if it conducts an audit under this **clause 7**.
- (4) The Territory will monitor, review and/or evaluate the Contractor's performance of this Deed and/or a Services Contract which may include by completing performance review reports substantially in the form of **Attachment B**.

8. Non-disclosure of Territory Information

8.1 Panel Member to protect Territory Information

- (1) Except as provided in this Deed or a Services Contract, the Panel Member must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law;
 - (b) disclosed to the Panel Member's solicitors, auditors, insurers or advisers;
 - (c) generally available to the public; or
 - (d) in the possession of the Panel Member without restriction in relation to disclosure before the date of receipt from the Territory.

- (2) The Panel Member must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Deed or a Services Contract is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and only authorised personnel have access to Territory Information.

8.2 Panel Member's use of Territory Information

The Panel Member must:

- (1) use Territory Information held in connection with this Deed or a Services Contract only for the purposes of fulfilling its obligations under this Deed or the Services Contract;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Deed;
- (3) not transfer Territory Information held in connection with this Deed outside the Territory, or allow any person (other than authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Panel Member becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

8.3 Acknowledgement of effect of Crimes Act

The Panel Member acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Deed or a Services Contract (other than to a person to whom the Panel Member is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

9. Non-disclosure of Confidential Text

9.1 Territory may make Deed publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Deed may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Deed available to the public, including by publication on a public contracts register.

9.2 Confidential Text

If the Deed is a notifiable contract under the Procurement Act and Confidential Text is specified in **Item 6 Schedule 1**, the grounds on which the text is confidential are set out in **Item 7 Schedule 1** and **clause 9.3** applies.

9.3 Territory must not disclose Confidential Text

Except as provided in this Deed, the Territory must not disclose Confidential Text to any person without the prior written consent of the Panel Member (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Panel Member;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of the public revenue.

10. Insurance and indemnity

10.1 Panel Member's insurance

The Panel Member must effect and maintain for the Term all insurance coverage required to be effected by it by law and public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 4 Schedule 1** with a Prescribed Insurer and must provide evidence of that insurance satisfactory to the Territory when requested.

10.2 Indemnity

The Panel Member indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property caused by the Panel Member, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

10.3 Claims to be made good

The Panel Member must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 10.2** and the Territory may deduct the amount, or any part of it, from any moneys

due or becoming due to the Panel Member.

11. Termination

11.1 Revocation or suspension of Panel status on default

- (1) The Territory may terminate this Deed and each Services Contract entered into with the Panel Member pursuant to this Deed, or suspend the Panel Member's status as a member of the Panel for a maximum period of 6 months, at any time by notice to the Panel Member, if the Panel Member:
 - (a) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
 - (b) fails to commence regular and timely provision of the Services under a Services Contract or fails to meet any timeframes, as specified in this Deed including **Schedule 2** or the relevant Services Contract; or
 - (c) is in breach of a provision of this Deed or of a Services Contract, where that breach:
 - (i) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (ii) is not capable of being remedied, or
 - (iii) in the Territory's absolute opinion is a serious breach.
- (2) In the event the Panel Member is suspended the Panel Member:
 - (a) is ineligible to receive Requests for Offer for the period of the suspension; and
 - (b) must continue providing Services under any current Services Contracts.
- (3) In the event this Deed is terminated by the Territory under this **clause 11.1**, each Services Contract is also terminated from the date specified in the notice.
- (4) When determining whether a serious breach has occurred the Territory may, but is not limited to, consider such matters as:
 - (a) the number of instances of failure or breach;
 - (b) whether remedial measures taken by the Panel Member are commensurate with the failure or breach and in the reasonable opinion of the Territory, can be expected to prevent such failure or breach from recurring; and
 - (c) whether the Territory is otherwise satisfied that the Panel Member has shown good cause why Panel status should not be suspended or this Deed terminated (as the case may be).

11.2 Termination of Deed for any reason

The Territory may, at any time by notice to the Panel Member, terminate this Deed for any reason and in that event:

- (1) each Services Contract with the Panel Member entered into pursuant to this Deed is also terminated from the date specified in the notice; and
- (2) the Territory will be liable only for:
 - (a) payments for Services rendered before the date of termination, and
 - (b) subject to **clauses 11.2(3)** any reasonable costs incurred by the Panel Member and directly attributable to the termination of Services, but not in respect of loss of prospective profits; and
- (3) the Panel Member must:
 - (a) stop work as specified in the notice; and
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and

11.3 No prejudice

Nothing in this **clause 11** prejudices any other rights or remedies of the Territory in respect of any breach of this Deed.

11.4 Expiration of Deed

If a Services Contract held by the Panel Member is not complete at the expiration of this Deed, the Panel Member must complete the Services Contract in accordance with the terms and conditions of this Deed, and the relevant Services Contract, and the Territory will continue to pay the Panel Member in accordance with this Deed and the relevant Services Contract until the relevant Services Contract expires or is earlier terminated. This **clause 11.4** survives the expiration of this Deed.

12. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Deed or a Services Contract, either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this **clause 12** will prejudice the rights of either party to institute proceedings to enforce the Deed or to seek injunctive or urgent declaratory relief in respect of any Dispute.

13. General

13.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with the other to ensure timely progress and fulfilment of the Deed and/or a Services Contract;
- (2) act reasonably and in good faith with respect to matters that relate to the Deed and/or a Services Contract; and
- (3) if, and to the extent, specified in the Deed or a Services Contract, hold meetings (including meetings relating to planning, review and issue resolution) as necessary and report to the other on a regular basis in order to keep the other fully informed of the progress of work required under the Deed and/or a Services Contract.

13.2 Conflict of interest

The Panel Member warrants that no conflict of interest exists or is likely to arise in the performance of the Services and of its other obligations under this Deed and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

13.3 No employment, partnership or agency relationship

Nothing in this Deed constitutes the Panel Member, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Panel Member must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

13.4 No assignment or subcontracting

The Panel Member must not subcontract the performance of the Services or assign the whole or part of this Deed or a Services Contract without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.

13.5 Entire agreement

This Deed and each Services Contract comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

13.6 Severability

Any provision of this Deed or of a Services Contract that is illegal, void or unenforceable will not form part of this Deed or the relevant Services Contract to the extent of that illegality, voidness or unenforceability. The remaining

provisions of this Deed or the Services Contract will not be invalidated by an illegal, void or unenforceable provision.

13.7 Variation

This Deed and any Services Contract may be varied, including the Term extended, only by the written agreement of the parties prior to the expiration of this Deed and, with respect to a Services Contract, the expiration of the relevant Services Contract.

13.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Deed or a Services Contract will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

13.9 Governing law and compliance

This Deed and each Services Contract is governed by and construed in accordance with the law for the time being in force in the Territory and the Panel Member must comply with the laws from time to time in force in the Territory in performing the Services. The parties submit to the non-exclusive jurisdiction of the courts of the Territory.

13.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Deed or a Services Contract must be in writing and given to the relevant Contact Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

13.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Deed then, to the extent of any inconsistency, the Special Condition will prevail.

13.12 Survival of clauses

Clauses 5.1, 5.2, 6.5(3) and (4), 8.2, 9.3, 10.2, 10.3 and 11.2 will survive the expiration or earlier termination of this Deed.

13.13 Relationship of Deed and Services Contract

Each Services Contract is to be read in conjunction with this Deed.

SCHEDULE 1**CONTRACT DETAILS****Item 1. Contact Officers**
See clauses 1.1 and 13.10

For the Territory:

Lee Blakers
 Assistant Manager
 Corporate Support
 Education and Training Directorate
 Ground Floor
 220 Northbourne Avenue
 BRADDON ACT 2612
 Telephone:(02) 6205 9115
 Facsimile: (02) 6205 9333

For the Contractor:

Angelo Di Dio
 PHILLIPS CLEANING SERVICE
 PTY LIMITED trading as
 PHILLIPS CLEANING SERVICES
 PTY LIMITED
 4 Lyell Street
 FYSHWICK ACT 2609
 Telephone:(02) 6162 2680
 Facsimile: (02) 6162 2681
 Email: phillipscleaning@bigpond.com

Item 2. Term
See clause 4

From the date of execution of the Agreement for
 a period of three (3) years.

Item 3. Hourly Fee Rate
See clause 5

- (1) The hourly rate is \$34.52 (inclusive of GST).
- (2) The hourly rate will be reviewed annually by the Territory and any changes will be effective from 1 July each year.

Item 4. Insurance Details
See clause 10.1

- (1) Public liability insurance: \$20 million (in respect of each claim); and
- (2) ACT Workers' Compensation insurance to the extent required by any law of the Territory or Personal Accident Insurance for Proprietor Applicants.

Item 5. Territory Information
See clauses 1.1 and 8

Item 5 Not used.

Item 6. Confidential Text
See clauses 1.1 and 9

Item 6 Not used.

Item 7. Grounds for confidentiality of Confidential Text
See clause 9

Item 7 Not used.

SCHEDULE 2

THE SERVICES

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

1. Scope of Works

1.1.1 This Scope of Work (SOW) sets out the services the Panel members contracted to clean a school to provide for that school. For clarity, these services would apply to all schools, as far as they are relevant to the circumstances of the particular school.

1.1.2 Individual schools may have additional or special cleaning requirements that will be notified when requests for offer to provide services are issued.

2. Frequency and timing of cleaning

2.1 Daily Clean

2.1.1 Daily Cleans must be performed on each school day (Monday to Friday excluding public holidays) during all school terms and are to be undertaken between 4.00pm and 8.00pm unless approval to alter these times is given by the Territory Contract Manager.

2.2 Weekly Clean

2.2.1 Weekly Cleans must be performed once in each school week (on any day Monday to Friday selected by the Contractor, excluding days that fall on public holidays) during school terms and are to be undertaken between 4.00pm and 8.00pm unless approval to alter these times is given by the Territory Contract Manager. The weekly clean can be carried out on any day(s) of the week and it is preferable that tasks be spread over the week, in accordance with **Item 2 of this SOW**.

2.3 Vacation Duties

2.3.1 Vacation Duties must be performed twice (2) yearly, once during the school vacation at the end of Term 1 and once during the school vacation at the end of Term 3. These cleans should be conducted in blocks during daylight hours if possible. Vacation Duties may be performed on any day(s) of the week and tasks may be spread over a number of days in accordance with **Item 2 of this SOW**.

2.4 Mid Year Clean

2.4.1 Mid Year Cleans must be performed once (1) yearly, during the school vacation at the end of Term 2 and should be conducted in blocks during daylight hours if possible. Mid Year Cleans may be performed on any day(s) of the week and tasks may be spread over a number of days in accordance with **Item 2 of this SOW**.

2.5 End Year Clean

- 2.5.1. End Year Cleans must be performed once (1) yearly, during the school vacation at the end of Term 4 and should be conducted in blocks during daylight hours if possible. An End Year Clean may be performed on any day(s) of the week and tasks may be completed over a number of days in accordance with Item 2 of this SOW.

3. Flexible cleaning hours

- 3.1. The Contractor has flexibility as to how required cleaning hours are delivered (for example if 200 cleaning hours are required for a particular clean, the Contractor might choose to fulfil those hours by deploying 10 cleaners x 10 hours over two days, or 5 cleaners x 10 hours x 4 days etc) Days may be consecutive or non-consecutive, and the Contractor must:
- (a) advise and obtain the approval of the Territory Contract Manager on how it will undertake the required cleaning hours for each clean for the following school term and the following term holiday at least 2 weeks before the end of the current term; and
 - (b) advise and obtain the approval of the Territory Contract Manager of any variations to its cleaning plan under **Item 2(2) of this SOW**; and
 - (c) plan its provision of the required cleaning hours so as to ensure that on the last day of each of the four major school holidays, the school is in a thoroughly cleaned state ready for classes to commence.

4. Services required for each clean

4.1 Equipment colour coding requirements

- (a) Cleaning equipment used in general areas is not to be used in other areas and is to be colour-coded **blue**. This applies (among other things) to mops, buckets and cloths.
- (b) Cleaning equipment used in toilet and shower areas is not to be used in other areas and is to be colour-coded **red**. This applies (among other things) to mops, buckets and cloths.
- (c) Cleaning equipment used in canteens, food preparation areas, staff room and common rooms is not to be used in other areas and is to be colour-coded **green**. This applies (among other things) to mops, buckets and cloths.
- (d) Cleaning equipment used in health or medical areas is not to be used in other areas and is to be colour-coded **yellow**. Mops, buckets and cloths (among other things) used in this area must be colour coded **yellow**.

5. Daily Clean

5.1 General Areas Requirements

- (i) Remove all waste paper and rubbish to the designated area and replace damaged or dirty bin liners. Disposable liners are to be provided by the Contractor. The waste bin in first aid/sick rooms must be double bagged at all times.
- (ii) Clean all floor surfaces by vacuuming, sweeping, mopping or wet mopping as appropriate to the floor type, and paying particular attention to high use areas.
- (iii) Buff floors on a daily basis or as required, depending on the floor surface
- (iv) Clean glass of all entrance doors (inside and out).
- (v) Remove spillage, litter, spots and chewing gum from floors.

5.2 Toilet and Shower Areas

- (i) Clean all toilet seats topside and underside with disinfectant.
- (ii) Remove watermarks and stains from inside and outside of all toilet pans.
- (iii) Wash entire floor surfaces with a disinfectant and remove excess water.
- (iv) Clean all basins and sinks inside and outside and exposed piping.
- (v) Remove water marks and stains from urinals and strainer cups.
- (vi) Sluice down urinals with approved disinfectant.
- (vii) Wash urinal steps with approved disinfectant.
- (viii) Remove marks from all mirrors
- (ix) Remove marks from walls/tiles

5.3 Canteens, food preparation areas, staff rooms and common rooms

- (i) Sinks and surrounding areas to be wiped clean (provided they have been left clear of any items).
- (ii) Clean all cupboard doors free of stains, spillages and marks.
- (iii) Sweep and wet mop all vinyl floor areas.
- (iv) Buff floors as required.
- (v) Clean all tables and chairs as necessary and replace for use.

5.4 Ceramic, Art, Photography and Woodwork Rooms

- (i) After vacuuming, sweeping or brushing, wet mop all floor areas, changing water frequently to remove dust.

5.5 Gymnasiums and halls floors

- (i) Clean gymnasium and hall, if relevant for the particular school, noting that if the gymnasium is used during the evening on a particular day the cleaning of the gymnasium must occur after that use, either later that night or early the next morning prior to the commencement of the school day. The Contractor will be advised in advance of the times and dates the gymnasium has been or is intended to be used in the evening and will require night-time cleaning.
- (ii) If the Contractor is required to clean a gymnasium or hall it must clean all floors according to the manufacturer's instructions for that floor type, as notified to the Contractor by the Territory Contract Manager.

5.6 Preschools

- (i) Some preschools may require desks to be cleaned daily and the Contractor will be advised if this applies to a particular school.

5.7 Medical Areas

- (i) In areas identified as delivering health services, the Contractor is to ensure these areas are cleaned to a very high standard.

6. WEEKLY CLEAN

For clarity, on the days the Contractor does Weekly Clean tasks it must still also do all of the Daily Clean tasks. The Weekly Clean consists of the following tasks.

- (a) Remove all cobwebs.
- (b) Thoroughly vacuum all areas (remove chairs, vacuum and replace chairs).
- (c) Wipe all cupboard tops, bench tops, ledges, furniture and fixtures of a height of 2 metres to remove dust using treated cloths.
- (d) Remove finger marks and smears from wall switches and door furniture.
- (e) Remove finger marks and smears from all interior glass, including glass doors (inside and out), glass table tops and glass cabinets.
- (f) Wipe down all desks thoroughly changing the water regularly.
- (g) Remove stains, spillage, scuff marks, chewing gum from floor surfaces.
- (h) Hose ceramic/art floors where facilities exist to do so.

- (i) Buff all floors on a daily basis as required at relevant schools

7. VACATION DUTIES (end of Term 1 and Term 3)

Vacation Duties are intended to allow for the School to be cleaned thoroughly and consist of the following tasks:

- (a) Remove finger marks and smears from all interior glass, including glass doors, glass table tops and glass cabinets.
- (b) Remove finger marks and smears from around wall switches and door furniture.
- (c) Thoroughly clean furniture such as desks, tables, chairs and bench tops changing the water regularly.
- (d) Remove all cobwebs from all window frames, sills, shades and blinds and wipe free spillage.
- (e) Scrub all floor and wall tiles in toilets paying particular attention to edges.
- (f) Scrub all shower cubicles and surrounding floor areas.
- (g) Remove marks from washable paint walls in toilet areas from floor to ceiling.
- (h) Thoroughly vacuum all rooms (removing and replacing tables and chairs).
- (i) Clean all ceiling fans.
- (j) Dust off the top of exposed internal ductwork and pipe work.
- (k) Remove, clean and replace all internal and external mats and clean the floor areas beneath them.
- (l) Buff floors as required.

8. MID YEAR CLEAN (End of Term 2)

8.1. For each Mid Year Clean (**performed at the end of term 2**), the Contractor must perform all tasks of the Vacation Duties, and, in addition the Contractor must:

- (a) clean all interior windows, window ledges and glass partitions (the removal of adhesive tape is excluded); and
- (b) strip and seal all polished floor areas to restore to an acceptable standard, given the condition and age of the relevant floor.

9. END OF YEAR CLEAN (End of Term 4)

- 9.1. For each End of Year Clean (performed at the end of term 4), the Contractor must perform all tasks of the Vacation Duties and all tasks of the Mid Year Clean and, in addition, the Contractor must:
- (a) spot treat stains; and
 - (b) shampoo and vacuum extract all carpet areas with commercial shampoo and vacuum extract machines, not domestic quality machines.

10. ADDITIONAL CLEANING

- 10.1. The Contractor may be required by the Territory Contract Manager to undertake additional cleaning services at the School consisting of:
- (a) additional carpet shampooing; and/or
 - (b) exterior window cleaning.
- 10.2. If additional cleaning is required, the Territory Contract Manager will notify the Contractor of the requirement, and the Contractor will have the discretion as to whether to accept or reject the offer of the additional cleaning.
- 10.3. If the Contractor undertakes additional cleaning services the Territory will pay the Contractor an additional amount calculated at the prevailing cleaning industry rate determined by DET.
- 10.4. The Contractor may negotiate with the Territory adjustments to any payment for additional services for any specific additional high cost elements; however the Territory does not guarantee any payments will be adjusted.
- 10.5. The Territory does not guarantee any additional cleaning services will be required of the Contractor and the Territory may, in its absolute discretion, engage specialist or other cleaning companies to carry out additional cleaning services at the relevant school.
- 10.6. Unless otherwise agreed with the Territory Contract Manager, the Contractor must check with ACTEW Corporation and obtain its written permission prior to undertaking any external window cleaning due to the possibility of prohibitive water restrictions.

11. ADDITIONAL CLEANING AT COMMENCEMENT / END OF CONTRACT

- 11.1. Prior to the expiration or earlier termination of the Contractor's contract with the Territory with respect to a school, an inspection of the relevant school will be undertaken by the Territory to assess whether the school is clean in accordance with the required standard under the Contractor's contract.
- 11.2. If the school's cleanliness is assessed under **Item 4(2)(1)** as being in any respects below the standard required in the Contractor's contract, the Contractor may either:

- (a) be required to clean the school to bring it up to the required standard at no additional cost to the Territory; or
 - (b) the Territory will be entitled to withhold payment commensurate with the hours required to clean the school to bring it up to the required standard.
- 11.3. At the commencement of the Contractor's contract with the Territory with respect to a school, the Contractor may be required to attend the relevant school to perform a check of the state of cleanliness of the school and, if the Territory and the Contractor agree at that time the school's cleanliness is below the standard required by the Territory under this SOW, the Territory may:
- (a) ensure any below standard areas are rectified prior to the Contractor commencing its cleaning services at the school; or
 - (b) the Territory Contract Manager will negotiate with the Contractor the provision of additional cleaning services to bring the school up to standard for an additional payment amount.
- 11.4. If the Territory Contract Manager and the Contractor cannot agree on the state of cleanliness of the school and/or required cleaning, they agree to submit to mediation of the issue by an appropriate person (which may be a representative from DET Central Office) in accordance with the Contractor's contract.

12. CHEMICALS AND EQUIPMENT SPECIFICATION

- 12.1. The Contractor must ensure that, unless it obtains the Territory's prior approval, all products, substances and materials used in the performance of the services are:
- (a) supplied by a quality assured company whose processes meet the AS/NZS ISO 9001:2008 *Quality Management Systems Requirements Standard* and/or AS/NZS ISO 14001:2004 *Environmental Management Systems*;
 - (b) not harmful to any person if used in accordance with their manufacturer's directions for use; and
 - (c) environmentally friendly.
- 12.2. The Contractor must ensure a product, substance or material used in performing the services:
- (a) contains no hazardous ingredients;
 - (b) does not need to be disposed of as hazardous waste;
 - (c) has a pH closer to neutral;
 - (d) does not ignite easily;
 - (e) has low volatile organic compounds (being those that readily produce vapours at room temperature and normal atmospheric pressure, including petrol, solvents and fuel oxygenates);

- (f) is biodegradable;
- (g) has a phosphate content not above 0.5%;
- (h) contains no fragrances or dyes;
- (i) has minimal packaging, and such packaging being recyclable; and
- (j) in accordance with relevant Material Safety Data Sheets.

12.3. On request from the relevant school's principal or the Territory Contract Manager, the Contractor must:

- (a) provide a detailed list and description of all products, substances and materials being used in the performance of the services; and
- (b) replace products, substances and materials that are deemed and notified by the Territory Contract Manager to be unsuitable for use in schools or Territory premises, with suitable materials at no cost to the Territory.

12.4. The Contractor must ensure that when a product is disposed of, it will not constitute a hazardous waste.

12.5. The Contractor must provide to the Territory Contract Manager:

- (a) copies of Material Safety Data Sheets for all chemicals and/or hazardous substances at least one week prior to commencing the services ; and
- (b) during the term of the Contractor's contract, revised Material Safety Data Sheets if the Contractor commences using any other products, substances or materials with different chemicals or substances from those previously notified to the Territory Contract Manager.

12.6. The Contractor must:

- (a) ensure that all equipment used in performing the services is of suitable design and safety to perform the services in accordance with occupational health and safety requirements;
- (b) make available for inspection by the Territory all equipment utilised in performing the services as reasonably notified by the Territory Contract Manager;
- (c) produce evidence of the inspection and testing of relevant equipment as requested by the Territory Contract Manager; and
- (d) cease use of any equipment used in performing the services that is reasonably considered unsuitable by the Territory and replace with acceptable equipment at no cost to the Territory.
- (e) The Contractor must ensure all chemicals used in the performance of the services are stored in tamper proof containers.

13. SCHOOL YEARS & TERMS**ACT school term dates 2011– 2015**

	Term 1	Term 2	Term 3	Term 4
2011	Friday 4 February to Friday 15 April <i>Term break includes the Easter and Anzac Day public holidays</i>	Monday 2 May to Friday 8 July	Monday 25 July to Friday 30 September	Monday 17 October to Wednesday 21 December
2012	Friday 3 February to Friday 13 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 30 April to Friday 6 July	Monday 23 July to Friday 28 September	Monday 15 October to Friday 21 December
2013	Friday 1 February to Friday 12 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 29 April to Friday 5 July	Monday 22 July to Friday 27 September	Monday 14 October to Friday 20 December
2014	Friday 31 January to Friday 11 April <i>Term break includes the Easter and Anzac Day public holidays</i>	Monday 28 April to Friday 4 July	Monday 21 July to Friday 26 September	Monday 13 October to Wednesday 17 December
2015	Friday 30 January to Friday 10 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 27 April to Friday 3 July	Monday 20 July to Friday 25 September	Monday 12 October to Friday 18 December

14. RECORDING CLEANING HOURS WORKED

- 14.1. The Contractor must ensure all cleaning staff sign on and off accurately in a sign-on/off book when starting and finishing work each day.
- 14.2. The sign-on/off book must not be removed by the Contractor from the school premises for any reason.
- 14.3. The Territory Contract Manager will advise where the sign-on/off book is to be located.
- 14.4. Day to day communications and instructions between the Territory Contract Manager, the relevant school, and the Contractor will be by way of a communication book, collocated with the sign on/off book.

- 14.5. Both books will be provided by the Territory through the relevant school and are the property of the Territory.

15. VARIATION OF AREA TO BE CLEANED

- 15.1. The Territory may at any time by notice in writing to the Contractor, increase or decrease the area at the school premises to be cleaned under the Contractor's contract.
- 15.2. If the Territory increases or decreases the area at the school to be cleaned, the amount payable to the Contractor shall be increased or decreased as the case may be, by an amount equivalent to the additional work, or reduction in work, as reasonably agreed between the Territory and the Contractor.

16. MEETINGS, REPORTS AND PERFORMANCE ASSESSMENTS

- 16.1. The Territory Contract Manager will undertake regular formal performance assessments of the Contractor's compliance with the terms of its contract.
- 16.2. The Contractor must attend regular meetings with the Territory Contract Manager on site at the relevant school to monitor the Contractor's performance of the services.
- 16.3. The Contractor will be required to provide written or verbal reports to the Territory Contract Manager as required in the Contractor's contract.
- 16.4. Matters that will be assessed may include, but not be limited to:
- (a) time and attendance;
 - (b) standard of cleaning;
 - (c) issues raised addressed within 24 hours;
 - (d) attendance at on-site inspections;
 - (e) outcome of on-site inspections;
 - (f) police checks provided;
 - (g) cleaners wearing uniforms and photo identification; and
 - (h) cleaning staff's attitude and behaviour on school premises.
- 16.5. Subject to the termination provisions of the Contractor's contract, if a performance assessment reveals any aspects of the services have not been completed to a satisfactory standard, the Contractor will be afforded a specified number of opportunities to rectify issues identified.

SCHEDULE 3 SPECIAL CONDITIONS

See clause 13.11

Item 1. OFFICE ADMINISTRATION AND EMERGENCY CONTACT DETAILS

- (1) In addition to the Panel Member's Contact Officer, the Panel Member must provide the Territory with a telephone, facsimile and email contacts for the hours between 9:00am and 5:00pm Monday to Friday and an emergency contact and telephone number for after office hours.
- (2) The Panel Member must ensure the Territory is provided with updates to any changes in the above contact details.
- (3) The Panel Member must, if entering the School at times when the Panel Member's Personnel are not expected or would not normally be on the premises, notify the Territory by contacting the Territory's security service provider on 1300 304 106 prior to, or as soon as, they enter the School.
- (4) The Panel Member must notify the Territory by contacting the Territory's security service provider on 1300 304 106 in the event of an emergency at a School, which may include but is not limited to flooding, fire, theft or in any other case the security of the building has been compromised.

DATE OF THIS DEED 8 JULY 2011

SIGNED for and on behalf of the AUSTRALIAN CAPITAL TERRITORY in the presence of:

) [Signature]) Signature of Territory delegate

..... M. O'Brien Signature of witness

..... P TARDIF Print name

..... MARGARET O'BRIEN Print name

SIGNED by or for and on behalf of PHILLIPS CLEANING SERVICE PTY LIMITED ACN 069 780 883 in the presence of:

) [Signature]) Signature of Panel Member or authorised officer* *delete whichever is not applicable (see note below)

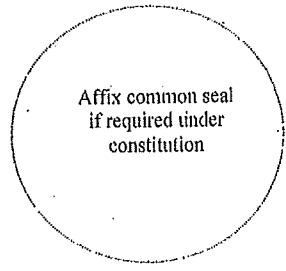
..... H. Hartwig Signature of witness

..... Angelo P. P... manager Print name and position

..... HEATHER HARTWIG Print name

..... Signature of second authorised officer* *see note below

..... Print name and position



- Note:
Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
Individual: Must be signed by the individual Panel Member and witnessed.
Incorporated Association: Must be signed in accordance with the Panel Member's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.
Company: Must be signed in accordance with section 127 of the Corporations Act 2001 (Cwlth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Panel Member's constitution.

ATTACHMENT A**DECLARATIONS****STATUTORY DECLARATION***Statutory Declarations Act 1959 (Cwlth)*

I, _____ (name) of _____

_____ (address and occupation) make the following

declaration under the *Statutory Declarations Act 1959 (Cwlth)*.

The information and details specified in the following 5 pages, titled 'Ethical Suppliers Declaration', are, I believe, correct as of the date of this declaration.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular._____
Signature of person making the declaration

Declared at _____ (place)

on _____ (day) of _____ (month) (year)

Before me,

*Signature of person before whom the declaration is made*_____
*Full name, qualification and address of person before whom the declaration is made
(in printed letters)*

ETHICAL SUPPLIERS DECLARATION

Definitions

In this Declaration.

Full Details means details of:

- (a) the nature of the breach or offence or alleged breach or offence;
- (b) any conviction recorded or adverse finding made in respect of the breach or offence;
- (c) any penalty or orders imposed by a court, tribunal, commission or board in respect of the breach or offence and the maximum penalty that could have been imposed under the **Prescribed Legislation**;
- (d) the name of the court, tribunal, commission or board, the State or Territory in which the proceeding or prosecution is brought, the date on which the proceeding or prosecution was commenced and the number or description assigned to the proceeding or prosecution by the court, tribunal, commission or board;
- (e) the name of the entity against which the finding or conviction was made or the proceeding or prosecution was initiated.

Contract means a written contract for the procurement of prescribed works or services having a total consideration, or estimated total consideration, worth \$20,000 or more.

Contracting Entity means the legal entity (individual or company) that has entered into a contract with the Territory.

Employee means a natural person who is employed under a contract of service to provide a supplier of prescribed works or services or a **Subcontractor** with his or her labour, except for the provision of professional or information technology service.

Employee and industrial relations obligations means compliance with:

- (a) **Prescribed Legislation**; and
- (b) determinations made by the tribunals of competent jurisdiction in respect of the interpretation, breach or any other matter concerning any **Prescribed Legislation**.

Note: Examples of employee and industrial relations obligations may typically include payment of remuneration; training; annual holidays; long service leave entitlements; occupational health and safety; workers' compensation; injury management, (including rehabilitation); legal age of employment; discrimination; and superannuation. This list is non exhaustive.

Prescribed Legislation means:

- (a) awards or industrial Deeds made pursuant to any legislation applicable to the **Contracting Entity** or **Subcontractor**;

- (b) *Long Service Leave Act 1976 (ACT)*;
- (c) *Occupational Health and Safety Act 1989 (ACT)*;
- (d) *Long Service Leave (Building and Construction Industry) Act 1981 (ACT)*;
- (e) *Long Service Leave (Contract Cleaning Industry) Act 1999 (ACT)*;
- (f) *Workers' Compensation Act 1951 (ACT)*;
- (g) *Workplace Relations Act (1996) (Cwlth)*; and
- (h) *Superannuation Guarantee (Administration) Act 1992 (Cwlth)*.

Subcontractor means an entity that is contracted by the **Contracting Entity** to provide services or works in connection with a **Contract** between the Territory and the **Contracting Entity**.

Name of the Contracting Entity in relation to which I make this Declaration:

ACN / ABN of the Contracting Entity:

If a company, include ACN, and if a partnership or sole proprietor, include the full names of individual members and ABN.

1. The following industrial instrument (award or Deed) made pursuant to any Prescribed Legislation specifically applies to the Employees and Subcontractors of the Contracting Entity and is binding on it.

2. The Contracting Entity has in the preceding 24 months of the date of this Declaration complied with all Prescribed Legislation.

YES <input style="width: 40px; height: 20px;" type="checkbox"/>	NO <input style="width: 40px; height: 20px;" type="checkbox"/>
---	--

3. The Contracting Entity has in the preceding 24 months of the date of this Declaration recognised the rights of Employees and Subcontractors to union membership and representation.

YES NO

4. The Contracting Entity has in the preceding 24 months of the date of this Declaration complied with any amendments to wages and conditions of employment for its Employees and Sub-contractors as decided by any authorised industrial or wage-setting agency.

YES NO

5. In the preceding 24 months of the date of this Declaration there have been either:

(a) no findings against the Contracting Entity, or a proposed Subcontractor, by a court, tribunal, commission or board of a breach of any Prescribed Legislation, including a finding of a breach in a non-confidential consent order;

OR

(b) the following findings against the Contracting Entity, or a proposed Subcontractor, by a court, tribunal, commission or board of a breach of any Prescribed Legislation, including a finding of a breach in a non-confidential consent order [provide Full Details].

6. In the preceding 24 months of the date of this Declaration there have been either:

(a) no convictions under the Prescribed Legislation against the Contracting Entity or a proposed Subcontractor;

OR

(b) the following convictions under the Prescribed Legislation against the Contracting Entity or a proposed Subcontractor [provide Full Details].

7. There are currently no proceedings or prosecutions against the Contracting Entity or a proposed Subcontractor in respect of a breach of any Prescribed Legislation OR the following proceedings and prosecutions are currently brought against the Contracting Entity or a proposed Subcontractor [provide Full Details].

8. The Contracting Entity has not been required to implement any remedial measures to ensure future compliance with the Prescribed Legislation OR the Contracting Entity has implemented the following remedial measures to ensure future compliance with Prescribed Legislation.

ATTACHMENT B
Performance Review Form

ATTACHMENT C

Draft Services Agreement



DRAFT SERVICES CONTRACT



Date _____, 2011

Parties **AUSTRALIAN CAPITAL TERRITORY**

**[INSERT FULL NAME OF
CONTRACTOR INCLUDING ACN IF
COMPANY OR ABN]**

**CLEANING SERVICES FOR [INSERT
SCHOOL NAME] UNDER A PANEL
ARRANGEMENT**

Prepared by [Insert Agency]
[Insert Address 1]
[Insert Address 2]
[Insert Address 3]
Ph: [Insert]
Fax: [Insert]
Ref: [INITIALS];[FILE NO]

Version Draft V3 Template 18 May 2011

Note to Respondents:

While this draft comprises the essential terms and conditions under which the Territory anticipates entering into an agreement with the selected Respondent, the Territory reserves the right to amend the agreement (including the addition of special conditions) before the agreement is signed.

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth) (Territory)* represented by the **Department of Education and Training**.

[INSERT FULL NAME, INCLUDING ACN FOR A COMPANY OR ABN FOR OTHER ORGANISATION AND CHECK IT IS A LEGAL ENTITY] of [INSERT address (of registered office if for a company)] (**Contractor**).

BACKGROUND

- A. The Territory has established a panel of suppliers to provide school cleaning services at Territory schools. The Panel Member is one of several members of the Panel.
- B. The Territory has undertaken a procurement process under request for proposal number [insert] and has selected the Contractor to provide the Services at the School.
- C. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Services Contract and the Deed.
- D. This Services Contract must be read in conjunction with the Deed.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

Terms that are defined in the Deed have the same meaning in this Services Contract, unless otherwise stated in this Services Contract. In addition, the following definitions apply in this Services Contract, unless the context otherwise requires.

Confidential Text means any text of this Services Contract that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 6 Schedule 1**.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 2 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price	means the amounts specified in, or calculated in accordance with, Item 4 Schedule 1 .
Contract Term	means the term of this Services Contract specified in Item 3 Schedule 1 , and if extended, the initial term and the extended term.
Deed	means the deed executed by the parties joining the Contractor as a member of the Panel.
Hours	means the required number of man hours per period for which the Contractor must undertake Services at the School as specified in Item 5 Schedule 1 .
Panel	means the panel of cleaning services suppliers established in accordance with request for tender number 14370.110.
Procurement Act	means the <i>Government Procurement Act 2001</i> (ACT).
School	means the Territory public school and all related buildings specified in Item 1 Schedule 1 .
Services	means the services described in Schedule 2 of the Deed and Schedule 2 of this Services Contract.
Special Condition	means any provision set out in Schedule 3 .

1.2 General

In this Services Contract, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services at the School for the required Hours in accordance with the provisions of this Services Contract and the provisions of the Deed to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Contract Term

This Services Contract is for the Contract Term unless terminated under the provisions of this Services Contract.

4. **Contract Price**

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 4 Schedule 1**.

5. **Confidential Text under Procurement Act**

5.1 **Territory may make Services Contract publicly available**

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Services Contract may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Services Contract available to the public, including by publication on a public contracts register.

5.2 **Confidential Text**

If **Item 6 Schedule 1** states that this Services Contract is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 7 Schedule 1**, and **clause 5.3** applies.

5.3 **Territory must not disclose Confidential Text**

Except as provided in this Services Contract, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

6. Termination

6.1 Default

The Territory may terminate this Services Contract at any time by notice to the Contractor if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Services Contract; or
- (3) is in breach of a provision of this Services Contract, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied; or
 - (c) is in the Territory's absolute opinion a serious breach.
- (4) When determining whether a serious breach has occurred the Territory may, but is not limited to, consider such matters as:
 - (a) the number of instances of failure or breach;
 - (b) whether remedial measures taken by the Contractor are commensurate with the failure or breach and in the reasonable opinion of the Territory, can be expected to prevent such failure or breach from recurring; and
 - (c) whether the Territory is otherwise satisfied that the Contractor has shown good cause why this Services Contract should not be terminated.

6.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Services Contract or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Services Contract for Services rendered before the date of termination, and
 - (b) subject to clauses 6.2(2) and 6.2(3), any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of

prospective profits;

- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

6.3 Termination or Expiration of Deed

- (1) In the event the Deed is terminated during the Contract Term, this Services Contract also terminates from the date of termination of the Deed and:
 - (a) if the Contractor is in default of this Services Contract as specified in **clause 6.1** or in default of the Deed as specified in **clause 11.1 of the Deed, clause 6.1** applies; or
 - (b) if the Contractor is not in default, **clause 6.2** applies.
- (2) In the event the Deed expires during the Contract Term, this Services Contract continues until its expiration or earlier termination of this Services Contract and the terms of the Deed, so far as they remain applicable following termination of the Deed, are terms of this Services Contract.

6.4 No prejudice

Nothing in this **clause 6** prejudices any other rights or remedies of the Territory in respect of any breach of this Services Contract.

7. Priority of documents

In the event of any inconsistency between the terms of this Services Contract and the terms of the Deed, the terms of this Services Contract prevail.

8. General

8.1 Entire agreement

This Services Contract and the Deed comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations;

negotiations, writings, memoranda and agreements.

8.2 Severability

Any provision of this Services Contract that is illegal, void or unenforceable will not form part of this Services Contract to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Services Contract will not be invalidated by an illegal, void or unenforceable provision.

8.3 Variation

This Services Contract may be varied, including the Contract Term extended, only by the written agreement of the parties prior to the expiration of this Services Contract.

8.4 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Services Contract will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

8.5 Governing law and compliance with the law

This Services Contract is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

8.6 Notices

Any notice, including any other communication, required to be given or sent to either party under this Services Contract must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

8.7 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Services Contract then, to the extent of any inconsistency, the Special Condition will prevail.

8.8 Survival of clauses

Clause 6.2 will survive the expiration or earlier termination of this Services Contract.

SCHEDULE 1**CONTRACT DETAILS**

- Item 1. School**
See clauses 1.1 and 2
- Item 2. Contract Officers**
See clauses 1.1 and 8.6
- Item 3. Contract Term**
See clause 3
- Item 4. Contract Price**
See clause 4
- Item 5. Hours**
See clauses 1.1 and 2
- Item 6. Confidential Text**
See clauses 1.1 and 5
- Item 7. Grounds for confidentiality of Confidential Text**
See clause 5

SCHEDULE 2

THE SERVICES

The Contractor must provide Services as set out in **Schedule 2 of the Deed**. For the purposes of this Services Contract, the Services as set out in Schedule 2 are varied as follows.

[Insert any variations to standard services, applicable for this school only]

SCHEDULE 3

SPECIAL CONDITIONS

See clause 8.7

DATE OF THIS AGREEMENT2011

SIGNED for and on behalf of the AUSTRALIAN CAPITAL TERRITORY in the presence of:) Signature of Territory delegate

Signature of witness Print name

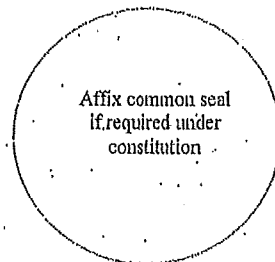
Print name

SIGNED by or for and on behalf of [NAME & ACN OF CONTRACTOR] in the presence of:) Signature of director/ authorised officer/ individual* *DELETE whichever is not applicable (see note below)

Signature of director/ secretary/ witness* Print name *DELETE whichever is not applicable (see note below)

Print name Signature of second authorised officer* *only use if Incorporated Association (see note below)

Print name



Note:

- Date: Must be dated on the date the last party signs the Services Contract or, if signed counterparts of the Services Contract are exchanged, the date of exchange. Also date the cover page.
Company: Must be signed in accordance with section 127 of the Corporations Act 2001 (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
Individual: Must be signed by the individual Contractor and witnessed.
Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.



Trim: DET15/788
File Ref: 2009/05093

Deputy Director-General
Organisational Integrity

SCHOOL CLEANING CONTRACTS: ANNUAL REVIEW OF HOURLY CLEANING RATES

Recommendation

That you agree to increase the hourly rate under the school cleaning contracts from \$37.18 (ex GST) to \$38.53 (ex GST) with effect from 1 July 2015, comprising:

1. An increase from \$26.33 (ex GST) to \$27.39 (ex GST) in the personal pay rate for wage employees; and
2. An increase from \$10.85 (ex GST) to \$11.14 (ex GST) for the non-wage component of the hourly rate.

AGREED/NOT AGREED/PLEASE DISCUSS

[REDACTED]
Meg Brighton

Director's Name: John Wynants

16/6/15

Phone: 6205 3173

Background

[REDACTED]

Issues

Under the Panel Deed (refer to Attachment A), the Education and Training Directorate reviews the hourly rate paid to cleaning contractors each year, with the new rates effective from 1 July each year. The rates are expected to be in line with the Clean Start Collective Agreement (CSCA). This Agreement has the support of the ACT Legislative Assembly and all Panel Members are obliged to be a signatory or demonstrate support of the (CCSA).

The hourly rate paid to contractors comprises two components:

- The employee hourly wage rate; and
- The non-wage component (including leave entitlements, superannuation, insurances, administrative costs, materials and profit).

The employee wage rate is set out in the CSCA and it is proposed that the change to this component of the cleaning contract hourly rate continues to increase in line with the CSCA rate for the 2015-16 year (refer to [Attachment B](#)). This is an increase of 4% from \$26.33 to \$27.39

With regard to the non-wage component, the following changes are proposed:

- Employee entitlements (annual leave, sick leave, long service leave and superannuation) are increased by the Wage Price index (2.75%*) which is an increase from \$4.244 to \$4.5147;

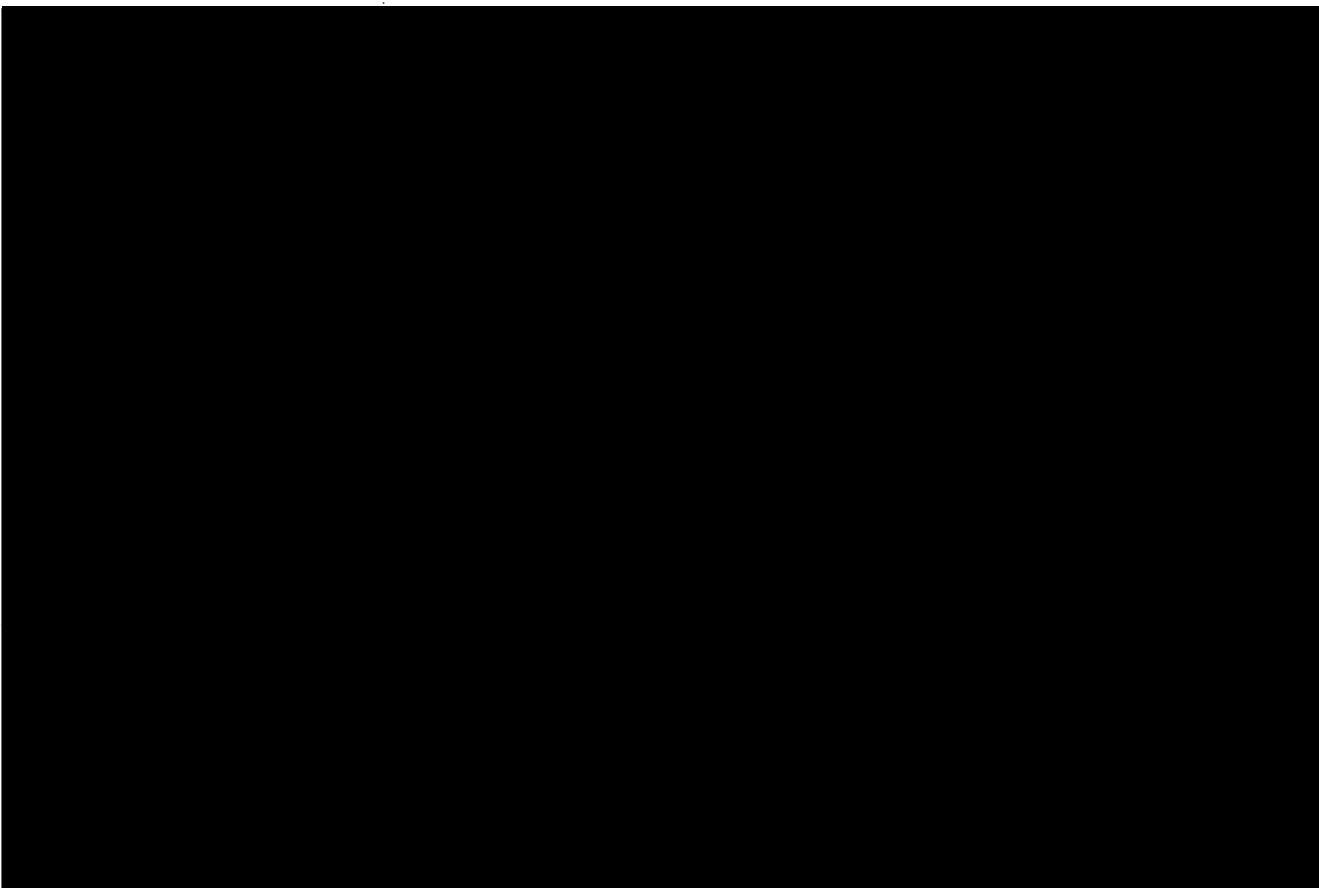
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**As published in the 2015/16 Budget – BDA Stage 2 – Indexation Advice*

The calculations are shown at [Attachment C](#).

In total, the combined wage and non-wage component calculates as the new total hourly rate of \$38.53 (excl. GST), which is an increase of 3.63% from the current rate of \$37.18 (ex GST). In comparison, there was an increase of 4.97% from July 2011, 5.58% from July 2012 3.45% from July 2013 and 3.2% from July 2014. A summary is provided at [Attachment D](#).

In reviewing the hourly rates for ACT public school cleaning contracts, ICW also made enquiries with Australian Government Fair Work Ombudsman. The Australian Government Modern Award Rates for the same level cleaners for 2014/15 was \$23.41per hour. This is a difference of \$2.92 between ETD's rate for 2014/15. As the Modern Award rate will increase by 2.5% for 2015/16, this will increase to \$24.01. This is showing that the Directorate will still be paying on site cleaners \$3.28 per hour above the Modern Award.



Media



John Wynants
Director
Infrastructure and Capital Works
// June 2015



AUSTRALIAN CAPITAL TERRITORY

PANEL DEED

Date _____ 2015

Parties

AUSTRALIAN CAPITAL TERRITORY
represented by
EDUCATION AND TRAINING
DIRECTORATE

CONTRACTOR NAME

ACN

PANEL OF CLEANING CONTRACTORS
FOR ACT PUBLIC SCHOOLS

DEED NUMBER: 2011.14370.

Prepared by

Shared Services Procurement
PO Box 818
Dickson ACT 2602
Ph: 6207 6023
Fax: 6207 6500
Ref: NE: 2011/6860

Version

Final: 16 June 2015

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the **Education and Training Directorate**.

NAME
ADDRESS
Contact details (**Panel Member**).

BACKGROUND

- A. The Territory has undertaken a procurement process under Request for Tender Number 14370.110 to establish a Panel of suppliers to provide the Services. The Panel Member wishes to become a member of the Panel on the terms and conditions of this Deed.
- B. The Territory may invite one or more members of the Panel to respond to requests to deliver Services at Schools from time to time.
- C. From time to time the Territory may purchase and, if selected to provide services as a preferred respondent for a School in accordance with the provisions of this Deed, the Panel Member has agreed to provide the Services in accordance with the provisions of this Deed and the relevant Services Contract.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Deed and each Services Contract, unless the context otherwise requires.

Confidential Text means any text of this Deed that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 6 Schedule 1**.

Contact Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means, for each Services Contract, the amounts which the Territory will pay for the Services as specified in, or calculated in accordance with the relevant Services Contract and based on the Hourly Fee Rate.

Deed means this deed, including all schedules and attachments.

GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Hourly Fee Rate	means the amount specified in Item 3 Schedule 1 or as otherwise agreed by the parties from time to time.
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	means, with respect to a Services Contract, an invoice that: <ul style="list-style-type: none"> (1) is a valid tax invoice (if GST is payable in respect of the provision of the Services under the relevant Services Contract); (2) clearly sets out the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Deed and the relevant Services Contract; (3) sets out details of the Services provided, and sets out or is accompanied by any other details or reports required under this Deed and the relevant Services Contract; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and the relevant Services Contract and addressed to the Territory's Contact Officer.
Material Safety Data Sheet	means, for a product, a form containing information on: <ul style="list-style-type: none"> (1) the identity of chemicals, their reactivity and toxicity, health and physical effects, exposure limits, as well as safe storage, handling and disposal precautions for that product; and (2) protective equipment requirements, spill handling procedures and first aid relevant to that product.
Panel	means the panel of cleaning services providers established in accordance with request for tender number 14370.110.
Panel Member's Personnel	means a person who is employed or otherwise engaged by the Panel Member and performs the Services at a School.
Personal	means information or an opinion (including

Information	information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Photo Identification Pass	means a pass issued by the Panel Member to each Panel Member's Personnel stating the name of the Panel Member and bearing the photograph and name of the person who is required to wear the pass in accordance with this Deed.
Predecessor	means, with respect to a School, the Territory-contracted provider of services (if any) that (before the date of this Deed) provided the services at the School required to now be provided by the Panel Member under this Deed and the relevant Services Contract.
Prescribed Insurer	means, in relation to: <ol style="list-style-type: none"> (1) public liability insurance, an insurer that is: <ol style="list-style-type: none"> (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, (b) authorised by the Australian Prudential Regulation Authority (APRA) to conduct new and renewal insurance business in Australia, or (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA, or any other insurer prescribed under the Insurance Determination from time to time; and (2) other insurance, an insurer having a Standard and Poor's or Best's rating of A- or better.
Procurement Act	means the <i>Government Procurement Act 2001</i> (ACT).
Request for Offer	means a request issued to a member of the Panel asking it to offer to provide Services at a School in accordance with clause 2.2 .
School	means a Territory public school the Panel Member may be required to provide the Services at under this Deed and the relevant Services Contract.
Services	means the cleaning services required to be provided at a School as specified at Schedule 2 or as varied by the relevant Services Contract for that School.

- Services Contract** means a contract for the provision of particular Services at a School by the Panel Member substantially in the form of **Attachment C**.
- Special Condition** means any provision set out in **Schedule 3**.
- Term** means the term of this Deed specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.
- Territory** means:
- (1) when used in a geographical sense, the Australian Capital Territory; or
 - (2) when used in any other sense, a body politic established under section 7 of the Australian Capital Territory (Self- Government) Act 1988 (Cth).
- Territory Information** means the kind of information that:
- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
 - (2) is notified (whether in writing or not) by the Territory to the Panel Member as being confidential;
 - (3) is specified in **Item 5 Schedule 1**; or
 - (4) is Personal Information;
- but does not include information that:
- (5) is or becomes public knowledge other than by breach of this Deed or the relevant Services Contract;
 - (6) has been independently developed or acquired by the Panel Member; or
 - (7) has been notified by the Territory to the Panel Member as not being confidential.

1.2 General

In this Deed and any Services Contract, unless a contrary intention is expressed:

- (1) references to “Panel Member” and to “Territory” include any employees, agents or subcontractors of that party, including, with respect to the Territory, a principal of a School and including, with respect to the Panel Member, the Panel Member’s Personnel; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Panel Arrangements

2.1 Appointment to Panel

The Panel Member is appointed to the Panel for the Term.

2.2 Allocation of work

- (1) The parties agree that work will be allocated to Panel Members as follows;
 - (a) from time to time as the need arises for Services to be provided at a particular School, the Territory may issue a Request for Offer to one or more members of the Panel selected at the Territory’s discretion, inviting those members of the Panel to submit a response;
 - (b) the Territory is not obligated to issue any Request for Offer to a Panel Member;
 - (c) the Panel Member acknowledges that the Territory may choose any process it considers appropriate including a competitive process, for allocating work to members of the Panel;
 - (d) upon receipt of a Request for Offer the Panel Member may either:
 - (i) submit a response to the Request for Offer within the time specified in the Request for Offer; or
 - (ii) reject the Request for Offer;
 - (e) if the Panel Member rejects the Request for Offer or does not respond in the time specified in the Request for Offer the Territory may not consider that Panel Member for the purpose of allocating work under the Request for Offer;
 - (f) the Territory may, in its absolute discretion, accept a response from the Panel Member to a Request for Offer that is not received within the time specified in the Request for Offer; and

- (g) the Panel Member may be required to attend a mandatory site inspection prior to responding to a Request for Offer and, if so, failure to attend may result in the Panel Member's response not being considered by the Territory.
- (2) If the Panel Member is selected as the preferred respondent to a Request for Offer, the Panel Member will be required to enter into a Services Contract prior to commencing Services at the School.
- (3) A Request for Offer is not a binding agreement and no binding agreement with respect to provision of Services exists until the parties properly execute a Services Contract.

2.3 No guarantee of volume of Services

The Territory does not guarantee to the Panel Member that a particular volume of Services will be sought from the Panel Member. The Territory reserves the right to obtain services similar to those provided under this Deed from any third party (including a third party outside the Panel). The Territory may appoint new supplies as members of the Panel from time to time.

3. Services

If the Panel Member is selected to provide Services at a School following the submission of a response to a Request for Offer, the Panel Member must perform the Services in accordance with the provisions of this Deed and the relevant Services Contract for the term of that Services Contract and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Panel Member is engaged.

4. Term

This Deed is for the Term unless terminated under the provisions of this Deed.

5. Contract Price

5.1 Invoice

The Territory must pay the Panel Member the Contract Price for a Services Contract following its receipt of an Invoice and otherwise in accordance with this Deed and the relevant Services Contract.

5.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Panel Member, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Panel Member.

5.3 Deferral of payment

Notwithstanding its other rights under this Deed or the relevant Services Contract, the Territory may, without limiting any other right it may have, defer payment of the Contract Price payable to the Panel Member until the Panel Member has completed the Services to the satisfaction of the Territory.

6. Panel Member's obligations

6.1 Occupational Health and Safety

If providing Services the Panel Member must:

- (1) comply with relevant work safety legislation as it relates to the cleaning industry; and
- (2) liaise with the departmental workplace safety delegate (if any) notified by the Territory to the Panel Member on matters relating to health and safety.

6.2 Equipment and supplies

- (1) The Panel Member must provide at its own cost and expense all labour, cleaning materials, plant and equipment necessary for the completion of the Services, unless otherwise stated in this Deed or the relevant Services Contract or approval has been given by the Territory to use specified Territory equipment.
- (2) The Panel Member must supply to the Territory copies of Material Safety Data Sheets for all cleaning chemicals used from time to time in its provision of Services, at least 3 days prior to using those chemicals.
- (3) In the provision of Services the Panel Member:
 - (a) must not store dangerous, flammable or corrosive substances on School premises;
 - (b) must ensure all cleaning materials are stored in their appropriate correctly labelled containers; and
 - (c) ensure that all equipment and supplies are returned to proper storage places identified by a relevant School representative after cleaning and that such areas are cleaned and orderly by 8:00am.
- (4) The Territory accepts no responsibility for any articles, belonging to the Panel Member or the Panel Member's Personnel, left on School premises.
- (5) The Panel Member must:
 - (a) ensure that where practicable all products, substances and materials used in the performance of the Services are supplied by a quality assured company whose processes meet the

AS/NZS ISO 9001:2008 *Quality Management Systems Requirements Standard* and/or AS/NZS ISO 14001:2004 *Environmental Management Systems*, are not harmful to any person if used in accordance with their manufacturer's directions for use and are "environmentally friendly" in that they:

- (i) contain no hazardous ingredients;
 - (ii) do not need to be disposed of as hazardous waste;
 - (iii) have a pH closer to Neutral;
 - (iv) do not ignite easily;
 - (v) have low levels of volatile organic compounds (being those that readily produce vapours at room temperature and normal atmospheric pressure, including petrol, solvents and fuel oxygenates);
 - (vi) are biodegradable;
 - (vii) have a phosphate content not above 0.5%;
 - (viii) contain no fragrances or dyes, and
 - (ix) have minimal packaging required, and such packaging preferably being recyclable.
- (b) on request from the Territory:
- (i) provide a detailed list and description of all materials being used in the performance of the Services under a Services Contract, and
 - (ii) replace materials that are deemed and notified by the Territory to be unsuitable for use in schools or Territory premises, with suitable materials at no cost to the Territory.
- (c) ensure that when a product is disposed of, it will not constitute a hazardous waste;
- (d) ensure that all equipment used in performing the Services is of suitable design and safety and that all equipment utilised is available for inspection upon request by the Territory. Any equipment that is considered unsuitable by the Territory must be removed by the Panel Member from the School premises and replaced by acceptable equipment at no cost to the Territory.
- (e) The Panel Member must produce evidence of the inspection and testing by way of tagging of all equipment and must comply with AS3760:2000 - *In-service safety inspections and testing of electrical equipment* in relation to electrical equipment.

- (6) For clarity, any requirement for the Panel Member to supply information to the Territory under this **clause 6.2** regarding its equipment, suppliers and other materials does not relieve the Panel Member of its obligations in respect of those matters under this **clause 6.2**.

6.3 Prevention of Disturbance

- (1) The Panel Member must ensure that when working in areas of the School premises that are close to areas occupied by any person, Services are performed in a manner that does not disturb or adversely affect the occupants or their use of those parts or areas.
- (2) If classes or any other school activities are in progress on the School premises, the Panel Member must ensure cleaning is not to be carried out until the classroom or area is vacated.

6.4 Log book etc

- (1) The Panel Member must, for each School at which it provides Services, maintain an inspection log at all times showing each time a site inspection of the provision of Services has been carried out and the areas inspected including comments and ensure the inspection log is made available to the Territory when requested.
- (2) The Panel Member must, for each School at which it provides Services, maintain a sign on/off book and ensure all Panel Member Personnel accurately sign on and off in that book when starting and finishing work each day.
- (3) The Panel Member must, for each School at which it provides Services, maintain a communications and instructions book for the Panel Member and the Territory to record communications and instructions to the other party regarding the Services to enable day to day communications and notifications.
- (4) The books must not be removed by the Panel Member from the relevant School premises and must be made available to the Territory when requested.
- (5) The Territory Contract Manager will advise the Panel Member where the books are to be located.
- (6) The books will be provided by the Territory through the relevant School and remain the property of the Territory.

6.5 Security of School premises

- (1) The Panel Member:
 - (a) must ensure all School offices are locked when unattended and that all exterior doors are locked unless otherwise instructed and that all entrances, access and exit doors to the building are

- securely locked at all times during cleaning unless otherwise directed by the Territory;
- (b) upon leaving the School premises, ensure all windows and doors opened in the course of cleaning are closed and locked and that the security system is armed if there are no other authorised persons remaining on the premises; and
 - (c) will be issued and must sign for keys for the School to facilitate it providing the Services.
- (2) If the Panel Member or Panel Member's Personnel activates an alarm at a School which requires the security company to attend the site unnecessarily the call out charges from the security company may be deducted from the amounts payable to the Panel Member under the relevant Services Contract and the Panel Member will be notified by the Territory if such an activation has occurred which will incur a charge.
- (3) If issued keys are lost or misplaced by the Panel Member or are stolen, the Panel Member may be required by the Territory pay for the cost of re-cutting the keys, or, if a master (skeleton) key is lost or stolen, the reasonable cost of re-keying the Premises which may be deducted from any amounts payable to the Panel Member.
- (4) The Panel Member must return keys for a School to the Territory upon termination or expiration of the relevant Services Contract, and all keys termination of this Deed.

6.6 Other Requirements

The Panel Member must:

- (1) comply with Australian Standard AS/NZS 3733-1995 in regard to cleaning maintenance of commercial carpeting;
- (2) not use deodorant crystals in urinals;
- (3) use a minimum of electricity during cleaning operations and ensure that all electric lights, water taps and appliances are turned off immediately after use and that all lights in vacant rooms are turned off; and

6.7 Panel Member's Personnel

- (1) The Panel Member must submit to the Territory, at least 5 days prior to the commencement of Services under a Services Contract, or within such time as the Territory agrees:
 - (a) a list of the names, addresses, dates of birth and specimen signatures of all Panel Member's Personnel who are proposed to perform the Services under that Services Contract; and

- (b) a police check from the Australian Federal Police conducted within the last 12 months for all Panel Member's Personnel who are proposed to perform the Services under that Services Contract.
- (2) Where there is a change of Panel Member's Personnel during the term of a Services Contract the Panel Member must:
 - (a) notify the Territory of the name of each new Panel Member's Personnel ("New Staff") as soon as practicable before he or she enters onto School premises;
 - (b) provide the details set out in **clause 6.7(1)** for New Staff as soon as practicable after the appointment and no later than 6 weeks; and
 - (c) ensure New Staff work with another of the Panel Member's Personnel who's details have been provided to the Territory under **clause 6.7(1)** while on School premises, until the New Staff's details are received by the Territory.
- (3) The Panel Member:
 - (a) must ensure that the Services are performed by persons who are fit and proper, and suitable to perform the Services in a school environment, having regard to **clause 6.9**, the security, safety and other requirements to perform the Services; and
 - (b) must not employ or engage any person to perform the Services or permit any person to participate in carrying out the Services:
 - (i) who has been found guilty of an indictable offence (within the meaning of *Legislation Act 2001* (ACT)), or
 - (ii) whom the Territory has previously notified the Panel Member not to employ or engage for the Services.
- (4) If, having regard to the requirements in **clause 6.7(3)** the Territory notifies the Panel Member in writing of a concern in respect of a person proposed to be engaged to perform the Services:
 - (a) the Panel Member shall provide such further evidence or perform such further enquires in relation to the person as may reasonably be required in the notice; and
 - (b) the Territory will, acting reasonably having regard to the requirements relevant to the performance of the Services:
 - (i) consider all the information provided in respect of such person and such further information (if any) including any police report which the Territory may obtain;

- (ii) determine if such person is fit and proper, and suitable to perform the Services; and
 - (iii) give written notice to the Panel Member of whether the person is or is not considered fit and proper, and if that person is not considered fit and proper, the Panel Member must ensure that person immediately ceases performance of all Services.
- (5) Before any Panel Member's Personnel performs any Services the Panel Member must provide (to the person) a Photo Identification Pass.
- (6) If any of the Panel Member's Personnel cease to be employed by the Panel Member or engaged in relation to the Services, or ceases to be a person who is fit and proper, and suitable to perform the Services, the Panel Member shall immediately notify the Territory in writing and require the Panel Member's Personnel to surrender his or her Photo Identification Pass.
- (7) Failure by the Panel Member to provide reasonable notification or to provide all necessary details of the Panel Member's Personnel as required in this Deed may result in delays in obtaining the Territory's approval for entry of those persons onto School premises and/or termination of this Deed or suspension of the Panel Member in accordance with **clause 10**.
- (8) For clarity, any requirement for the Panel Member to supply information to the Territory under this **clause 6.7** regarding the Panel Member's Personnel does not relieve the Panel Member of its obligations under this **clause 6.7**.

6.8 Identification of Panel Member's Personnel

- (1) The Panel Member must ensure:
 - (a) each of the Panel Member's Personnel (including supervisors) wears visibly at all times when on the School premises a Photo Identification Pass and an identifiable uniform bearing the Panel Member's name; and
 - (b) only the Panel Member's Personnel with the correct Photo Identification Passes are permitted on the School premises during the hours when the Services are being performed, including that children of the Panel Member's Personnel are not permitted on the School premises during the performance of Services.
- (2) The Panel Member must ensure all Photo Identification Passes of all the Panel Member's Personnel whose employment or engagement has ceased, are returned to the Panel Member.

6.9 Qualifications, Training and Knowledge

- (1) The Panel Member must ensure that all Panel Member's Personnel:
 - (a) have training, skills and knowledge appropriate to undertake the Services and in a safe manner; and
 - (b) are adequately supervised to ensure that all Services are delivered in accordance with the requirements of this Deed and the relevant Services Contract and any relevant legislation and Australian Standards.
- (2) Without limiting the requirement in **clause 6.9(1)**, the Panel Member must ensure that, unless such training has been provided within the prior 6 months, then:
 - (a) within one month of commencement of a Services Contract; and
 - (b) for not less than two half days per year thereafter,

the Panel Member's Personnel undertake training which will enhance their understanding of safe work practices and other operational requirements as relevant to the performance of the Services required under this Deed and the relevant Services Contract.

6.10 Award Wages and Conditions

- (1) The Panel Member must ensure all Panel Member's Personnel are paid wages at rates and employed under conditions of employment and safety not less favourable than those established by any law of the Commonwealth or Territory in which the person is employed to perform the Services of the same character in the trade or industry concerned. All increases in wages or other entitlements applicable to the Panel Member's Personnel must be passed on to them in full and promptly.
- (2) Before paying any monies to the Panel Member under this Deed and the relevant Services Contract, the Territory may require the Panel Member to give the Territory a statutory declaration by the Panel Member, or, where the Panel Member is a corporation, by a representative of the Panel Member who is in a position to know the facts attested to, that:
 - (a) all employees who have at any time been engaged to perform the Services under this Deed and the relevant Services Contract have been paid in full all amounts payable to them whether by the Panel Member or a subcontractor in respect of their employment on the Services under this Deed; and
 - (b) all subcontractors have been paid all monies payable to them in respect of the Services performed under this Deed,

and if, within two days after the request, the Panel Member fails to provide the statutory declaration, the Territory may withhold payment of monies due to the Panel Member until the statutory declaration is received.

- (3) The Panel Member must ensure all eligible persons engaged or employed for carrying out the Services have been paid their correct superannuation and long service leave entitlements.
- (4) At the request of the Panel Member and out of monies payable to the Panel Member the Territory may on behalf of the Panel Member make payments directly to an employee or subcontractor.
- (5) The Panel Member must ensure that all persons engaged or employed for carrying out the Services under this Deed are not prevented or deterred by it from joining and participating in their respective union.

6.11 Continuity of Employment

If at any time the Panel Member does not have a sufficient number of employees to perform the Services under a Services Contract, in the first instance it is Territory's preference that the Panel Member remedy this issue by using its reasonable endeavours:

- (1) to communicate to the Predecessor its desire to offer employment to such of the Predecessor's employees who are suitably experienced in the provision of any of the Services and who wish to apply for employment with the Panel Member and gain the permission of the Predecessor to approach its employees; and
- (2) offer employment to those of the Predecessor's employees who apply for employment with the Panel Member and are suitably experienced, on terms no less favourable than those terms that apply to the Panel Member's Personnel.

6.12 Ethical Suppliers Declaration

The Panel Member must provide on each anniversary of this Deed to the Territory a completed ethical supplier's declaration in the form of **Attachment A**.

6.13 Security and Directions

The Panel Member must, if using the Territory's premises or facilities including a School premises or facilities to perform the Services, comply with all security and office regulations in effect at those premises or regarding those facilities, as notified or directed by the Territory and comply with all reasonable directions of the Territory.

7. Records, audit and performance review

- (1) The Panel Member must maintain accurate records in relation to its provision of the Services and with respect to the Panel Member's Personnel including keeping proper wages books and time sheets showing the wages paid to and, so far as practicable, the time worked by all Panel Member's Personnel in connection with this Deed.
- (2) The Panel Member must:
 - (a) cooperate with any reasonable request by the Territory to enter upon its premises and conduct audits (at the Territory's cost) with respect to any records required to be maintained or other requirements under this Deed and each Services Contract including inspecting its wages books and time sheets;
 - (b) if required by the Territory, verify any matter relating to the Services; and
 - (c) if such authorised officer thinks fit, allow the Territory to interview any persons employed on the Services in connection with this Deed as to their rates of wages, hours and conditions of employment to ascertain the Panel Member's compliance with **clause 6.10**.
- (3) The Territory will use its reasonable endeavours not to unreasonably disrupt the Panel Member's conduct of its business and its performance of this Deed if it conducts an audit under this **clause 7**.
- (4) The Territory will monitor, review and/or evaluate the Contractor's performance of this Deed and/or a Services Contract which may include by completing performance review reports substantially in the form of **Attachment B**.

8. Non-disclosure of Territory Information

8.1 Panel Member to protect Territory Information

- (1) Except as provided in this Deed or a Services Contract, the Panel Member must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law;
 - (b) disclosed to the Panel Member's solicitors, auditors, insurers or advisers;
 - (c) generally available to the public; or
 - (d) in the possession of the Panel Member without restriction in relation to disclosure before the date of receipt from the Territory.

- (2) The Panel Member must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Deed or a Services Contract is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and only authorised personnel have access to Territory Information.

8.2 Panel Member's use of Territory Information

The Panel Member must:

- (1) use Territory Information held in connection with this Deed or a Services Contract only for the purposes of fulfilling its obligations under this Deed or the Services Contract;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Deed;
- (3) not transfer Territory Information held in connection with this Deed outside the Territory, or allow any person (other than authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Panel Member becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

8.3 Acknowledgement of effect of Crimes Act

The Panel Member acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Deed or a Services Contract (other than to a person to whom the Panel Member is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

9. Non-disclosure of Confidential Text

9.1 Territory may make Deed publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Deed may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Deed available to the public, including by publication on a public contracts register.

9.2 Confidential Text

If the Deed is a notifiable contract under the Procurement Act and Confidential Text is specified in **Item 6 Schedule 1**, the grounds on which the text is confidential are set out in **Item 7 Schedule 1** and **clause 9.3** applies.

9.3 Territory must not disclose Confidential Text

Except as provided in this Deed, the Territory must not disclose Confidential Text to any person without the prior written consent of the Panel Member (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Panel Member;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of the public revenue.

10. Insurance and indemnity

10.1 Panel Member's insurance

The Panel Member must effect and maintain for the Term all insurance coverage required to be effected by it by law and public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 4 Schedule 1** with a Prescribed Insurer and must provide evidence of that insurance satisfactory to the Territory when requested.

10.2 Indemnity

The Panel Member indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property caused by the Panel Member, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

10.3 Claims to be made good

The Panel Member must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 10.2** and the Territory may deduct the amount, or any part of it, from any moneys

due or becoming due to the Panel Member.

11. Termination

11.1 Revocation or suspension of Panel status on default

- (1) The Territory may terminate this Deed and each Services Contract entered into with the Panel Member pursuant to this Deed, or suspend the Panel Member's status as a member of the Panel for a maximum period of 6 months, at any time by notice to the Panel Member, if the Panel Member:
 - (a) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
 - (b) fails to commence regular and timely provision of the Services under a Services Contract or fails to meet any timeframes, as specified in this Deed including **Schedule 2** or the relevant Services Contract; or
 - (c) is in breach of a provision of this Deed or of a Services Contract, where that breach:
 - (i) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (ii) is not capable of being remedied, or
 - (iii) in the Territory's absolute opinion is a serious breach.
- (2) In the event the Panel Member is suspended the Panel Member:
 - (a) is ineligible to receive Requests for Offer for the period of the suspension; and
 - (b) must continue providing Services under any current Services Contracts.
- (3) In the event this Deed is terminated by the Territory under this **clause 11.1**, each Services Contract is also terminated from the date specified in the notice.
- (4) When determining whether a serious breach has occurred the Territory may, but is not limited to, consider such matters as:
 - (a) the number of instances of failure or breach;
 - (b) whether remedial measures taken by the Panel Member are commensurate with the failure or breach and in the reasonable opinion of the Territory, can be expected to prevent such failure or breach from recurring; and
 - (c) whether the Territory is otherwise satisfied that the Panel Member has shown good cause why Panel status should not be suspended or this Deed terminated (as the case may be).

11.2 Termination of Deed for any reason

The Territory may, at any time by notice to the Panel Member, terminate this Deed for any reason and in that event:

- (1) each Services Contract with the Panel Member entered into pursuant to this Deed is also terminated from the date specified in the notice; and
- (2) the Territory will be liable only for:
 - (a) payments for Services rendered before the date of termination, and
 - (b) subject to **clauses 11.2(3)** any reasonable costs incurred by the Panel Member and directly attributable to the termination of Services, but not in respect of loss of prospective profits; and
- (3) the Panel Member must:
 - (a) stop work as specified in the notice; and
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and

11.3 No prejudice

Nothing in this **clause 11** prejudices any other rights or remedies of the Territory in respect of any breach of this Deed.

11.4 Expiration of Deed

If a Services Contract held by the Panel Member is not complete at the expiration of this Deed, the Panel Member must complete the Services Contract in accordance with the terms and conditions of this Deed, and the relevant Services Contract, and the Territory will continue to pay the Panel Member in accordance with this Deed and the relevant Services Contract until the relevant Services Contract expires or is earlier terminated. This **clause 11.4** survives the expiration of this Deed.

12. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Deed or a Services Contract, either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this **clause 12** will prejudice the rights of either party to institute proceedings to enforce the Deed or to seek injunctive or urgent declaratory relief in respect of any Dispute.

13. General

13.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with the other to ensure timely progress and fulfilment of the Deed and/or a Services Contract;
- (2) act reasonably and in good faith with respect to matters that relate to the Deed and/or a Services Contract; and
- (3) if, and to the extent, specified in the Deed or a Services Contract, hold meetings (including meetings relating to planning, review and issue resolution) as necessary and report to the other on a regular basis in order to keep the other fully informed of the progress of work required under the Deed and/or a Services Contract.

13.2 Conflict of interest

The Panel Member warrants that no conflict of interest exists or is likely to arise in the performance of the Services and of its other obligations under this Deed and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

13.3 No employment, partnership or agency relationship

Nothing in this Deed constitutes the Panel Member, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Panel Member must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

13.4 No assignment or subcontracting

The Panel Member must not subcontract the performance of the Services or assign the whole or part of this Deed or a Services Contract without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.

13.5 Entire agreement

This Deed and each Services Contract comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

13.6 Severability

Any provision of this Deed or of a Services Contract that is illegal, void or unenforceable will not form part of this Deed or the relevant Services Contract to the extent of that illegality, voidness or unenforceability. The remaining

provisions of this Deed or the Services Contract will not be invalidated by an illegal, void or unenforceable provision.

13.7 Variation

This Deed and any Services Contract may be varied, including the Term extended, only by the written agreement of the parties prior to the expiration of this Deed and, with respect to a Services Contract, the expiration of the relevant Services Contract.

13.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Deed or a Services Contract will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

13.9 Governing law and compliance

This Deed and each Services Contract is governed by and construed in accordance with the law for the time being in force in the Territory and the Panel Member must comply with the laws from time to time in force in the Territory in performing the Services. The parties submit to the non-exclusive jurisdiction of the courts of the Territory.

13.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Deed or a Services Contract must be in writing and given to the relevant Contact Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

13.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Deed then, to the extent of any inconsistency, the Special Condition will prevail.

13.12 Survival of clauses

Clauses 5.1, 5.2, 6.5(3) and (4), 8.2, 9.3, 10.2, 10.3 and 11.2 will survive the expiration or earlier termination of this Deed.

13.13 Relationship of Deed and Services Contract

Each Services Contract is to be read in conjunction with this Deed.

SCHEDULE 1**CONTRACT DETAILS**

- Item 1. Contact Officers** For the Territory:
See clauses 1.1 and 13.10
- Lee Blakers
Assistant Manager
Corporate Support
Education and Training Directorate
Ground Floor
220 Northbourne Avenue
BRADDON ACT 2612
Telephone:(02) 6205 9115
Facsimile: (02) 6205 9333
- For the Contractor:
- Telephone:
Facsimile: (
Email:
- Item 2. Term** From the date of execution of the Agreement for
See clause 4 a period of three (3) years.
- Item 3. Hourly Fee Rate** (1) The hourly rate is \$34.52 (inclusive of
See clause 5 GST).
(2) The hourly rate will be reviewed annually by the Territory and any changes will be effective from 1 July each year.
- Item 4. Insurance Details** (1) Public liability insurance: \$20 million
See clause 10.1 (in respect of each claim); and
(2) ACT Workers' Compensation insurance to the extent required by any law of the Territory or Personal Accident Insurance for Proprietor Applicants.
- Item 5. Territory Information** Item 5 Not used.
See clauses 1.1 and 8
- Item 6. Confidential Text** Item 6 Not used.
See clauses 1.1 and 9

**Item 7. Grounds for
confidentiality of
Confidential Text**
See clause 9

Item 7 Not used.

SCHEDULE 2

THE SERVICES

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

1. Scope of Works

1.1.1 This Scope of Work (SOW) sets out the services the Panel members contracted to clean a school to provide for that school. For clarity, these services would apply to all schools, as far as they are relevant to the circumstances of the particular school.

1.1.2 Individual schools may have additional or special cleaning requirements that will be notified when requests for offer to provide services are issued.

2. Frequency and timing of cleaning

2.1 Daily Clean

2.1.1. Daily Cleans must be performed on each school day (Monday to Friday excluding public holidays) during all school terms and are to be undertaken between 4.00pm and 8.00pm unless approval to alter these times is given by the Territory Contract Manager.

2.2 Weekly Clean

2.2.1. Weekly Cleans must be performed once in each school week (on any day Monday to Friday selected by the Contractor, excluding days that fall on public holidays) during school terms and are to be undertaken between 4.00pm and 8.00pm unless approval to alter these times is given by the Territory Contract Manager. The weekly clean can be carried out on any day(s) of the week and it is preferable that tasks be spread over the week, in accordance with **Item 2 of this SOW**.

2.3 Vacation Duties

2.3.1. Vacation Duties must be performed twice (2) yearly, once during the school vacation at the end of Term 1 and once during the school vacation at the end of Term 3. These cleans should be conducted in blocks during daylight hours if possible. Vacation Duties may be performed on any day(s) of the week and tasks may be spread over a number of days in accordance with **Item 2 of this SOW**.

2.4 Mid Year Clean

2.4.1. Mid Year Cleans must be performed once (1) yearly, during the school vacation at the end of Term 2 and should be conducted in blocks during daylight hours if possible. Mid Year Cleans may be performed on any day(s) of the week and tasks may be spread over a number of days in accordance with **Item 2 of this SOW**.

2.5 End Year Clean

2.5.1. End Year Cleans must be performed once (1) yearly, during the school vacation at the end of Term 4 and should be conducted in blocks during daylight hours if possible. An End Year Clean may be performed on any

day(s) of the week and tasks may be completed over a number of days in accordance with Item 2 of this SOW.

3. Flexible cleaning hours

3.1. The Contractor has flexibility as to how required cleaning hours are delivered (for example if 200 cleaning hours are required for a particular clean, the Contractor might choose to fulfil those hours by deploying 10 cleaners x 10 hours over two days, or 5 cleaners x 10 hours x 4 days etc) Days may be consecutive or non-consecutive, and the Contractor must:

- (a) advise and obtain the approval of the Territory Contract Manager on how it will undertake the required cleaning hours for each clean for the following school term and the following term holiday at least 2 weeks before the end of the current term; and
- (b) advise and obtain the approval of the Territory Contract Manager of any variations to its cleaning plan under **Item 2(2) of this SOW**; and
- (c) plan its provision of the required cleaning hours so as to ensure that on the last day of each of the four major school holidays, the school is in a thoroughly cleaned state ready for classes to commence.

4. Services required for each clean

4.1 Equipment colour coding requirements

- (a) Cleaning equipment used in general areas is not to be used in other areas and is to be colour-coded **blue**. This applies (among other things) to mops, buckets and cloths.
- (b) Cleaning equipment used in toilet and shower areas is not to be used in other areas and is to be colour-coded **red**. This applies (among other things) to mops, buckets and cloths.
- (c) Cleaning equipment used in canteens, food preparation areas, staff room and common rooms is not to be used in other areas and is to be colour-coded **green**. This applies (among other things) to mops, buckets and cloths.
- (d) Cleaning equipment used in health or medical areas is not to be used in other areas and is to be colour-coded **yellow**. Mops, buckets and cloths (among other things) used in this area must be colour coded **yellow**.

5. Daily Clean

5.1 General Areas Requirements

- (i) Remove all waste paper and rubbish to the designated area and replace damaged or dirty bin liners. Disposable liners are to be provided by the Contractor. The waste bin in first aid/sick rooms must be double bagged at all times.
- (ii) Clean all floor surfaces by vacuuming, sweeping, mopping or wet mopping as appropriate to the floor type, and paying particular attention to high use areas.
- (iii) Buff floors on a daily basis or as required, depending on the floor

surface

- (iv) Clean glass of all entrance doors (inside and out).
- (v) Remove spillage, litter, spots and chewing gum from floors.

5.2 Toilet and Shower Areas

- (i) Clean all toilet seats topside and underside with disinfectant.
- (ii) Remove watermarks and stains from inside and outside of all toilet pans.
- (iii) Wash entire floor surfaces with a disinfectant and remove excess water.
- (iv) Clean all basins and sinks inside and outside and exposed piping.
- (v) Remove water marks and stains from urinals and strainer cups.
- (vi) Sluice down urinals with approved disinfectant.
- (vii) Wash urinal steps with approved disinfectant.
- (viii) Remove marks from all mirrors
- (ix) Remove marks from walls/tiles

5.3 Canteens, food preparation areas, staff rooms and common rooms

- (i) Sinks and surrounding areas to be wiped clean (provided they have been left clear of any items).
- (ii) Clean all cupboard doors free of stains, spillages and marks.
- (iii) Sweep and wet mop all vinyl floor areas.
- (iv) Buff floors as required.
- (v) Clean all tables and chairs as necessary and replace for use.

5.4 Ceramic, Art, Photography and Woodwork Rooms

- (i) After vacuuming, sweeping or brushing, wet mop all floor areas, changing water frequently to remove dust.

5.5 Gymnasiums and halls floors

- (i) Clean gymnasium and hall, if relevant for the particular school, noting that if the gymnasium is used during the evening on a particular day the cleaning of the gymnasium must occur after that use, either later that night or early the next morning prior to the commencement of the school day. The Contractor will be advised in advance of the times and dates the gymnasium has been or is intended to be used in the evening and will require night-time cleaning.
- (ii) If the Contractor is required to clean a gymnasium or hall it must clean all floors according to the manufacturer's instructions for that floor type, as notified to the Contractor by the Territory Contract Manager.

5.6 Preschools

- (i) Some preschools may require desks to be cleaned daily and the Contractor will be advised if this applies to a particular school.

5.7 Medical Areas

- (i) In areas identified as delivering health services, the Contractor is to ensure these areas are cleaned to a very high standard.

6. WEEKLY CLEAN

For clarity, on the days the Contractor does Weekly Clean tasks it must still also do all of the Daily Clean tasks. The Weekly Clean consists of the following tasks.

- (a) Remove all cobwebs.
- (b) Thoroughly vacuum all areas (remove chairs, vacuum and replace chairs).
- (c) Wipe all cupboard tops, bench tops, ledges, furniture and fixtures of a height of 2 metres to remove dust using treated cloths.
- (d) Remove finger marks and smears from wall switches and door furniture.
- (e) Remove finger marks and smears from all interior glass, including glass doors (inside and out), glass table tops and glass cabinets.
- (f) Wipe down all desks thoroughly changing the water regularly.
- (g) Remove stains, spillage, scuff marks, chewing gum from floor surfaces.
- (h) Hose ceramic/art floors where facilities exist to do so.
- (i) Buff all floors on a daily basis as required at relevant schools

7. VACATION DUTIES (end of Term 1 and Term 3)

Vacation Duties are intended to allow for the School to be cleaned thoroughly and consist of the following tasks:

- (a) Remove finger marks and smears from all interior glass, including glass doors, glass table tops and glass cabinets.
- (b) Remove finger marks and smears from around wall switches and door furniture.
- (c) Thoroughly clean furniture such as desks, tables, chairs and bench tops changing the water regularly.
- (d) Remove all cobwebs from all window frames, sills, shades and blinds and wipe free spillage.
- (e) Scrub all floor and wall tiles in toilets paying particular attention to edges.
- (f) Scrub all shower cubicles and surrounding floor areas.
- (g) Remove marks from washable paint walls in toilet areas from floor to ceiling.
- (h) Thoroughly vacuum all rooms (removing and replacing tables and chairs).
- (i) Clean all ceiling fans.
- (j) Dust off the top of exposed internal ductwork and pipe work.
- (k) Remove, clean and replace all internal and external mats and clean the floor areas beneath them.
- (l) Buff floors as required.

8. MID YEAR CLEAN (End of Term 2)

- 8.1. For each Mid Year Clean (**performed at the end of term 2**), the Contractor must perform all tasks of the Vacation Duties, and, in addition the Contractor must:
- (a) clean all interior windows, window ledges and glass partitions (the removal of adhesive tape is excluded); and
 - (b) strip and seal all polished floor areas to restore to an acceptable standard, given the condition and age of the relevant floor.

9. END OF YEAR CLEAN (End of Term 4)

- 9.1. For each End of Year Clean (performed at the end of term 4), the Contractor must perform all tasks of the Vacation Duties and all tasks of the Mid Year Clean and, in addition, the Contractor must:
- (a) spot treat stains; and
 - (b) shampoo and vacuum extract all carpet areas with commercial shampoo and vacuum extract machines, not domestic quality machines.

10. ADDITIONAL CLEANING

- 10.1. The Contractor may be required by the Territory Contract Manager to undertake additional cleaning services at the School consisting of:
- (a) additional carpet shampooing; and/or
 - (b) exterior window cleaning.
- 10.2. If additional cleaning is required, the Territory Contract Manager will notify the Contractor of the requirement, and the Contractor will have the discretion as to whether to accept or reject the offer of the additional cleaning.
- 10.3. If the Contractor undertakes additional cleaning services the Territory will pay the Contractor an additional amount calculated at the prevailing cleaning industry rate determined by DET.
- 10.4. The Contractor may negotiate with the Territory adjustments to any payment for additional services for any specific additional high cost elements; however the Territory does not guarantee any payments will be adjusted.
- 10.5. The Territory does not guarantee any additional cleaning services will be required of the Contractor and the Territory may, in its absolute discretion, engage specialist or other cleaning companies to carry out additional cleaning services at the relevant school.
- 10.6. Unless otherwise agreed with the Territory Contract Manager, the Contractor must check with ACTEW Corporation and obtain its written permission prior to undertaking any external window cleaning due to the possibility of prohibitive water restrictions.

11. ADDITIONAL CLEANING AT COMMENCEMENT / END OF CONTRACT

- 11.1. Prior to the expiration or earlier termination of the Contractor's contract with the Territory with respect to a school, an inspection of the relevant school will

be undertaken by the Territory to assess whether the school is clean in accordance with the required standard under the Contractor's contract.

- 11.2. If the school's cleanliness is assessed under **Item 4(2)(1)** as being in any respects below the standard required in the Contractor's contract, the Contractor may either:
- (a) be required to clean the school to bring it up to the required standard at no additional cost to the Territory; or
 - (b) the Territory will be entitled to withhold payment commensurate with the hours required to clean the school to bring it up to the required standard.
- 11.3. At the commencement of the Contractor's contract with the Territory with respect to a school, the Contractor may be required to attend the relevant school to perform a check of the state of cleanliness of the school and, if the Territory and the Contractor agree at that time the school's cleanliness is below the standard required by the Territory under this SOW, the Territory may:
- (a) ensure any below standard areas are rectified prior to the Contractor commencing its cleaning services at the school; or
 - (b) the Territory Contract Manager will negotiate with the Contractor the provision of additional cleaning services to bring the school up to standard for an additional payment amount.
- 11.4. If the Territory Contract Manager and the Contractor cannot agree on the state of cleanliness of the school and/or required cleaning, they agree to submit to mediation of the issue by an appropriate person (which may be a representative from DET Central Office) in accordance with the Contractor's contract.

12. CHEMICALS AND EQUIPMENT SPECIFICATION

- 12.1. The Contractor must ensure that, unless it obtains the Territory's prior approval, all products, substances and materials used in the performance of the services are:
- (a) supplied by a quality assured company whose processes meet the AS/NZS ISO 9001:2008 *Quality Management Systems Requirements Standard* and/or AS/NZS ISO 14001:2004 *Environmental Management Systems*;
 - (b) not harmful to any person if used in accordance with their manufacturer's directions for use; and
 - (c) environmentally friendly.
- 12.2. The Contractor must ensure a product, substance or material used in performing the services:
- (a) contains no hazardous ingredients;
 - (b) does not need to be disposed of as hazardous waste;
 - (c) has a pH closer to neutral;
 - (d) does not ignite easily;
 - (e) has low volatile organic compounds (being those that readily produce

vapours at room temperature and normal atmospheric pressure, including petrol, solvents and fuel oxygenates);

- (f) is biodegradable;
- (g) has a phosphate content not above 0.5%;
- (h) contains no fragrances or dyes;
- (i) has minimal packaging, and such packaging being recyclable; and
- (j) in accordance with relevant Material Safety Data Sheets.

12.3. On request from the relevant school's principal or the Territory Contract Manager, the Contractor must:

- (a) provide a detailed list and description of all products, substances and materials being used in the performance of the services; and
- (b) replace products, substances and materials that are deemed and notified by the Territory Contract Manager to be unsuitable for use in schools or Territory premises, with suitable materials at no cost to the Territory.

12.4. The Contractor must ensure that when a product is disposed of, it will not constitute a hazardous waste.

12.5. The Contractor must provide to the Territory Contract Manager:

- (a) copies of Material Safety Data Sheets for all chemicals and/or hazardous substances at least one week prior to commencing the services ; and
- (b) during the term of the Contractor's contract, revised Material Safety Data Sheets if the Contractor commences using any other products, substances or materials with different chemicals or substances from those previously notified to the Territory Contract Manager.

12.6. The Contractor must:

- (a) ensure that all equipment used in performing the services is of suitable design and safety to perform the services in accordance with occupational health and safety requirements;
- (b) make available for inspection by the Territory all equipment utilised in performing the services as reasonably notified by the Territory Contract Manager;
- (c) produce evidence of the inspection and testing of relevant equipment as requested by the Territory Contract Manager; and
- (d) cease use of any equipment used in performing the services that is reasonably considered unsuitable by the Territory and replace with acceptable equipment at no cost to the Territory.
- (e) The Contractor must ensure all chemicals used in the performance of the services are stored in tamper proof containers.

13. SCHOOL YEARS & TERMS

ACT school term dates 2011– 2015

	Term 1	Term 2	Term 3	Term 4

2011	Friday 4 February to Friday 15 April <i>Term break includes the Easter and Anzac Day public holidays</i>	Monday 2 May to Friday 8 July	Monday 25 July to Friday 30 September	Monday 17 October to Wednesday 21 December
2012	Friday 3 February to Friday 13 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 30 April to Friday 6 July	Monday 23 July to Friday 28 September	Monday 15 October to Friday 21 December
2013	Friday 1 February to Friday 12 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 29 April to Friday 5 July	Monday 22 July to Friday 27 September	Monday 14 October to Friday 20 December
2014	Friday 31 January to Friday 11 April <i>Term break includes the Easter and Anzac Day public holidays</i>	Monday 28 April to Friday 4 July	Monday 21 July to Friday 26 September	Monday 13 October to Wednesday 17 December
2015	Friday 30 January to Friday 10 April <i>Term break only includes the Anzac Day public holiday</i>	Monday 27 April to Friday 3 July	Monday 20 July to Friday 25 September	Monday 12 October to Friday 18 December

14. RECORDING CLEANING HOURS WORKED

- 14.1. The Contractor must ensure all cleaning staff sign on and off accurately in a sign-on/off book when starting and finishing work each day.
- 14.2. The sign-on/off book must not be removed by the Contractor from the school premises for any reason.
- 14.3. The Territory Contract Manager will advise where the sign-on/off book is to be located.
- 14.4. Day to day communications and instructions between the Territory Contract Manager, the relevant school, and the Contractor will be by way of a communication book, collocated with the sign on/off book.
- 14.5. Both books will be provided by the Territory through the relevant school and are the property of the Territory.

15. VARIATION OF AREA TO BE CLEANED

- 15.1. The Territory may at any time by notice in writing to the Contractor, increase or decrease the area at the school premises to be cleaned under the Contractor's contract.

15.2. If the Territory increases or decreases the area at the school to be cleaned, the amount payable to the Contractor shall be increased or decreased as the case may be, by an amount equivalent to the additional work, or reduction in work as reasonably agreed between the Territory and the Contractor.

16. MEETINGS, REPORTS AND PERFORMANCE ASSESSMENTS

16.1. The Territory Contract Manager will undertake regular formal performance assessments of the Contractor's compliance with the terms of its contract.

16.2. The Contractor must attend regular meetings with the Territory Contract Manager on site at the relevant school to monitor the Contractor's performance of the services.

16.3. The Contractor will be required to provide written or verbal reports to the Territory Contract Manager as required in the Contractor's contract.

16.4. Matters that will be assessed may include, but not be limited to:

- (a) time and attendance;
- (b) standard of cleaning;
- (c) issues raised addressed within 24 hours;
- (d) attendance at on-site inspections;
- (e) outcome of on-site inspections;
- (f) police checks provided;
- (g) cleaners wearing uniforms and photo identification; and
- (h) cleaning staff's attitude and behaviour on school premises.

16.5. Subject to the termination provisions of the Contractor's contract, if a performance assessment reveals any aspects of the services have not been completed to a satisfactory standard, the Contractor will be afforded a specified number of opportunities to rectify issues identified.

SCHEDULE 3

SPECIAL CONDITIONS

See clause 13.11

Item 1. OFFICE ADMINISTRATION AND EMERGENCY CONTACT DETAILS

- (1) In addition to the Panel Member's Contact Officer, the Panel Member must provide the Territory with a telephone, facsimile and email contacts for the hours between 9:00am and 5:00pm Monday to Friday and an emergency contact and telephone number for after office hours.
- (2) The Panel Member must ensure the Territory is provided with updates to any changes in the above contact details.
- (3) The Panel Member must, if entering the School at times when the Panel Member's Personnel are not expected or would not normally be on the premises, notify the Territory by contacting the Territory's security service provider on 1300 304 106 prior to, or as soon as, they enter the School.
- (4) The Panel Member must notify the Territory by contacting the Territory's security service provider on 1300 304 106 in the event of an emergency at a School, which may include but is not limited to flooding, fire, theft or in any other case the security of the building has been compromised.

DATE OF THIS DEED2011

SIGNED for and on behalf of the AUSTRALIAN CAPITAL TERRITORY in the presence of:)) Signature of Territory delegate

Signature of witness Print name

Print name

SIGNED by or for and on behalf of ACN in the presence of:)) Signature of Panel Member or authorised officer* *delete whichever is not applicable (see note below)

Signature of witness Print name and position

Print name Signature of second authorised officer* *see note below

Print name and position



- Note:
Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
Individual: Must be signed by the individual Panel Member and witnessed.
Incorporated Association: Must be signed in accordance with the Panel Member's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.
Company: Must be signed in accordance with section 127 of the Corporations Act 2001 (Cwlth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Panel Member's constitution.

ATTACHMENT A

DECLARATIONS

STATUTORY DECLARATION

Statutory Declarations Act 1959 (Cwlth)

I, _____ (*name*) of _____
_____ (*address and occupation*) make the following
declaration under the *Statutory Declarations Act 1959*.(Cwlth).

The information and details specified in the following 5 pages, titled 'Ethical Suppliers Declaration', are, I believe, correct as of the date of this declaration.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

Signature of person making the declaration

Declared at _____ (*place*)
on _____ (*day*) of _____ (*month*) (*year*)

Before me,

Signature of person before whom the declaration is made

*Full name, qualification and address of person before whom the declaration is made
(in printed letters)*

ETHICAL SUPPLIERS DECLARATION

Definitions

In this Declaration.

Full Details means details of:

- (a) the nature of the breach or offence or alleged breach or offence;
- (b) any conviction recorded or adverse finding made in respect of the breach or offence;
- (c) any penalty or orders imposed by a court, tribunal, commission or board in respect of the breach or offence and the maximum penalty that could have been imposed under the **Prescribed Legislation**;
- (d) the name of the court, tribunal, commission or board, the State or Territory in which the proceeding or prosecution is brought, the date on which the proceeding or prosecution was commenced and the number or description assigned to the proceeding or prosecution by the court, tribunal, commission or board;
- (e) the name of the entity against which the finding or conviction was made or the proceeding or prosecution was initiated.

Contract means a written contract for the procurement of prescribed works or services having a total consideration, or estimated total consideration, worth \$20,000 or more.

Contracting Entity means the legal entity (individual or company) that has entered into a contract with the Territory.

Employee means a natural person who is employed under a contract of service to provide a supplier of prescribed works or services or a **Subcontractor** with his or her labour, except for the provision of professional or information technology service.

Employee and industrial relations obligations means compliance with:

- (a) **Prescribed Legislation**; and
- (b) determinations made by the tribunals of competent jurisdiction in respect of the interpretation, breach or any other matter concerning any **Prescribed Legislation**.

Note: Examples of employee and industrial relations obligations may typically include payment of remuneration; training; annual holidays; long service leave entitlements; occupational health and safety; workers' compensation; injury management, (including rehabilitation); legal age of employment; discrimination; and superannuation. This list is non exhaustive.

Prescribed Legislation means:

- (a) awards or industrial Deeds made pursuant to any legislation applicable to the **Contracting Entity** or **Subcontractor**;
- (b) *Long Service Leave Act 1976 (ACT)*;
- (c) *Occupational Health and Safety Act 1989 (ACT)*;
- (d) *Long Service Leave (Building and Construction Industry) Act 1981 (ACT)*;
- (e) *Long Service Leave (Contract Cleaning Industry) Act 1999 (ACT)*;