



Master Services Agreement (Terms and Conditions) for Fleet Services

TABLE OF CONTENTS

| | |
|--|-----------|
| RECITALS | 7 |
| 1. OPERATIVE TERMS AGREEMENT..... | 7 |
| 1.1 General Terms and Conditions | 7 |
| 1.2 Other Documents incorporated into the Contract | 8 |
| 2. DEFINITIONS AND INTERPRETATIONS | 9 |
| 2.1 Definitions..... | 9 |
| 2.2 Interpretation | 9 |
| 3. SERVICE SUMMARY..... | 10 |
| 3.1 The Services | 10 |
| 3.2 Additional Services..... | 10 |
| 3.3 AFAC acting for the Members..... | 11 |
| 4. CONTRACTOR RESPONSIBILITIES AND OBLIGATIONS (GENERAL)..... | 11 |
| 4.1 Contractor skill and experience | 11 |
| 4.2 Standard of care (general performance standards) | 11 |
| 4.3 Provision of Services..... | 12 |
| 4.4 Capacity to perform the Services..... | 13 |
| 4.5 Safety and Quality | 13 |
| 4.6 Cooperation with third parties | 14 |
| 4.7 Accident, incident and near misses | 14 |
| 4.8 Inspections and audits..... | 15 |
| 4.9 General Requirements for Aircraft | 16 |

| | | |
|-----------|---|-----------|
| 4.10 | Category of Operation for Services with passenger carriage..... | 17 |
| 4.11 | Pilot in command | 17 |
| 4.12 | Contractor Personnel | 17 |
| 4.13 | Performance Management and Monitoring | 18 |
| 4.14 | Innovation and Research..... | 19 |
| 4.15 | Environmental Responsibilities | 19 |
| 4.16 | Subcontracting / Assignment | 20 |
| 4.17 | Media..... | 21 |
| 4.18 | Reputation | 21 |
| 4.19 | Conflict of Interest..... | 22 |
| 4.20 | Performance Bond | 22 |
| 4.21 | Insurance..... | 22 |
| 4.22 | Indemnity..... | 24 |
| 5. | CONTRACTOR REQUIREMENTS AND OBLIGATIONS (SERVICE PERIOD) | 25 |
| 5.1 | Commencement and duration of Service Periods..... | 25 |
| 5.2 | Conditions Precedent to a Service Period | 25 |
| 5.3 | Requirements prior to commencement of Service Period | 25 |
| 5.4 | Requirements during any Service Period | 26 |
| 5.5 | Communication systems for Standby/Dispatch, tasking or Commitment during Service Period ... | 26 |
| 5.6 | Readiness and response requirements during Service Periods | 26 |
| 5.7 | Fuelling Requirements during any Service Period | 27 |
| 5.8 | Testing of Procedures and Systems | 29 |
| 5.9 | Other work during Service Periods | 29 |
| 5.10 | Service Status during the Service Period..... | 30 |
| 5.11 | Failure to Provide Services | 30 |
| 5.12 | Substitute Aircraft | 31 |
| 5.13 | Records during a Service Period | 31 |
| 5.14 | Information and documents on ARENA | 32 |
| 5.15 | Record keeping..... | 32 |
| 6. | AFAC..... | 32 |

| | | |
|-----------|---|-----------|
| 6.1 | Set Off | 32 |
| 6.2 | Stand Down..... | 32 |
| 7. | GENERAL CONTRACT CONDITIONS..... | 33 |
| 7.1 | General obligations | 33 |
| 7.2 | Instructions | 33 |
| 7.3 | Contract variation | 34 |
| 7.4 | Contract prevails | 34 |
| 7.5 | Cooperation between the parties..... | 34 |
| 7.6 | Use of Services | 35 |
| 7.7 | Confidential Information | 35 |
| 7.8 | Intellectual Property | 36 |
| 7.9 | Privacy..... | 37 |
| 7.10 | Contract Review | 37 |
| 7.11 | Termination of Contract or reduction of Services with costs | 37 |
| 7.12 | Termination or Reduction of Services for Default..... | 38 |
| 7.13 | Consequences of termination..... | 39 |
| 7.14 | Contractor to Assist | 39 |
| 7.15 | Dispute resolution | 40 |
| 7.16 | Warranties | 41 |
| 8. | PAYMENTS AND PRICES..... | 42 |
| 8.1 | Payments | 42 |
| 8.2 | Contract Price where Service is Not Available | 43 |
| 8.3 | Contract Price – General..... | 44 |
| 8.4 | Reimbursement of costs by the Member..... | 45 |
| 8.5 | Operating Charges for Rotary Wing Aircraft | 46 |
| 8.6 | Operating Charges for Fixed Wing Aircraft | 46 |
| 8.7 | Charges applicable to both Rotary Wing and Fixed Wing Aircraft..... | 46 |
| 8.8 | Costs not claimable | 46 |
| 8.9 | The Five Operating Hours | 47 |
| 9. | GENERAL | 48 |

| | | |
|------|--|-----------|
| 9.1 | Entire Agreement | 48 |
| 9.2 | Waiver..... | 48 |
| 9.3 | Force Majeure Events..... | 48 |
| 9.4 | Enforcement by AFAC for Members, and by Members for AFAC | 49 |
| 9.5 | Severance..... | 49 |
| 9.6 | Survivorship | 49 |
| 9.7 | Benefit and Survival of Indemnities..... | 49 |
| 9.8 | Applicable Law | 50 |
| 9.9 | No Relationship..... | 50 |
| 9.10 | Succession | 50 |
| 9.11 | Assignment | 50 |
| 9.12 | Counterparts | 50 |
| 10. | CORRESPONDENCE AND COMMUNICATION..... | 50 |
| 10.1 | Appointment of a Contract Manager..... | 50 |
| 10.2 | Notices | 51 |
| | SCHEDULE 1: SERVICE AND AIRCRAFT DETAILS | 53 |
| 1. | INSURANCE DETAILS | 53 |
| 1.1 | Insurance Details..... | 53 |
| | SCHEDULE 2: SERVICE PERIODS AND AVAILABILITY | 55 |
| 1. | COMMENCEMENT AND DURATION | 55 |
| 2. | AVAILABILITY | 55 |
| 2.1 | Absolute Availability Service Periods..... | 55 |
| 2.2 | Partial Availability Service Periods | 55 |
| | SCHEDULE 3: CONTRACT PRICES AND INVOICING | 56 |
| 1. | SUBSTITUTE OR ADDITIONAL SERVICE, AIRCRAFT OR COMPONENT | 56 |
| 1.1 | Contract Price for Substitute Aircraft or components..... | 56 |
| 1.2 | Contract Price for equivalent Services | 56 |
| 2. | FUEL PURCHASED FROM MEMBERS..... | 56 |
| 2.1 | Services provided with fuel | 56 |
| 3. | INVOICING AND PAYMENTS | 56 |

| | | |
|---|--|-----------|
| 3.1 | Form of Invoicing..... | 56 |
| SCHEDULE 4: PERSONNEL | | 57 |
| 1. | PERSONNEL REQUIREMENTS | 57 |
| 2. | PILOT AND CO-PILOT REQUIREMENTS..... | 58 |
| 3. | PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS..... | 59 |
| SCHEDULE 5: AIRCRAFT | | 60 |
| 1. | GENERAL AIRCRAFT SPECIFICATIONS | 60 |
| 2. | AIRCRAFT MAINTENANCE..... | 61 |
| 3. | AVIONICS AND COMMUNICATIONS | 61 |
| 4. | GLOBAL POSITIONING SYSTEMS | 62 |
| 5. | TRACKING SYSTEMS | 62 |
| 6. | EVENT REPORTING | 63 |
| 7. | MESSAGING SYSTEMS | 63 |
| 8. | SEATING, SEATBELTS AND SAFETY HARNESSSES..... | 63 |
| 9. | WIRE STRIKE PROTECTION..... | 63 |
| 10. | VISIBILITY, RECOGNITION AND PRESENTATION | 63 |
| 11. | ANCILLARY EQUIPMENT | 64 |
| 12. | OPERATIONAL DOCUMENTS | 64 |
| 13. | EXTERNAL RECORDING CAMERAS | 64 |
| 14. | ROTARY WING AIRCRAFT – CARGO | 64 |
| 15. | ROTARY WING AIRCRAFT – LANDING GEAR..... | 65 |
| 16. | ROTARY WING AIRCRAFT – HOVER EMPLANING AND DEPLANING | 65 |
| 17. | AERIAL IGNITION OPERATIONS | 65 |
| 18. | IMAGING OPERATIONS..... | 65 |
| 19. | AERIAL RECONNAISSANCE SYSTEMS | 66 |
| SCHEDULE A: FIREBOMBING AIRCRAFT | | 67 |
| 1. | APPLICATION OF SCHEDULE | 67 |
| 2. | FIREBOMBING OPERATIONS..... | 67 |
| 3. | FIRST LOAD FACILITY | 68 |

| | |
|--|-----------|
| SCHEDULE B: AIR ATTACK SUPERVISION AIRCRAFT..... | 70 |
| 1. APPLICATION OF SCHEDULE | 70 |
| 2. GENERAL | 70 |
| 3. AVIONICS AND COMMUNICATIONS..... | 70 |
| 4. FIREBOMBING OPERATIONS..... | 70 |
| SCHEDULE C: SPECIALIST INTELLIGENCE GATHERING AIRCRAFT..... | 71 |
| SCHEDULE D: WINCHING | 72 |
| 1. APPLICATION OF SCHEDULE | 72 |
| 2. AVIONICS AND COMMUNICATIONS..... | 72 |
| 3. WINCHING..... | 72 |
| SCHEDULE E: RAPPELLING..... | 73 |
| 1. APPLICATION OF SCHEDULE | 73 |
| 2. AVIONICS AND COMMUNICATIONS..... | 73 |
| 3. RAPPELLING..... | 73 |
| SCHEDULE F: MOBILE FUELLING UNIT | 74 |
| 1. APPLICATION OF SCHEDULE | 74 |
| 2. MFU VEHICLES AND EQUIPMENT..... | 74 |
| 3. MFU OPERATOR..... | 75 |
| 4. REQUIREMENTS WHEN MFU IS DISPATCHED AS A STAND-ALONE SERVICE..... | 75 |
| SCHEDULE G: NIGHT VISION IMAGING SYSTEM OPERATIONS | 77 |
| 1. APPLICATION OF SCHEDULE | 77 |
| 2. AVIONICS AND COMMUNICATIONS..... | 77 |
| 3. NVIS OPERATIONS..... | 77 |
| 4. NVIS AERIAL FIREFIGHTING SUPPORT (SUPERVISION AND MAPPING)..... | 77 |
| 5. NVIS AERIAL FIREFIGHTING (FIREBOMBING) | 77 |
| SCHEDULE H: MULTI ENGINE AIRTANKERS | 78 |
| ATTACHMENT 1: ADDITIONAL DOCUMENTATION | 79 |
| 1. ADDITIONAL DOCUMENTS | 79 |

RECITALS

- A. Australasian Fire and Emergency Service Authorities Council Limited (**AFAC**) is a public company limited by guarantee, that is the national council for fire and emergency services and land management agencies across Australia and New Zealand. The National Aerial Firefighting Centre (**NAFC**) is a business unit of AFAC. In this Contract, AFAC may be referenced by the name NAFC, but AFAC will remain the legal and responsible entity under the Contract.
- B. AFAC and the States and Territories of Australia have entered into a separate agreement, the Resource Management Agreement (**RMA**). The purpose of the RMA is so that AFAC may coordinate management of emergency and firefighting resources.
- C. Under the RMA:
- a. the parties (excluding AFAC) are referred to as the Members;
 - b. the current Members are the States and Territories of Australia;
 - c. AFAC is authorised by the Members to procure, on their behalf, aerial firefighting services to be provided to the Members, and is authorised, on behalf of each of individual Member and for the Members collectively, to enter into agreements such this Contract; and
 - d. AFAC grants authority to each Member to deploy and manage the operations of the aerial firefighting resources under agreements that AFAC enters into with providers, including the Services specified in this Contract.
- D. The “Contract” between AFAC and the Contractor is formed by the combination of:
- a. the Participation Deed between AFAC and the Contractor as the supplier of the Services (**Participation Deed**); and
 - b. this Fleet Master Services Agreement (**MSA**) applicable to each Participation Deed in respect of Fleet Services. (Each Participation Deed is subject to the terms and conditions of this MSA.)
- E. Under the terms of the Resource Management Agreement a Member, usually the Liable Member, will issue one, or more, Dispatches/Standbys/Purchase Orders to the Contractor for the supply of each Service under this Contract. The Contractor agrees to provide the Services to AFAC and the Liable Member or other Members.
- F. The Contractor must, as required under this Contract, respond to instructions and requests from the Liable Member or other Members in relation to the operation of the Services. The Members act on behalf of AFAC in accordance with this Contract and particularly in relation to the operation of the Services.

1. OPERATIVE TERMS AGREEMENT

1.1 General Terms and Conditions

- a. This Contract comprises:
 - i. the terms and conditions contained in the Participation Deed, including the Services and the Contract Prices for those Services; and

- ii. the terms and conditions contained in the body of this document (the Master Services Agreement) including its Schedules; and
 - iii. the Defined Terms glossary available on the NAFC website; and
 - iv. any additional specifications and any other applicable information as approved by AFAC (such as NAFC Standards) or a Member as applicable to the Services which may be contained in ARENA (including the Liable Member's policies, codes, guidelines, standards and standard operating procedures that are notified to the Contractor from time to time as mandatory at any time in advance of Standby/Dispatch);
 - v. the details included in any Purchase Order or Standby/Dispatch instructions; and
 - vi. any other document created under the Contract or incorporated into it by reference, including details supplied in ARENA by the Contractor and the Contractor's Tender response (being representations by the Contractor about the contracted Aircraft and Services).
- b. In this MSA, references to clauses of 'this Contract' are to clauses of this MSA, however, in accordance with clause 1.1a references to the 'Contract' generally are references to the total terms and conditions upon which AFAC and the Contractor have agreed to do business including but not limited to the terms and conditions of the Contractor's Participation Deed and this MSA.

1.2 Other Documents incorporated into the Contract

- a. Throughout the Contract there may be other documents referred to which will apply to the Services, such as the NAFC Standards and Member operating procedures. The Contractor must act in accordance with these other documents where they are applicable to any Service that the Contractor is providing.
- b. NAFC Standards and Member operating procedures may be amended or updated from time to time. Amendments or updates to these documents will not necessarily result in a variation to this Contract. If an update or an amendment has a significant effect on this Contract then it may result in a variation to this Contract in accordance with clause 7.3.
- c. If at any time during the Contract Period, there is a change to any of the NAFC Standards or Member operating procedures then the Contractor agrees to accept any change in good faith and to implement any change as soon as possible and without any additional cost, except if the change or its implementation results in a:
 - i. material increase in costs to the Contractor to provide the Services, AFAC may consider, in its absolute discretion, a variation to the Contract Price; or
 - ii. material decrease in costs to the Contractor to provide the Services, the Contractor will agree to negotiate in good faith with AFAC a variation to the Contract Price.
- d. All NAFC Standards together with any amendments or updates will be made available to Contractors by publication on the NAFC website.
- e. Contractors are responsible for ensuring that they are at all times providing services in accordance with current NAFC Standards and Member operating procedures.

2. DEFINITIONS AND INTERPRETATIONS

2.1 Definitions

The Defined Terms glossary is available on the NAFC website <https://www.nafc.org.au/glossary/>. In this Contract, capitalised terms have the meaning given in that document, which document is incorporated into this Contract by reference.

2.2 Interpretation

- a. In this Contract, unless the contrary appears:
- i. the clause headings are for convenience only and have no effect in limiting or extending the language of the provisions to which they refer; and
 - ii. references to any legislation or to any provision of any legislation includes any modification or re-enactment of, or any legislative provision substituted for, and all statutory instruments issued under, such legislation or such provision; and
 - iii. words denoting the singular include the plural and vice versa; and
 - iv. words denoting gender include all genders; and
 - v. words denoting individuals include corporations, organisations and government bodies and vice versa; and
 - vi. references to clauses and Schedules of this Contract are references to clauses and Schedules of this MSA; and
 - vii. references to any document or agreement including this Contract include reference to such document or agreement as amended, varied, noted, replaced or supplemented from time to time; and
 - viii. references to any part of this MSA or other document or agreement include its successors and permitted assigns; and
 - ix. references to a party is to a party to this Contract, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes.
 - x. the word "month" means a calendar month; and
 - xi. the word "week" means a continuous seven day period; and
 - xii. the word "day" means a calendar day; and
 - xiii. the words "business day" means a day that is not a Saturday or Sunday or public holiday, special holiday or bank holiday in Victoria; and
 - xiv. the word "year" means a continuous 12 month period; and
 - xv. a reference to "USD" is a reference to United States dollars, a reference to "CAD" is a reference to Canadian dollars, otherwise a reference to "\$", "A\$", "dollar" or AUD means Australian dollars.

3. SERVICE SUMMARY

3.1 The Services

- a. The delivery of these Services will require the Contractor to undertake tasks and roles including, but not limited to:
 - i. Aerial Firefighting; and
 - ii. ensuring the performance of tasks for specified fire incidents, emergency operations and other activities and general operations of a Member under the direction of a person authorised by a Member; and
 - iii. maintaining preparedness to deliver the Services and to perform the tasks; and
 - iv. when required, standing by and maintaining appropriate levels of readiness to respond within the specified Nominated Response Times; and
 - v. when required, providing for the fuelling of the Aircraft and any other aircraft operating under the direction of a Member; and
 - vi. ensuring that the Aircraft is supplied with sufficient fuel.
- b. The Contractor acknowledges that the tasks:
 - i. may have to be performed in the defined Operating Environment; and
 - ii. may have to be performed on any day during any Service Period, at any time of the day or, for specific Services, at night; and
 - iii. require specialised equipment; and
 - iv. require specialised Flight Crew skills.
- c. AFAC may require the Services to be provided:
 - i. in any Australian state or territory; and
 - ii. under the direction of any of the Members during a Service Period.
- d. The Members may require the Aircraft providing the Service to:
 - i. operate from, and be temporarily based at, any suitable Aerodrome in Australia; and
 - ii. operate from unimproved Aerodromes, which may be in remote or inaccessible locations.

3.2 Additional Services

- a. At the request of AFAC the Contractor may supply an additional Service where the additional Aircraft providing that Service is of similar specifications, characteristics, or capability of a contracted Service.

- b. The additional Aircraft must be approved by AFAC and the Liable Member and must meet the specifications set by this Contract unless there is written agreement between the Contractor and AFAC.
- c. Any additional Service will be provided under the terms and conditions of this Contract.

3.3 AFAC acting for the Members

- a. In accordance with the RMA, AFAC enters into this Contract in order that Members may acquire aerial firefighting Services, including the Contractor's Services.
- b. The Contractor acknowledges and agrees that in providing the Services under this Contract:
 - i. for the time that those Services are being provided to that Member, that Member:
 - A. will exercise the powers, duties, discretions and authorities of AFAC in relation to those Services and will have full power and authority to act for and on behalf of and to bind AFAC in relation to the Services; and
 - B. the Contractor must respond to instructions and requests from that Member in relation to the Services, and the Contractor will communicate with the Member in relation to such Services;
 - ii. the Services may be shared with Members other than the Liable Member as required;
 - iii. where there is more than one Service under this Contract, individual Services may be provided to different Members; and
 - iv. payments of Contract Prices for Services are payable by the Liable Member.
- c. The powers, duties, discretions and authorities conferred on a Member under clause 3.3b do not prevent AFAC from exercising those powers, duties, discretions and authorities; and in the event of a conflict between a Member and AFAC the decision of AFAC will prevail.

4. CONTRACTOR RESPONSIBILITIES AND OBLIGATIONS (GENERAL)

4.1 Contractor skill and experience

The Contractor accepts that AFAC enters into this Contract relying on the Contractor's representations that it possesses the skill, experience and ability to comply with the standards set out in clause 4.2 and that it will provide the Services for the Contract Period to a high standard, commensurate with industry best practice, and provide the Services in a safe and timely manner.

4.2 Standard of care (general performance standards)

Without limiting any other obligations in this Contract, the Contractor:

- a. must provide the Services in accordance with the Specifications and this Contract, together with all materials, services, functions and responsibilities not specifically

described in this Contract, but which are incidental to or otherwise necessary for the Contractor to provide the Services;

- b. must provide the Services with a high degree of care, safety, skill and diligence in a proper and professional manner having regard to the nature of the Services and the Operating Environment, and commensurate with industry best practice, in a commercial, prudent and reasonable manner;
- c. must provide the Services in a manner that assists the Member in discharging and complying with its obligations under applicable Laws;
- d. provide the Services in a safe, timely and efficient manner, reasonably promptly and without undue delay;
- e. comply with any reasonable directions given by AFAC or the Members from time to time in connection with the Services;
- f. provide the Services in accordance with all relevant Australian industry standards, best practice and guidelines and all necessary licences and consents, including standards specified in the Specifications or any warranties set out in this Contract;
- g. comply with all applicable Laws including those relating to aviation, industrial relations, work health and safety, environmental laws and vehicle laws;
- h. in a manner which could reasonably be expected to protect AFAC and the Members' interests; and
- i. must comply with all relevant policies of AFAC and the Members disclosed to the Contractor from time to time including but not limited to those set out in this Contract.

4.3 Provision of Services

- a. The Contractor agrees to provide the Services as required by the Member on the terms and conditions of this Contract.
- b. The Contractor must:
 - i. without limiting the generality of clauses 4.3b.iii and 4.4a.iii, the Contractor must hold an AOC and/or AWC issued by CASA and endorsed as required for all of the Services to be carried out, including with respect to the carriage of passengers if required;
 - ii. maintain documented operational systems and procedures specific to the delivery and performance of the Services, including, but not limited to, those required by CASA or other Relevant Authority;
 - iii. comply with all applicable Laws, licences, permits and authorisations, including:
 - A. any requirements under the Heavy Vehicle National Law and/or applicable state, territory or Commonwealth road transport Laws, including in respect of refuelling requirements and associated record keeping;
 - B. the Australian Code for Transport of Dangerous Goods by Road and Rail, as updated or replaced from time to time (including compliance with correct identification procedures);

- C. the Privacy Legislation; and
- iv. any relevant operational orders, NAFC or Member policies or standards and any procedures or instructions issued by NAFC or the Members, as notified to the Contractor from time to time and as related to the provision of Services; and
- v. obtain any necessary exemptions or special provisions that may be required to provide the Services and must ensure compliance with whatever requirements are in place at any point in time.

4.4 Capacity to perform the Services

- a. The Contractor must:
 - i. ensure that the Aircraft and Flight Crew are capable of carrying out the Services according to the specifications and standards described in this Contract; and
 - ii. be responsible for modifying and/or equipping the Aircraft, including arranging all necessary approvals and authorisations, to meet the requirements of this Contract to carry out the Services required; and
 - iii. be responsible for and ensure that it has all certificates, exemptions, flight manuals and flight manual supplements, operations manual supplements, endorsements and approvals or any other authorisations where necessary to carry out the Services required.
- b. The Contractor must maintain access to back up facilities including suitably qualified relief Flight Crew and Crewpersons and “out of hours” servicing as the tasks may involve operations under emergency conditions.
- c. The Contractor must:
 - i. ensure the provision of the required Flight Crew and Crewperson training, experience and currency;
 - ii. have access to a sufficient number of suitably qualified, trained and current Flight Crew and Crewpersons such that legislative flight and duty time limitations and fatigue management provisions do not limit availability or provision of the required Services, including maintaining access to back up facilities and suitably qualified relief Flight Crew and Crewpersons and “out of hours” servicing as the tasks may involve operations under emergency conditions; and
 - iii. make all reasonable efforts to communicate any such limitations ahead of the time when the Service’s availability may be so limited.

4.5 Safety and Quality

- a. For the duration of the Contract Period and in relation to the Services provided under this Contract, the Contractor must have and must maintain plans, manuals, systems and programs, including but not limited to:
 - i. an Emergency Response Plan; and
 - ii. Fatigue Management system or program; and
 - iii. a Quality Management System (QMS) as specified in clause 4.5b; and

- iv. a Safety Management System (SMS) as specified in clause 1.1a; and
 - v. an occupational health and safety and workplace safety programs; and
 - vi. a Drug and Alcohol Management Program that applies to the Contractor's aviation operations, including fuelling (if applicable); and
 - vii. any other documents required by legislation and regulations.
- b. The Contractor must implement and maintain a safety management system for their aviation operations meeting the requirements of the *NAFC Standard OPS-021*.
 - c. The Contractor:
 - i. must have implemented quality management to a standard acceptable to AFAC; and
 - ii. should have a QMS to the appropriate Australian or International Standard.
 - d. The Contractor must work cooperatively with AFAC and the Members to develop and improve the safety, efficiency and effectiveness of operations through further development of equipment and refinement of techniques and practices.
 - e. The Contractor must take all reasonable precautions for the safety of the public and the Contractor's Personnel engaged in performing the Services.
 - f. The Contractor must implement and continually evaluate a quality assurance governance approach that ensures the Services are safe, of a high standard and otherwise in accordance with best practice and the requirements specified in this Contract including the Specifications.

4.6 Cooperation with third parties

The Contractor must cooperate with all Relevant Authorities and other relevant aircraft operating companies, to ensure that the Services are supplied efficiently, seamlessly, safely and otherwise as required under this Contract.

4.7 Accident, incident and near misses

- a. The Contractor must immediately report to AFAC and the Members via ARENA, and otherwise in accordance with the requirements of the Members' Standard Operating Procedures and otherwise in relation to accident, incident and near miss reporting:
 - i. the receipt of any notice of inquiry and/or any subsequent infringement from CASA or other Relevant Authority;
 - ii. any of the Contractor's 'immediately reportable matters' and, within 72 hours, any 'routine reportable matters' as those terms are defined in the *Transport Safety Investigation Regulations 2021 (Cth)* under the *Transport Safety Investigation Act 2021 (Cth)*, however caused, and whether occurring in relation to the Aircraft or otherwise, and whether or not occurring in the course of the delivery of the Services under this Contract, and whether or not occurring in Australia;
 - iii. any notices issued to the Contractor concerning infringements of the Health and Safety Laws where such infringements relate to the Services;

- iv. the discovery of any non-approved aircraft parts and maintenance on any of the Contractor's Aircraft; and
 - v. any breach or suspected breach of any Laws where such a breach or suspected breach relates to the Services.
- b. Failure by the Contractor to report and accidents, near misses or other incidents may result in termination of this Contract.
 - c. The Contractor must complete and provide to AFAC and the Members any documentation required by AFAC or any Member, within 24 hours of any request.
 - d. The Contractor acknowledges and agrees that it and its Personnel will fully cooperate with any investigation (either by AFAC, a Member, or any Relevant Authority) into such accident, incident or conduct.
 - e. The Contractor must provide details via ARENA of any suspensions of licences or approvals for its Aircraft, Equipment and relevant Personnel including pilots, maintenance Personnel, MFU operators and other Personnel involved in refuelling that require licences. The notice must include any details of suspensions, any accidents, incidents or near misses that occurred at any time, and the reasons for those suspensions.

4.8 Inspections and audits

- a. AFAC or the Member may:
 - i. conduct an inspection or audit in accordance with clause 4.8d at any time to assess the Contractor's past compliance with this Contract, or its ability to comply with the Contract in the future; and
 - ii. conduct such inspections or audits by AFAC or Member personnel or by an appointed independent outside auditor, subject to appropriate confidentiality undertakings.
- b. For the avoidance of doubt:
 - i. such inspections or audits may occur immediately prior to the commencement of any Service Period (in order that a Member may determine that the Aircraft and Equipment satisfactorily meet the requirements of this Contract); and
 - ii. AFAC or a Member may, prior to a Service Period, reasonably require that the Contractor demonstrate, at no cost to AFAC or the Member, that the Aircraft complies with the requirements of this Contract where the compliance has not been previously demonstrated to AFAC or a Member within 12 months of the request.
- c. Where possible, AFAC or a Member will provide the Contractor with notice of any audit and will endeavour to conduct any inspection or audit on a Business Day during business hours (unless during an infield compliance check or otherwise agreed).
- d. For the purpose of an inspection or audit, the Contractor must provide the auditor, at no cost, with supervised access to its:

- i. financial books, accounts and records of its provision of the Services and any other data or information reasonably requested by AFAC or its Auditor to verify the Contractor's compliance with this Contract;
 - ii. premises, equipment or facilities (including access to office space and photocopiers as reasonably required to conduct the audit);
 - iii. Aircraft and Equipment (to be made available at the NOB, unless during an infield compliance check or otherwise agreed);
 - iv. systems including the software, safety, quality control and training; and
 - v. Personnel.
- e. AFAC or any Member may take copies of, or extracts from, the information referred to in clause 4.8d.i.
- f. Each party will bear its own costs in connection with any inspection or audit under this clause 4.8.
- g. The Contractor must provide reasonable assistance to persons undertaking such inspections, audits or infield compliance checks including making Aircraft and Equipment available for inspection and Personnel for interview and providing copies of any records for later review.
- h. Following an inspection, audit or infield compliance check, or in the event the Contractor does not consent to or provide reasonable assistance with such, AFAC and the Members reserve the right to take the following actions:
- i. notify the Contractor of any matters raised which require attention or rectification and require the Contractor to give effect to those matters as soon as reasonably practical;
 - ii. during a Service Period, direct the Contractor to Stand Down pursuant to clause 6.2;
 - iii. raise a dispute pursuant to clause 7.15;
 - iv. give the Contractor notice of termination of this Contract pursuant to clause 7.12;
 - v. at any time during the Contract Period, refrain from issuing any Standby/Dispatch to the Contractor until such time as the Contractor consents to the inspection or audit;
 - vi. make available the findings of its inspection to any Member; and
 - vii. report any actual or perceived breaches of Laws to the Relevant Authorities if appropriate, or take such other steps as they may consider reasonable and proportionate in the circumstances.

4.9 General Requirements for Aircraft

The Aircraft must be airworthy and maintained in accordance with the manufacturers' requirements, Australian State and Federal legislation and regulations and where applicable in accordance with the legislative requirements of the country of registration.

4.10 Category of Operation for Services with passenger carriage

- a. Where a Service requires the carriage of passengers, the Contractor must hold in respect of the Aircraft:
 - i. an AOC (that authorises the carriage of passengers as an 'air transport' operation during Daylight under the Visual Flight Rules (VFR) up to the Aircraft's specified Passenger Carrying Capability (PCC) number); and
 - ii. an AWC (that authorises the performance of any other tasks of the Service, including carriage of any required 'aerial work passengers'), except for Services that only provide passenger carriage services.
- b. For the avoidance of doubt, where a Service does not require the carriage of passengers, the Contractor must hold an AWC (that authorises the performance of the tasks of the Service, including carriage of any required 'aerial work passengers').

4.11 Pilot in command

- a. For the avoidance of doubt, the pilot in command of the Aircraft is responsible for the safe operation of the Aircraft and the safety of its occupants and payload. The pilot in command has final authority to determine whether the flight can be accomplished safely and may refuse any flight or operation on the grounds of safety, notwithstanding the existence of a Dispatch instruction.
- b. The pilot in command must ensure that the Aircraft is operated in accordance with the Aircraft's flight manual, including but not limited to, within flight envelope limitations.

4.12 Contractor Personnel

- a. The Contractor will be responsible for the proper conduct of persons employed by or acting for the Contractor or any subcontractor, including ensuring that all Personnel and subcontractors comply with the requirements of this Contract in carrying out the Services specified.
- b. The Contractor will provide and supervise an appropriate and sufficient number of qualified Personnel to enable timely and proper performance and completion of the Services. All such Personnel will be competent, literate, efficient and qualified by education, training and experience to carry out the tasks to which each is assigned in relation to the Services.
- c. The Contractor will have key Personnel experienced in managing and supporting operations which require high standards, and which must be completed in a timely fashion including in the defined Operating Environment. They must understand the importance of dispatch reliability in Aerial Firefighting and emergency operations and other activities and must have in place systems to ensure that operations that are conducted on an infrequent or irregular basis are still conducted in the most reliable and efficient manner.
- d. The Contractor must ensure that all Personnel engaged in the provision of the Services:
 - i. hold all qualifications, registrations and licences required by Law;
 - ii. are aware of and comply with any obligations relevant to the performance of their work contained in:

- A. this Contract;
 - B. policies or standard operating procedures of the Members (including those found in ARENA under the Bookshelf);
 - C. the Contractor's operations manual;
 - D. relevant Laws;
- iii. conduct themselves in an appropriate, professional and efficient manner, and act diligently, ethically, soberly and honestly; and
 - iv. present in a neat, clean and professional manner; and
 - v. do not take or use any drug unless:
 - A. prescribed by a medical practitioner or lawfully available without prescription; and
 - B. used in accordance with directions; and
 - C. used in accordance with civil aviation legislation and regulations; and
 - vi. act with all proper diligence, in good faith and in a manner which is consistent with the Contractor's obligations under this Contract;
 - vii. comply with all policies, procedures, rules, regulations, standards of conduct and the lawful directions of AFAC and the Members in respect of use of their premises, equipment, business ethics or methodology, or contact with their personnel or customers; and
 - viii. do not commit any criminal offence and do not otherwise breach any law or regulation which could adversely affect the interests of AFAC, any Member or the provision of the Services; and
 - ix. do not sexually harass or bully any person or unlawfully engage in discriminatory behaviour; and
 - x. carry and display at all times identification as deemed appropriate by AFAC or the Member; and
 - xi. do not otherwise act in any manner, which could disrupt or adversely affect NAFC's reputation, interest or goodwill.
- e. AFAC or the Member may require the removal and/or replacement of any Personnel who, in the reasonable opinion of AFAC or the Member, are not performing the Services to a satisfactory standard, or who are not maintaining appropriate safety standards, or otherwise do not comply with clause 4.12d.

4.13 Performance Management and Monitoring

- a. The Contractor must provide the Services so as to meet or exceed the Performance Measures specified in the Participation Deed.
- b. In addition to and without limiting any other right it has under this Contract, AFAC and the Members reserve their right to take into account the extent to which the Contractor

has met or exceeded, or failed to meet or comply with the Performance Measures when determining to take any action in accordance with other rights under this Contract.

- c. At the request of AFAC or a Member, the Contractor will participate in an active performance management monitoring and review program specific to the Services.
 - i. The performance management and monitoring program will provide a means of assessment of Contractor performance and of determining if the Contractor is delivering the Service at or above the standard specified by this Contract.
 - ii. Representatives of the Members, AFAC, and the Contractor's Contract Manager and any other appropriate representatives of the Contractor may meet during the Term to review the performance of the Contractor's obligations under this Contract.
- d. The Contractor's performance against the Performance Measures and the terms and conditions of this Contract may be measured and reported from time to time by AFAC or the Members. The Contractor acknowledges that the results of any performance review meeting or management and monitoring program under this clause may be made available by AFAC to the Members or may be made available by any Member to any other Member.
- e. In general, the Contractor must:
 - i. monitor its performance against the Performance Measures;
 - ii. ensure that it is able to detect and mitigate against any failure to meet the Performance Measures; and
 - iii. investigate each failure to meet a Performance Measure which has (or may have had) an adverse effect on the Services.

4.14 Innovation and Research

- a. The Contractor acknowledges and accepts that it will use all reasonable endeavours to seek to reduce the cost of providing the Services under this Contract. During the Contract Period, the Contractor will keep AFAC informed of any developments, improvements or efficiencies of process affecting the delivery of Services.
- b. The Contractor acknowledges and accepts that it must use all reasonable endeavours to assist AFAC and the Members in the acquisition of data and information to support research aimed at analysing and improving the efficiency, efficacy and safety of Aerial Firefighting, emergency operations and other activities.
- c. The Contractor acknowledges and accepts that the supply of Services under this Contract may be evaluated and that the delivery of any aspect of the Services may be measured, photographed, filmed or recorded.
- d. The Contractor acknowledges and accepts that aspects of the performance of the Services may be analysed and reported in publicly available publications.

4.15 Environmental Responsibilities

- a. The Contractor is responsible for ensuring that its operations in providing the Services and other activities related to the Services comply with environmental laws including

obligations to not cause environmental damage to property, facilities or the natural environment.

- b. The Contractor must take all reasonable steps to prevent the transfer of environmental contaminants such as soil, seeds, algae, fungi or other plant material on Aircraft, vehicles, footwear, clothing or other equipment. The Contractor must develop and implement environmental and hygiene protocols acceptable to the Member.
- c. The Contractor must indemnify AFAC and the Members against any loss, cost, damage or expense, (including any fine or penalty imposed by any Relevant Authority) which AFAC and the Members may incur as a consequence of any failure to comply with this clause.
- d. In providing the Services the Contractor is responsible for:
 - i. containing, handling and clean up of fuel, oil, Fire Retardant and Fire Suppressant contamination on airport ramps, storage, mixing and loading sites, parking areas, landing areas or any other area, when caused by Contractor Aircraft, equipment or Personnel;
 - ii. Aircraft wash down, including provision of appropriate infrastructure and equipment and containment and treatment of run-off; and
 - iii. the storage of solvents, parts, engines and any other materials in a manner consistent with the Health and Safety Laws, the Environmental Laws and best practice.

4.16 Subcontracting / Assignment

- a. The Contractor must not:
 - i. assign, novate, subcontract, mortgage, charge or encumber in any way the Contract or any part of it; or
 - ii. assign, novate, subcontract, mortgage, charge or encumber in any way the execution of the Services; or
 - iii. assign, novate, subcontract, mortgage, charge or encumber in any way any right to receive any money under this Contract; or
 - iv. allow a change in the Effective Control of the Contractor;without first obtaining the express written consent of AFAC, which may be withheld by AFAC in its absolute discretion.
- b. For the avoidance of doubt, for the purposes of this clause 4.16, “subcontracting” involves assigning the performance of the contractual obligation to perform all or part the Services to a third party (for example, subcontracting the performance of the Services to another aerial firefighting operator). “Subcontracting” does not include, for example, subcontracting individual Personnel such as pilots where the Contractor entity itself continues to be responsible for the performance of the Services.
- c. If AFAC consents to the Contractor subcontracting all or part of the Services under this Contract, then the Contractor accepts full responsibility and liability for the performance of its subcontractors, the Contractor will remain fully liable for all its obligations under

this Contract (notwithstanding the subcontracting) and for all acts and omissions of its subcontractors as fully as if they were the acts and omissions of the Contractor, and must ensure:

- i. that each subcontractor complies with the terms of this Contract; and
 - ii. that each subcontractor operates under the Contractor's AOC/AWC unless otherwise permitted by AFAC or the Member; and
 - iii. that it has in place appropriate controls and systems for the regulation and supervision of subcontractors; and
 - iv. that it has in place processes to satisfy itself that its subcontractors will comply with all applicable Laws, particularly in relation to industrial relations and safety; and
 - v. that it has in place appropriate orders of precedence of documents and procedures to resolve any conflict between the documents or procedures of the Contractor and its subcontractors; including but not limited to, any operations manual or operations manual supplement.
- d. A breach or failure to perform by any subcontractor will not excuse the Contractor from the performance of this Contract in accordance with its terms nor will it affect the liability of the Contractor under this Contract.
- e. AFAC may revoke its approval of a subcontractor at any time without cause by giving written notice to the Contractor.

4.17 Media

- a. The Contractor and its Personnel must not divulge any Confidential Information regarding the nature or progress of the Services or give any publicity, media reports, or engage in any form of social media concerning the Services except with the written consent of NAFC or a Member.
- b. The Contractor's obligations under this clause 4.17 will not extend to:
 - i. information already in the public domain other than due to a breach of this Contract; or
 - ii. any disclosure required by Law.
- c. The operation of this clause 4.17 survives the termination or expiration of this Contract.

4.18 Reputation

The Contractor must not, and must ensure its Personnel must not, do or omit to do anything which may:

- a. damage, bring into disrepute or ridicule AFAC's or a Member's name, messages or reputation; or
- b. attract public or media attention which may be prejudicial or otherwise detrimental to AFAC's or a Member's name, messages or reputation.

4.19 Conflict of Interest

- a. The Contractor warrants that it and its Personnel do not hold any office or possess any property, are not engaged in any business, trade or calling and do not have any obligations by virtue of any contract whereby, directly or indirectly, duties or interests are or might be created in conflict with or might appear to be created in conflict with its duties and interests under this Contract.
- b. The Contractor will immediately inform AFAC of any matter that may give rise to an actual or potential conflict of interest at any time during the Contract Period.

4.20 Performance Bond

- a. The Contractor will take out and maintain a performance bond of the amount specified in the Participation Deed.
- b. The Contractor will take out and supply the performance bond to AFAC before the commencement of the first Service Period under this Contract.
- c. The Contractor must take out and maintain the performance bond for the Contract Period including any potential extensions to the Contract Period. AFAC will not return the performance bond to the Contractor between Service Periods.
- d. The Contractor will produce the performance bond in a form executed by a bank or other reputable financial institution approved by AFAC.
- e. Approved banks/financial institutions must be domiciled in Australia, or be an Australian subsidiary that is subject to Australian law.
- f. All costs associated with taking out and maintaining the performance bond will be borne by the Contractor.
- g. AFAC will have the right to drawdown on the performance bond in the event of default by the Contractor or termination of the Contract for default by the Contractor (in all instances), for the purpose of meeting all losses, damages, expenses and costs incurred by the Member arising out or relating to such default or termination.
- h. AFAC will return the performance bond to the Contractor at the completion of the Contract Period unless AFAC has previously invoked the performance bond in accordance with this clause 4.20.
- i. The rights of AFAC pursuant to this clause 4.20 will be in addition to any other rights or remedies that AFAC may have at law or in equity.

4.21 Insurance

- a. For Primary Services the Contractor must take out and maintain at all times during the Contract Period, and for Secondary Services the Contractor must take out and maintain at all times during any activated Service Period:
 - i. public liability insurance (including, but not limited to, aviation liability) against liability to third parties, including passengers and crew on the Aircraft, for personal injury and death and damage to property for a minimum amount set out in clause 1.1 of Schedule 1 for each and every occurrence;

- ii. appropriate insurance against loss of, or damage to, the Aircraft hull for an amount reflecting reasonable replacement value of the Aircraft; and
 - iii. insurance providing full indemnity in respect of claims under Law for personal injury or the death of any person in the employment of the Contractor and arising out of and in the course of such employment, which insurance shall comply with all applicable Laws relating to worker or accident compensation or employer liability (and in the case that a subcontractor is approved in accordance with this Contract, that the subcontractor takes out and maintains such insurance).
- b. If the Contractor is providing Services on a Wet-A basis, or optional additional fuelling Services, then the Contractor must take out and maintain at all times during the Contract Period (for Primary Services) / during any activated Service Period (for Secondary Services):
- i. insurance that provides cover against public liability arising from fuelling operations, including fuelling of any Aircraft conducting operations on behalf of AFAC or the Members for a minimum amount set out in clause 1.1 of Schedule 1 for each and every occurrence; and
 - ii. insurance that provides cover against product liability for a minimum amount set out in clause 1.1 of Schedule 1 for each and every occurrence; and
 - iii. insurance that provides cover against public liability for the operation of each fuelling vehicle that supports a Service on and off road for a minimum amount set out in clause 1.1 of Schedule 1 for each and every occurrence; and
 - iv. insurance that provides cover against third party collision damage for each fuelling vehicle that supports a Service.
- c. The Contractor must record details relating to the currency and extent of these mandatory insurances on ARENA. These details must be reviewed and updated so that the information contained within ARENA is at all times up to date. Upon request by AFAC or a Member, the Contractor must promptly provide any further information reasonably necessary in relation to such insurance.
- d. The Contractor will ensure that the policy of insurance that is effected in compliance with this clause 4.21:
- i. includes as named insured "*Australasian Fire and Emergency Service Authorities Council Limited known as the National Aerial Firefighting Centre or NAFC and the States and Territories of Australia their servants, agents or independent contractors engaged by one or more of them*"; and
 - ii. provides that any cancellation of the policy by the insurer will not take effect until 30 days after written notice of such cancellation has been given to NAFC; and
 - iii. provides that a notice of claim given to the insurer by one insured party will be accepted by the insurer as a notice of claim given by each of the insured parties; and
 - iv. provides that a breach or failure to observe and fulfil the terms of the policy by any party comprising the insured will not prejudice the rights of remaining parties comprising the insured; and

- v. includes a clause in which the insurer agrees to waive all rights of subrogation or action against any insured, its directors, executive officers, servants, agents and employees; and
 - vi. allows for claims to be made against the policy during the Contract Period and after the conclusion of the Contract Period in accordance with legislation and common law principles relating to limitation periods.
- e. If the Contractor neglects, fails or refuses to keep in force any of the insurances which are required by this clause 4.21 or fails to make available those policies and evidence of currency as required by this clause 4.21, then:
- i. the Contractor's Services will be considered to be Not Available and the Contractor shall forfeit any payments or monies due under this Contract until such time as the evidence of currency is provided or until such insurances are procured; and
 - ii. AFAC or the Member is entitled to refrain from issuing any Standby/Dispatch instruction until such time as the issue is remedied, raise a dispute pursuant to clause 7.15, or terminate this Contract in accordance with clause 7.12.
- f. This clause 4.21 survives the termination or expiration of this Contract.
- g. The Contractor's liability to AFAC or the Members will not be limited in any way because of any insurance. In all situations relating to insurance under this Contract, the Contractor is responsible for determining the risks and scope of insurances required, assessing and considering the completeness of the items insured, the adequacy of the sums insured, the limit of liability, scope of coverage, conditions or exclusions of those insurances in respect of how they may or may not respond to any loss, damage or liability.

4.22 Indemnity

- a. The Contractor releases, indemnifies and holds harmless AFAC and the Members and each of AFAC's and the Members' directors, officers, employees, contractors and agents, from and against all losses, including, but not limited to, any loss of profit, loss of use, loss of anticipated profit, loss of production, loss of revenue, loss of contracts, including this Contract, loss of goodwill, loss of opportunity, loss of reputation, loss of data or for any financial or similar economic loss or for any indirect or consequential damages, expenses, actions, claims, suits, fines, penalties and demands whatsoever (including the cost of defending or settling any action, claim or demand which may be brought against AFAC by any third party) relating to or arising out of:
- i. any negligence or wrongful act or omission of the Contractor or the Contractor's Personnel, subcontractors, or agents or of any other persons for whose acts or omissions the Contractor is vicariously liable;
 - ii. death, injury, loss of or damage to the Contractor, the Contractor's Personnel, subcontractors, or agents or of any other persons;
 - iii. any breach of any Law caused by the Contractor; or
 - iv. any breach of this Contract by the Contractor.

- b. The Contractor acknowledges and agrees that any indemnity under this Contract in favour of AFAC and the Members is held on trust by AFAC and may be enforced or recovered by AFAC or the Members in any manner acceptable to AFAC or the Members.

5. CONTRACTOR REQUIREMENTS AND OBLIGATIONS (SERVICE PERIOD)

5.1 Commencement and duration of Service Periods

The commencement and duration of each Service Period will be as specified in the Participation Deed.

5.2 Conditions Precedent to a Service Period

- a. A Service Period does not commence unless and until each of the conditions set out in clause 5.2b have been satisfied, or have been waived in accordance with clause 5.2c.
- b. The conditions precedent to a Service Period are:
 - i. AFAC receiving from the Contractor a copy of an applicable and valid AOC/AWC, provided in ARENA; and
 - ii. AFAC receiving from the Contractor a copy of all relevant documentation evidencing the Contractor's insurance and its currency, provided in ARENA; and
 - iii. AFAC receiving from the Contractor the performance bond where required; and
 - iv. the Contractor receiving written notice from AFAC or a Member advising (in accordance with the Notice Period) the date on which the Service Period is to commence (see the Notice Period for each Service set out in the Participation Deed).
- c. The satisfaction of a condition precedent to the Service Period can only be waived by written notice from AFAC or a Member, to the Contractor.

5.3 Requirements prior to commencement of Service Period

- a. Immediately prior to the commencement of any Service Period:
 - i. the Contractor will make any Aircraft and any Equipment available for inspection at no cost to AFAC or a Member, in order that a Member may determine that the Aircraft and Equipment satisfactorily meet the requirements of this Contract. The Aircraft and Equipment will be available at the NOB; and
 - ii. a Member may require that the Aircraft fly for up to 30 minutes at no cost to that Member to confirm compliance with the requirements of this Contract.
- b. If instructed to do so, the Contractor or the Contract Manager or the Chief Pilot will attend, at no cost, a formal briefing session in the jurisdiction where the specified Service is provided.
- c. The Contractor will be provided, by the relevant Member, with Member policies, procedures and operation documentation relevant to the Service.

5.4 Requirements during any Service Period

- a. During any Service Period the Contractor must carry out the tasks and provide the Services as required by the Member, and must keep the Member fully advised of the progress of the Services and any relevant information in relation to the Aircraft and Equipment.
- b. During any Service Period the Contractor:
 - i. will supply the Aircraft as specified in the Participation Deed (or their substitutes that are agreed in accordance with this MSA); and
 - ii. ensure that the Aircraft and MFU (if applicable) are located at the NOB, or at a TOB, fully meeting the requirements detailed in this Contract; and
 - iii. is responsible for all facilities required to support the Aircraft and MFU and Flight Crew at the NOB are provided, including but not limited to, communications, security, Personnel and office accommodation and maintenance facilities; and
 - iv. is responsible for NOB/TOB crew rest facilities (if required to maximise duty times) meeting all applicable legislation and regulations.

5.5 Communication systems for Standby/Dispatch, tasking or Commitment during Service Period

- a. The Contractor must ensure that at all times during a Service Period the Contractor, the Contract Manager or a representative of the Contractor (which may include the pilot of the Aircraft)
- b. can be notified without delay by the Member of any requirement for the tasks to be carried out. To this end, the Contractor will provide and maintain a suitable, reliable communication system reasonably acceptable to the Member, according to the procedure laid down by that Member and conveyed to the Contractor from time to time.
- c. The Contractor will at all times during a Service Period maintain a suitable back-up communication system reasonably acceptable to the Member; that may be utilised to notify the Contractor, the Contract Manager or a representative of the Contractor in the event of failure of the system described in clause 5.5b.

5.6 Readiness and response requirements during Service Periods

- a. During any Service Period when the Service is required to be Available the Contractor will ensure that the Aircraft will be ready to be airborne and proceeding to carry out the tasks required as soon as safely practicable and within the Nominated Response Time after receiving a Dispatch from the Member, or within such greater period as agreed with a Member.
- b. During any Service Period the Nominated Response Time will be 15 minutes if safe to do so, unless otherwise mutually agreed in advance between the Contractor and the Member (i.e. if specified in ARENA).
- c. As practicable and by notice to the Contractor, at times of low emergency risk, the Member will relax the Nominated Response Time that it only applies for a certain period, such that the planned tour of duty for each shift of the Aircraft's Flight Crew will not normally exceed nine hours in that day.

- d. On days of significant fire or emergency risk during any Service Period, and as required by a Member, the Contractor will ensure:
 - i. that preparation of the Aircraft, including any and all preparatory checks required on the Aircraft, have been completed before notification is received from a Member;
 - ii. that all Personnel are prepared to, and will respond appropriately to, the fire or emergency risk; and
 - iii. that the Aircraft is safely airborne and proceeding to carry out the tasks required within the minimum time practicable after receiving a Dispatch from a Member.

5.7 Fuelling Requirements during any Service Period

- a. During any Service Period the Contractor will ensure that it is meeting the fuelling requirements as specified for each Service.
- b. During any Service Period the Contractor will take all reasonable steps to ensure that any fuelling facility and/or MFU used to fuel or refuel aircraft:
 - i. complies with all applicable Laws regarding refuelling operations within the State or Territory in which it operates;
 - ii. is operated by an appropriately licensed Refuelling Operator with aircraft fuelling qualifications and experience deemed suitable for the safe and effective aircraft fuelling and associated operations under relevant state and federal Laws; and
 - iii. supplies fuel that is of high quality, free of contaminants and of an appropriate standard for the safe and reliable operation of aircraft in the Operating Environment.
- c. **For Services operating on a Wet-B basis**, during any Service Period the Contractor:
 - i. is expected to be self sufficient in the provision of fuel and other consumables relating to the Service. This includes:
 - A. providing fuelling infrastructure and fuel at the NOB; and
 - B. arranging with fuel providers to fuel into-aircraft at locations where those fuel providers normally operate; and
 - C. managing fuel suppliers, including processing invoices and payments to fuel suppliers; and
 - D. managing non-fuel consumables including oil, other lubricants, hydraulic fluid, compressed air and special mixtures for starting aircraft. This does not include Fire Suppressant or Fire Retardant;
 - ii. will ensure that the aircraft is supplied with fuel as required for the uninterrupted performance of the tasks by the Aircraft; and
 - iii. is not required to provide MFUs.
- d. **For Services operating on a Wet-A Minus basis**, in addition to clause 5.7b, during any Service Period the Contractor:

- i. is expected to be self sufficient in the provision of fuel and other consumables relating to the Service. This includes:
 - A. providing fuelling infrastructure and fuel at the NOB; and
 - B. providing suitable MFUs to supply and re-supply fuel into aircraft at locations where the Aircraft is operating away from the NOB, without unreasonable delay; and
 - C. managing fuel suppliers, including processing invoices and payments; and
 - D. arranging for replenishment of the Contractor's into-aircraft facilities to ensure that there is no interruption to provision of the Service; and
 - E. managing the non-fuel consumables including oil, other lubricants, hydraulic fluid, compressed air and special mixtures for starting aircraft, and fuel and lubricants for the MFU. This does not include Fire Suppressant or Fire Retardant; and
 - ii. at the commencement of any day of a Service Period, must ensure that that a MFU is loaded with sufficient fuel for the aircraft it supports to operate for at least ten hours in the Operating Environment;
 - iii. must ensure that the MFU is supplied and re-supplied with aviation fuel as required to allow for the uninterrupted performance of the tasks by the Aircraft;
 - iv. must ensure that at any time a MFU is positioned at the NOB, or another location approved by the Member to ensure optimum support to the Aircraft in carrying out the tasks and minimise any delays in fuelling; and
 - v. must meet or exceed the operating provisions of Member operating policies and procedures regarding MFUs and fuel.
- e. **For Services operating on a Wet-A basis**, in addition to clauses 5.7b and 5.7d, during any Service Period the Contractor:
- i. will make the MFU available to fuel any other aircraft dispatched by a Member, unless doing so adversely affects the Contractor's ability to provide the Services under this Contract; and
 - ii. will arrange all relevant invoicing and payments directly with the other aircraft's operator at a price which covers the reasonable costs of supplying the fuel, which may include reasonable administration costs (i.e. it is not intended that the Contractor will profit from the supply of the fuel), unless evidence of payment defaults by the other operator are provided to the Member and the Member agrees to waive clause 5.7e.i.
- f. **For Services operating on a Dry basis**, during any Service Period the Contractor:
- i. is required to supply and be self sufficient in the provision of all non-fuel consumables relating to the Service, including oil, other lubricants, hydraulic fluid and compressed air. This does not include Fire Suppressant or Fire Retardant, or special mixtures for starting aircraft; and
 - ii. is not responsible for arranging or paying for the supply of fuel to the Aircraft.

5.8 Testing of Procedures and Systems

- a. During any Service Period the Contractor will ensure that as far as is practicable, procedures and systems are in place to ensure that the Service responds as required. This will include but is not limited to:
 - i. ensuring that equipment and systems associated with the tasks and as required by this Contract are prepared and ready, and that the readiness of such equipment and systems is checked prior to the beginning of each Service Period; and
 - ii. ensuring that Personnel can operate the equipment and systems and are properly trained and competent to carry out the Services, and that the appropriate level of competency is maintained and checked in accordance of the requirements of this Contract; and
 - iii. testing the proper operation of the Aircraft and aircraft systems required to deliver the Service including but not limited to avionics, communications and global positioning systems specified in Schedule 5, during the first flight on any day that the Aircraft flies. The test will be made as soon after take-off as is practical. Where AFAC or a Member requires that the test must be undertaken according to a specific procedure, the procedure will be conveyed to the Contractor; and
 - iv. ensuring that if the Aircraft does not fly during the preceding six days, the Aircraft must be flown for a period of time sufficient for the Contractor to test during the flight the proper operation of the Aircraft, and aircraft systems and equipment and systems required to deliver the Service, including but not limited to, firebombing systems, avionics, communications, global positioning systems, and sensors and equipment specified in Schedule 5. Where AFAC or a Member requires that the test be undertaken according to a specific procedure, the procedure will be conveyed to the Contractor.
- b. Periodic test flights during the Service Period, including those required by clauses 5.3a.ii and 5.8a.iv, are deemed to be flights in the private interests of the Contractor. However, where the Services are specified as Dry a Member will supply or reimburse the reasonable cost of aviation fuel used for periodic equipment checks authorised by that Member.

5.9 Other work during Service Periods

- a. During any Absolute Availability Service Periods subject to the prior approval of the Member the Contractor may utilise the Aircraft for other tasks, which approval may be withheld in their absolute discretion, and subject to:
 - i. continuing to meet the other provisions specified in clause 5.4; and
 - ii. meeting any other requirement specified by the Member; and
 - iii. a reduction of the Standing Charges, proportionate to the amount of time the Aircraft is Not Available.

- b. During any Partial Availability Service Period the Contractor may utilise the Aircraft for other tasks, at the times that the Service is not on Commitment, provided that the Service can still meet all of the Partial Availability response requirements.

5.10 Service Status during the Service Period

- a. Any Service supplied by the Contractor must at any point in time during any Service Period be considered to have a status as follows (and the Contractor must maintain the Service's availability information in ARENA accordingly):
 - i. **Available** means:
 - A. the Service meets all requirements of this Contract; and
 - B. the Aircraft is ready and able to be airborne and commence tasks in accordance with all requirements of this Contract; and
 - C. sufficient Personnel are available to enable the Service to be delivered without interruption.
 - ii. **Available (Limited)** means the Service is Available but, by express agreement with a Member, it does not meet all requirements of the Contract (for example due to a minor equipment fault that is not safety or performance related or the carrying out of minor maintenance); or
 - iii. **Not Available** means the Service is not of Available or Available (Limited) status as described in this clause.
- b. The Contractor is required to immediately notify the Member if any Service becomes Available (Limited) or Not Available within the terms of this Contract for whatever reason, including by updating ARENA accordingly. In the case of a Service of Available (Limited) and Not Available status, ARENA must include information as to the reason for the status and the estimated time when the Service will be of Available status.
- c. The Contractor must:
 - i. notify the Member immediately if it is experiencing an event likely to cause a failure to provide the Service that has not been previously notified; and
 - ii. take all reasonable steps to minimise the impact and length of any event likely to cause a failure to provide the Service.
- d. The Contractor is required to immediately notify the Member once the Service returns to Available status.
- e. The Contractor must maintain accurate and comprehensive records of the availability and status and operations of any Service that the Contractor is required to deliver and is required to provide information to AFAC or a Member upon request regarding the availability, status and operations of the Service, for verification purposes.

5.11 Failure to Provide Services

- a. Without limiting any other rights of AFAC or the Member under this Contract or at law, if the Contractor refuses or otherwise fails to supply the Services during the Service Period in accordance with this Contract including:

- i. a Service is Not Available by the commencement of any Service Period; or
- ii. a Service becomes Not Available during any Service Period, except as agreed; or
- iii. the Contractor does not respond during any Service Period; or
- iv. by supplying defective Services; or
- v. by failing to supply the Services (including by failing to supply the Services because one of its suppliers (such as a refuelling supplier) has declined to provide it with services),

then AFAC or the Member may give a notice in writing to the Contractor specifying the Services affected, the defects in question and a reasonable timeframe for rectifying those defects (which may include re-performing services). If the Contractor receives such a notice it must at its own cost and at AFAC or the Liable Member's option:

- vi. perform the relevant Services again within the timeframe specified in the notice; or
 - vii. the Contractor will be liable for, and will pay or credit to, the Member for any costs incurred by the Member due to that refusal or failure, including any additional costs of obtaining such Services from another person, and the Member will not be liable for the payment of the Contract Prices in respect of that Service and may deduct from monies otherwise due to the Contractor in accordance with clause 8.1.
- b. In effecting its rights under clause 5.11a the Member will use reasonable efforts to mitigate any costs incurred by it in the procurement of any alternative Service.

5.12 Substitute Aircraft

- a. The Contractor will not make any changes to the Aircraft or Services specified in the Participation Deed and as indicated by the Contractor in their Tender response without the prior approval of AFAC.
- b. With the prior approval of AFAC the Contractor may utilise a substitute Aircraft to carry out the Service. In requesting the change, the Contractor must clearly identify the need for such change and any expected improvement in the Services it provides.
- c. The substitute Aircraft must be approved by AFAC and must meet the same performance conditions as the original Aircraft and the specifications set by this Contract unless there is written agreement between the Contractor and AFAC.

5.13 Records during a Service Period

- a. The Contractor must ensure accurate records in ARENA of operations in the form of Flight Operations Returns.
- b. When records of operations are recorded manually the times will be recorded to the nearest minute.
- c. When records of operations are recorded by an automated device, they must be recorded to the nearest second.

- d. The Contractor must maintain accurate and complete records, reports, documents, data, books of account, and other evidence relating to the performance of the Services.

5.14 Information and documents on ARENA

- a. The Contractor will upload and maintain on ARENA all information and documentation that is required to be provided on ARENA by this Contract, and all other information and documentation as is reasonably required by AFAC or the Members from time to time.
- b. The Contractor is responsible for ensuring that its information and documentation contained on ARENA or otherwise provided to AFAC or the Members is at all times up to date, true and correct.

5.15 Record keeping

The Contractor must:

- a. keep true accounts and records of its provision of the Services in sufficient detail to demonstrate the Contractor's compliance with this Contract; and
- b. maintain those accounts and records for a minimum period of 7 years after termination or expiry of this Contract.

6. AFAC

6.1 Set Off

- a. The Members may set off any amount owing to the Contractor, against any amount owing by the Contractor to the Members pursuant to this Contract.
- b. The Members will not unreasonably withhold payment for the Services that have been supplied by the Contractor in accordance with the provisions of this Contract.

6.2 Stand Down

- a. AFAC or the Member may Stand Down a Service or a component of the Service if in their reasonable opinion:
 - i. the Contractor has not complied or is not compliant with this Contract;
 - ii. the Contractor has falsified any records or by act or omission made a false representation regarding the Services;
 - iii. the Contractor is unlikely to be able to perform the Services in accordance with this Contract; or
 - iv. there is a serious concern relating to the Contractor or this Contract that requires investigation.
- b. Notice to Stand Down a Service, or a component of a Service will be provided by giving notice to the Contractor, Contract Manager, a pilot, the MFU Operator or any member of the Flight Crew.

- i. If a Service or a component of a Service has been given notice to Stand Down, then the Service may be Available, Available (Limited) or Not Available depending upon the reasons for the Stand Down. AFAC or the Member will determine the availability status of the Service and advise the Contractor accordingly.
- c. The Contractor must ensure that any notice given under clause 6.2b is immediately acknowledged and complied with.
- d. Where the Stand Down notice is provided verbally it will later be confirmed in writing. In the written notice to Stand Down a Service or component of a Service, AFAC or the Member will advise the reasons for standing down the Service or a component of the Service.
- e. Where a Stand Down period includes a whole day, the Standing Charges/Minimum Daily Charges/Commitment Charges (as relevant) will cease to apply for that day as described in clause 8.2a.
- f. Where a Stand Down period includes part of a day, the Standing Charges/Minimum Daily Charges/Commitment Charges (as relevant) for that day will be revised, calculated in accordance with the formulas in clauses 8.2b, 8.2c and 8.2d.
- g. If the Contractor:
 - i. remedies the non-compliance or inability specified in the notice to AFAC or the Member's reasonable satisfaction, or AFAC or the Member reasonably concludes that the concern is unsubstantiated, AFAC or the Member may direct the Contractor to recommence performing the Service; or
 - ii. fails to remedy the non-compliance or inability within the time specified, or AFAC or the Member reasonably concludes that the concern is likely to be substantiated, AFAC may terminate the Contract or reduce the Services in accordance with clause 7.12.

7. GENERAL CONTRACT CONDITIONS

7.1 General obligations

- a. The Contractor is fully responsible for the undertaking of the Services to the Members, and AFAC will not be responsible for any aspect of performing the Services.
- b. Anything the Contractor is required to perform in respect of the Services or otherwise do under this Contract must be done at the Contractor's expense, unless specifically stated otherwise.

7.2 Instructions

- a. AFAC or a Member may from time to time give the Contractor reasonable instructions as to the dispatch, delivery or performance of the Services.
- b. Where it is practical to do so instructions are to be issued in writing or electronically (including via ARENA). If instructions are provided other than in writing or electronically, then the instruction will be confirmed in writing or electronically .

- c. The issuing of an instruction other than in writing does not relieve the Contractor from complying with the instruction at the time the instruction was given.

7.3 Contract variation

- a. Subject to clauses 1.2 and 7.3b, no agreement or understanding to vary this Contract will be legally binding upon either party unless it is in writing and signed by duly authorised representatives of both parties.
- b. Other than variations to AFAC and Member policies and procedures governed by clause 1.2, AFAC may from time to time (subject to clause 7.3c) make reasonable variations to the terms and conditions of this Contract by giving the Contractor written notice which must:
 - i. describe the variation;
 - ii. if applicable, specify any effect of the variation on the Contract Prices;
 - iii. specify any amendments to this Contract that will be taken to be made to give effect to the variation; and
 - iv. contain the date on which the variation comes into effect.
- c. If at any time during the Contract Period, there is a change to this Contract in accordance with clause 7.3b then the Contractor agrees to accept any change in good faith and to implement any change as soon as possible and without any additional cost, except if the change or its implementation results in a:
 - i. material increase in costs to the Contractor to provide the Services, then AFAC may consider, in its absolute discretion, a variation to the Contract Prices; or
 - ii. material decrease in costs to the Contractor to provide the Services, then the Contractor will agree to negotiate in good faith with AFAC a variation to the Contract Prices.
- d. Contractors are responsible for ensuring that they are at all times providing the Services in accordance with their current Contract.

7.4 Contract prevails

- a. To the extent that there is any inconsistency between a Purchase Order or Standby/Dispatch and this Contract, the terms of this Contract will prevail.
- b. To the extent that there is any inconsistency between any other document such as NAFC Standards or Member procedures and this Contract, the terms of this Contract will prevail.

7.5 Cooperation between the parties

- a. The parties will promptly do and perform such further acts and execute and deliver such further instruments as are required by law or reasonably requested by the other party to establish, maintain and protect the respective rights and remedies of the other party and to carry out and effect the intent and purpose of this Contract.
- b. The parties agree to act in good faith.

- c. The parties must not abuse a power under this Contract to obtain an improper collateral benefit or objective.

7.6 Use of Services

- a. Nothing in this Contract has the effect of appointing the Contractor as the exclusive or preferential supplier of any Service, or any services similar to the Services.
- b. AFAC and the Members reserve the right to obtain Services, including Aerial Firefighting, resources, systems and other services from any other provider.
- c. The Contractor acknowledges that AFAC and the Members have not made any representations, and in entering into this Contract the Contractor has not relied upon any representations, as to the volume or value of Services for which the Contractor may be engaged during the Contract Period.

7.7 Confidential Information

- a. Each party (**Receiving Party**) must:
 - i. keep the Confidential Information of the other party (**Disclosing Party**) confidential and secure;
 - ii. not disclose Confidential Information of the Disclosing Party to any third party unless authorised under this clause 7.7.
- b. Any Confidential Information of AFAC (including any Confidential Information of any Member) supplied to the Contractor under this Contract must only be used for the provision of the Services or as directed by AFAC and must not be used for any other purpose.
- c. The Contractor must use, and must ensure that its Personnel use, any Confidential Information of AFAC (including any Confidential Information of any Member) supplied under this Contract solely for the purposes of, and only to the extent necessary, the performance of all the Contractor's obligations under this Contract.
- d. A Receiving Party may disclose Confidential Information of the Disclosing Party:
 - i. to Personnel of the Receiving Party who have a need to know the Confidential Information for the purpose of performing this Contract;
 - ii. to auditors or professional advisors of the Receiving Party on a confidential basis for the purpose of auditing or advising the Receiving Party;
 - iii. to the extent required to comply with any Law; or
 - iv. in the case of AFAC:
 - A. AFAC and any Member may make available to other Members and any other government department or agency information concerning the Contractor, including information regarding this Contract, the Contractor's financial position, the Services, Aircraft, Equipment and the Contractor's performance under this Contract, and any information provided by the Contractor to AFAC or any Member in connection with this Contract, including the Contract Prices, accident incident and near miss information,

or any information regarding a dispute between the parties or between the Contractor and any Member;

- B. the Contractor acknowledges that the above information and any other information about the Contractor from any other source including any substantiated reports of unsatisfactory performance, may be taken into account by Members in considering whether or not to offer the Contractor future opportunities for work; and
 - C. the Contractor releases and indemnifies AFAC and the Members from any claim in respect of any matter arising out of the provision of any such information.
- e. Deliverables, in accordance with clause 7.8d.i, are Confidential Information belonging to AFAC for the purposes of this Contract.
- f. The operation of this clause 7.7 survives the termination or expiration of this Contract.

7.8 Intellectual Property

- a. Nothing in this Contract affects:
 - i. the ownership by the Contractor or its licensors of any Contractor IP; and
 - ii. the ownership by AFAC or any Member of any Intellectual Property owned by, or licensed to, AFAC or a Member at the commencement of this Contract or created during the Contract Period.
- b. The Contractor grants to AFAC and each Member a non-exclusive, perpetual, irrevocable, world-wide royalty-free licence to use the Contractor IP to the extent necessary for AFAC and the Members to receive the full benefit of the Services.
- c. Any Intellectual Property created by the Contractor, or the Contractor's employees, contractors or agents, in connection with the supply of the Services will vest in AFAC. Where such Intellectual Property is unable to be vested in AFAC upon creation, the Contractor will assign such Intellectual Property (including by way of a present assignment of future rights) to AFAC.
- d. Without limiting the foregoing, in respect of a Deliverable:
 - i. to the extent that the Deliverable involves or comprises Intellectual Property created after the commencement of this Contract, such Intellectual Property will belong to AFAC and clause 7.8c above will be deemed to apply to it; and
 - ii. to the extent that a Deliverable involves Contractor IP, the Contractor grants to AFAC and each Member a perpetual, irrevocable, world-wide, non-exclusive, royalty-free licence to use, exploit, reproduce, modify and adapt that Contractor IP to the extent necessary for AFAC and each Member to make full use of the Deliverable.
- e. The Contractor warrants that:
 - i. it will not, in providing the Services and performing its obligations under this Contract, infringe the Intellectual Property of any third party; and

- ii. upon request by AFAC it will execute any additional documents reasonably necessary to give effect to, or confirm, the vesting in AFAC or assignment to AFAC of Intellectual Property contemplated by this clause 7.8.
- f. The operation of this clause 7.8 survives termination or expiration of this Contract.

7.9 Privacy

- a. If the Contractor or its Personnel provide AFAC with any Personal Information in the course of providing the Services, AFAC agrees that it will be bound by the Privacy Legislation.
- b. If AFAC, a Member, any of their personnel or any other person provides the Contractor with any Personal Information in the course of this Contract, the Contractor agrees that it will be bound by the Privacy Legislation.

7.10 Contract Review

- a. AFAC may at its discretion conduct a review of contract arrangements, which may or may not be on an annual basis. The objectives of this review will include but not be limited to:
 - i. determining whether contract arrangements best meet the needs of AFAC and the Members; and
 - ii. determining whether any amendments or variations should be made to this Contract to improve delivery of the Services received by the Members; and
 - iii. determining whether the Contract should continue to the next Service Period or be extended in accordance with the provisions of the Participation Deed.
- b. The Contractor will be available to participate in each such review and will make available such information as may be reasonably required by AFAC, at no cost to AFAC.
- c. The parties will cooperate to implement any amendments or variations to this Contract or contract arrangements that arise from the review.
- d. Nothing in this clause 7.10 will prevent any other review of contract arrangements.

7.11 Termination of Contract or reduction of Services with costs

- a. AFAC or the Member in their absolute discretion may at any time and excluding any express or implied duty to act in good faith, terminate this Contract, or reduce the Services provided under the Contract by giving the Contractor 30 days written notice in circumstances that may include, but are not limited to:
 - i. where newer technology or equipment capable of performing the required tasks at lower net cost becomes available; or
 - ii. where AFAC, after a period of experience, considers that the Aircraft or contract arrangements are not suited to efficient or effective conduct of the Services required; or
 - iii. where NAFC determines that the Services or part thereof are no longer required; or

- iv. funding from state or territory or federal funding bodies is reduced or terminated.
- b. If the Services or part thereof are reduced in accordance with this clause 7.11 then the Contractor must cease the performance of its obligations in accordance with the notice in relation to the Services no longer required of the Contractor.
- c. Upon receipt of a notice to termination this Contract or reduce the Services or part thereof under this clause 7.11, the Contractor will do everything reasonably possible to mitigate all losses, costs and expenses arising from the termination of Contract or reduction of the Services.
- d. If the Contract is terminated or the Services or part thereof are reduced under this clause 7.11 then the Contractor will be entitled to payment of:
 - i. the Contract Prices for those Services satisfactorily delivered prior to the termination or reduction; and
 - ii. an amount in respect of costs, expenses and disbursements, that were reasonably incurred by the Contractor in relation to the termination or reduction.

7.12 Termination or Reduction of Services for Default

If the Contractor, by action or omission:

- a. fails to fulfil, or is in breach of any of its obligations under this Contract, and does not rectify the omission or breach after receiving a written notice to do so; or
- b. commits any material breach or persistent breaches of any of the provisions of the Contract (in which case the termination may, in contrast to clause 7.12a, be immediate); or
- c. fails to deliver the Services in accordance with this Contract or breaches a warranty in clause 7.16; or
- d. is found by AFAC to have failed to comply with one or more of the Performance Measures in any material respect; or
- e. does not observe adequate safety precautions; or
- f. provides a false representation of any matter relating to the Services or their supply; or
- g. states or it can reasonably be inferred, that the Contractor is unable or unwilling to supply or perform some or all of the Services; or
- h. becomes subject to an Insolvency Event or is reasonably expected to become subject to an Insolvency Event during the Contract Period (subject to the limitations specified in the Corporations Act); or
- i. permits the Effective Control of the Contractor to change without the prior consent of AFAC; or
- j. ceases to carry on business,

then, in the case of any one or more of these events, and without limiting its other rights at law, AFAC may, at its absolute discretion, terminate this Contract, or reduce the Services under this Contract by giving written notice to the Contractor of the termination or reduction.

7.13 Consequences of termination

- a. On termination of this Contract, or if the Services or part thereof under this Contract are reduced, for any reason, this Contract (other than those clauses which survive termination) will be at an end as to its future operation except for the enforcement of any right or claim that has arisen before termination and will not prejudice the exercise and enforcement by AFAC or the Contractor of rights and entitlements accruing prior to such termination. This includes that, in the event of termination of this Contract or reduction of Services or part thereof, the Contractor will be entitled to payment of the Contract Prices for those Services which have already been supplied by the Contractor in accordance with this Contract prior to the termination.
- b. The Contractor acknowledges that in the event of termination of this Contract or any reduction of Services:
 - i. AFAC and the Members will not be liable for any loss (including, but not limited to, loss of benefits under this Contract or any other contract, loss of profits or prospective profits, loss of revenue, loss of reputation, loss of goodwill, loss of opportunity, loss of use, loss of production or wasted overheads whatsoever) or damages or expenses whether direct or indirect relating to or arising from termination of this Contract or the reduction of Services; and
 - ii. AFAC and the Members may take the manner of performance of the Contractor under this Contract and the reasons for its termination or the reduction of Services into account when considering whether it will enter into other or further contracts for services with the Contractor.
- c. If this Contract is terminated, or if the Services or part thereof under this Contract are reduced, for any reason, the Contractor must:
 - i. deal with or return any information, materials or equipment provided by AFAC or the Members under this Contract, including any Confidential Information as reasonably directed by AFAC or the Members; and
 - ii. immediately return any equipment belonging to a Member; and
 - iii. cease the performance of its obligations under this Contract in accordance with any notice; and
 - iv. immediately do everything possible to mitigate all losses, costs and expenses arising from the termination contained in any notice; and
 - v. not represent itself as being connected with AFAC or the Members by this Contract (in the case of termination) or not represent itself as being connected with AFAC or the Members to the extent of the reduced Services (in the case of reduction).

7.14 Contractor to Assist

- a. If this Contract is terminated or the Services or part thereof are reduced the Contractor must (at its own cost (except for clause 7.14a.i) unless agreed otherwise between the parties, negotiating in good faith) provide such disengagement assistance as is reasonably requested by AFAC or a Member which may include:

- i. ensuring the ongoing supply of the Services on the terms of this Contract for the period prior to the termination or reduction taking effect;
- ii. providing reasonable assistance in the orderly transfer of the relevant Services, functions and operations provided pursuant to this Contract to another service provider nominated by AFAC or the Member; and
- iii. ensure that documentation which has been generated by the Contractor which is relevant to the ongoing provision of the terminated or reduced Services is accurate and up to date; and
- iv. return or (if requested) destroy any data, documentation or materials containing any of AFAC's Confidential Information; and
- v. generate and supply a backup of all data required under this Contract in a form reasonably requested by AFAC or the Member; and
- vi. deliver the Member's equipment and any Intellectual Property arising out of the Contract, and any licences and, if requested by AFAC or the Member, any documentation which has been generated by the Contractor which is relevant to the ongoing provision of the terminated or reduced Services, together with all copies of the same.

7.15 Dispute resolution

- a. This clause does not affect the rights of the parties to terminate this Contract in accordance with its terms, except to resolve disputes regarding the consequences of termination.
- b. The parties agree to use all reasonable efforts to resolve by negotiation any problem that arises between them under this Contract.
- c. If a problem arises (including a breach or alleged breach of this Contract, except those events covered in clause 7.12) which cannot be resolved under clause 7.15b, any party to this Contract may, no later than 14 days after the dispute has arisen, notify the other party in writing of the matters in issue. The notification must specify in reasonable detail:
 - i. the detailed particulars of the dispute;
 - ii. the facts relied on; and
 - iii. the relief or outcome sought.
- d. The parties will then appoint representatives who have the authority to negotiate a settlement on their behalf. These representatives must meet personally and will endeavour in good faith to resolve the dispute within 14 days of the written notice.
- e. If the 14 days elapse and the issues between the parties still cannot be resolved by the parties' representatives, then the parties must within 14 days proceed to mediation. Unless the parties otherwise agree, the mediation will take place in Melbourne, Victoria, and be administered by the Australian Disputes Centre (**ADC**) according to its mediation guidelines.
- f. Either party may give written notice to the other requesting mediation.

- g. The parties must each bear their own costs and must contribute equally to the mediator's costs.
- h. The parties must continue to perform their respective obligations under this Contract pending dispute resolution, except to the extent that the nature of the dispute precludes such continued performance.
- i. This clause does not affect the rights of the parties to terminate this Contract in accordance with its terms.

7.16 Warranties

- a. **General warranties:** The Contractor warrants and represents to AFAC and the Member that:
 - i. it has full legal capacity, authority and power to enter into and to perform its obligations under this Contract; and
 - ii. it has entered into this Contract in reliance on its own investigations and enquiries and does not rely on any information or documentation provided by or on behalf of AFAC other than as expressly set out in this Contract.
- b. **Service warranties:** The Contractor warrants and represents to AFAC and the Member that:
 - i. at the time of supply, all Services will:
 - A. comply with the standards specified in this Contract (including in clauses 4.2 and 4.3), the Specifications, and the reasonable directions of the Members in relation to the supply of the Services;
 - B. be of acceptable quality; and
 - C. be fit for the purpose for which the Services were intended;
 - D. be free from defects;
 - ii. the Member's use of the Services will not infringe upon or violate any person's contractual or other rights;
 - iii. it has and will maintain all necessary authorisations, licences, approvals, permits and authorities in relation to the supply of the Services;
 - iv. it will comply with all relevant Laws including those relating to aviation, industrial relations, work health and safety, environmental laws and vehicle laws;
 - v. it will not damage the business, assets, operations or reputation of AFAC or the Members, or that of suppliers or other stakeholders dealing with AFAC or the Members;
 - vi. all information which it has, or which any of its Personnel or representatives have, provided to AFAC and the Members or any representative of AFAC and the Members is true and correct in every respect and is not misleading or deceptive;
 - vii. it has disclosed in writing to AFAC prior to the date of execution of this Contract any matters relating to the commercial, technical or financial capacity of the

Contractor that might materially affect the Contractor's ability to perform any of its obligations under this Contract;

- viii. the Contractor will honour and deliver on all representations or undertakings made or given by the Contractor in connection with their Tender response and in all other documents provided by the Contractor to AFAC and the Members (including in ARENA) in relation to the subject matter of this Contract, including as to the contracted Aircraft and Services to be supplied, and the structure, viability, reliability, insurance cover, capacity, experience and expertise of the Contractor and its employees, agents and subcontractors; and
- ix. without limiting the foregoing warranties, it will exercise the high degree of skill, diligence, prudence and care which would reasonably and ordinarily be expected from a skilled, reasonable and experienced supplier in the same or similar circumstances, with reference to best industry standards and practice in Australia.
- c. The warranties in this clause 7.16 are given at the date of this Contract and are deemed to be repeated on each occasion a Service is ordered by or supplied to a Liable Member.
- d. The Contractor must notify AFAC in writing if anything happens or may happen that may make the Contractor no longer comply with any of the warranties given by the Contractor under this Contract or may affect the Contractor's ability to perform any of its obligations under this Contract.
- e. The Contractor acknowledges that AFAC has entered into this Contract in reliance on the warranties given by the Contractor in this Contract.
- f. The operation of this clause 7.16 survives the termination or expiration of this Contract.

8. PAYMENTS AND PRICES

8.1 Payments

- a. A Member will only make payments under this Contract in relation to Services provided by the Contractor pursuant to a Purchase Order issued by the Member in accordance with the provisions of the Contract.
- b. Payments for Services provided by the Contractor will be made at the Contract Price. The Members reserve the right to dispute any invoice which is based on Contract Prices that are not duly authorised.
- c. Before any payments are made, the Member must be satisfied that the Contractor has complied with the requirements of the Contract.
- d. For the avoidance of doubt, AFAC will not make any payments to the Contractor, and will not request any Services, under this Contract. Any payment received by the Contractor from a Member must be taken as payment in reduction of the amount owing by AFAC to the Contractor.
- e. Upon receipt of a valid tax invoice the Member will make payment to the Contractor consistent with the Member's standard operating procedures.

- f. If a Member disputes the accuracy or completeness of any invoice or associated documentation, the Member will provide notice of that fact to the Contractor. The notice will state the basis of the dispute and set out relevant supporting details.

8.2 Contract Price where Service is Not Available

- a. Payment of any Standing Charges or Commitment Charges as part of the Contract Price will not be made for any period or part thereof that the Services are not provided by the Contractor in the terms of this Contract or the Services are deemed Not Available.
- b. Where a Service is Not Available for part of a day the Standing Charges for that day will be revised, calculated in accordance with the following formula:

$$RSC = SC - (SC \times (NAH / MDH))$$

Where:

RSC = Revised Standing Charge

SC = Standing Charge

NAH = Not Available hours

MDH = Maximum Daily Hours (default 14, unless agreed otherwise)

- c. Where any Minimum Daily Charges exist, whether expressed as a dollar amount or as a multiple of hourly Operating Charges, and where a Service is Not Available for part of a day the Minimum Daily Charges for that day will be revised, calculated in accordance with the following formula:

$$RMDC = MDC - (MDC \times (NAH / MDH))$$

Where:

RMDC = Revised Minimum Daily Charges

MDC = Minimum Daily Charge

NAH = Not Available Hours

MDH = Maximum Daily Hours (default 14, unless agreed otherwise)

- d. Where a Partial Availability Service is Not Available for part of a day the Commitment Charges for that day will be revised, calculated in accordance with the following formula:

$$RCC = CC - (CC \times (NAH / MDH))$$

Where:

RCC = Revised Commitment Charge

CC = Commitment Charge

NAH = Not Available Hours

MDH = Maximum Daily Hours (default 14, unless agreed otherwise)

8.3 Contract Price – General

- a. Subject to this Contract, the Contract Price is firm and inclusive of all costs associated with supplying the Services whether foreseen or unforeseen, including all taxes imposed or levied anywhere in the world in connection with the provision of the Services and all overheads, expenses, labour, materials, resources and other costs incurred by the Contractor to provide the Services and perform its obligations under this Contract, including but not limited to:
 - i. costs of provision and maintenance of Aircraft and Equipment; and
 - ii. costs of modifications to Aircraft and Equipment; and
 - iii. cost of provision of any hardware, software and/or firmware; and
 - iv. costs of the Contractor using any Intellectual Property obtained from third parties; and
 - v. infrastructure and security costs at the NOB; and
 - vi. all Personnel costs, including but not limited to salaries and wages, workers compensation, superannuation charges and levies and training costs; and
 - vii. costs associated with management and supervision of operations; and
 - viii. Aircraft operating costs, including fuel, lubricants, hangarage, landing and airways fees except as provided under clause 8.4c.iii; and
 - ix. costs associated with aircraft tracking and event logging, including data handling and service fees; and
 - x. costs of finance; and
 - xi. licence fees and royalties; and
 - xii. all charges and taxes, including any GST, except where otherwise specified in the Participation Deed; and
 - xiii. all increases in charges and taxes, and all new charges and taxes for which the Contractor is liable at law; and
 - xiv. insurance and guarantees; and
 - xv. costs associated with the supervision, coordination and management of subcontractors; and
 - xvi. any payment or charge that may become due to any subcontractor; and
 - xvii. all costs associated with any “back up” Personnel (e.g. engineering support) and facilities that are required to ensure the reliable operation of the Aircraft.
- b. The Contractor warrants that they have taken reasonable steps to ensure protection of the Contract Price from fluctuations in the exchange rate of the Australian dollar.
- c. The only exceptions regarding the Contract Price are set out in clause 8.4 below.

8.4 Reimbursement of costs by the Member

- a. AFAC will not reimburse any costs of the Contractor.
- b. A Member will reimburse the Contractor's reasonable costs in accordance with the policies of that Member. Before incurring any costs, the Contractor is advised to confirm with the Member that the expenditure is approved.
- c. Without limiting clause 8.4b, the circumstances and conditions whereby a claim for reimbursement may be submitted to the Member are as follows:
 - i. the reasonable costs (according to a Member's policies) of meals and accommodation for the Flight Crew and Crewpersons and/or Refuelling Operator when the Aircraft and/or MFU is required by the Member to remain away overnight from its NOB in order to carry out Services required by NAFC; and
 - ii. for some NAFC Type 1 Services as specified by NAFC in writing, supply or reimburse the reasonable costs (according to a Member's policies) of meals and accommodation for up to three engineers or support crew; when the Aircraft is required by the Member to remain away overnight from its NOB; and
 - iii. the reasonable costs of such charges levied by the CASA, Airservices Australia, or any airport owner or operator that may be incurred whilst actually conducting the Services or whilst operating at the direction of the Member in order to conduct the Services, **except** those charges that are incurred directly in relation to operating from the NOB; and
 - iv. the reasonable costs of "callout" fees charged by fuel providers where the Member requires the Aircraft fuelled outside of normal hours, other than where the Contractor is using their own fuelling facilities; and
 - v. the reasonable costs of moving the MFU, other than for the first 150km by road, to locations requested by a Member to support the Aircraft when the Aircraft is required by a Member to undertake work in excess of a 150km radius from the NOB; and reimburse the cost of returning the MFU, other than the final 150km by road, to the NOB; and
 - vi. the reasonable costs of moving the MFU from the location at which it is supporting the Contractor's Aircraft and moving it to any other location requested by the Member to support another aircraft operated by other aircraft operators (i.e. this amounts to a Dispatch of a standalone MFU Service); and
 - vii. the additional reasonable costs (above the cost of fuelling the Contractor's own Aircraft) where the MFU is required to deliver fuel at the request of the Member to aircraft operated by other aircraft operators (i.e. for Wet-A Services); and
 - viii. the reasonable costs of moving the Aircraft and MFU from the NOB to any alternative NOB or TOB requested by the Member, and any reasonable additional costs consequential to moving the Aircraft and MFU; and
 - ix. the reasonable costs of changing or substituting auxiliary radio transceivers installed in the Aircraft or MFU when the Member requires the radio transceivers to be changed from those that have already been installed by the Contractor in accordance with Schedule 5.

- d. For clarity, under this clause it is intended that the Member will reimburse the reasonable costs incurred by the Contractor. It is not intended that the Contractor will profit from the recovery of costs.
- e. The Contractor must take reasonable steps to mitigate these costs and must provide evidence to support the expenditure upon request from a Member.

8.5 Operating Charges for Rotary Wing Aircraft

Operating Charges for Rotary Wing aircraft will be due and payable to the Contractor for that period of time, authorised by AFAC or a Member and calculated when the rotors are in motion under power as measured by an automated device in accordance with the requirements of this Contract.

8.6 Operating Charges for Fixed Wing Aircraft

- a. Operating Charges for Fixed Wing aircraft will be due and payable to the Contractor for that period of time, between point of take-off and point of landing for each flight, that has been authorised by AFAC or a Member as measured by an automated device in accordance with the requirements of this Contract.
- b. For Firebombing aircraft capable of self-filling by scooping water, Operating Charges will be payable for the period of time that the Aircraft is scooping during authorised flights, whether or not any part of the Aircraft is in contact with surface water.

8.7 Charges applicable to both Rotary Wing and Fixed Wing Aircraft

- a. Where operating time is measured by an automated device, the start event and finish events must be generated by a sensor acceptable to AFAC or the Member.
- b. Where an aircraft does not produce and transmit reliable event data required for determining Operating Charges as per clauses 8.5 and 8.6, then Operating Charges will be calculated as the period of time for authorised flights between the first tracking position transmitted after take-off to the last tracking position transmitted before landing, using the tracking data defined in clause 5 of Schedule 5. Where additional data can be obtained that is both verifiable and acceptable to AFAC or the Member such as ADSB data, this may be used to further determine the Operating Charges that apply to any flight.
- c. Where an Aircraft did not produce and transmit reliable event data or tracking data, and if the Contractor has obtained approval from AFAC or the Member, then Operating Charges may be calculated in accordance with clauses 8.5 and 8.6 using times manually recorded to the current minute. For clarity the current minute is the minute with no rounding up due to elapsed seconds.
- d. For the purpose of accounting and invoicing in accordance with clause 3 of Schedule 3, Operating Charges will be calculated in decimal hours to the nearest one hundredth of an hour or better (i.e. with a precision of two decimal places or better).

8.8 7Costs not claimable

- a. The Contractor is not to seek payment in the form of Contract Prices or reimbursement for any items other than as otherwise expressly stated in this Contract. The costs that are not claimable include charges for the following:

- i. any flight other than those specifically ordered by the Member. This includes not seeking payment or reimbursement for:
 - A. flights that are not requested by a Member;
 - B. use of Equipment that is specialist Equipment (for example, winching equipment) when not included on the Standby/Dispatch;
 - C. Personnel costs associated with use of Equipment that provides a specialist capability, when a request for that equipment or Personnel was not included in the Standby/Dispatch; or
 - ii. any flights required to train Flight Crew, periodically test systems or maintain readiness; or
 - iii. positioning or repositioning Aircraft and/or Equipment at the NOB at the commencement of any Service Period, or repositioning of the Aircraft from the NOB at the conclusion of any Service Period; or
 - iv. any positioning or repositioning Aircraft and/or Equipment to or from the NOB where the Aircraft and/or Equipment is to be, or has been, utilised in the private interests of the Contractor; or
 - v. any positioning or repositioning of the Aircraft and/or Equipment from the NOB in the event that the NOB becomes unusable or unserviceable as the result of actions or inactions by the Contractor; or
 - vi. any flight carried out in the private interests of the Contractor or the Flight Crew, nor any flight conducted in connection with the servicing, maintenance or substitution of the Aircraft, nor any flight conducted in connection with replacement or substitution of Flight Crew; or
 - vii. time where the Contractor elects to operate the Aircraft and/or Equipment, when the operation is not required by AFAC or a Member; or
 - viii. excessive Kilometre charges where the fuel vehicle did not travel via the most direct route safely available and rated for the vehicle.
- b. In the event that the Contractor includes a charge on its tax invoice for one of the above items the Member will not reimburse the Contractor for such a charge.

8.9 The Five Operating Hours

- a. Operating Charges will not be payable for up to five operating hours for each Service supplied in any Absolute Availability Service Period.
- b. Unless otherwise mutually agreed between a Member and the Contractor, the requirements around the use of these five operating hours are as follows:
 - i. the Contractor is not obliged to agree to provide the hours outside of an Absolute Availability Service Period; and
 - ii. the hours may only be used once in each year of the Contract Period, regardless of the number of Service Periods in each year; and
 - iii. any unused hours lapse at the end of each year of the Contract Period; and

- iv. they may be used by the Member any purpose (for example, training of AFAC or Member personnel or for media commitments, briefings, exercises or general demonstrations) except for actual fire or emergency operations, and will not be used by the Contractor except as instructed by the Member; and
- v. the hours are applicable to each individual Service and cannot be shared or transferred between different Services; and
- vi. a Member must give the Contractor reasonable notice of its intention to utilise the hours; and
- vii. the Contractor is responsible for accounting for the hours under this clause and from time to time advising the Member of any remaining time.

9. GENERAL

9.1 Entire Agreement

- a. This Contract contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Contract and has no further effect, save as provided in this Contract and clause 9.1b.
- b. For the avoidance of doubt the Contractor continues to be bound by the representations and warranties made by it in the following documents relating to the subject matter of this Contract:
 - i. the Contractor's Tender response; and
 - ii. all other documents provided by the Contractor to AFAC and the Members in relation to the subject matter of this Contract.

9.2 Waiver

Failure by a party to enforce a provision of the Contract is not construed as a waiver of the provision.

9.3 Force Majeure Events

- a. The Contractor is excused from performing its obligations under this Contract to the extent it is prevented by a Force Majeure Event.
- b. When Force Majeure Event arises or is reasonably considered by the Contractor to be an imminent possibility, the Contractor must give notice of those circumstances to AFAC and the Member as soon as possible, identifying the effect this will have on performance.
- c. The Contractor must make all reasonable efforts to minimise the effects of Force Majeure Events on the performance of this Contract.
- d. If the Contractor's performance continues to be impacted for a period greater than 14 days AFAC may terminate this Contract or reduce the Services.

- e. The Contractor has no entitlement to, and AFAC and the Members have no liability for, any costs, losses, expenses or damages, or the payment of any part of the Standing Charges or Commitment Charges during the Force Majeure Event during which the Services stipulated by this Contract are not provided by the Contractor or the Services are Not Available.

9.4 Enforcement by AFAC for Members, and by Members for AFAC

- a. The Contractor agrees that:
 - i. this Contract is entered into by AFAC on behalf of itself and on behalf of the Members; and
 - ii. AFAC may enforce this Contract on behalf of itself or any or all of the Members; and
 - iii. AFAC may delegate any or all of its rights and obligations under this Contract to a Member.
- b. For the purposes of this Contract, the Contractor agrees that all losses, liabilities, debts, costs or expenses of every kind incurred or sustained by a Member are deemed to be incurred or sustained by AFAC and any remedy available in respect of those matters may be claimed or exercised by AFAC.

9.5 Severance

- a. If a provision in this Contract is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- b. If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Contract.

9.6 Survivorship

Any provision of this Contract which expressly or by implication from its nature is intended to survive the termination or expiration of this Contract and any rights arising on termination or expiration will survive, including but not limited to, Confidential Information, Intellectual Property, and any warranties, representations, indemnities or financial and performance securities given under this Contract.

9.7 Benefit and Survival of Indemnities

- a. The parties agree that all indemnities and releases given by the Contractor in this Contract are, to the extent that they benefit a Member, held by NAFC on behalf of that Member on trust for each of them and can be enforced by NAFC on behalf of each of them.
- b. Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Contract.
- c. It is not necessary for a party to incur expenses or make payment before enforcing a right of indemnity conferred by this Contract.

9.8 Applicable Law

This Contract will be governed by the laws of the State of Victoria and the parties to this Contract will submit to the jurisdiction of its courts.

9.9 No Relationship

Nothing in this Contract will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between AFAC and the Contractor, or between a Member and the Contractor. Nothing in this Contract will be deemed to authorise or empower the Contractor to act as agent for AFAC or a Member.

9.10 Succession

- a. This Contract is binding on and made for AFAC and the Contractor, including their executors, administrators, successors and permitted assigns and substitutes.
- b. The Contractor will upon succession of this Contract, cooperate fully with any successor as reasonably required by AFAC, and take all reasonable steps to facilitate handover of the supply of the Services.

9.11 Assignment

- a. Clause 4.16a applies to assignment by the Contractor.
- b. AFAC may assign, novate or otherwise transfer any of its rights or obligations under this Contract without the consent of the Contractor (for example, to any government department in the event of a reorganisation). The Contractor must execute such documents and do such things as AFAC may reasonably require to give effect to any such assignment, novation or transfer by AFAC.

9.12 Counterparts

This Contract may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart is deemed to be an original of this Contract and all together constitute one agreement.

10. CORRESPONDENCE AND COMMUNICATION

10.1 Appointment of a Contract Manager

- a. The Contractor will appoint a Contract Manager for the Contract Period and ensure up-to-date details of its Contract Manager including name, title and direct contact information are maintained in ARENA or otherwise notified to the Members in accordance with any Member directions.
- b. The Contract Manager:
 - i. is the representative of the Contractor in relation to the management of any current or future performance or policy issues in respect of this Contract; and
 - ii. has the authority to make decisions binding on the Contractor in relation to this Contract;

- iii. must attend meetings and briefings with Members as reasonably required;
 - iv. must provide reports in relation to the provision of the Services to Liable Members as reasonably requested;
 - v. must make all reasonable efforts to ensure the Contractor fulfils all its obligations under this Contract, including cooperating with and not in any way hindering the Members and their other contractors in the performance of their duties, responsibilities and obligations;
 - vi. must be replaced by the Contractor with another Contract Manager if so requested by a Member or AFAC (acting reasonably); and
 - vii. may be replaced by the Contractor with a new nominated Contract Manager provided the Contractor advises AFAC in writing prior to the appointment of a new Contract Manager and/or updates ARENA as required.
- c. During every Service Period the Contract Manager or their authorised agent must be immediately contactable, available and accessible to both AFAC and the Member. This requirement may be relaxed outside of a Service Period, so that the Contract Manager or their authorised agent is reasonably contactable, available and accessible to both AFAC and the Member.

10.2 Notices

- a. Except where the context otherwise requires, all notices, requests, approvals consents, demands and other communications to or by a party to this Contract must be given by one of the following methods (in order of preference):

| <i>Method</i> | <i>When method is to be used</i> | <i>When notice will be considered received</i> |
|----------------|--|---|
| ARENA | In accordance with directions given by AFAC in relation to use of ARENA | 2 nd Business Day after it is uploaded |
| Email | For giving of notices that are not covered by ARENA | <i>Notices to AFAC:</i> 1 Business Day after it is sent unless the sender has received a rejection notice <i>Notices to Contractor:</i> On the Business Day it is sent unless the sender has received a rejection notice |
| Post | For giving of notices that include material that cannot be scanned or are required by law to be served by post | 7 th Business Day after the material was posted |
| Hand delivered | For giving of notices that include material that cannot be scanned or are required by law to be served by hand | <i>Notices to AFAC:</i> 1 Business Day after it is received <i>Notices to Contractor:</i> On the Business Day it is received |

- b. Notices by email, post or hand delivery must be sent to the other party as set out below:
 - i. AFAC:

National Aerial Firefighting Centre (NAFC)
Address: Level 1, 340 Albert Street EAST MELBOURNE VIC 3002
Email: tenders@nafc.org.au
 - ii. Contractor: The email and postal addresses listed in ARENA
- c. If delivery or receipt of a notice is not made on a Business Day, then it will be taken to be made on the next Business Day.

SCHEDULE 1: SERVICE AND AIRCRAFT DETAILS

1. INSURANCE DETAILS

1.1 Insurance Details

The Contractor must provide the following in accordance with clause 4.21 of this Contract. (For the avoidance of doubt, the Contractor only need provide the Insurance Type to the Required Amount where the Services are of a type specified in the “Insurance Requirement” column.)

| Insurance Type – Aircraft | Insurance Requirement | Insured Amount |
|---|--|----------------|
| Public liability (for liability to third parties (including passengers, Flight Crew and Crewpersons on the Aircraft) for personal injury and death and damage to property) | Light single engine fixed wing aircraft MTOW <5700kg, PCC < 5 | \$20,000,000 |
| | Other conventional fixed-wing aircraft MTOW >5700kg, PCC >= 5 | \$50,000,000 |
| | NAFC Type 4 fixed wing aircraft: Single Engine Air Tankers | \$50,000,000 |
| | NAFC Type 1 or 2 fixed wing aircraft MTOW < 45,000 kg | \$100,000,000 |
| | NAFC Type 1 or 2 fixed wing aircraft MTOW >= 45,000 kg | \$150,000,000 |
| | All rotary wing Aircraft | \$50,000,000 |

| MFU insurance | Insurance Requirement | Minimum Insurance Required |
|--|---|----------------------------|
| Public liability arising from fuelling operations (for liability to third parties for personal injury and death and damage to property) | Mandatory for suppliers of Wet-A Services only (i.e. excluding Wet-A Minus, Wet-B and Dry Services) | \$20,000,000 |
| Product liability | Mandatory for suppliers of Wet-A Services only (i.e. excluding Wet-A Minus, Wet-B and Dry Services) | \$20,000,000 |

| | | |
|---|--|---------------------|
| <p>Public liability for operation of fuelling vehicle (for liability to third parties for personal injury and death and damage to property)</p> | <p>Mandatory for suppliers of Wet-A Services only (i.e. excluding Wet-A Minus, Wet-B and Dry Services)</p> | <p>\$20,000,000</p> |
| <p>Vehicle third party collision</p> | <p>Mandatory for suppliers of Wet-A Services only (i.e. excluding Wet-A Minus, Wet-B and Dry Services)</p> | <p>Required</p> |

SCHEDULE 2: SERVICE PERIODS AND AVAILABILITY

1. COMMENCEMENT AND DURATION

- a. Service Periods will commence on a date notified in advance to the Contractor by the Member. The Member must give this notice by at least the Notice Period set out in the Participation Deed, unless otherwise mutually agreed between AFAC or a Member and the Contractor.
 - i. For Secondary Services, a Service Period in any year of the Contract Period will only occur if activated for that year.
- b. The minimum length of each Service Period for each Service is set out in the Participation Deed.
- c. Any type of Service Period may be extended by periods of not less than one day, at the discretion of AFAC or a Member, by a written notice to the Contractor at least 7 days in advance of any scheduled Service Period completion date.

2. AVAILABILITY

2.1 Absolute Availability Service Periods

For Absolute Availability Service Periods, the Service is required to be Available for every day of the Service Period.

2.2 Partial Availability Service Periods

- a. For Partial Availability Service Periods:
 - i. on any day or part thereof when the Service is required to be Available at the Nominated Response Time or is otherwise tasked by an authorised person to conduct operations, the Service will be in a state of Commitment; and
 - ii. the Member requiring the Service to be in a state of Commitment will provide the Contractor with advance notification in accordance with the required Commitment notice period set out in the Participation Deed; provided that where Commitment status is required before 10:00 hours (Local Mean Time) on any day, then where the notice required for commitment is less than 14 hours then, notice will be given before 20:00 hours (Local Mean Time) on the preceding day, unless otherwise agreed with the Contractor; and
 - iii. Commitment Charges will only apply in respect of the Service when the Member requires that Service to be in a state of Commitment.

SCHEDULE 3: CONTRACT PRICES AND INVOICING

1. SUBSTITUTE OR ADDITIONAL SERVICE, AIRCRAFT OR COMPONENT

1.1 Contract Price for Substitute Aircraft or components

Where the Contractor substitutes any component of the Service, such as the Aircraft in accordance with clause 5.12:

- a. if the substitute component has a capacity or performance that exceeds that of the replaced component, the Contract Price payable in relation to the Service must not increase; and
- b. if the substitute component has a capacity or performance that is less than that of the replaced component, the Contract Price payable in relation to the Service must be negotiated with AFAC or the Member and must reflect the reduced capacity or performance of the component.

1.2 Contract Price for equivalent Services

- a. Additional Services may be provided by the Contractor under this Contract at the rates for the equivalent contracted Service as detailed in this Schedule.
- b. Where the Contractor provides additional Services that have a capacity or performance that exceeds the equivalent contracted Service, the Contract Price payable in relation to the additional Services must not increase.
- c. Where the Contractor provides additional Services that have a capacity or performance that is less than the equivalent contracted Service, the Contract Price payable in relation to the additional Services must be negotiated with AFAC or the Member to reflect the reduced capacity or performance of the Service.

2. FUEL PURCHASED FROM MEMBERS

2.1 Services provided with fuel

For Wet-A or Wet-B Services (i.e. excluding Dry Services), if a Member purchases or supplies fuel which is used by the Contractor, the Contractor is liable for the cost of that fuel. The cost of the fuel will be separately invoiced or accounted for by the Member. Unless otherwise agreed, the price of the fuel will be the price actually paid for the fuel by the Member, which may include reasonable costs of transport and supply of fuel.

3. INVOICING AND PAYMENTS

3.1 Form of Invoicing

- a. The Contractor must:
 - i. submit correctly rendered invoices to the Liable Member for the Contract Prices in respect of the Services delivered; and
 - ii. provide evidence in support of such invoices including, as relevant, those items required by the Member.

SCHEDULE 4: PERSONNEL

1. PERSONNEL REQUIREMENTS

- a. The Contractor will ensure that:
 - i. Flight Crew and Crewperson provided to pilot, operate or crew the Aircraft under this Contract:
 - A. are appropriately qualified, licensed, rated, endorsed, skilled, experienced, competent and current to carry out the Services required;
 - B. are able to communicate in English such that they can clearly understand and be clearly understood in typical fire and emergency management situations over various radio and telephone systems;
 - C. have undergone human factors training in the recognition and avoidance of flight obstacles at low level, with a provider and to a syllabus acceptable to NAFC or a Member. Initial training or refresher training must be completed within the three years prior to that person delivering any Services at any point in time; and
 - D. who are working in a multi-crew environment in the delivery of the Services have undergone training in Crew Resource Management specific to multi-crew operations with a provider and to a syllabus acceptable to NAFC or a Member;
 - ii. Flight Crew, Crewpersons and other key Personnel:
 - A. involved with the delivery of the Services have undergone training in Team Resource Management and human factors with a provider and to a syllabus acceptable to the member. Initial training or refresher training must be completed within the three years prior to that person delivering any Services at any point in time; and
 - B. involved with the delivery of Rotary Wing Services or self-filling Fixed Wing Firebombing Services, have successfully completed a course in AUET with a provider and to a syllabus acceptable to NAFC or the Member. Initial AUET training or refresher training must be successfully completed within the three years prior to that person delivering any Services at any point in time;
 - iii. Flight Crew, Crewpersons, the Refuelling Operator (if applicable) and any other Personnel that may assist with providing or maintaining the Services at a location where there is a risk of bushfire occurring have completed an accredited course in Basic Wildfire Awareness (VRQA Code 22541VIC).
 - iv. unless specially exempted by NAFC or the Member, all relevant Personnel hold a current Aviation Security Identification Card (ASIC) as defined in the *Aviation Transport Security Regulations 2005* (Cth) or their successor;
 - v. pilots maintain clear, legible and accurate detailed records of flights and Aircraft on Flight Operations Returns to a standard acceptable to NAFC. The Contractor must make the Flight Operations Returns available for inspection by an officer authorised by NAFC at any time;

- vi. the Chief Pilot and Flight Crew attend, at mutually agreed times and locations, general briefings and training sessions as requested by NAFC or a Member, at no cost;
 - vii. any manuals, handbooks, briefings, or other documents supplied by either a Member or NAFC are made available to the Chief Pilot and Flight Crew, Crewpersons and other key Personnel prior to the commencement of any Service Period; and
 - viii. all Crewpersons meet the approval and licensing requirements of CASA and are also fully certified and possess all relevant competency requirements of the Member and for the duties they are required to perform.
- b. All members of the Flight Crew must carry a mobile telephone active on a network approved by NAFC. The telephone must be carried at all times during any Service Period and switched on when coverage is available and operation is not otherwise precluded for safety or legal reasons. The contact details for the mobile telephones must be provided to the Member prior to any Service Period.

2. PILOT AND CO-PILOT REQUIREMENTS

- a. The Contractor will ensure that:
- i. its pilots and co-pilots will meet all of the requirements of this clause except where specifically exempted in writing by NAFC or the Member;
 - ii. its pilots and co-pilots undertaking firefighting operations complete, at the Contractor's own expense, any competency-based certification systems, including ground and air training in various aspects of Aerial Firefighting required by CASA and/or reasonably required by a Member;
 - iii. the pilot in the command of the Aircraft:
 - A. has flown a minimum of 1500 hours as pilot in command;
 - B. has flown a minimum of 100 hours as pilot in command on type or on a similar type as acceptable to NAFC or a Member;
 - C. has flown a minimum of five hours as pilot in command on type or on a similar type as acceptable to NAFC or a Member, in the six month period immediately preceding the commencement of any Service Period;
 - D. that may undertake Firebombing has flown a minimum of 1000 hours total time in agricultural operations or in similar operations certified by the Chief Pilot of the Contractor as providing equivalent experience to agricultural operations. This clause does not apply to pilots provided for Air Attack Supervision Aircraft or Specialist Intelligence Gathering Aircraft;
 - E. has flown a minimum of 100 hours total time in agricultural operations or in firefighting operations at low level in mountainous or heavily dissected terrain or in similar operations as certified by the Chief Pilot of the Contractor as providing equivalent experience to operations in a mountainous environment. The Contractor will ensure that the pilot in

command of any Air Attack Supervision Aircraft has flown a minimum of 25 hours total time in agricultural operations or firefighting operations under the conditions outlined in this clause. This clause does not apply to pilots provided for Fixed Wing Specialist Intelligence Gathering Aircraft;

- F. that may undertake Firebombing has a minimum of 50 hours total time of Firebombing experience. This clause does not apply to pilots provided for Air Attack Supervision Aircraft or Specialist Intelligence Gathering Aircraft;
 - G. which is designated as an Air Attack Supervision Aircraft or Specialist Intelligence Gathering Aircraft has a minimum of 50 hours total time of Aerial Firefighting experience or in similar operations as certified by the Chief Pilot of the Contractor as providing equivalent experience; and
 - H. which is designated as a Firebombing Aircraft has dropped a minimum of 10 loads of Fire Retardant or Fire Suppressant under the supervision and to the full satisfaction of a person authorised by a Member during actual or simulated Aerial Firefighting operations. This clause does not apply to pilots provided for Air Attack Supervision Aircraft or Specialist Intelligence Gathering Aircraft;
- iv. the co-pilot of the Aircraft:
 - A. has flown a minimum of 500 hours total time and has a minimum of 10 hours flying time in Aerial Firefighting operations, unless otherwise specifically approved by NAFC or a Member; and
 - B. has flown a minimum of five hours on type or on a similar type as acceptable to NAFC or a Member in the six month period immediately preceding the commencement of any Service Period.
 - v. Flight Crew are adequately trained to recognise, avoid and safely recover from unexpected or inadvertent entry of the Aircraft into situations of low visibility;
 - vi. the pilots of the Aircraft that may undertake Firebombing must be able to drop Fire Retardant or Fire Suppressant to a standard of accuracy reasonably acceptable to NAFC or a Member; and
 - vii. the Flight Crew of the Aircraft will be able to work as part of a team with the Member's personnel.

3. PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS

Flight Crew and Crewpersons providing Services must be equipped with or carry personal protective equipment to meet the requirements of the *NAFC Standard OPS-018 Personal Protective Equipment*.

SCHEDULE 5: AIRCRAFT

1. GENERAL AIRCRAFT SPECIFICATIONS

- a. Aircraft must be in good condition.
- b. Rotary Wing Aircraft must be powered by a gas turbine engine(s).
- c. Fixed Wing Aircraft used for Firebombing must be either multi-engined or, if single-engined, must be powered by a gas turbine engine. Fixed wing Aircraft used for other roles are preferred to be either multi-engined or, if single-engined, powered by a gas turbine engine.
- d. Aircraft required to carry passengers must have a Standard Certificate of Airworthiness, or equivalent in the country of registration, for the aircraft configuration used to supply the Services. For Rotary Wing Aircraft with Firebombing tanks where a deployed hover-fill snorkel requires the Aircraft hold a Special Certificate of Airworthiness (e.g. Restricted Category) then a dual Certificate of Airworthiness is acceptable, provided the Standard Certificate of Airworthiness applies when the snorkel is stowed or removed.
- e. The Aircraft must use only aviation grade fuel that has been approved by the engine manufacturer and by CASA for use in the Aircraft.
- f. The Contractor will be responsible for equipping the Aircraft to meet the requirements of this Contract and to carry out the Services required, and will also be responsible for arranging all appropriate and necessary approvals, authorisations and documentation.
- g. The Contractor will ensure the Aircraft is, as far as practicable, configured to optimally provide the Services required under this Contract, and that the payload and range are optimised. For example, this includes, but is not limited to:
 - i. removing equipment not required for the delivery of the Services; and
 - ii. equipping the Aircraft with appropriate performance enhancing devices.
- h. The Contractor will ensure that the Aircraft is securely locked as a precaution against unauthorised entry into the Aircraft.
- i. The Contractor will provide in ARENA the empty weight details of the Aircraft prior to the commencement of the first Service Period or if the empty weight details change during the Contract Period.
- j. Where the Aircraft may purge a quantity of fuel to the ground on engine shutdown, start-up or during maintenance, the Aircraft must be equipped with a suitable fuel collection or purging prevention device; or the Contractor must demonstrate to the satisfaction of NAFC or the Member that fuel purging does not otherwise pose a fire or environmental risk.
- k. The Contractor must have a trend monitoring system to monitor and record a range of flight, aircraft and engine parameters. The system will enable the storage of the records and the Contractor will maintain the records for at least 90 days. The Contractor will make the records available to NAFC or the Member upon request.
- l. It is preferred that the trend monitoring system referred to in Schedule 5 clause 1.k is electronic and automatic.

2. AIRCRAFT MAINTENANCE

- a. The Aircraft must be airworthy and maintained in accordance with requirements of CASA and the legislative requirements of the country of registration.
- b. The Contractor:
 - i. acknowledges and accepts that the timely provision of high quality and reliable maintenance to the Aircraft is the responsibility of the Contractor.
 - ii. will provide suitable arrangements to ensure timely access to maintenance Personnel and facilities, including for the provision of aircraft maintenance at the NOB or any TOB.
 - iii. will take all reasonable steps to ensure that scheduled and unscheduled maintenance to the Aircraft is undertaken so as to avoid disruption to the supply of the Service. Where disruption to the Service due to maintenance is unavoidable and will make the Service Available (Limited) or Not Available, the Contractor must
 - A. provide the Member with as much notice as possible of the status of the Aircraft, and not less than 24 hours' notice; and
 - B. advise the period of the time that the Aircraft will be of that status.
- c. Prior to the commencement of any Service Period the Contractor must demonstrate to the satisfaction of NAFC the following with regard to the Aircraft:
 - i. at least 200 hours of operation remain before a required engine and/or gearbox overhaul, or at least 50 hours remain and a suitable replacement engine and/or gearbox are readily available; and
 - ii. a major inspection, if required under the maintenance system employed, must not fall due during any Service Period; and
 - iii. at least 95 hours of operation (less any operating time required to position the Aircraft at the NOB) remain before the next scheduled 100 hourly service, or equivalent; or demonstrate to the satisfaction of NAFC that the next 100 hourly service will not compromise in any way the ability of the Aircraft to meet the availability provisions of this Contract.

3. AVIONICS AND COMMUNICATIONS

- a. The Contractor:
 - i. must meet all avionics and communications requirements as set out in *NAFC Standard OPS-020 Avionics and Communications*.
 - ii. acknowledges and agrees that the provision of high quality and reliable communication systems in the Aircraft is the responsibility of the Contractor, and that any Service not meeting the required standards at any time immediately prior to or during any Service Period may be considered Not Available.

- iii. Is responsible for the installation and maintenance of all radios, avionics, telephones, public address and siren systems, tracking systems and associated equipment and systems..
- iv. will ensure all necessary approvals and authorisations are obtained for the installation and operation of all radios, avionics, telephones, public address and siren systems, tracking systems, and associated equipment and systems.

4. GLOBAL POSITIONING SYSTEMS

The Contractor must ensure the aircraft are equipped with GPS / GNSS equipment to meet the requirements of *NAFC Standard OPS-013 Aircraft GPS / GNSS*.

5. TRACKING SYSTEMS

- a. The Contractor:
 - i. must ensure the Aircraft are equipped with tracking equipment to meet the position reporting requirements of the NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging.
 - ii. must ensure that arrangements to forward the data required by the NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging are active at all times when the Aircraft is in a Service Period, and at all times when the Aircraft is otherwise engaged by a Member.
 - iii. Acknowledges that an Aircraft not meeting required Tracking System standards at any time immediately prior to or during any Service Period may be considered Not Available.
 - iv. is responsible for the fitting and installation of all GPS and tracking and other equipment required by this Contract including:
 - A. obtaining necessary approvals and authorisations; and
 - B. ongoing maintenance of the installation; and
 - C. supplying any additional wiring, plugs, cabling and aerials that may be necessary for any particular installation.
- b. Where required by a Member, Aircraft must be fitted with additional equipment to enable agency tracking systems to operate. This equipment may include an additional external GPS antenna, a GPS and radio modem. The detailed requirements for installation of additional equipment are available from the Member requiring the installation.
- c. If required by the Member, the on-loan GPS and associated equipment will be returned to the Member at the conclusion of each Service Period. All on-loan GPS, tracking and associated equipment will be returned to the Member at the conclusion of the Contract Period.

6. EVENT REPORTING

- a. The Contractor must ensure the Aircraft are equipped with event reporting equipment to meet the engine and flight event reporting requirements of the *NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging*.
- b. The Contractor must ensure that Aircraft conducting Firebombing operations are equipped with event reporting equipment which meets the firebombing event requirements of the *NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging*.

7. MESSAGING SYSTEMS

The Contractor must ensure Aircraft are equipped with messaging equipment to meet the messaging requirements of the *NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging*.

8. SEATING, SEATBELTS AND SAFETY HARNESES

- a. Aircraft must be equipped with seating, seatbelts and safety harnesses to meet the requirements of the *NAFC Standard OPS-010 Seating, Seatbelts and Safety Harnesses*.
- b. Where the Service requirements of this Contract specify that the Aircraft be capable of carrying passengers, the Aircraft must be equipped with seating, seatbelts and safety harnesses which meet all of the requirements of the *NAFC Standard OPS-010 Seating, Seatbelts and Safety Harnesses* to permit passenger seating to the normal carrying capacity of the Aircraft.

9. WIRE STRIKE PROTECTION

Aircraft must be equipped with wire strike protection to meet the requirements of the *NAFC Standard OPS-011 Wire Strike Protection*.

10. VISIBILITY, RECOGNITION AND PRESENTATION

- a. Aircraft must be equipped and maintained to meet the requirements of the *NAFC Standard OPS-012 Visibility, Recognition and Presentation*.
- b. Aircraft may be required to display the corporate identification of NAFC. The Contractor must arrange to have the identification attached or painted in a manner which accords to a design approved or supplied by NAFC. All necessary corporate identification will be fully provided and fully paid for by the Contractor.
- c. Aircraft will, at the discretion of NAFC, be required to display the corporate identification of a Member. The Contractor must arrange to have the identification attached or painted in a manner which accords to a design approved or supplied by a Member. All necessary corporate identification will be fully provided and fully paid for by the Contractor.
- d. NAFC or Members may during the term of this Contract enter into sponsorship arrangements with third parties in relation to the Services provided under this Contract. The Contractor will fully cooperate with NAFC in the implementation of any sponsorship arrangements proposed by NAFC. The Contractor acknowledges that sponsorship arrangements may include but not be limited to display of the sponsors' identification on aircraft, Flight Crew and Crewpersons. The Contractor acknowledges that

sponsorship arrangements may include but not be limited to the allocation of an identity or name (Service Name) to the Services and the Contractor will cooperate in the use of the Service Name. The Contractor acknowledges that no financial benefit will accrue directly to the Contractor from sponsorship arrangements entered into by NAFC or Members.

11. ANCILLARY EQUIPMENT

- a. Aircraft must be equipped with or carry equipment to meet the requirements of the *NAFC Standard OPS-016 Ancillary Equipment*.
- b. Aircraft must carry or be fitted with such other equipment as deemed necessary from time to time by NAFC or a Member for the purpose of carrying out Aerial Firefighting and other emergency related operations and activities.

12. OPERATIONAL DOCUMENTS

- a. Aircraft must carry documentation to meet the requirements of the *NAFC Standard OPS-017 Operational Documents*.
- b. Aircraft must carry such other operational documentation as may be required by NAFC or a Member from time to time.

13. EXTERNAL RECORDING CAMERAS

- a. If specified in the Participation Deed, the Aircraft will be equipped with a video recording camera or cameras, that record the external environment of the Aircraft during ground and flight operations.
- b. Cameras fitted to satisfy clause 13.a of this Schedule will record digital video to removable media that accommodates at least four hours of recording prior to being overwritten.
- c. Where a single video recording camera is fitted to satisfy clause 13.a of this Schedule, it will be forward facing.
- d. For Firebombing aircraft which have more than one video recording camera fitted a camera shall be positioned so that it can capture a view of the flight of any Firebombing load dropped, where practical.
- e. The Contractor will ensure all necessary approvals and authorisations are obtained for the installation and operation any cameras fitted to the Aircraft to satisfy these clauses.

14. ROTARY WING AIRCRAFT – CARGO

- a. Rotary Wing Aircraft not equipped with a Firebombing tank must have installed an approved cargo hook.
- b. Rotary Wing Aircraft equipped with a Firebombing tank that precludes installation of a cargo hook must have an approved cargo hook available at or within reasonable proximity to the NOB, and the Contractor must have the ability remove the Firebombing tank and to install the cargo hook with equipment and Personnel available at the NOB or within reasonable proximity to the NOB.

- c. Rotary Wing Aircraft equipped with a cargo hook must carry at least one cargo net of a size appropriate to the external load capabilities of the helicopter, plus at least one cargo strop and a set of appropriate shackles and swivels.
- d. Rotary Wing Aircraft must have available at the NOB a selection of appropriate cargo strops, shackles and swivels.

15. ROTARY WING AIRCRAFT – LANDING GEAR

- a. Rotary Wing Aircraft must be equipped with landing gear that provides the maximum clearance below the aircraft or Firebombing tank while it is on the ground.
- b. If specified in the Participation Deed, the Rotary Wing Aircraft must be equipped with the specification's extended height landing gear.

16. ROTARY WING AIRCRAFT – HOVER EMPLANING AND DEPLANING

- a. Rotary Wing Aircraft capable of carrying passengers must provide the capability of emplaning and deplaning passengers in a low hover.
- b. Where the Participation Deed specifies that Rotary Wing Aircraft are required to be capable of carrying passengers the Contractor must ensure that all necessary approvals and supplements are in place for operations requiring emplaning and deplaning of passengers in a low hover.
- c. The Contractor must ensure that Flight Crew supplied to operate the Rotary Wing Aircraft capable of carrying passengers are suitably qualified and experienced to conduct operations requiring emplaning and deplaning of passengers in a low hover, under the conditions typically experienced in firefighting and other emergency operations and activities and in the Operating Environment.

17. AERIAL IGNITION OPERATIONS

- a. If Services are designated in the Participation Deed as being required to undertake aerial incendiary operations, the Contractor must provide aircraft that are modified and approved for the carriage and operation of either their own or a Members' aerial incendiary equipment.
- b. If Services are designated in the Participation Deed as being required to undertake aerial drip torch operations must provide aircraft that:
 - i. are modified and approved for the carriage and operation of either their own or a Members' aerial drip torch equipment; and
 - ii. include external load mirrors to enable the pilot and front passenger to view the operation of the aerial drip torch equipment.

18. IMAGING OPERATIONS

- a. If Services are designated in the Participation Deed as being required to undertake imaging operations, the Contractor must provide aircraft that are configured so that either their own or a Member's imaging equipment can be readily fitted and removed from the aircraft without requiring anyone other than the equipment operator and the pilot, where possible. This may require:

- i. the fitting of an external mount for camera/sensor; and
 - ii. the fitting of internal monitors, operator control units, laptop PC, data transmission and interface boxes; and
 - iii. necessary cabling between external and internal units; and
 - iv. the fitting and cabling of two external telephone antennas; and
 - v. the fitting of a suitable GPS antenna to the tail of the helicopter; and
 - vi. the provision of suitable electrical power.
- b. The Contractor will ensure that if any imaging equipment is supplied by a Member it is securely handled and stored as agreed with a Member.

19. AERIAL RECONNAISSANCE SYSTEMS

If Services are designated in the Participation Deed as being required to provide aerial reconnaissance systems, the Aircraft must be equipped with systems which provide for the acquisition and near real time transmission of still or video images from one or more cameras and as otherwise specified in the Participation Deed.

SCHEDULE A: FIREBOMBING AIRCRAFT

1. APPLICATION OF SCHEDULE

The clauses of this Schedule A will apply to those Services specified in the Participation Deed.

2. FIREBOMBING OPERATIONS

- a. Aircraft must be equipped with the Firebombing Delivery System specified in the Participation Deed and approved for use on the aircraft by NAFC or a Member.
- b. Firebombing Delivery Systems must be able to be loaded with, and must be capable of delivering, fresh and brackish water without impediment.
- c. Aircraft will only be required to carry products that are qualified for the aircraft type.
- d. Firebombing Delivery Systems must be able to be loaded with, and must be capable of delivering approved Fire Retardant Slurry and Fire Suppressant Solutions without impediment.
- e. High Volume Rotary Wing Aircraft, long-line bucket Rotary Wing Aircraft; and self-filling (scooping or skimming) Fixed Wing Aircraft must, or where required by the Participation Deed, be able to routinely self-fill from salt water.
- f. Rotary Wing Aircraft must be capable of hover-filling.
- g. An operational "offload" system; i.e. be capable of delivering all or part of the load in a controlled fashion, whilst the aircraft hovers, via a hose with a diameter in the order of 38mm, and a length of at least 80 metres:
 - i. is preferred for any tank-equipped Rotary Wing Aircraft; and
 - ii. Is compulsory for any tank-equipped Rotary Wing Aircraft undertaking rappel operations.
- h. Tank-equipped Rotary Wing Aircraft must have an approved firebombing bucket available at the NOB and the capability to either:
 - i. attach and operate the bucket without removing the tank; or
 - ii. remove the tank and attach the bucket within one hour, if safe to do so, using facilities and Personnel normally available at the NOB or within reasonable proximity to the NOB.
- i. In the case of NAFC Type 1 Rotary Wing Aircraft (including High Volume), the bucket required at clause 2.h of this Schedule, must be a long-line bucket meeting the specifications in clause 2.h of this Schedule.
- j. Where the Service requirements of this Contract require that the aircraft be equipped with a Firebombing bucket:
 - i. the bucket provided must be of the maximum capacity appropriate to the aircraft; and

- ii. there must be an additional approved Firebombing bucket of equivalent capacity available at the NOB, which will be used in the event of failure of the primary bucket.
- k. Where the Service requirements of this Contract require that the Aircraft be equipped with a long-line bucket:
 - i. the bucket must be capable of multi-drop and bottom-fill; and
 - ii. bucket operations will normally be conducted with a 150 foot (approx. 46 metres) long-line; and
 - iii. remote hook release on the long-line is required; and
 - iv. the aircraft must be suitably equipped for safe, efficient single-pilot (if applicable) long-line operations, including a door and/or window arrangement that allows the pilot to keep the load in direct line of sight, whilst monitoring key flight and engine instruments; and
 - v. the aircraft must also be capable of operations where the bucket is attached to the cargo hook without the use of a long-line (either directly or via a short line or strop); and
 - vi. the Contractor will have available at the NOB an additional cargo long-line (remote release not required) no less than 50 feet (16 metres).
- l. Aerial Firefighting tank and bucket systems must:
 - i. at all times be maintained in good condition and will include an effective seal to prevent any leakage of tank or bucket contents.
 - ii. be kept clean of any chemical or substance other than those prescribed by NAFC.
- m. Where available for the aircraft model, aircraft must be fitted with operational windshield wipers and windshield washers. An exception to this requirement may be made, at the discretion of NAFC where:
 - i. the Service requirements of this Contract require that the Aircraft be equipped with a long-line bucket; or
 - ii. the Contractor is able to demonstrate that regular use of windshield wipers would reduce visibility through the windshield through scratching or crazing.
- n. Aircraft capable of self-filling the Firebombing Delivery System must be equipped with CASA approved life vests for each person on board, which must be worn when the Aircraft is conducting Firebombing operations.
- o. Aircraft must be equipped with a siren system capable of alerting crews on the ground of an impending drop, powered by a protected power supply separate to that which supplies any radios.

3. FIRST LOAD FACILITY

- a. If the Contract requires the provision of the Services of NAFC Type 4 Fixed Wing Aircraft for firebombing, the Contractor must ensure that at each NOB where a contracted Type

4 Fixed Wing Aircraft is based, there is a facility that will allow a Type 4 Fixed Wing Aircraft to be dispatched with a load of Fire Retardant Slurry or Fire Suppressant Solution without delay.

- b. The facility must be of a standard acceptable to the Member
- c. Unless otherwise specified in this Contract, Fire Retardant Concentrate or Fire Suppressant Concentrate to be used in preparing Fire Retardant Slurry or Fire Suppressant Solution in the first load facility will be supplied by the Member.

SCHEDULE B: AIR ATTACK SUPERVISION AIRCRAFT

1. APPLICATION OF SCHEDULE

The clauses of Schedule B will apply to those Services specified in the Participation Deed.

2. GENERAL

The Aircraft must be capable of carrying passengers and hold an AOC in accordance with clause 4.10a.i.

3. AVIONICS AND COMMUNICATIONS

In addition to the avionics and communication requirements of Schedule 5, Aircraft must meet all avionics and communications requirements for Air Attack Supervision Aircraft as set out in *NAFC Standard OPS-020 Avionics and Communications*.

4. FIREBOMBING OPERATIONS

- a. Rotary Wing Air Attack Supervision Aircraft, unless otherwise specifically stated for a particular Service, must have available a Firebombing bucket of a capacity appropriate to the Aircraft. This capability is provided as an ancillary capability, and it is expected that it be infrequently used.
- b. To meet the provisions of Schedule B clause 4(a) above the Contractor will ensure that the pilot of Rotary Wing Aircraft provided for Air Attack Supervision is suitably qualified and capable to safely and effectively undertake Firebombing.

SCHEDULE C: SPECIALIST INTELLIGENCE GATHERING AIRCRAFT

Schedule C will be included in Participation Deeds for Services utilising Specialist Intelligence Gathering Aircraft.

SCHEDULE D: WINCHING

1. APPLICATION OF SCHEDULE

The clauses of Schedule D will apply to those Services specified in the Participation Deed.

2. AVIONICS AND COMMUNICATIONS

In addition to the avionics and communication requirements of Schedule 5, Aircraft must meet all avionics and communications requirements for Winching and Rappel Aircraft as set out in *NAFC Standard OPS-020 Avionics and Communications*.

3. WINCHING

- a. The Aircraft must be equipped with the winch specified in the Participation Deed at all times when required by a Member.
- b. The winch must at all times be maintained according to the winch manufacturers' requirements.
- c. The Contractor must ensure that:
 - i. when required by the Member, a suitably qualified and experienced Crewperson is available to conduct winching operations;
 - ii. the Flight Crew supplied to operate this Service are suitably qualified and experienced to conduct winching operations under the conditions typically experienced in fire and other emergency operations and activities and in the Operating Environment; and
 - iii. all necessary approvals are obtained to conduct winching operations, including the provision of a detailed supplement to the Contractor's operations manual.
- d. The Contractor must, at the Contractor's expense, maintain a check and training system to ensure the competency and currency of Flight Crew and Crewpersons in winching operations.
- e. If required by a Member, the Contractor must provide, at the Contractor's expense, a certificate issued under the civil aviation regulations or an equivalent Supplemental Type Certification, to operate the winch without ballistic cable cutters (if fitted) enabled.
- f. The winching operations must be conducted in accordance with Australian civil aviation legislation and regulations and a Member's operating procedures.
- g. The Contractor acknowledges and agrees that the winching capability may be subject to regular audit by a Member purchasing the Services.

SCHEDULE E: RAPPELLING

1. APPLICATION OF SCHEDULE

The clauses of Schedule E will apply to those Services specified in the Participation Deed.

2. AVIONICS AND COMMUNICATIONS

In addition to the avionics and communication requirements of Schedule 5, Aircraft must meet all avionics and communications requirements for Winching and Rappel Aircraft as set out in *NAFC Standard OPS-020 Avionics and Communications*.

3. RAPPELLING

- a. The Aircraft must at all times when required by a Member be equipped with the rappelling equipment specified in the Participation Deed.
- b. The rappelling equipment must at all times be maintained in good condition.
- c. The Contractor must ensure that:
 - i. Flight Crew supplied to operate this Service are suitably qualified and experienced to conduct rappelling under the conditions typically experienced in fire and other emergency operations and activities; and
 - ii. all necessary approvals are obtained to conduct rappelling operations, including the provision of a detailed supplement to the Contractor's operations manual.
- d. The Contractor must at the Contractor's expense, maintain a check and training system to ensure the competency and currency of Flight Crew in rappelling operations.
- e. The rappelling operations must be conducted in accordance with Australian civil aviation legislation and regulations and a Member's operating procedures.
- f. The Contractor acknowledges and agrees that the rappelling capability may be subject to regular audit by a Member.

SCHEDULE F: MOBILE FUELLING UNIT

1. APPLICATION OF SCHEDULE

The clauses of Schedule F will apply to those Services specified in the Participation Deed.

2. MFU VEHICLES AND EQUIPMENT

- a. The Contractor must ensure that any MFU is:
 - i. equipped, licenced and insured, and its Personnel appropriately trained, equipped, licenced and insured, to carry out fuelling in-field;
 - ii. appropriately licensed and equipped for the transport of aviation fuel;
 - iii. diesel powered and be in good condition;
 - iv. with a Gross Vehicle Mass greater than 12 tonnes must be fitted with an operational engine exhaust brake system;
 - v. approved by the appropriate fuel suppliers to access fuel at all the supplier's fuel supply terminals;
 - vi. capable of conducting hot refuelling operations, if supporting Rotary Wing aircraft;
 - vii. capable for pressure fuelling, if supporting Rotary Wing Aircraft capable of pressure fuelling;
 - viii. fitted with:
 - A. all equipment necessary for the purpose of carrying out safe and effective fuelling and other associated operations, including all equipment necessary to ensure fuel quality and to contain any fuel spillages;
 - B. calibrated equipment to accurately measure and clearly display the quantity of fuel delivered into any aircraft;
 - C. a high visibility strobing amber light, first aid kit and fire extinguisher;
 - D. a GPS antenna and a GPS and radio modem, if supplied on a loan basis by a Member. The antenna location must be suitable for high quality GPS signal reception and the antenna cable must be safely and securely routed to the GPS;
 - ix. equipped with:
 - A. a GPS receiver capable of displaying position in Latitude and Longitude and in Universal Transverse Mercator (UTM) format using GDA94 datum;
 - B. a siren system and high visibility strobing red and blue lights, if required by a Member;
 - C. a mobile telephone active on a network acceptable to the Member;
 - D. an auxiliary radio transceiver, if provided to the Contractor on a loan basis by a Member;

- E. tracking equipment to meet the position reporting requirements of the *NAFC Standard OPS-014 Aircraft Tracking, Event Reporting and Messaging*; and
 - x. in possession of current, valid, accurate and complete records for:
 - A. pressure testing on all hoses;
 - B. tank inspection;
 - C. filter change inspection;
 - D. pressure gauge testing;
 - E. meter calibration; and
 - F. delivery systems inspection.
- b. The Contractor will:
 - i. be responsible for installing at the Contractors expense, all equipment required by the Contract and obtaining any necessary approvals and certifications; and
 - ii. ensure that any loaned equipment will be returned to a Member at the conclusion of each Service Period, or at the conclusion of the Contract Period, if instructed to do so.

3. MFU OPERATOR

- a. The Refuelling Operator must:
 - i. have available personal effects and requirements sufficient to allow for operation away from the NAB for periods up to six consecutive days; and
 - ii. maintain clear, legible and accurate detailed records of fuel dispensed; and
 - iii. carry a mobile telephone, active on a network acceptable to the Member, at all times during any Service Period. The telephone must be switched on when coverage is available and operation is not otherwise precluded for safety or legal reasons.
- b. Whilst conducting fuelling operations, the Refuelling Operator must:
 - i. wear fire retardant or natural fibre protective clothing extending to boots and appropriate gloves; and
 - ii. wear leather or fire-retardant safety footwear which provides ankle support; and
 - iii. not wear garments made from synthetic or other material with low temperature melting characteristic, low flashpoint or high flammability.

4. REQUIREMENTS WHEN MFU IS DISPATCHED AS A STAND-ALONE SERVICE

- a. A MFU may be dispatched by a Member as stand-alone Service, i.e., separately from an Aircraft, to fuel other aircraft (for example, other operators' aircraft dispatched by a Member).

- b. In accordance with clause 4.a of this Schedule F above:
- i. a Standby/Dispatch may be accepted by the Contractor unless doing so adversely affects the Contractor's ability to provide required Services under this Contract, or other AFAC Contracts;
 - ii. the Contractor will arrange all relevant invoicing and payments directly with the other aircraft's operator, and will supply the fuel at a price which covers the reasonable costs of supplying the fuel, which may include reasonable administration costs (i.e. it is not intended that the Contractor will profit from the supply of the fuel);
 - iii. the Contractor may refuse to supply fuel to another aircraft operator on credit where evidence of payment defaults by the other operator are provided to the Member and the Member agrees to waive clause 4.a of this Schedule F; and
 - iv. clauses 5.7a and 5.7b of the Contract terms apply.
- c. For the avoidance of doubt, the provisions of this clause 4 of this Schedule F apply only to fuel supplied from an MFU provided by the Contractor under this Contract.

SCHEDULE G: NIGHT VISION IMAGING SYSTEM OPERATIONS

1. APPLICATION OF SCHEDULE

The clauses of Schedule G will apply to those Services specified in the Participation Deed.

2. AVIONICS AND COMMUNICATIONS

In addition to the avionics and communication requirements of Schedule 5, Aircraft conducting NVIS Aerial Firefighting Support operations must meet all avionics and communications requirements for Air Attack Supervision Aircraft as set out in *NAFC Standard OPS-020 Avionics and Communications*.

3. NVIS OPERATIONS

- a. The Aircraft will be configured to undertake NVIS operations as required by the Member.
- b. The Aircraft will be fitted with internal and external lighting to comply with NVIS operations.
- c. The Contractor will ensure that:
 - i. Flight Crew supplied to operate this Service are suitably qualified and experienced to conduct NVIS under the conditions typically experienced in fire and other emergency operations and activities.
 - ii. all necessary approvals are obtained to conduct NVIS operations, including the provision of a detailed supplement to the Contractor's Operations Manual.
 - iii. Flight Crew are provided with Contractor owned and maintained NVIS equipment.
- d. The Contractor will, at the Contractor's expense, maintain a check and training system to ensure the competency and currency of Flight Crew in NVIS operations.
- e. The Contractor acknowledges and agrees that the NVIS capability may be subject to regular audit by the Member purchasing the Services.
- f. The Contractor will, maintain availability of two sets of Contractor owned and maintained Night Vision Goggles for NVIS operations unless otherwise agreed with the Member.

4. NVIS AERIAL FIREFIGHTING SUPPORT (SUPERVISION AND MAPPING)

Where it is specified NVIS aerial firefighting support (supervision and mapping) is required for a Service specified in the Participation Deed, the Service will undertake NVIS aerial firefighting support (supervision and mapping) operations as required by the Member.

5. NVIS AERIAL FIREFIGHTING (FIREBOMBING)

Where it is specified NVIS aerial firefighting (night firebombing) is required for a Service specified in the Participation Deed, the Service will undertake NVIS aerial firefighting (firebombing) operations as required by the Member.

SCHEDULE H: MULTI ENGINE AIRTANKERS

Schedule H will be included in Participation Deeds for Services utilising Multi Engine Airtankers.

ATTACHMENT 1: ADDITIONAL DOCUMENTATION

1. ADDITIONAL DOCUMENTS

- a. The Contractor will comply with the relevant policies or standard operating procedures, as determined from time to time, by a Member in accordance with clause 1.2 of the Contract.