



Australian Government

The Treasury

34000420.

(SERVICES) CONTRACT NUMBER ~~T&A~~ FOR THE PROVISION OF TECHNICAL ADVICE REGARDING THE MONASH MULTI-REGIONAL FORECASTING (MMRF) MODEL TO THE DEPARTMENT OF THE TREASURY

Date of Contract	Date of execution of the contract.
PARTIES	The Commonwealth of Australia , as represented by the Department of the Treasury (ABN 92 802 414 793) of Langton Crescent, PARKES ACT 2600 (" the Treasury ").
AND	The Centre of Policy Studies, Monash University, Wellington Road, Clayton Victoria 3800. ABN 12377614012 (" the Contractor ")
Item 1 Description of Services	Provision of Technical Advice Regarding the Monash Multi Regional Forecasting (MMF) Model , as detailed in paragraph 1 of Schedule 1 (" the Specifications ").
Item 2 Commencement Date of Contract	Date of execution of the contract
Item 3 Term of Contract	This Contract has a term of approximately 5 months (February 2010 to 30 June 2010) with an option to extend, solely exercisable by the Treasury, in accordance with clause 3 .
Item 4 Invoices	A correctly rendered invoice in the form of a Tax Invoice must be submitted to the Treasury within seven (7) calendar days after the end of each calendar month, through the Treasury officer specified in Item 5 below.
Item 5 Treasury Contract Manager & Treasury Project Officer	For the purposes of this contract, the role of Treasury Contract Manager and Treasury Project Manager will be performed by the same Treasury officer as follows: <i>Name:</i> <i>Position: Manager, Climate Mitigation & Modelling Analysis Unit</i>

Item 6 Contractor's Representative	<p><i>Name:</i></p> <p><i>Position:</i> Senior Research Fellow</p> <p><i>Address:</i> Wellington Road, Clayton VIC 3800</p> <p><i>Phone:</i> (02) , (03) <i>Fax:</i> (03)</p> <p><i>Email:</i> <u>@buseco.monash.edu.au</u></p>				
Item 7 Contractor's Nominated Bank Account	<p><i>Name of Bank:</i></p> <p><i>Physical Address of Bank:</i></p> <p><i>Bank BSB:</i></p> <p><i>Account Name:</i></p> <p><i>Account Number:</i></p>				
Item 8 Address of the Contractor for Remittance Notices	<p><i>E-mail Address: Email:</i> <u>@buseco.monash.edu.au</u></p> <p><i>Fax Number:</i> (03)</p> <p><i>Phone Number:</i> (02) (03)</p>				
Item 9 Authorised Personnel of the Contractor	<i>Full Name</i>		<i>Task/Functions</i>		
	1		1. Research Services		
	2		2. Administrative matters		
Item 10 Insurance Details of the Contractor	Type of Cover	Amount of Cover	Name of Insurance Company	Policy Number	Current Expiry Date of Cover
	Public Liability	\$10,000,000	QBE International Insurance Ltd	PA 031507(2)	4pm 31 October 2010
	Professional Indemnity	\$10,000,000	QBE International Insurance Ltd	03 MIS 785568	4pm 31 October 2010
	Workers' Compensation		CGU Workers Compensation Vic	1010358	30 June 2010

The Contractor offers to perform the Services for the Treasury according to the terms and conditions of this Contract set out above and in the Conditions of Contract that follow.

Date: 17/2/2010
(Specify Date)

**Signed for and on behalf of the Contractor
by its duly Authorised Officer:**

(Specify Full Name)

(Signature of Authorised Officer)

Senior Research Fellow
(Specify Position Title)

in the presence of:

(Print Name of Witness)

(Signature of Witness)

The Treasury accepts the offer of the Contractor.

**Signed for and on behalf of the Treasury by its
Duly Authorised Delegate:**

(Specify Full Name)

(Signature of Treasury Delegate)

GENERAL MANAGER MMD
(Specify Position Title)

in the presence of:

(Printed Name of Witness)

(Signature of Witness)

CONDITIONS OF CONTRACT

1 Interpretation

1.1 In this Contract, unless the contrary intention appears, the term:

Commencement Date means the date specified in **Item 2**.

Confidential Information means in relation to Confidential Information of the Treasury, information that:

- (a) is by its nature confidential;
- (b) is designated by the Treasury as confidential and is described in **paragraph 4 of Schedule 1**; or
- (c) the Contractor knows or ought to know is confidential,

in relation to the Confidential Information of the Contractor, information that:

- (d) is designated by the Contractor as confidential and is described in **paragraph 4 of Schedule 1**; or
- (e) the Treasury otherwise agrees in writing is Confidential Information of the Contractor,

but in either case does not include information that:

- (f) is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation; or
- (g) has been independently developed or acquired by the Contractor or the Treasury as established by written evidence.

Contractor includes, where the context permits, the Contractor Personnel and permitted assigns of the Contractor.

Contractor Personnel means the officers, employees, agents or subcontractors of the Contractor.

Contract means this Contract, including any attachments, schedules or documents incorporated into this Contract by reference.

Contract Material means all material supplied, created or collected, or required to be supplied, created or collected, as part of, or for the purpose of performing, the Services, including but not limited to documents, equipment, information and data stored by any means.

GST has the meaning given by the GST Law, and includes any additional tax, penalty tax, fine, interest or other charge.

GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Insolvency Event means the occurrence of an event that the Treasury believes puts into question the commercial or financial viability of the Contractor, including in respect of a company entering into liquidation or having a controller or managing controller or liquidator or administrator appointed, or being a natural person being declared bankrupt or assigning his or her estate for the benefit of creditors.

Intellectual Property or IP means all present and future rights conferred by statute, common law, equity, in or relating to any copyright, trade marks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields and includes the rights to the registration of those rights. Intellectual Property does not include Moral Rights.

Moral Rights means rights of integrity of authorship, rights of attribution of authorship, rights not to have authorship falsely attributed, and rights of a similar nature conferred by statute that exist, or may come to exist, anywhere in the world.

Personal Information has the meaning in the *Privacy Act 1988* (Cth).

Personnel means either Contractor Personnel or Treasury Personnel or both, as the context requires.

Protected Information means "official information" as defined in the Australian Government Protective Security Manual, updated from time to time.

Tax Invoice has the meaning given in the GST Law.

Term means the period this Contract remains in force as set out in **clause 3**.

Treasury Material means any material, including Confidential Information of the Treasury, provided by or on behalf of the Treasury to the Contractor in connection with this Contract.

Treasury Personnel means the officers, employees, agents or contractors (other than the Contractor) of the Treasury.

Services mean the services to be performed by the Contractor under this Contract in accordance with the Specifications.

Specifications means **paragraph 1 of Schedule 1**.

1.2 Words importing a gender include any other gender.

1.3 The singular includes the plural and vice-versa.

1.4 A reference to a clause includes a reference to a subclause of that clause.

1.5 In the event of an inconsistency between **clause 1 to 26** inclusive of this Contract, and the contents of **Schedule 1**, the clauses of this Contract will prevail, except to the extent expressly provided for in the relevant section of **Schedule 1**.

2 Performance of the Services

2.1 The Contractor warrants that the Services will be performed:

- (a) by persons that have the requisite skills, qualifications, experiences and the licences or permits required by law or regulation to perform the Services;
- (b) in a professional and businesslike manner;
- (c) using materials fit for the purposes for which they are intended to be used by the Treasury, and that are of a merchantable quality and free from any defect or encumbrances;
- (d) in accordance with the Specifications;
- (e) in accordance with or exceeding any applicable industry standards set by Standards Australia;
- (f) so as to ensure that all information provided to the Treasury, including in reports and documents, is correct, complete and not misleading in any respect;
- (g) in accordance with all reasonable and legal directions of the Treasury, particularly in relation to the physical protection of Treasury property, its staff, its clients and customers, and its information; and
- (h) within agreed timeframes the deliverables and outcomes required by the Specifications.

2.2 The Contractor warrants that it and its subcontractors do not have any unpaid claims in respect of judicial decisions (other than those subject to appeal) made against them in relation to employee entitlements.

2.3 The Contractor agrees to coordinate, liaise with and report to the Treasury Contract Manager and/or Treasury Project Officer for the purposes of performing the Services, as required and directed by the Treasury from time to time.

2.4 The Contractor must commence and complete the performance of the Services in accordance with this Contract, unless delayed by a cause beyond the control of the Contractor, in which event the Treasury, in its sole and absolute discretion, may grant to the Contractor a reasonable extension of time.

3 Term of Contract

- 3.1 The Term of this Contract will commence on the Commencement Date and subject to **clause Error! Reference source not found;**, will expire on the date specified in **Item 3.**

4 Variations in Services

- 4.1 The Services include any services, functions and responsibilities not specified in the Statement of Work, but which a person with experience in the relevant industry and supply of the Services or comparable services would reasonably consider to be necessary or incidental to the Services or required for the proper performance of the Services.
- 4.2 No agreement or understanding that varies or extends this Contract (including in particular the scope or performance of the Services or the fees) and which would result in an increase in the monies payable by, or other liability of the Treasury, will be legally binding upon either party unless in writing and signed by both parties.

5 Invoices

- 5.1 The Contractor must submit correctly rendered invoices in accordance with Item 4, specifying:
- (a) the reference number of this Contract and the applicable Treasury Purchase Order;
 - (b) the Services or part of the Services to which the invoice relates;
 - (c) the total time spent by the Contractor;
 - (d) the total amount of the invoice;
 - (e) the settlement discount and other applicable discounts if any;
 - (f) the GST component of the total amount of the invoice;
 - (g) the date of issue of the invoice;
 - (h) the name, address, and ABN of the Contractor and the Treasury; and
 - (i) any other information that may be required by the Treasury.
- 5.2 If the Treasury disputes the invoice, it may withhold payment of the disputed amount until the matter is resolved or until the Contractor has rectified and made good that whole or part of the Services to which the dispute relates.
- 5.3 Subject to **clauses 5, 6 and 7**, the Treasury must pay the Contractor within thirty (30) calendar days after receiving a correctly rendered invoice for fees calculated in accordance with **paragraph 2 of Schedule 1.**

5.4 If milestones for the performance of the Services are specified in **paragraph 2 of Schedule 1**, and the payment of fees are linked to those milestones, the Treasury is entitled to defer payment of an invoice until the Contractor completes, to the full satisfaction of the Treasury, the performance of that part of the Services to which the milestone payment relates.

5.5 The Treasury may require, and the Contractor must sign, a final release of all claims for fees payable under this Contract as a condition of receiving the final payment of fees under this Contract.

6 Government Taxes, Duties and Charges

6.1 The Contractor must pay all taxes, duties and charges imposed or levied on it in connection with the performance of this Contract.

6.2 The fees payable by the Treasury under this Contract are inclusive of GST and any other taxes. The Treasury will not be required to pay the Contractor any further amount for GST or other taxes or charges under this Contract.

6.3 The Contractor must issue to the Treasury a Tax Invoice under **clause 5** in accordance with the GST Law, for each taxable supply at and when it makes a taxable supply to the Treasury and requires payment from the Treasury. Notwithstanding any other provision of this Contract, the Treasury is not obliged to make any payment to the Contractor until it has received from the Contractor a Tax Invoice for the relevant taxable supply.

6.4 If payment under an indemnity to the Treasury gives rise to a liability for the Treasury to pay GST, the Contractor must pay and indemnify the Treasury against the amount of such GST.

7 Electronic Payment by Direct Credit

7.1 The Contractor must maintain a Contractor's bank account for the purposes of receiving electronic funds transfer by way of payment of fees by the Treasury under this Contract.

7.2 Payment will be deemed to have been made on the date the Treasury instructs its bank that funds are to be transferred to the Contractor's nominated bank account.

7.3 The Treasury will forward a remittance notice to the Contractor's address for remittance notices when it instructs its bank to make an electronic funds transfer to and directly crediting the nominated bank account of the Contractor.

7.4 The Contractor must notify the Treasury in writing of a change in the Contractor's nominated bank account no later than fourteen (14) calendar days before a payment by the Treasury is due (the "**Cut-Off Date**").

7.5 The Treasury will not be liable to make additional or interim payments where details of the Contractor's nominated bank account are:

- (a) incorrectly notified by the Contractor; or
- (b) notified under **clause 7.4** after the Cut-Off Date for that payment.

8 Insurance

8.1 Prior to the Commencement Date, the Contractor must effect and maintain for the Term the following type and minimum level of insurance cover:

- (a) Public Liability Insurance – **[\$10]** million per each event;
- (b) Professional Indemnity Insurance – **[\$10]** million per each event;
- (c) Workers' Compensation Insurance as required by law, or where common law claims are permissible, employer's liability insurance with a limit of indemnity of not less than \$50 million for each occurrence; and
- (d) Personal Death/Injury and Property Loss/Damage including Comprehensive Motor Vehicle Insurance – in accordance with common and statutory law.

8.2 At its sole and absolute discretion the Treasury may, by giving notice to the Contractor, increase or decrease both the type and minimum level of insurance cover required.

8.3 The Contractor's insurance details are specified in **Item 10**.

9 Indemnity

9.1 The Contractor indemnifies, and keeps indemnified, the Treasury and Treasury Personnel against any legal liability, claim, expense, loss or damage (including legal costs on a solicitor and own client basis) arising directly or indirectly from:

- (a) any negligent, wilfully wrongful or unlawful act or omission by the Contractor, Contractor Personnel or invitees in connection with the performance of this Contract; or
- (b) any infringement or alleged infringement of Intellectual Property rights or Moral Rights by the Contractor, or Contractor Personnel in connection with the performance of this Contract or the use by the Treasury, or Treasury Personnel of the Contract Material.

9.2 The Contractor agrees that the Treasury may enforce the indemnity in **clause 9.1** in favour of the persons specified in **clause 9.1** for the benefit of each of such persons in the name of the Treasury or of such persons.

9.3 This **clause 9** survives the expiration or termination of this Contract.

10 Authorised Personnel

- 10.1 The Contractor must ensure that only its Authorised Personnel specified in **Item 9** perform the Services and must immediately inform the Treasury if any Authorised Personnel become unavailable.
- 10.2 The Contractor must ensure that all its Authorised Personnel, in performing the Services:
- (a) comply with and abide by all reasonable and legal directions, rules, regulations, requirements and practices of the Treasury relating to physical security and confidentiality of information administered and managed by the Treasury Security Administrator or his/her nominee (as notified to the Contractor by the Treasury from time to time), including but not limited to building access keys and devices, photo identification cards, parking permits, and like security clearances and devices; and
 - (b) return immediately to the Treasury Security Administrator or his/her nominee any and all security-related devices and Treasury property including records and documents issued to any of the Authorised Personnel, on the day when their services under this Contract are completed or are terminated.
- 10.3 The Contractor acknowledges the right of the Treasury to deny entry to its building premises in accordance with the Treasury's security procedures to any person at any time without having to give any reason for the denial. Such actions in no way relieve the Contractor from its obligations to perform the Services in accordance with this Contract.

11 Intellectual Property

- 11.1 Subject to **clause 11.2** and except as specified in **paragraph 3** of **Schedule 1**, title to and ownership of all Intellectual Property in all Contract Material vests in the Treasury immediately upon its creation.
- 11.2 Except as specified in **paragraph 3** of **Schedule 1**, this Contract does not affect the ownership of Intellectual Property that was in existence at the Commencement Date, or any customisation or enhancements thereof.
- 11.3 Except as specified in **paragraph 3** of **Schedule 1**, the Contractor grants to the Treasury a world-wide, permanent, irrevocable, royalty-free, transferable, non-exclusive licence (including the right of sub-licence) to use, reproduce, communicate, publish, modify, adapt and exploit anywhere in the world all of the Intellectual Property in the Contract Material that is not vested in the Treasury in accordance with **clause 11.1** (including as a result of **paragraph 3** of **Schedule 1**) or otherwise owned by the Treasury.
- 11.4 The Contractor warrants that it has notified the Treasury prior to the Commencement Date (and will continue to notify the Treasury) of all Intellectual Property the subject of **clause 11.2** that the Contractor intends to

(or does) incorporate into the Contract Material. The Treasury may identify and direct that the Contractor use alternative Intellectual Property where the Contractor notifies such use after the Commencement Date.

- 11.5 The Treasury grants the Contractor a non-exclusive, revokable, royalty-free, non-transferable licence to use, modify, adapt and reproduce the Intellectual Property in the Contract Material that is owned by the Treasury for the sole purpose of performing the Contractor's obligations under this Contract.
- 11.6 The Contractor must, and must procure that Contractor Personnel, do all things necessary (including, where requested in writing by the Treasury, entering into a deed with the Treasury in the form of **Attachment A to Schedule 1**) to give effect to this **clause 11**.
- 11.7 The Contractor must not at any time do anything or cause anything to be done that would prejudice the right, title and interest of the Treasury in any of the Intellectual Property rights of the Treasury.
- 11.8 The Contractor, to the extent permitted by law, consents, and must ensure that Contractor Personnel consent, to any act or omission by the Treasury or Treasury Personnel that would otherwise infringe any Moral Rights in the Contract Material, including where required by the Treasury by ensuring that Contractor Personnel execute a deed in the form of **Attachment A to Schedule 1**.
- 11.9 The Contract Material will be owned by the Treasury from the date of delivery of the Contract Material to the Treasury.
- 11.10 This **clause 11** survives the termination or expiration of this Contract.

12 Protection of Treasury Property and Security

- 12.1 The Contractor must ensure that any material and property, including Protected Information, security-related devices and clearances, provided by the Treasury for the purposes of this Contract is protected at all times from:
 - (a) unauthorised access;
 - (b) use by a third party; and
 - (c) misuse, damage or destruction by any person.
- 12.2 The Contractor must, when using the Treasury's premises or facilities, comply with all security and office regulations in effect at those premises or in regard to those facilities, as notified by the Treasury from time to time.

13 Privacy

- 13.1 The Contractor acknowledges that it is a "contracted service provider" within the meaning of section 6 of the *Privacy Act 1988* (Cth), and agrees in respect of the performance of the Services to carry out and discharge the obligations contained in the Information Privacy Principles as if it were an agency under

the *Privacy Act 1988* (Cth) and to take such measures for that purpose as required by the Treasury, particularly in relation to Information Privacy Principles 5 and 6.

- 13.2 The Contractor must ensure that a deed in the form of **Attachment A to Schedule 1** is signed by all Contractor Personnel who may be able to access information, where such access would impose obligations on the Treasury under the *Privacy Act 1988* (Cth).

14 Confidential Information

- 14.1 Subject to this **clause 14**, a party must not, and must ensure that their Personnel do not, disclose or make public any Confidential Information of the other party without the prior written approval of the other party. In giving written approval, the party may impose such terms and conditions as the party thinks fit.

- 14.2 A party may disclose the other party's Confidential Information:

- (a) as required by any Australian Government body, authority or agency;
- (b) to the extent required by law, under the *Freedom of Information Act 1982* (Cth), or if required in connection with legal proceedings;
- (c) to the party's Personnel on a need-to-know basis for the performance of their duties in relation to this Contract or the Contract Material;
- (d) to the extent necessary to exercise their Intellectual Property rights under this Contract;

and in relation to Confidential Information disclosed by the Treasury:

- (e) for public accountability reasons, including a request for information by a Minister, Parliament or a parliamentary committee; or
- (f) for any other reporting or audit requirements of the Treasury.

- 14.3 Where a party intends to disclose Confidential Information under **clause 14.2**, they must notify the other party. In relation to disclosure under **clause 14.2(a)** and **clause 14.2(c)**, where disclosure to the third party is not otherwise required, the party disclosing the Confidential Information must first obtain a deed of non disclosure from the relevant third party in the form of **Attachment A of Schedule 1**.

15 Audit and Access to Contractor's Premises and Records

- 15.1 The Contractor must grant, at all reasonable times, access to the Contractor's premises, Contractor Personnel, records, accounts and other financial material or material relevant to this Contract, including Contract Material, however and wherever stored or located, in the custody, possession or control of the Contractor or Contractor Personnel to:

- (a) the Treasury or any persons authorised in writing by the Treasury, including the Treasury's auditors; and
- (b) the Commonwealth Auditor-General, the Commonwealth Ombudsman, the Commonwealth Privacy Commissioner or their delegates,

for the purposes of performing their respective statutory functions, and/or for inspection and/or copying.

- 15.2 The Contractor must do all things necessary to comply with the requirements of **clause 15.1**, at the Contractor's cost, including by making facilities available to enable a legible reproductions of documents to be made (whether stored in writing, electronically or otherwise).
- 15.3 An audit of part or all of this Contract may be undertaken at any time by the Treasury or its nominee. These audits may include any aspect of this Contract or the performance of the Services.
- 15.4 The Contractor must (at its own cost) participate co-operatively in audits of this Contract at the frequency and in relation to the matters specified by the Treasury, including on an ad hoc basis if requested by the Treasury, for the purpose of ensuring that this Contract is being properly performed and administered. The Treasury may appoint an independent person to assist in the audits.
- 15.5 This **clause 15** applies for the Term and for a period of seven (7) years from the date of termination or expiration of this Contract.

16 Conflict of Interest

- 16.1 The Contractor warrants that, to the best of its knowledge after making diligent inquiries, at the date of signing of this Contract no conflict of interest exists or is likely to arise in respect of this Contract. If, during the Term, a conflict of interest arises, or appears likely to arise, the Contractor must notify the Treasury immediately in writing, make full disclosure of all relevant information relating to the conflict and take such steps as the Treasury reasonably requires, to resolve or otherwise deal with the conflict.

17 Assignment and Subcontracting

- 17.1 The Contractor must not:
 - (a) assign, in whole or in part, its benefits or rights under this Contract; or
 - (b) novate its obligations under this Contract,without the prior written approval of the Treasury.
- 17.2 The Contractor must not, without the prior written approval of the Treasury, subcontract the performance of any or all of the Services, which approval the

Treasury may withhold in its sole and absolute discretion. In giving written approval, the Treasury may impose such terms and conditions as it thinks fit.

- 17.3 Without limitation, the Contractor must ensure that all subcontracts contain clauses that authorise the Treasury to publish details of the name of the subcontractor and the nature of the work subcontracted to it.

18 Remedies of the Treasury

- 18.1 The Treasury may, at any time by written notice to the Contractor, terminate this Contract in whole or in part. Upon such notice being given, the Contractor must cease or reduce work in accordance with that notice and must do everything possible to mitigate losses arising from that termination. Where the Treasury terminates this Contract under this **clause 18.1**, the Treasury will only be liable for:
- (a) payment of fees for Services properly performed prior to the effective date of termination, provided those Services have been performed in accordance with this Contract and the Contractor is not otherwise in breach of this Contract; and
 - (b) any reasonable costs in respect of unavoidable loss or damage sustained or incurred by the Contractor and directly attributable to the termination or partial termination of this Contract. These costs must not exceed the total fees payable under this Contract and must not include payments to any employees or former employees or loss of potential or prospective profit.
- 18.2 The Treasury may terminate this Contract effective immediately by written notice to the Contractor, without prejudice to any other right or remedy the Treasury may have, if the Contractor:
- (a) is in breach of any of the provisions of this Contract which it does not rectify and make good within seven (7) calendar days after receipt of a written notice from the Treasury requiring it do so;
 - (b) is in breach of a material provision of this Contract, or a provision of this Contract where that breach is not capable of remedy;
 - (c) an Insolvency Event occurs in respect of the Contractor; or
 - (d) fails to comply with any reasonable direction given by the Treasury.
- 18.3 Where the Treasury terminates this Contract under **clause 18.2**, the Treasury will only be liable for payment of Services properly performed prior to the effective date of termination, to the satisfaction of the Treasury and in accordance with this Contract.
- 18.4 Where the Treasury terminates this Contract under this **clause 18**, the Contractor must, within seven (7) calendar days after the termination, return or deliver all Contract Material and Treasury Material to the Treasury.

18.5 This **clause 18** survives the termination or expiration of this Contract.

19 Remedies of the Contractor

19.1 Other than where **clause 5.2** or **5.4** applies, if the Treasury fails to pay a valid invoice from the Contractor within 30 calendar days after receipt, and a further 28 calendar days after being given written notice by the Contractor requiring the Treasury to remedy the failure, the Contractor may discontinue the performance of the Services to the Treasury or terminate this Contract, in whole or in part, by providing the Treasury with a further 28 calendar days prior written notice. Such termination will take effect on and from the time specified in the notice.

19.2 If this Contract is terminated by the Contractor under **clause 19.1**:

- (a) the Treasury is liable only for the payment of fees for Services properly performed prior to the effective date of termination, provided those Services have been performed in accordance with this Contract;
- (b) the Contractor will be entitled to interest of 5% per annum, calculated daily on and from the due date in any overdue invoice, until the date that payment is made; and
- (c) the Contractor is not entitled to damages for loss of bargain or profit.

19.3 The Contractor agrees that the liability of the Treasury for a termination under **clause 19.1** is limited to the Contractor's rights set out in **clause 19.2**.

20 Compliance with Law and Government Policies

20.1 In performing the Services, the Contractor must, and must procure that Contractor Personnel, comply with and ensure that they do not cause the Treasury to be in breach of any laws, statutes, regulations, by-laws, codes, ordinances or subordinate legislation in force from time to time, or any prescribed requirements for licences or permits to practice a profession or trade.

20.2 In performing the Services, the Contractor must comply with all relevant policies and guidelines of the Treasury and the Commonwealth government, including but not limited to those in relation to occupational health and safety at the Treasury's premises, security at the Treasury's premises, use of Treasury computers and the Internet, environmental conservation and protection, workplace diversity (including harassment, discrimination and use of language matters), and personnel management/human resources, and any other policies notified to the Contractor by the Treasury from time to time.

20.3 Even though the Contractor is not an Australian Public Service (APS) employee within the meaning of the *Public Service Act 1999* (Cth), in performing the Services the Contractor must, and must ensure that Contractor Personnel, act in a manner consistent with the APS Code of Conduct and the APS Values set out under the *Public Service Act 1999* (Cth).

21 Resolution of Dispute

- 21.1 Subject to the application of any relevant limitation period, a party must not commence proceedings in any court or tribunal in relation to any dispute in relation to, in connection with, or arising out of this Contract (a "**Dispute**") unless the party has complied with this **clause 21** and the Dispute remains unresolved, unless **clause 21.7** applies.
- 21.2 The parties undertake to use all reasonable efforts in good faith to resolve any Dispute. If a Dispute arises, the party wishing to take the Dispute further must give the other party a notice of dispute setting out the nature of the Dispute.
- 21.3 Following the giving of a notice of dispute, the Dispute must initially be referred to the Treasury Project Officer and a senior executive of the Contractor, who will endeavour to resolve the Dispute within 14 calendar days after the giving of the notice of Dispute.
- 21.4 If the parties have not been able to resolve the Dispute in accordance with **clause 21.3**, then the parties may agree on a process for resolving the Dispute through means other than litigation or arbitration, including by mediation, conciliation or by expert determination. If the parties agree upon expert determination as a means of resolving the Dispute, that expert determination will be binding on both parties.
- 21.5 If the Dispute is not resolved within 28 calendar days (or such other period as agreed between the parties in writing) after the appointment of the mediator, conciliator or expert in accordance with **clause 21.4**, then either party may, if it wishes, commence proceedings in a court or tribunal in respect of the Dispute.
- 21.6 Despite the existence of a Dispute, the parties must continue to perform their respective obligations under this Contract and any related agreements.
- 21.7 Nothing in this **clause 21** prevents either party from obtaining any urgent relief.

22 Relationship

- 22.1 This Contract does not create a relationship of employment, agency or partnership between the parties. The Contractor is and will remain at all times during the Term an independent contractor of the Treasury.

23 Severability

- 23.1 Part or all of any provision of this Contract that is illegal or unenforceable may be severed from this Contract, and the remaining provisions of this Contract continue in force.

24 Entire Contract

- 24.1 This Contract constitutes the entire agreement between the parties as to its subject matter.

25 Notices

- 25.1 Notices under this Contract may be delivered by prepaid postage, by hand, by facsimile or by e-mail transmission to each of the parties at the address set out at the beginning of this Contract or such other address as either party may specify by notice in writing to the other.

26 Applicable Law and Court Jurisdiction

- 26.1 This Contract is subject to and is to be construed in accordance with the laws in force in the Australian Capital Territory and the parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

SCHEDULE 1

1 Description of Services ("the Specifications")

1.1 Background

The Treasury requires a consultant to assist in enhancing in-house computable general equilibrium (CGE) modelling skills in the Macroeconomic Modelling Division (MMD). These skills will help prepare Treasury to meet the upcoming requirements of the Government.

1.2 Requirements:

The Consultant will

- Provide expert technical advice on making modifications to the Monash Multi-Regional Forecasting (MMRF) model; and.
- Substantially fulfil (in the sole assessment of the Treasury) the following aspects:
 - (a) Provide technical advice to the MMD regarding computable general equilibrium (CGE) modelling. The consultant will require extensive experience in the use of GEMPACK software and experience with the MMRF model to undertake the task effectively.
 - (b) Provide on-site training tailored to the particular needs of Treasury officers. Specific requirements will be determined after commencement of the consultancy. Examples of possible requirements include:
 - training in using GEMPACK; and
 - provide individual tutoring and a 'hands on' approach to CGE training as required.
- Spend one half day (4 hours) a week or fortnight depending on operational requirements.

Note: There will be some weeks during the period when the service is not required due to other work considerations. These will be identified by Treasury with at least one weeks notice of these 'off weeks' given to the service provider.

Note: Performance, Milestones and Requirements

A review of the consultant's performance will be conducted periodically (every 3 months), with feedback passed on to the consultant. This will include an assessment of the effectiveness of any structured training.

2 Contract Price

2.1 Subject to this Contract and performance of the Services to the satisfaction of the Treasury, the rate of fees payable by the Treasury for the Services will be \$800 [GST inclusive] per half day (4 hours), GST inclusive. Subject to the Treasury's prior approval in writing, the total Fees payable under this Contract will not exceed \$8,000(GST inclusive).]

(a) Price Schedule

Remuneration will be on a fixed price (half-day rate) basis for the initial contract. Monthly payments will be made upon receipt of a monthly invoice. The services will be provided at the Treasury Building in Canberra. Remuneration will not cover any travel costs incurred in meeting the service requirements.

(b) Fees

The Fees are inclusive of all costs of performing the Services. The Contractor is responsible for all payments and contributions including but not limited to income tax, workers' compensation, superannuation, sick leave, annual leave or long service leave.

2.3 Reimbursements (at Non-SES rates) for the cost of travel, accommodation and incidental expenses may be reimbursable by the Treasury only where:

- (a) they are incurred solely for the purpose of this Contract;
- (b) the prior written approval of the Treasury Project Officer has been obtained; and
- (c) they are fully substantiated by the Contractor.

2.4 All payments of fees are subject to performance of the Services, including the achievement of any relevant milestones, in accordance with this Contract, to the satisfaction of the Treasury.

2.5 Contract Prices are firm during the first year Term of the Contract. Effective on each anniversary of this Contract, the Contractor may apply an increase to the Contract Price at a rate no greater than the Australian Consumer Price Index (CPI) increase of the previous twelve month period, which is not to exceed the arithmetical average of the percentage changes in the CPI and changes in the Wage Price Index relevant to and applicable to Award rates and conditions for the particular industry. The Treasury retains the right to reject such an increase if it is not formally advised by the anniversary date or if, in the Treasury's opinion, any adjustment is not consistent with the level of competition originally offered by the Contractor. When submitting price adjustments for consideration by the Treasury the Contractor is to submit the pricing in the same format requested by the Treasury in the original offer.

3 Intellectual Property

Intellectual Property	Ownership/Assignment	Licensing
"Nil declared as at the Contract commencement date"	Not Applicable	Not Applicable

3.1 The provisions of clause 11 of this contract, relating specifically to Intellectual Property applies in this instance.

4 Confidential Information

4.1 The provisions of clause 14 of this contract, relating specifically to Confidential Information applies in this instance.

ATTACHMENT A to SCHEDULE 1

DEED OF CONFIDENTIALITY, IP AND MORAL RIGHTS

THIS DEED POLL is made the 17th day of FEBRUARY 2010

BY The Centre of Policy Studies, Monash University, Wellington Road Clayton
Victoria (Recipient)

in favour of

The Commonwealth of Australia, as represented by the Department of the
Treasury (the Treasury).

RECITALS

- A. The Treasury requires the performance of the Services.
- B. The performance of the Services may require access to information confidential to the Treasury.

COVENANTS

1. INTERPRETATION

Confidential Information has the same meaning as in the Contract.

Contract means the contract between the Treasury and The Centre of Policy Studies, Monash University (**Contractor**) dated 17/2/10 for the performance of the Services.

Contract Material has the same meaning as in the Contract.

Intellectual Property has the same meaning as in the Contract.

Moral Rights has the same meaning as in the Contract.

Moral Rights Material means all Contract Material in which Moral Rights subsist.

Party means a party to the Contract.

Personal Information has the meaning in the *Privacy Act 1988* (Cth).

Services has the same meaning as in the Contract.

[NOTE: a copy of the Contract can be obtained from the Contractor or the Treasury.]

2. NON DISCLOSURE

- 2.1 The Recipient must not copy, reproduce or disclose any of the Treasury's Confidential Information without the prior written consent of the Treasury, which consent the Treasury may grant or withhold in its sole and absolute discretion.

3. RESTRICTION ON USE

- 3.1 The Recipient must:

- (a) use the Treasury's Confidential Information only for the purposes of this Contract;
- (b) comply with, and work with the Treasury to ensure compliance with, the provisions of the *Privacy Act 1988* (Cth), including the Information Privacy Principles set out in that Act, in respect of Personal Information, whether or not it is legally bound to comply with that Act and as if the Recipient were an "Agency" within the definition of that Act. (Details of the Contractor's specific obligations are set out at clause 13 of the Contract); and
- (c) indemnify, and keep indemnified, the Treasury in respect of any loss, liability or expense suffered or incurred by the Treasury arising out of or in connection with a breach of the obligations of the Recipient under this Deed or any misuse of information or disclosure in breach of an obligation under the *Privacy Act 1988* (Cth), except to the extent that the loss, liability or expense is caused by a negligent or unlawful act or omission of the Treasury or any of its officers or employees.*

- 3.2 The Recipient agrees that its obligations under this Deed are in addition to, and do not restrict, any obligations it may have under the *Privacy Act 1988* (Cth) or any privacy codes or privacy principles contained in, authorised by or registered under any statute, regulation, by-law, ordinance or subordinate legislation, including any such privacy codes or principles that would apply to the Contractor but for the application of the other provisions of this Deed.

4. SECURITY

- 4.1 If requested by the Treasury, the Recipient must cooperate in any background or national security checks the Treasury wishes to make of the Recipient (including by providing information usually requested in such circumstances).

5. ACKNOWLEDGMENT

- 5.1 The Recipient acknowledges that it is aware of all relevant statutory and other obligations and standards of performance applicable to the Services.

6. INTELLECTUAL PROPERTY

- 6.1 The Recipient hereby:

- (a) assigns any Intellectual Property in materials developed or created by the Recipient in the course of performing the Services to the Treasury from the date of creation of those materials; and
- (b) to the extent permitted by applicable law, consents and must ensure its employees and agents consent to any act or omission that would otherwise infringe any Moral Rights in Moral Rights Material, including any act or omission that may have taken place before or after consent and in particular consents to the following acts:
 - (i) any alteration to or deletion from the Moral Rights Material;
 - (ii) any use of the Moral Rights Material that does not identify the author; and
 - (iii) any use of the Moral Rights Material that may falsely attribute authorship of the Moral Rights Material to any other person; and
 - (iv) waives and consents to all infringing acts in all of its Moral Rights in the Moral Rights Material,

for the benefit of the Treasury, its licensees, successors in title, and anyone authorised by any of them to do acts comprised in the copyright in the Moral Rights Material.

7. DELIVERY UP OF DOCUMENTS

- 7.1 The Treasury may, at any time and without notice, demand, either orally or in writing, the delivery to the Treasury of all documents in the possession or control of the Recipient which contain the Treasury's Confidential Information.

8. CONFLICT OF INTEREST

- 8.1 The Recipient warrants that no conflict of interest exists or is likely to arise in the performance of the Services.
- 8.2 The Recipient warrants that it will not permit any situation to arise or engage in any activity during the performance of the Services which may result in a conflict of interest.

9. SURVIVAL OF OBLIGATIONS

- 9.1 The obligations in this Deed are perpetual.

10. INDEMNITY

- 10.1 The Recipient indemnifies, and keeps indemnified, the Treasury against any claim, loss, liability or expense incurred by the Treasury which is caused or contributed to by:

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

SIGNED, SEALED and DELIVERED
by the Recipient in the presence of:

Signature of party

Signature of witness

Name