

Request for Proposal

CONDITIONS AND STATEMENT OF REQUIREMENTS

Version 3.2

Point of Sale Integrated Merchant Terminal Solutions RFP-10059101

Closing Date and Time: 17th July 2023 09:00am

This Request for Proposal is a procurement to which the *PDB 2019-05 Enforceable procurement provisions (EPP Direction)* applies: [Yes](#)

Contact officer

Respondents should refer requests for information or advice regarding this Request for Proposal to:

CONTACT NAME	Treasury Procurement
CONTACT POSTAL ADDRESS	52 Martin Place, Sydney NSW 2000 (127 Philip Street)
CONTACT PHONE	1800 769 289
CONTACT EMAIL ADDRESS	TSY.procurement@treasury.nsw.gov.au

Any information given to a respondent to clarify any aspect of this Request for Proposal will also be given to all other respondents if in the opinion of the Principal it would be unfair not to do so.

COPYRIGHT

This document has been prepared by NSW Procurement for Treasury for and on behalf of the Crown in right of the State of New South Wales. This document is protected by Crown copyright.

© State of New South Wales – NSW Procurement, for and on behalf of the Crown in right of the State of New South Wales, 2019.

All rights reserved. No part of this document may be produced by any process, electronic or otherwise, in any material form or transmitted to any other person or stored electronically in any form, without the prior written permission of the State of New South Wales, except as permitted under the Copyright Act 1968.

All inquiries should be directed to;

Chief Procurement Officer
NSW Procurement
NSW Treasury
52 Martin Place
Sydney NSW 2000
(Enter via 127 Phillip Street)
Tel: +61 2 9372 8203

Contents

REQUEST FOR PROPOSAL OVERVIEW	4
1. INTRODUCTION	4
2. DICTIONARY	5
3. RFP PREPARATION	6
4. ELIGIBILITY TO RESPOND	7
5. SUSTAINABILITY	7
6. RFP PROCESS	8
STATEMENT OF REQUIREMENTS	15
7. GENERAL	15
8. DEFINITIONS AND INTERPRETATION.....	15
9. MERCHANT TERMINAL SERVICES	17
10. INTEGRATION TO THE STATE'S BANKING PARTNERS	22
11. DATA SERVICES.....	22
12. SERVICE MANAGEMENT	23
13. RESILIENCE AND CONTINUITY OF SERVICE	24
14. SERVICE LEVELS	26

REQUEST FOR PROPOSAL OVERVIEW

1. Introduction

1.1 Background

- 1.1.1** This Request for Proposal (“**RFP**”) has been prepared by the Crown in the right of the State of NSW, acting through Treasury (“**Principal**”) and seeks responses from suppliers to supply to NSW Government the Goods/Services described in the Statement of Requirements

Across NSW Government physical sites, such as Service NSW service centres, NSW schools and NSW hospitals there is a need to accept card present payments.

The NSW government is seeking to improve the customer experience and efficiency of accepting these card payments by considering the introduction of modern merchant terminals and point of sale integration services that enable the merchant terminals to be integrated to the agency systems via cloud-based services with a minimal footprint in each site.

- 1.1.2** Enforceable Procurement Provisions

This procurement is covered by the Enforceable Procurement Provisions Directions 2019 (**EPP Directions**). A copy of the EPP Directions is available at <https://arp.nsw.gov.au/pbd-2019-05-enforceable-procurement-provisions>

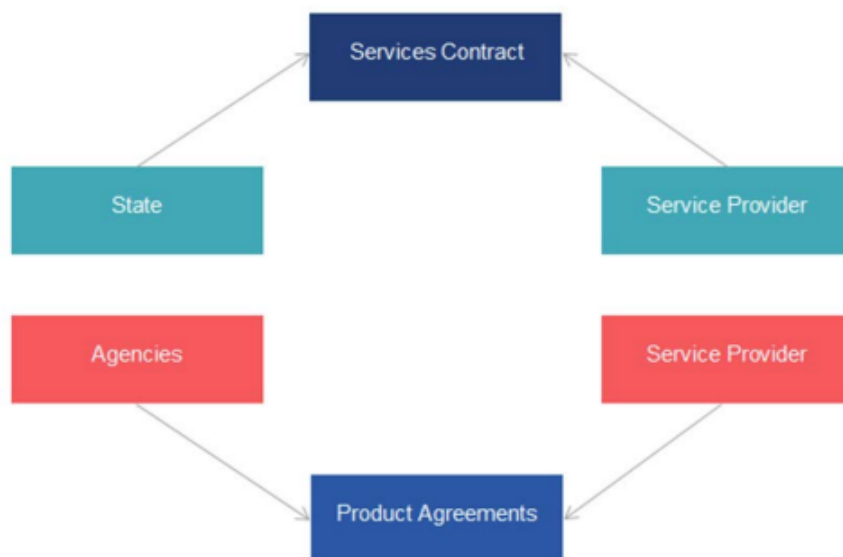
1.2 Contract and duration

- 1.2.1** Contractual Structure

The State will enter into a Services Contract with each of the successful Respondent(s) (‘Service Provider(s)’) for the delivery of the Services.

The Services Contract is a framework contract, as outlined in Diagram 1 below, under which an Agency is entitled to order Services from each Service Provider. This in turn creates a separate agreement between the Agency and the relevant Service Provider called a Product Agreement. Each Product Agreement incorporates terms and conditions from the Services Contract including the Whole of Government pricing and service levels.

Diagram 1: Services Contract Framework



- 1.2.1.1** Services Contract

The services contract in the form of a POS Integrated Merchant Terminal Solutions Agreement (“Agreement”) included in Part C of the RFP is the primary legal document that establishes the rights and the obligations of the State and the Service Provider(s) in the provision of the Services.

It is intended that the successful Respondent’s standard product terms and conditions will apply for the Services, subject to amendments to ensure that the Services Contract and the provisions

of the Schedules take precedence. To the extent of any inconsistency between the successful Respondent's standard terms and conditions, and other parts of the Services Contracts, the other parts of the Services Contract will take precedence, except to the extent that terms in the successful Respondent's standard terms and conditions are standard industry-wide terms or are required to enable the successful Respondent(s) to comply with applicable laws.

1.2.1.2 Term Duration

The term of the Services Contract is intended to be a period of 5 year duration with an optional extension period of 3 years.

1.2.1.3 Number of Service Providers

The State may appoint more than one Service Provider. The State intends to retain flexibility to engage other service providers at any time for the Services during or after the RFP.

1.2.2 Categories of agencies

The State requires Respondents to make Services offered under the Services Contract available to all GSF agencies.

1.2.3 Service Order Process

Agencies are entitled to Order Services under the Services Contract. A Product Agreement comes into effect when an Agency and the Service Provider execute a Service Order for Services.

1.3 RFP structure

This RFP only comprises of the following:

1.3.1 RFP Conditions and Statement of Requirements Part A

- (a) Sections 1 to 6, Request For Proposal Overview, providing the terms, conditions and processes governing the proposal and negotiation phase of the RFP;
- (b) Sections 7 to 14, Statement of Requirements, providing the detailed description of the Services to be provided by the successful respondents including technical specification, service levels and performance framework. Taken together with the accepted parts of the Respondent's response, it will form part of the Agreement.

1.3.2 RFP Response Part B

This is the Response prepared by the Respondent to enable the Principal to evaluate the Respondent's offers

1.3.3 Contract Part C

This is the Agreement which contains the terms and conditions under which the successful Respondent/s and the Principal agree that the successful Respondent/s will carry out the Principal's Activities.

1.4 RFP timetable

1.4.1 Given below is the Principal's provisional RFP program. The Principal may, at its absolute discretion amend the provisional RFP program.

Milestone	(dd/mm/yy)
RFP Issue	22/06/2023
RFP Close Date	17/07/2023
Short listed Tenderer Presentation (if Required)	26/07/2023
Supplier Selection	28/08/2023
Execution of Agreement	15/09/2023

2. Dictionary

The definitions used in this RFP and the rules of interpretation are set out in the Dictionary.

2.1.1 **ABN** means an Australian Business Number as provided in GST law.

2.1.2 **Aboriginal owned business** means that a business is recognised as Aboriginal-owned business by an appropriate organisation such as:

- [Supply Nation https://supplynation.org.au/](https://supplynation.org.au/) (either their “registered” or “certified” list).
- [NSW Indigenous Chamber of Commerce](#) (“NSWICC Assured” list only)
- Office of the Registrar of Indigenous Corporations.

- 2.1.3 Aboriginal Procurement Policy (APP)** is available at <https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy>. The objectives and targets of the APP include Aboriginal, and Torres Strait Islander owned business and Aboriginal and Torres Strait Islander peoples. The APP will create opportunities for Aboriginal owned business and encourage Aboriginal employment through the supply chain of NSW Government Agreements. This policy is applicable to this RFP.
- 2.1.4 Addendum** means an addition to this RFP made by the Principal before the Closing Date and Time.
- 2.1.5 Best and Final Offer or BAFO** means a final, revised proposal submitted by short listed Respondents in response to a request by the Principal to improve the quality of their proposal (whether in whole or part).
- 2.1.6 Closing Date and Time** means the closing date and time specified in this RFP for the receipt of Tenders.
- 2.1.7 Contract** means the Agreement core terms, associated schedules and modules.
- 2.1.8 Contact Officer** means the person named as the Contact Officer section of this RFP.
- 2.1.9 Enforceable Procurement Provisions (EPP)** **Enforceable Procurement Provisions (EPP)** mean a covered procurement as per the [EPP-Direction 25-November-2020](#)
- 2.1.10 GST** means a goods and services tax and has the same meaning as in the GST Law.
- 2.1.11 NSW Treasury** means the Crown in the right of the State of New South Wales acting through the NSW Treasury
- 2.1.12 Principal** means Treasury
- 2.1.13 RFP** means the Request for Proposal as named and identified on the first page of this Request for Proposal.
- 2.1.14 Respondent** means the supplier providing a response to this Request for Proposal
- 2.1.15 Response** means the response prepared by the Respondent to enable the Principal to evaluate the Respondent’s offers
- 2.1.16 Services** means the services described in the Statement of Requirements
- 2.1.17 Service Levels/Service Level Agreements** means the target Service Level Agreements (SLA’s) and Key Performance Indicators (KPI’s) set out in Agreement.
- 2.1.18 Tax Invoice** has the meaning given to it in the GST Act.
- 2.1.19 Proposal** means a proposal submitted by a respondent pursuant to this RFP (including the response document).

3. RFP preparation

3.1 Respondent to inform itself

Before submitting its response, a Respondent must:

- (c) examine the Request for Proposal and all information relevant to the risks and contingencies and other circumstances having an effect on its Response; and
- (d) satisfied itself as to the truth, correctness and sufficiency of its Response, that the response including any price offered is correct and that its Response covers the Request for Proposal conditions and all financial and practical matters and things necessary for the due and proper performance and completion of the work described in the Request for Proposal.

3.1.1 Assumptions made by Respondent

Where a Respondent has made assumptions in preparing its response, such assumptions must be set out in a supporting statement and submitted with the response.

3.1.2 Information supplied

The information contained in the Statement of Requirements has been provided with due care and is intended only for the respondent's guidance but is not guaranteed as being accurate.

4. Eligibility to respond

4.1 Legal entity of Respondent

- 4.1.1 A response must be submitted by a legal entity or, if a joint response, by legal entities, with the capacity to contract. The Principal will only enter into a contract with such legal entity or entities.
- 4.1.2 The Principal may ask a Respondent to provide evidence of its legal status or capacity to contract. If Respondent entities propose to contract in their capacity as trustees, such evidence may include copies of the relevant trust deeds. Any evidence requested is to be provided within 3 working days of the request.

4.2 Financial capacity of Respondent

- 4.2.1 The Principal reserves the right to have an independent company carry out a financial assessment of the Respondent. By responding to this RFP, the Respondent agrees to provide financial information if requested by the Principal, to enable this financial assessment.
- 4.2.2 The Principal reserves the right to reject any Response if the Principal judges the Respondent to not to have appropriate financial capacity.
- 4.2.3 Where the Principal forms the view that the Respondent does not have the appropriate financial capacity, the Principal reserves the right to make acceptance of any Proposal conditional upon the Respondent entering into a bank, parent company or personal guarantee, or an unconditional performance bond in a form satisfactory to the Principal.

4.3 ABN requirements

- 4.3.1 The Principal will not enter into a contract with a respondent that does not have an Australian Business Number and is not registered for GST. Respondents must be registered for GST and state their ABN in their response.

4.4 Commercial capabilities

- 4.4.1 Respondents must be commercially capable of providing the services as per this RFP, including obtaining the insurances required by the Principal.

5. Sustainability

5.1 Sustainability

Aboriginal Procurement Policy

- The NSW Government has released the *Aboriginal Procurement Policy*. This policy is applicable to this RFP.
- Under the Aboriginal Procurement Policy, Respondents must direct at least 1.5% of the project value to Aboriginal Participation. Respondents must do one or a combination of the following:
 - Subcontract at least 1.5% of the contract value to Aboriginal businesses
 - Ensure that Aboriginal or Torres Strait Islander peoples make up least 1.5% of the contract's Australian based workforce that directly contribute to the contract
 - Apply at least 1.5% of the of the contract value to educating, training or capability building for Aboriginal staff or businesses directly contributing to the contract.
- Respondents must submit an Aboriginal Participation Plan in accordance with the RFP Response Document.

SME and Regional Procurement Policy

- The NSW Government has released the *Small and Medium Enterprises and Regional Procurement Policy*. This Policy is applicable to this RFP.
- Under the Small and Medium Enterprises and Regional Procurement Policy Respondents must submit a SME and Local Participation Plan in accordance with the RFP Response Document which details how the Respondent will support the Government's economic, ethical, environmental and social priorities through SME participation.

Modern Slavery

Respondents must complete the Modern Slavery Response Schedule provided in Appendix A of the RFP Response Document. Respondents must also provide a modern slavery action plan if requested by the Principal.

Small Business Shorter Payment Terms Policy

- On 1 July 2021, the NSW Government introduced the [Small Business Shorter Payment Terms Policy](#) (the **policy**). To determine the applicability of the policy to a potential contract with the Respondent, the Respondent must declare in its proposal response whether at the time of submitting its proposal, it is an entity which:
 - (a) has 200 or more full time equivalent employees (excluding registered charities and not-for-profit organisations); or
 - (b) is a 'reporting entity' within the meaning of the Payment Times Reporting Act 2020 (Cth).
- If a Respondent declares that it meets either of the above conditions, the Respondent is considered to be a Large Business for the purpose of the policy, and the agency must include in any contract with the Respondent, the requirements set out in the policy. This includes amongst other things, that the Respondent must pay small business subcontractors within 20 business days following receipt of a correctly rendered invoice from the small business subcontractor.

6. RFP process

6.1 Conformity of proposals

The Principal seeks conforming Proposals (**Conforming Proposals**). Conforming Proposal means a Proposal that conforms in all material aspects to:

- (a) The Statement of Requirements;
- (b) The terms and conditions of the Agreement; and
- (c) Other parts of this RFP, except those parts pertaining to the Principal's obligations under the RFP; and
- (d) is (ignoring any immaterial departures), in the prescribed form.

Non-Conforming Proposals may be excluded from the RFP process without further consideration at the Principal's discretion.

6.2 Alternative Proposals

Respondents may, if they choose, submit an alternative Proposal (**Alternative Proposal**). Alternative Proposal means a "Non-Conforming Proposal" that does not fully meet the conditions of the RFP but purports to provide a better value for money solution. The alternative Proposal may be a solution that is consistent with the scope of the outcome sought by the RFP but is not the anticipated solution in the RFP, such as different proposals that offer different benefits and different pricing structures.

- 6.2.1** Alternative Proposals will only be considered if submitted in conjunction with a Conforming Proposal. An Alternative Proposal must be clearly marked "Alternative Proposal".

6.3 Proposal lodgement

- 6.3.1** Responses (including all supporting information, if any) must be submitted electronically in accordance with this RFP and fully received by the Closing Date and Time. Respondents must complete the response document and must not amend any of the questions provided. Prices, responses and other information provided in the response must be in writing and in English. The quoted price must be in Australian dollars and must indicate whether the price is inclusive or exclusive of GST.

- 6.3.2** The Response must be lodged electronically on the NSW Government eTendering website:

<https://tenders.nsw.gov.au>

Login in as an *eTendering* system user, locate the web page for this RFP, and follow any issued instructions to lodge the Response. The lodgement can only be made by a registered system user of the NSW Government eTendering system. Signatures are not required for any response

submitted to the NSW Government eTendering website. A Respondent must ensure that a response is authorised by the person or persons who may do so on behalf of the Respondent and appropriately identify the person and indicate the person's approval of the information communicated.

6.3.3 Electronically submitted responses may be made corrupt or incomplete, for example by computer viruses. The Principal may decline to consider a response that cannot be effectively evaluated because it is incomplete or corrupt. Note that:

- (a) To reduce the likelihood of viruses, a Respondent must not include any macros, applets, or executable code or files in a response.
- (b) A Respondent should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.

Access to the eTendering system is available 24 hours a day, 7 days per week, except for periods of programmed maintenance or outages. Respondents should ensure that lodgement is made as soon as possible in the RFP period.

The Principal will not be responsible in any way for any loss, damage or corruption of electronically submitted Responses.

Respondents should advise the NSW Procurement Service Centre promptly in writing if it experiences any persistent difficulty with submission of responses

NSW Procurement Service Centre
L35, 52 Martin Place
Sydney NSW 2000
nswbuy@treasury.nsw.gov.au
1800 679 289.

If there is an extended defect or failure of NSW Procurement email systems or the NSW Government e-Tendering website and the Principal is advised, the Closing Date and Time may be extended provided that, in the view of the Principal, the RFP process will not be compromised by such an extension.

6.3.4 Respondents should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFP

6.4 Addenda to RFP

6.4.1 If, for any reason the Principal, at its sole discretion, requires the RFP to be amended before the Closing Date and Time, an addenda will be issued. In each case, an addenda becomes part of the RFP

6.4.2 The Principal, during the RFP period may issue addenda altering the RFP. In such cases, it is the obligation of the Respondent to verify if any addenda were issued prior to the Closing Date, even if a Proposal has already been submitted.

6.4.3 Respondents must check the web site address, <https://tenders.nsw.gov.au> and download the addenda.

6.4.4 If the addendum is issued after the Closing Date and Time, only respondents to the RFP will be notified of the addendum and given an opportunity to amend their Response.

6.5 Clarifications

6.5.1 At any time after the Closing Date and Time and before the Principal accepts any responses, the Principal may ask the Respondent to provide additional information or to clarify any aspect of their response and consider Respondents' responses as part of their Proposals.

6.5.2 Any instruction resulting from such requests may, at the Principal's sole discretion, be issued in writing to all Respondents in the form of an addendum, which shall then become part of the RFP

6.5.3 Respondents must provide a response to any questions within two (2) business days or as otherwise requested.

6.5.4 Respondents must not use clarification requests as an opportunity to gain an advantage over other Respondents by reviewing or materially enhancing their responses.

6.6 Electronic responses

- 6.6.1** A response submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000* (NSW), and given no lesser level of confidentiality, probity and attention than responses lodged by other means.

A respondent, by lodging a response (electronically or otherwise), is taken to have accepted conditions shown in the Conditions and rules on the RFP website at <https://tenders.nsw.gov.au/?event=public.termsOfUse>.

6.7 Ownership of responses

- 6.7.1** All information submitted in response to the RFP shall become the property of the Principal. All such material shall be treated as “Commercial in Confidence” and will only be disclosed for the purposes of evaluation or as required by law or government policy. The Principal may use or make copies of the responses (including providing access to the Proposal to any third parties) for any purpose related to the evaluation of the Proposal and for the Principal’s internal procurement purposes.

6.8 Response validity period

- 6.8.1** The response will remain open for acceptance by the Principal for a period of 6 months from the Closing Date and Time.

6.9 Late proposals

- 6.9.1** Late Responses received after the Closing Date and Time for Responses (and includes a part Response which is received by the Closing Date and Time) should not be considered except where the Principal is satisfied that the integrity and competitiveness of the RFP process has not been compromised. The Principal shall not penalise any supplier whose Response is received late if the delay is due solely to mishandling by the Principal.

6.10 Extension of Closing Date and Closing Time

The Principal may, in its discretion, extend the Closing Date and Closing Time.

6.11 Probity and ethics

- 6.11.1** Respondents must comply with the requirements of the Supplier Code of Conduct, available at: <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>.
- 6.11.2** Respondents must disclose any findings of dishonest, unfair, unconscionable, corrupt or illegal conduct against them, their directors or management in the response document.
- 6.11.3** Respondents must disclose any conflicts of interests in the response document.
- 6.11.4** If a Respondent, or any of its directors, officers, employees, agents or sub-contractors is found to have:
- (a) offered any inducement, rebate, uncommercial/inflated pricing or reward to any public servant or employee, agent or subcontractor of the Principal or the NSW Government in connection with this RFP or the submitted Response;
 - (b) committed corrupt conduct as defined in the Independent Commission Against Corruption Act 1988 (NSW);
 - (c) a record of unethical or collusive or unethical behaviour or alleged unethical or collusive or biased behaviour;
 - (d) any findings of dishonest, unfair, unconscionable, corrupt or illegal conduct against them or any actual or perceived conflicts of interests;
 - (e) not complied with clause 6.11.2 or 6.11.3; or
 - (f) not complied with the requirements of NSW Government Procurement Board Direction - PBD 2017-07 Conduct by Suppliers or the Supplier Code of Conduct,

the respondent’s response and any subsequent response may be excluded from the response process without receiving further consideration.

- 6.11.5** The Principal may, in its discretion, invite a respondent to provide written comments within a specified time before the Principal excludes the respondent’s response under clause 6.11.4.
- 6.11.6** If the Principal becomes aware of any of the conduct in clause 6.11.4 or an improper conflict of interest by a Respondent after relevant agreements have been executed, then the Principal reserves the right to terminate any of those agreements.

6.11.7 Respondents acknowledge that pursuant to the EPP Directions, a government agency may exclude a supplier from a procurement (including the response process) if the agency has a reasonable belief that:

- (a) the supplier is bankrupt or insolvent;
- (b) the supplier has made one or more false declarations;
- (c) there has been a significant deficiency or persistent deficiencies in the performance of any substantive requirement or obligation under a prior contract;
- (d) the ICAC (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the supplier has engaged in corrupt conduct
- (e) the supplier has failed to pay taxes;
- (f) the supplier has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or by a fine of \$200,000 or more; or
- (g) the supplier has been found guilty of professional misconduct or unprofessional conduct in a jurisdiction in Australia.

6.12 Acknowledgement and disclaimer

6.12.1 Respondents acknowledge and agree that the Principal, its officer, employees, advisors and agents:

- (a) make no express or implied representation or warranty as to the currency, accuracy, reliability correctness, or completeness of the information contained in this RFP;
- (b) make no express or implied representation or warranty that any estimate or forecast will be achieved or that any statement as to future matters will prove correct; and
- (c) to the extent permitted by law, expressly disclaim all liability arising from information contained in or omitted from this RFP or otherwise provided to a Respondent.

6.12.2 Respondents acknowledge that, notwithstanding any other provision of this RFP, Principal reserves the right:

- (a) At any time, to alter, amend or vary this RFP and the process outlined in this RFP
- (b) If it is in the public interest to do so, to suspend, discontinue or terminate this RFP process or any part of it
- (c) To require additional information or clarification from any Respondent or anyone else, or provide additional information or clarification to any Respondent or anyone else
- (d) To allow, or refuse to allow, the successful Respondent to enter into the proposed contract in the name of a different legal entity from that which provided a response to this RFP, and
- (e) To alter, amend or vary the terms of any draft contract associated with this RFP at any time.
- (f) For the avoidance of doubt, Principal may exercise its rights under this clause and elsewhere in this RFP at any time and in its absolute discretion, unless this RFP or the Public Works and Procurement Act, 1912 expressly provides otherwise.

6.13 No contract

Respondents acknowledge that:

- (a) It is entirely their responsibility to obtain all information necessary or convenient for the preparation of their responses;
- (b) They have not relied on any express or implied statement, representation or warranty as to the truth, accuracy or completeness of the information contained in this RFP, or otherwise provided to a Respondent by the Principal or on the Principal's behalf.

6.13.1 It is not intended by the Principal or the Respondent that an issue of a RFP or a response to it commits, obligates or otherwise creates a legal relationship, contract, agreement or other arrangement in respect of the subject of this RFP. Nothing in this RFP or in the Respondent's response obliges the Principal to enter into any agreement with the Respondent, creates a "process contract" or other implied contract, obliges the Principal to consider or accept any response, stops the Principal from considering a non-conforming response, or prevents the Principal from changing the way it manages this RFP or evaluates responses.

- 6.13.2** In the event that a court were to find that this RFP has given rise to some form of contractual relationship between the Principal and a Respondent, the Respondent acknowledges that the Principal's liability for any breach of the terms of such contract is limited to the Respondents' costs of participation in the RFP process, and does not include liability for any lost profit, lost opportunity or other losses of the Respondent.

6.14 Cost of Respondent's participation in the RFP

- 6.14.1** The Respondent is liable for the costs of submitting a Response to this RFP and acknowledges that the Principal will not be liable to it for any fees, expenses or costs incurred by it as a result of its participation, including where the RFP has been discontinued.

6.15 Evaluation process

- 6.15.1** Responses will be assessed against the evaluation criteria listed below. Respondents are advised to respond clearly to all the evaluation criteria listed in this RFP. Responses that do not include a fully completed response, in particular those responses which do not contain sufficient information to permit a proper evaluation to be conducted, or electronic responses that cannot be effectively evaluated because the file has become corrupt, may be excluded from the response process without further consideration at the Principal's discretion.

6.16 Evaluation criteria

- 6.16.1** The evaluation criteria for this RFP (which include but are not limited to) are:

- (a) Price: 20%
- (b) Non-Price: 80%

Mandatory criteria - The mandatory criteria are not point scored and each is assessed as compliant or non-compliant. Failure to comply with the stated mandatory criteria will result in automatic exclusion from the proposal without further consideration.

- (a) Respondents must provide hardware, software, services and support arrangements for:
 - (i) merchant terminals to support the acceptance of card payments in agency locations, and
 - (ii) point of sale integration services for the merchant terminals that enable agencies to perform cloud-based integration of their payment solutions. This must not require any software or hardware to be installed in agency locations in addition to the merchant terminal.
- (b) The solutions must be authorised or currently undergoing authorisation/certification activities by Westpac and/or ANZ to use the merchant acquiring services arrangement provided under the State's existing financial service agreements with Westpac and/or ANZ.
- (c) The respondents must provide responses that are:
 - (i) Compliant with applicable NSW Procurement Policies.
 - (ii) Compliant with applicable legislation and standards (including PCI DSS compliance).
 - (iii) Compliant with the NSW Government Cyber Security policy.

Non mandatory criteria – The evaluation criteria for this RFP that relate to price will account for 20% of the total evaluation score. The evaluation criteria for this RFP that do not relate to price will account for 80% of the total evaluation score.

Non mandatory non pricing criteria listed below:

- (a) Overall ability to meet Statement of Requirements.
- (b) Capability and capacity to deliver, including previous contract experience delivering goods and services in a context relevant to this RFP.
- (c) NSW Government Small and Medium Enterprise and Regional Procurement Policy.
- (d) NSW Aboriginal Procurement Policy.

6.17 Acceptance or rejection of responses

- 6.17.1** Any response lodged with the Principal will constitute an irrevocable offer by the Respondent, which remains open and capable of acceptance until six months from the RFP closing date.
- 6.17.2** The Principal is not bound to accept the lowest price or any Proposal response.

- 6.17.3** Acceptance of a response or part response will be subject to the issue of a letter of acceptance by the Principal to the successful respondent and the signing of an agreement by both parties.
- 6.17.4** If the Principal rejects all the Proposals received it may invite fresh Proposals based on the same or different criteria (specifications and details contained in Alternative Proposals will not be used as the basis for the calling of new Proposals).
- 6.17.5** If no Respondent has satisfied the evaluation criteria of this procurement, the Principal expressly reserves the right to accept, in its discretion, either or both of the following:
- (a) Any Alternative Proposal or part of an Alternative Proposal, when submitted with a Conforming Proposal; and
 - (b) Any other Non-Conforming Proposal or part of a Non-Conforming Proposal (not, in either case, being an Alternative Proposal or part of an Alternative Proposal) that, in the Principal's opinion, is substantially a Conforming Proposal.

6.18 Proposal negotiations

- 6.18.1** Before making any determination as to acceptance or rejection of Proposals the Principal may, at its discretion, elect to conduct negotiations with preferred or selected Respondents, including those who have submitted Alternative Proposals or who have submitted Conforming Proposals, to mutually improve outcomes.
- 6.18.2** The Principal may enter into negotiations to amend standard conditions of contract contained in the Agreement and associated schedules.
- 6.18.3** The Principal may at its absolute discretion elect to conduct Proposal negotiations with more than 1 Respondent in the event that it decides that the closeness of the Proposals or timing constraints warrants doing so.
- 6.18.4** If the Principal deems it necessary, the Principal may elect to run a Best and Final Offer (**BAFO**) process as part of the RFP. BAFO means a final, revised proposal submitted by short listed Respondents in response to a request by the Principal to improve the quality of their proposal (whether in whole or part).

6.19 Appointment of suppliers

- 6.19.1** The Principal reserves the right to appoint more than one supplier under the proposed Agreement to establish a panel of suppliers.

6.20 Exchange of information between Government agencies

- 6.20.1** By lodging a Proposal the respondent will authorise the Principal to make information available, on request, to any NSW government agency. This includes information dealing with the respondent's performance on any prior contract that has been awarded. Such information may be used by the recipient NSW Government agency for assessment of the suitability for pre-qualification, selective tender lists, expressions of interest or the award of a contract.
- 6.20.2** The provision of the information by the Principal to any other NSW Government agency is agreed by the respondent to be a communication falling within section 30 of the *Defamation Act 2005* (NSW), and the respondent shall have no claim against the Principal and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the respondent arising out of the communication.

6.21 Disclosure information and confidentiality

- 6.21.1** Following the Principal's decision, all respondents will be notified in writing of the outcome of their responses.
- 6.21.2** Details of this response and the outcome of the response process will be disclosed in accordance with the *Government Information (Public Access) Act 2009* (NSW).
- 6.22** The Principal may require persons and organisations wishing to access or obtain a copy of this **RFP** or certain parts of it, to execute a deed of confidentiality (in a form required by or satisfactory to the Principal) before or after access is granted or a copy is provided.
- 6.23** Regardless of whether a deed of confidentiality is executed in relation to this RFP, all persons obtaining or receiving this RFP must:
- (a) keep, and must ensure that its representatives keep, the content of this RFP and any other information provided to Respondents by or on behalf of the Principal in connection with the RFP confidential; and

- (b) not disclose or use that information except as required for the purpose of developing a response to the RFP.

6.24 The Respondent shall ensure that any of its representatives, or any other person to whom it supplies this RFP and any other documents issued in relation to the RFP will, in relation to use of, return of and liability for that material and documentation, be bound by the same terms in or to the same effect as those contained in this RFP.

6.25 The obligations of the Respondent under this clause survive termination or expiration of this RFP

6.26 Complaints procedure

6.26.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from response or unfairly disadvantaged by the RFP process or the Statement of Requirements and in accordance with NSW Procurement Board Complaint Management Guidelines, it is invited to write to:

Chief Procurement Officer

NSW Procurement

The Treasury

52 Martin Place, Sydney NSW 2000

Tel +61 2 9372 8203

6.26.2 NSW Government agencies are responsible for resolving complaints concerning their procurement actions at the appropriate agency level, usually commencing at the area undertaking the procurement. Any complaint will be handled in accordance with *Public Works and Procurement Act 1912* (NSW) and Procurement Board Complaint Management Guidelines.

A supplier who lodges a written complaint alleging a breach relating to the international procurement agreements can, after attempting to resolve the matter with the agency, apply to the Supreme Court for an injunction requiring the agency to comply with the EPP Direction.

STATEMENT OF REQUIREMENTS

7. General

- (a) The Service Provider must provide EFTPOS terminals and point of sale integration services as described in the mandatory criteria specified in 6.16.1 and this Statement of Requirements including:
- (1) EFTPOS terminal hardware, including any other technology and peripheral equipment required to operate and integrate the terminals;
 - (2) implementation, support and maintenance of EFTPOS terminals and other technology used to facilitate the receivables services;
 - (3) technology services to support the cloud-based Point of Sale integration between the EFTPOS terminals and the State's front office, payments, billing and receivables management systems
 - (4) data, fraud and security services;
 - (5) data services; and
 - (6) service management services,
 - (7) (together known as **Merchant Terminal Services**).
- (b) The Service Provider must:
- (1) offer the EFTPOS terminal hardware to be procured by the State, along with support and maintenance services for hardware, software and associated services; or
 - (2) provide EFTPOS terminals-as-a-service on a monthly cost basis, which is inclusive of support, maintenance, software and associated services; or
 - (3) offer both an option to procure EFTPOS terminal hardware and an EFTPOS terminals-as-a-service monthly cost model.

Where the Service Provider is offering EFTPOS terminals-as-a-service, the State or Agency should only be required to pay for an EFTPOS terminal for the period that the EFTPOS terminal is deployed by the State or Agency.

- (c) The Merchant Terminal Services include the products, services, tasks and requirements specified in the remaining sections of this Statement of Requirements which are a list of the main and minimum requirements of the Merchant Terminal Services, unless otherwise specified as Desirable or Optional. The Parties agree that the sections of this Statement of Requirements including the "Minimum requirements" do not contain an exhaustive description of the Merchant Terminal Services and that each section does not contain an exhaustive description of that part of the product and service described in that section. This Statement of Requirements shall be interpreted accordingly.

8. Definitions and interpretation

8.1 Definitions

Terms defined elsewhere in this Agreement and the Product Agreement have the same meaning in this Statement of Requirements unless the context requires otherwise. In addition, the meaning of the terms used in this Statement of Requirements are set out below.

Term	Meaning
24/7/365	24 hours a day, 7 days a week, 365 days per year.
Best Available Time	where the relevant Banking Industry Code or other industry practice allows for the relevant transaction, settlement or data Services to be provided in real-time, the Service Provider will

provide the Services in real-time or, where this is not possible, the earliest of the following:

- 1 the earliest time and date that the Service Provider provides the equivalent product or service to any of its corporate or government clients in the market; and
- 2 where the best available Banking Industry Code or other industry practice only allows for the relevant settlement or data Services to be provided as batched, intra-day or other timing, the Service Provider will provide the Services as the transaction is cleared and settled or notified (as applicable) to the Service Provider in accordance with that practice.

BSB	bank state branch, a bank code.
------------	---------------------------------

Chargeback	a refund made by a card issuer to a cardholder.
-------------------	---

Cluster	an arrangement where a number of Agencies operate in a group in connection with the receipt of Services.
----------------	--

Customer	any person or entity which wishes to make a payment to an Agency.
-----------------	---

Customer Card	<ol style="list-style-type: none">1 any form of credit, charge, debit, non-cash payment facility or other payment, card, device, token, or digital wallet whether physical or virtual;2 includes so called digital wallets and mobile payment devices including those branded as Apple Pay, PayPal, and Google Pay;3 includes those issued or settlement through payment schemes including American Express, China UnionPay, Diners Club International, EFTPOS, JCB, Mastercard and Visa, and which the State and the Agency determine from time to time is an acceptable payment type for payments to that Agency.
----------------------	---

EMV	a Card Scheme technical and security standard governing chips embedded in a physical Card and emulated smart cards.
------------	---

EFTPOS	electronic funds transfer at point of sale.
---------------	---

Machinery of Government Change	Has the meaning given in the Services Contract.
---------------------------------------	---

Merchant Terminal Services	as defined in section 7(a) .
-----------------------------------	--

MOTO	“Mail Order/Telephone Order” transactions
-------------	---

NFC	near-field communications technology, which allows data to be read by devices without contact.
Other Service Provider	any other service provider to the State or an Agency of banking, financial, payments and related products and services including: <ol style="list-style-type: none"> 1 any other service provider providing products and services equivalent to the Merchant Terminal Services; and 2 any other service provider providing bank accounts to the State and Agencies.
PCI DSS	Payment Card Industry Data Security Standard
Self-service	An Agency Customer can make a payment without the assistance of a member of staff from the relevant Agency.
Service Hours or Time	24/7 unless a different time is specified in which case it means the hours and time in the relevant specified location.
Services	has the meaning given in the Services Contract.
Services Contract	means any contract entered into by the State and any successful Respondent to provide the Services as a result of the procurement process. The Service Contract is provided as Part C of this RFP.
Scheduled Downtime	as defined in Section 14.7.

8.2 Interpretation

- (a) The Service Provider must not unreasonably withhold or delay its agreement to any matter which is to be agreed by the Service Provider under or pursuant to this Statement of Requirements, provided the agreement does not materially adversely affect the Service Provider's rights and obligations in respect of this Agreement, a Product Agreement or the Services, require the Service Provider to incur material additional cost and expense without reasonable compensation or incorporate less favourable (to the Service Provider) Interest Rates, Fees and Charges.
- (b) All Merchant Terminal Services including helpdesk services and availability of Service Provider Systems are to be provided 24/7/365, subject to Scheduled Downtime for Service Provider Systems, unless a different period is specified in this Statement of Requirements and all references to Service Hours are 24/7, unless a different time is specified.

9. Merchant Terminal Services

9.1 EFTPOS terminals, Point of Sale integration services and payments

The Service Provider must provide EFTPOS merchant systems and terminals to process Customer Card receivable transactions.

Minimum requirements (*unless otherwise specified as Desirable or Optional*):

9.1.1 EFTPOS terminals

- (a) provision of a premium Customer Card present acceptance terminal which offers enhanced capability and Point of Sale integration with Agency Point of Sale technologies and other business systems;

- (b) provision of a kiosk/self-service Customer Card present acceptance terminal, where the kiosk offers the option of integration with Agency Point of Sale solutions and other business systems. *This requirement is Desirable;*
- (c) provision of a self-service Customer Card present acceptance terminal for donations; where Customers are able to select the amount they wish to donate and have the ability to receive a tax receipt for the donation via email, SMS or print. *This requirement is Desirable;*
- (d) provision of a self-service Customer Card present contactless card reader terminal with car park pay station integration capability for acceptance of parking payments. *This requirement is Desirable;*
- (e) provision of a Soft POS Customer Card present acceptance capability, where an Agency supplied mobile device is used for card acceptance via the NFC reader on the mobile device using a mobile App provided by the Respondent. *This requirement is Desirable;*
- (f) features and operational functionality that ensure accessibility for people with a disability, notably those with a visual impairment, as set out in the [Australian Payments Network Guidelines for Accessibility](#);
- (g) provision to provide customers with a physical record of charge receipt;
- (h) provision to present a QR code configured by the State or Agency that can be scanned using the customer's mobile device. QR code may be either static or dynamic based on integration with an Agency system. *This requirement is Desirable.*
- (i) provision for Agencies to disable the MOTO function as needed. *This requirement is Desirable.*
- (j) provision for Agencies to disable on-terminal refunds, on-terminal transaction voiding, and on-terminal sales amount entry functions as needed. *This requirement is Desirable.*

9.1.2 Point of sale integration services

- (a) Point of Sale integration must provide the ability:
 - (1) for the EFTPOS terminals to integrate with the Agency's locally deployed hardware and software using wired and wireless technologies; and
 - (2) for Agency systems to integrate with the EFTPOS terminals via cloud based APIs without any requirement for software operating on a locally deployed PC or another local device that is in addition to the EFTPOS terminal; and
 - (3) for multiple Agency systems to direct payment requests to specific terminals, facilitate payments, and receive payment confirmations, without the need for the payment amount to be manually entered into the terminal; and
 - (4) for the EFTPOS terminals to support a number of methods of connectivity, including but not limited to: connectivity to a local machine via USB or Bluetooth, connectivity to an Agency supplied network via Wi-Fi or wired (Ethernet), connectivity to one or more mobile networks via 3G, 4G or 5G. The Agency must be able to configure primary connectivity methods and one or more fallback methods.

9.1.3 Payments

- (a) The EFTPOS terminal must support all major protocols and standards for card acceptance, and be able to accept a broad range of digital wallets and physical cards, including all those issued or settled through payment schemes and related product offerings, where required by Agencies;
- (b) enable an Agency to control which payment schemes are accepted for payment;
- (c) accept all Customer Card forms including physical cards and digital wallets;
- (d) support all Customer Card payment methods including NFC and EMV;
- (e) be able to apply a surcharge at the point of the transaction, including:
 - (1) ability to apply a differential surcharge depending on the card's Scheme (where a Scheme is defined in RBA Standard No. 3);
 - (2) ability to apply a differential surcharge for other card schemes such as American Express, Diners, JCB and China UnionPay; and

- (3) ability for Agencies to configure whether they will surcharge and the amount they will surcharge for a given scheme defined above.
- (f) enable Agencies to apply least cost routing/merchant choice routing (see: 9.4);
- (g) verify payments in real-time and notify the operator and any integrated system that the payment was successful / unsuccessful;
- (h) provide capability for stand-in processing, such that an EFTPOS terminal can operate when the network or other systems are not available; must support different stand-in limits for different Agencies or locations, the EFTPOS terminal must store and forward the payment transactions when connectivity is re-established, subject to payment scheme rules for offline transactions. *This requirement is Desirable*;
- (i) enable Agencies to configure if refunds can be provided through the EFTPOS terminal; and
- (j) meet reporting requirements by Agencies for reconciliation, customer service and other reasons.

9.2 Deployment, installation, support and maintenance services

The Service Provider must provide a robust support and maintenance program for Agencies, given the size and scope of EFTPOS terminals.

Minimum requirements (*unless otherwise specified as Desirable or Optional*):

- (a) supply and where necessary install EFTPOS terminals at the locations required by Agencies of the type required by Agencies (e.g. standalone 'desk' based payment, integrated and mobile terminals), where the installation process can be performed by non-technical Agency personnel by following simple instructions provided by the Service Provider this may be acceptable;
- (b) provision of EFTPOS terminals-as-a-service on a temporary basis to meet short term demand. *This requirement is Desirable*;
- (c) robust support and maintenance program for hardware and software provided remotely and on site at Agency physical locations;
- (d) maintain and where necessary replace EFTPOS terminals to minimise the impact on Agency operations;
- (e) provide replacement equipment when the equipment is faulty;
- (f) maximise operational up times;
- (g) provision of devices and processes that are compliant with industry and regulatory security and operating standards on an ongoing basis;
- (h) provision of an established and proven process for the rollout of new devices and upgrades;
- (i) provision for Agencies to test newly installed devices and software.
- (j) provision of periodic updates and refreshment of terminals and provision of software updates and releases;
- (k) manage and mitigate against system outages;
- (l) prior notification of all planned system outages and unplanned outages (when known), relating to any component of the Merchant Terminal Services (including details of the relevant component) to be advised to the State and Agencies;
- (m) any planned system outages are to be scheduled during the time periods defined in section 14.7 related to Scheduled Downtime; and
- (n) notify Agencies within one hour via channel nominated by Agencies if the Service Provider is experiencing issues with a Service Provider System, including the nature of the issue and the anticipated correction time:
 - (1) notifications to continue until the Agency acknowledges the notification;
 - (2) notification updates provided at regular intervals until the issue has been resolved; and
 - (3) once the identified fault is corrected, the Agency to be notified and the notifications to continue until the notification is acknowledged by the Agency.

9.3 Merchant Terminal Services – additional requirements

Without limiting requirements included elsewhere in this Statement of Requirements for Customer Card acceptance, the Service Provider must provide payment acceptance capability and functionality for digital wallets, mobile payment devices and other Customer Cards (as defined) which are not physical Cards (New Payment Devices) including as they are introduced to the Australian market and including those issued by domestic and international payment providers and across the various payment channels described in this Statement of Requirements.

Minimum requirements:

- (a) accept payments from Customers using New Payment Devices across payment channels with acceptance capability and functionality delivered through device-agnostic applications and complying with the other sections of this Statement of Requirements relating to Customer Cards including New Payment Devices;
- (b) clear process, timeline, systems and commitment to introduce payment acceptance services for New Payment Devices across all customer interface / channel enablers, as they enter the Australian market;

9.4 Least cost routing

The Service Provider must provide the functionality to, and must process, Customer payments via the cheapest channel in order to reduce merchant services fees to an Agency and the need for surcharging a Customer by an Agency, where it elects to do so.

Minimum requirements:

- (a) process Customer payments via the cheapest merchant routing channel;
- (b) provision of dynamic routing to not be hard coded to EFTPOS terminals;
- (c) ability for the Agency to configure when least cost routing will be applied;
- (d) ability for the State or an Agency to configure least cost routing based on the scheme of the debit card presented; and
- (e) ability for the State or an Agency to configure least cost routing based on the transaction amount. *This requirement is Desirable.*

9.5 Merchant Terminal Management Services

The Service Provider must provide Merchant Terminal Management Services to enable the State and the Agencies to manage the deployed Merchant Terminals. The Merchant Terminal Services must include an online service that can be accessed by the Agencies and the State.

Minimum requirements:

- (a) provide visibility of all deployed terminals, including data that identifies which Agency is responsible for the terminal and the location the terminal is deployed;
- (b) provide visibility of the current hardware, firmware and software version of the terminal, identify whether updates are available and provide the ability to force an update or schedule an update;
- (c) provide the ability to remotely run diagnostics, restart and remotely configure a terminal;
- (d) provide the ability to reallocate a terminal to a different Agency;
- (e) provide visibility of the current status of the operation of the terminal, including whether it is currently active, whether any faults have been detected, the current battery charge, and network connectivity status and network strength;
- (f) provide visibility of the statistics for each terminal, including information about the number of successful and unsuccessful transactions, identified faults, upgrades and restarts, this information must include audit and timestamp information to identify when events occurred and the identity of who performed changes;
- (g) support differentiated access control rules and role-based security, such that an Agency user may be constrained to only view and manage information relating to terminals allocated to that Agency, or they may be given permission to view and manage terminals across multiple agencies, or a user may only be permitted to view data, or require secondary authorisation to perform particular tasks;
- (h) provide the State with the ability to assign administrators who can manage the provisioning and deprovisioning of users to the Merchant Terminal Management Services;

- (i) provide appropriate security controls to ensure that only authenticated users can access the Merchant Terminal Management Services, and that appropriate confidentiality, audit and access controls are in place to protect data at rest and in transit, and to protect the integrity of the system;
- (j) provide full audit trails of User and authoriser activity for data access, configuration changes and payment transactions; and
- (k) **(other general requirements)** any online system or host to host system provided by the Service Provider must meet the following minimum requirements:
 - (1) provide security features including password access with minimum password strength criteria and additional security for payment functionality (including multi-factor authentication, User limits etc.), and encryption of data to ensure confidentiality and integrity of data being exchanged;
 - (2) includes access and authorisation controls;
 - (3) include secure back-up arrangements for service continuity and back-up of data; and
 - (4) provide an end-to-end testing environment to be available on request by the State or an Agency for the testing of a change prior to its implementation including data exchange and administration and reporting functionality.

9.6 Data, Governance and Security

The Service Provider must:

- (a) **(cyber security)** comply with the NSW Government Cyber Security Policy: <https://www.digital.nsw.gov.au/policy/cyber-security/cyber-security-policy>
- (b) **(PCI DSS compliance)** provide PCI DSS compliance validation documents and ongoing PCI DSS compliance schedule for all relevant hardware and software components to protect the integrity of payment card data, and ensure that payment data breaches are minimised.

Minimum requirements:

- (1) provision for ongoing compliance and adherence to payment card industry standards;
 - (2) provision of PCI DSS compliance validation documents; and
 - (3) meet maintenance of PCI DSS compliance requirements.
- (c) **(fraud management)** provide fraud management systems and processes, including real time fraud management capability with oversight over the Merchant Terminal Services.

Minimum requirements:

- (1) provision of fraud management systems and processes;
 - (2) provision of fraud management 'rules of engagement'; and
 - (3) provision of fraud prevention steps.
- (d) **(data and reporting)** provide data in a format required by the State and Agencies in real time the State and the Agencies for all transactions receipts (and reversals).

Minimum requirements:

- (1) provision of both real-time and daily reporting via both an online interface and a scheduled automated interface;
 - (2) provision of report in line with the State's and an Agency's requirements as notified to the Service Provider, which may change from time to time without reference to the Service Provider;
 - (3) meet settlements and data files in line with industry standard.
 - (4) provision to receive monthly reporting;
 - (5) provision to work with the State's banking partners to enable reporting such as:
 - (A) report the funds collected by EFTPOS as an aggregated credit for the day by merchant ID and terminal ID;

- (B) provision of reporting by transaction, by merchant number and by terminal ID, to be provided electronically/self-service;
- (C) provision to report by Customer Card types and value in the file for the daily processing to reconcile the amount appearing on the banking statement;
- (D) provision for surcharge reporting based on Agencies' options, showing receipt and surcharge amounts; and

9.7 Transaction monitoring for AML/CTF and other

Without limiting the generality of the Service Provider's obligations to comply with Laws and Banking Industry Codes, the Service Provider must:

- (a) perform transaction checks and monitoring of transactions in compliance with Laws and Banking Industry Codes associated with anti-money laundering and counter-terrorism financing, anti-corruption and associated with compliance with sanctions in any relevant jurisdiction;
- (b) operate procedures for managing suspicious, fraudulent, corrupt or unlawful transactions; and
- (c) where permitted to by Laws and Banking Industry Codes, notify the State and Agencies, where a transaction is blocked or unable to be processed or settled, associated with compliance with such Laws and Banking Industry Codes.

10. Integration to the State's banking partners

The Service Provider must:

- (a) be integrated to, and certified to operate with, at least one of the State's banking partners, currently Westpac and ANZ, who will operate as the acquiring bank;
- (b) provide EFTPOS terminals that are certified by the appropriate State banking partner;
- (c) provide EFTPOS terminals that are configured to use the merchant acquiring arrangements provided under the State financial service agreements with Westpac and/or ANZ;
- (d) provide integration to the State's banking partners in such a manner that the Service Provider never holds any funds and passes through the authorisation and settlement transactions directly to the State's banking partners via the interfaces provided by the State's banking partners; and
- (e) enable the State or Agency to automate the sending of the settlement transactions to the State's banking partner at a time of choosing of the State or Agency, taking into account the settlement cut-off times defined by the State's banking partners.

11. Data services

The Service Provider must:

- (a) **(provide data at the transaction level)** provide data at the transaction level to Agencies.

Minimum requirements:

- (1) provision of data in the Best Available Time;
- (2) provision in accordance with the data architecture and format advised by the State or an Agency, acting reasonably, to the Service Provider from time to time;
- (3) ability to effect straight through processing between Service Provider Systems and State and Agencies' ICT systems and ICT systems of Other Service Providers;
- (4) efficiently and effectively implement new files for interfacing between an Agency and the Service Provider and Other Service Providers as Enhanced Services and New Services are implemented; and
- (5) implementation of interfaces and provision of related ICT services for data exchange.
- (6) provide an online portal for Agencies to view transaction data.

- (b) **(provide data on transaction volumes and aggregated values)** provide data on transaction volumes and aggregated values to Agencies and the State, as required by the State and Agencies.

Minimum requirements:

- (1) ability to check and confirm billing and costs;
- (2) ability to analyse the trends of transaction types, to allow decision making on the composition of the products used across the State and Agencies.

12. Service management

The Service Provider must:

(a) **(Helpdesk and support services):**

- (1) provide a helpdesk and support services for Users that is sufficient in size to service the State and the Agencies for the Services under this Agreement;
- (2) provide a knowledgeable help desk team, which is dedicated to all Agencies under this Agreement, to manage all queries including a dedicated phone number;
- (3) provide helpdesk services and support services between 7:00am and 7:00pm Sydney Time each Business Day, for all queries and including for resolving errors, failings or other incidents affecting the Products and Services;
- (4) provide support services (and related helpdesk services) for defects, errors, failings or other incidents affecting the Products and Services for a Product or Service outside of the hours in section 12(a)(3) on any day of the week, during any period of time, when that Product or Service is in use or operation, or is intended to be in use or operation;
- (5) ensure helpdesk services:
 - (A) respond to a telephone call query or a voicemail within 5 minutes;
 - (B) respond to an electronic message within 30 minutes of being logged; and
 - (C) to the satisfaction of the Agency, respond to, or provide a preliminary response to, each enquiry or issue raised to the helpdesk or Service Provider within one Business Day of the initial contact; or must provide an estimated time for resolution of the enquiry or issue for those enquiries and issues which cannot be resolved with one Business Day;
- (6) provide a service management system for Users to log incidents, service requests and queries with accompanying detail; provide status of the response; provide the close out and time taken to close out; and re-open items if they are not closed out to the satisfaction of the User;
- (7) ensure Users can access the service management system during Service Hours (as described in section 8.2(b));
- (8) respond to, and provide source documentation relating to a transaction (where held by or on behalf of the Service Provider or available to the Service Provider on request to a third party), for requests by an Agency:
 - (A) within one Business Day of request if the request is made one month or less after the transaction date; and
 - (B) within five Business Days of request if the request is made more than one month after the transaction date,provided that where the data is to be provided by a third party, the Service Provider will satisfy the above timing if it has requested the data within the times indicated and is diligently pursuing delivery of that data and enforcing any obligation of the third party to provide the data; and
- (9) promptly remedy defects, errors, failings or other incidents affecting the Products and Services.

- (b) **(Customer complaints)** ensure that, if a Customer complains about an amount alleged to have been paid through the Service Provider's service but not duly accounted for to an

Agency, the Service Provider must use all reasonable endeavours to promptly investigate that complaint and assist in the resolution for the Customer.

(c) **(Ongoing training):**

- (1) provide ongoing training service for any new products or systems implemented during the Term of this Agreement and any Agency Term; and
- (2) provide ongoing training service for new Agency representatives.

(d) **(Transition and support services for Machinery of Government Changes):**

- (1) provide transition and support services for Machinery of Government Changes;
- (2) ensure that where possible the impact of Machinery of Government Changes on the Services are minimised;
- (3) provide assistance with additional resources to support Agency change management in their tasks including changes to accounts, websites, statements and contact lists, changes to signatories; reconfiguration or reassignment of equipment and amending reporting.

(e) **(ICT Services):**

- (1) ensure that any part of the Service Provider Systems made available for use by the Service Provider or required for use of the services by an Agency or the State is available during Service Hours (as described in section 8.2(b));
- (2) ensure that where the Service Hours for any part of the Service Provider Systems made available for use by the Service Provider or required for use of the services by an Agency or the State are less than 24/7/365, it will also make that part of the Service Provider System available during the Service Hours (as described in section 8.2(b)), subject to reasonable periods of downtime;
- (3) manage and mitigate against outages of any of the Service Provider Systems;
- (4) advise the State and affected Agencies using relevant services of the Service Provider in advance of all planned downtime for any of the Service Provider Systems;
- (5) notify the State and affected Agencies within one hour through a channel nominated by the State and affected Agencies if the Service Provider is experiencing issues with a Service Provider System, including the nature of the issue and the anticipated correction time:
 - (A) notifications to continue until the State/ and affected Agencies acknowledge the notification;
 - (B) notification updates provided at regular intervals until the issue has been resolved; and
 - (C) once the identified fault is corrected, the State/ and affected Agencies to be notified and to continue with that notification until the notification is acknowledged by the State/ and affected Agencies; and
- (6) promptly remedy any defects, errors, failings or other incidents with the ICT Services.

It is highly desirable for the Service Provider to:

(f) **(Hosted portal including electronic forms):**

- (1) provide a website or other electronic portal hosted by the Service Provider which includes in electronic format all the forms required for the administration of the Services (for example for an Agency to apply for a new service, or amend an authority), the procedures an Agency needs to follow when making any of these requests of the Service Provider and any other relevant information; and
- (2) ensure the website or other electronic portal is available during Service Hours (as described in section 8.2(b)).

13. Resilience and Continuity of Service

The Service Provider must:

- (a) provide a detailed description of your support and maintenance program including terminal replacements, downtime, stationary, etc., taking into account the size and scope of the State's hardware requirements (e.g., EFTPOS terminals);
- (b) ensure any hardware or software provided to the State will be supported by the Service Provider and be compliant with all necessary legislation, regulation and standards, such as PCI-DSS or other compliance requirements from the State's banking partners for at least 3 years from the time it is delivered, if this requirement is not met, the Service Provider must include a plan to replace/upgrade the hardware/software to meet this requirement prior to the expiry of support or compliance, without any additional cost to the State; and
- (c) provide information about what contingencies are in place to provide continuity of support and provision of technology services (such as cloud-based Point of Sale integration services, Merchant Terminal Management Services or operation of the Merchant Terminals) to the State in the event of scenarios, such as, but not limited to the following:
 - (1) ongoing financial viability of the Service Provider;
 - (2) availability of critical personnel to provide support at the required Service Levels;
 - (3) failure of a critical supplier to the Service Provider, for example, providers of hardware components, software or hosting services (e.g. cloud providers);
 - (4) a cyber-attack on any aspect of the Service Provider's solution or operations (including suppliers to the Service Provider);
 - (5) identification of a security vulnerability in any aspect of the Service Provider's solution;
 - (6) the State's banking partner withdrawing certification for the Service Provider.

14. Service Levels

14.1 Service Level Agreement

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
1	User Satisfaction	The State may conduct, with the State and Agencies, an annual user satisfaction survey in order to assess the performance of the Service Provider. The State and Agencies surveyed must be a reasonable representation of Users using the Services	Achieve a rating of at least satisfactory for 85% of responses.	Annually	
2	User Satisfaction Action Plan	For any State or Agency rating that falls below the 85% satisfactory threshold, the Service Provider must prepare an action plan to improve the satisfaction level and remedy failings identified in the survey. The action plan, including implementation dates, must be agreed with both the impacted Agency, and the State.	Development and implementation of action plan	Annually	
3	Account Management	Maintain active engagement with the State and Agencies throughout the Term via: <ul style="list-style-type: none">• A website containing key contacts, procedures and description of Products and Services. This website is to be updated to reflect any changes to the Products and Services throughout the Term.• Different communications with the State and Agencies encouraging the use of the website and Products and Services through roadshows, training etc. as approved by the State from time to time.	Comply 100% of the time.	Quarterly	

14.2 Reporting

Service Provider must provide account management reporting throughout the Term of this Agreement, as detailed below. The below table represents the State's minimum reporting requirements, in addition, the Service Provider must:

- prepare customised reporting to comply with specific State and Agency requirements as notified to the Service Provider from time to time including ad hoc reports; and
- provide online data and reporting tools for real-time data 24/7/365 on all data within the Service Provider's Systems.

#	Report Name	Report Description	Frequency	Source Data
1	Agency Data Report	<p>Transactional data is reported to Agencies each month:</p> <ul style="list-style-type: none"> • fees paid (fee analysis statement); • transaction volumes by Service (Services to be reported as required by the State); and • summary of current account management engagement activities and progress. 	Monthly within 10 Business Days of the end of each month	
2	NSW State Transactional Data Report	<p>Service Provider to report transactional data quarterly, including by Agency:</p> <ul style="list-style-type: none"> • fees paid (aggregated by groups of Agencies as required by the State); and • transaction volumes by Service (Services to be reported as required by the State). 	Quarterly within 10 Business Days of the end of each quarter	
3	Performance Report	<p>Report the performance of the Service Provider, including:</p> <ul style="list-style-type: none"> • progress against contract Objectives; • benefits measurement; • benefits tracking; and • other items as required by the State. 	Quarterly within 10 Business Days of the end of each quarter	
4	Service Levels Report	Reporting on Service Levels. Reports for Service Levels measured monthly must report the Service Level performance for each month in the quarter.	Quarterly within 10 Business Days of the end of each quarter	
5	Query Resolution Report	Report the performance of the Service Provider in responding and resolving queries of Agencies.	Quarterly within 10 Business Days of the end of each quarter	

#	Report Name	Report Description	Frequency	Source Data
6	Annual NSW State Performance Report	<p>Annual report on the Services covering items as required by the State, including:</p> <ul style="list-style-type: none"> • summary of the transaction volumes; • summary of the Fees and Charges; • initiatives and current status of projects; • performance; and • trends. 	Annually within 30 days of the end of each Contract Year (or by such other date agreed by the State in writing)	

14.3 General Service Levels

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
1	Helpdesk and Support Services	<p>The Service Provider must provide:</p> <ul style="list-style-type: none"> • helpdesk and support services between 7:00am and 7:00pm each Business Day for all queries and including for resolving errors, failings or other incidents affecting the Products and Services; and • support services (and related helpdesk services) for defects, errors, failings or other incidents affecting the Products and Services for a Product or Service outside of the above hours on any day of the week, during any period of time, when that Product or Service is in use or operation, or is intended to be in use or operation. 	100%	Monthly	X
2	Service Portal	<p>The Service Provider must provide a website or other electronic portal hosted by the Service Provider for Users:</p> <ul style="list-style-type: none"> • to submit helpdesk and support services enquiries; and • which includes in electronic format all the forms required for an Agency to apply for an additional Service, request a transaction be executed, or amend an 	100%	Monthly	

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
		<p>authority and the procedures an Agency needs to follow when making such requests of the Service Provider, and</p> <ul style="list-style-type: none"> must ensure that is available during Service Hours. 			
3	Helpdesk and Support Services – Wait time	<p>In providing the helpdesk and support services, the Service Provider must respond:</p> <ul style="list-style-type: none"> within five minutes of a telephone call query (either direct pick up or responding to a voicemail); and within 30 minutes of an electronic message being logged. 	100%	Monthly	
4	Enquiries and issues	<p>The Service Provider must, to the satisfaction of the State or the relevant Agency, respond to, or provide a preliminary response to, each enquiry or issue raised to the helpdesk or Service Provider within one Business Day of the initial contact; or must provide an estimated time for resolution of the enquiry or issue for those enquiries and issues which cannot be resolved within one Business Day.</p>	100%	Monthly	
5	Service Provider Systems Availability	<p>Each of the Service Provider Systems must be available during its respective Service Hours.</p> <p>Any availability requirement of any Service Provider System under this Agreement or a Product Agreement is subject to Scheduled Downtime.</p>	100%	Monthly	X
6	Notification of Service Provider System outages	<p>The Service Provider must notify the State and affected Agencies within one hour through a channel nominated by the State and affected Agencies if the Service Provider is experiencing issues with a Service Provider System, including the nature of the issue and the anticipated correction time and must comply with the following:</p> <ul style="list-style-type: none"> notifications to continue until the State and affected Agencies acknowledge the notification; notification updates provided at regular intervals until the issue has been resolved; and 	100%	Monthly	X

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
		<ul style="list-style-type: none"> once the identified fault is corrected, the State and affected Agencies to be notified and to continue with that notification until the notification is acknowledged by the State and affected Agencies. 			
7	Report of Service Provider System outages	The Service Provider must provide the State and designated Agency officers with an initial written root cause/rectification report delivered (based on best available information) 48 hours after any outages of its Service Provider Systems materially impacting Agency processing.	100%	Monthly	
8	Onboarding of Products and Services	The Service Provider must implement Products and Services ordered by an Agency by the time specified in any Product Service Level in this section 14 (Service Levels) and any other relevant provisions of the Product Agreement.	100%	Monthly	X
9	Transaction processing	The Service Provider must process transactions accurately and within the industry and banking partner defined timeout periods and cut-off requirements.	100%	Monthly	X
10	Data and Reports	The Service Provider must provide all Product and Service related data and reporting within the specified format and timeframe in accordance with Statement of Requirements, and where relevant any Product Service Level in this section 14 (Service Levels) and any other relevant provisions of the Product Agreement.	100%	Monthly	X

14.4 Product Service Levels

14.4.1 On-boarding and other general Service Levels

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
11	EFTPOS terminals – New installation	New EFTPOS devices will be installed within 8 Business Days after receipt of correct signed application.	95%	Monthly	
12	EFTPOS terminals – Additional terminals at an existing site	Additional EFTPOS devices will be installed at an existing site within 8 Business Days after request is received.	95%	Monthly	
13	EFTPOS terminals – Additional outlets at a new site	New EFTPOS devices will be installed at a new site within 8 Business Days after request is received.	95%	Monthly	
14	EFTPOS terminals – Faulty swaps	Faulty EFTPOS terminals will be swapped within: <ul style="list-style-type: none"> • Four hours of request for Metro sites • Six hours for Outer Metro sites • 24 hours for Country sites The satchel dispatch will occur within 24 hours for Remote sites.	95%	Monthly	
15	EFTPOS terminals –Closures	Our EFTPOS devices will be uninstalled within 10 Business Days of request.	95%	Monthly	
16	EFTPOS facility amendments – Facility name, address, authorised contact names	Amendments to the facility will be actioned within 4 Business Days of request.	95%	Daily	
17	EFTPOS facility amendments – Change of acquiring bank	Transitioning the acquiring bank for one or more terminals (between the State's banking partners) will be actioned within 10 Business Days.	95%	Daily	

	Service Level Name	Service Level Description	Requirement	Measurement Period	Critical Service Level
18	EFTPOS facility amendments – settlement time	Amendments to settlement time will be actioned within 4 Business Days.	95%	Daily	
19	EFTPOS stationery orders	Current service levels for merchant stationery orders are 3 to 5 Business Days.	95%	Monthly	

Note: The Service Level may be extended if the request is part of a special project with more than 20 terminals for a single Agency.

14.4.2 Baselining period for any new Product on-boarding Service Levels

All new Product on-boarding Service Levels will undergo a baselining period of 6 months. Following the baselining period, the Service Provider will use the performance data collected to agree, in good faith, the relevant Service Level, having regard to any trend in improvement in the performance of that Product during the baselining period.

14.4.3 Exceptions process for Product on-boarding Service Levels

The Service Provider would, in good faith, and within reason, have an exceptions process for significant events that are out of the Service Provider's control that inhibit our ability to meet a Service Level.

14.5 Service Level Expectations

The Service Provider agrees to use reasonable endeavours to achieve any Service Level Expectations contained in Service Provider Product Terms and Conditions. For the avoidance of doubt, the Service Level Expectations are not Service Levels, and are not contractually binding on the Service Provider. If the Service Provider is advised by an Agency that it is failing to meet any Service Level Expectation, at no cost to the Agency, the Service Provider will:

- investigate the underlying causes of the failure to meet the Service Level Expectation (**Service Problem**);
- prepare and deliver to the Agency a report identifying the Service Problem;
- correct the Service Problem and again begin meeting the Service Level Expectation; and
- advise the Agency of the status of the remedial efforts being undertaken with respect to the underlying cue of the Service Problem.

14.6 Notes to Service Levels

14.6.1 Definitions

Terms defined elsewhere in this Agreement and the Product Agreements have the same meaning in this section 14 (Service Levels) unless the context requires otherwise. In addition, the meanings of the terms used in this section 14 (Service Levels) are set out below.

Term	Meaning
24/7/365	24 hours a day, 7 days a week, 365 days per year.
Critical Service Level	a Service Level marked as a Critical Service Level in this section 14 (Service Levels).
Monthly Operations Meeting	has the meaning given to it in the Relationship Management Manual.
Product Service Level	a Service Level for a particular Product or Service set out in section 14.4 of this section 14 (Service Levels) or elsewhere in this Agreement or a Product Agreement.
Scheduled Downtime	has the meaning given to it in section 14.7 of this section 14 (Service Levels).
Services Related Operations	the banking activities of the State or Agency and those corporate services and other related operations of the State or an Agency which use or could use the Services.

14.6.2 Interpretation

- (a) All references to an obligation to be performed by the Service Provider mean an obligation to be performed in accordance with this Agreement and the relevant Product Agreement(s). The Service Provider must therefore perform an obligation in accordance with this Agreement and the relevant Product Agreement(s) to satisfy a Service Level.
- (b) The Service Provider must not unreasonably withhold or delay its agreement to any matter which is to be agreed by the Service Provider under or pursuant to this section 14 (Service Levels).

14.7 Measurement and reporting of Service Levels

Service Levels are to be reported to the State and, where requested by the State directly to an Agency.
Service Levels relating to Services to an Agency are incorporated into each Product Agreement.
The Service Levels for availability of each of the Service Provider Systems must be measured as follows:

Availability (%) = [(Total minutes Service Provider System is available during Service Hours for system) / (Total minutes for Service Hours for Service Provider System – Scheduled Downtime during Service Hours for system)] x 100.

Scheduled Downtime for the availability Service Level of any Service Provider System only applies if the Service Provider System has Service Hours which are 24/7/365. Scheduled Downtime for other Service Provider Systems must take place outside of Service Hours and is therefore not relevant. Where applicable,

Scheduled Downtime means unavailability of a Service Provider System as a result of planned downtime to undertake planned maintenance provided that:

- the Service Provider provides reasonable prior written notice to State and any affected Agency of the planned maintenance;
- the Scheduled Downtime takes place at a time which is outside hours of primary use and in any event outside of 7:00am to 7:00pm Sydney Time on Business Days;
- the downtime is kept to a reasonable period and reasonable frequency; and
- the downtime excludes downtime required as a result of any breach by the Service Provider of this Agreement or a Product Agreement.

14.8 Service Level Termination Events

Any of the following are Service Level Termination Events for a Product Agreement:

- (a) if the Service Provider fails to meet the same Critical Service Level under that Product Agreement in 3 or more consecutive measurement periods; or
- (b) if the Service Provider fails to meet the same Critical Service Level under that Product Agreement in 5 or more or more measurement periods in any rolling 12 month period.

