### RMS CONTRACT DOCUMENT C62
**MINOR SUPPLY AGREEMENT (INFRASTRUCTURE)**

#### REVISION REGISTER

<table>
<thead>
<tr>
<th>Ed/Rev Number</th>
<th>Clause Number</th>
<th>Description of Revision</th>
<th>Authorised By</th>
<th>Date</th>
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<tr>
<td>Ed 1/Rev 0</td>
<td></td>
<td>First issue</td>
<td>Manager, Contracts Strategy</td>
<td>19-01-10</td>
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<tr>
<td>Ed1/Rev 1</td>
<td></td>
<td>Supplier’s Offer replaces the Form of Agreement.</td>
<td>Manager, Contracts Strategy</td>
<td>08-07-11</td>
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<td></td>
<td>9.2</td>
<td>Rearrangement of paragraphs</td>
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<tr>
<td>Ed1/Rev2</td>
<td></td>
<td>Reference to RTA changed to RMS</td>
<td>Manager, Contracts Strategy</td>
<td>01-11-11</td>
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<tr>
<td>Ed1/Rev 3</td>
<td></td>
<td>Definition of RTA and Roads and Traffic Authority added. RMS’s Representative changed to RMS Representative.</td>
<td>Manager, Contracts Strategy</td>
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<tr>
<td>Ed1/Rev 4</td>
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<td>The term &quot;Supplier” used instead of “Contractor”</td>
<td>Manager, Contracts Strategy</td>
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<td>Ed1/Rev 5</td>
<td>2</td>
<td>Amended to match other Supply Agreements</td>
<td>Contracts Strategy Manager</td>
<td>18-11-15</td>
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<td></td>
<td>3(d)</td>
<td>New clause</td>
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<td></td>
<td>22</td>
<td>New clause - chain of responsibility requirements of the Heavy Vehicle National Law</td>
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Supplier’s Offer

To: Roads and Maritime Services (‘RMS’)

[Address of RMS office calling the tender]

Attention: [ ]
Phone: 
Fax: 
Email: 

The Work: [Description of work], as more specifically described in the specifications, drawings and other information provided to the Supplier by RMS for the purpose of preparing this Offer, other than documents provided for information only (the “Specifications”).

Tender Closing Date: [ ]

Supplier’s details

<table>
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<tr>
<th>The Supplier’s</th>
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<tbody>
<tr>
<td>Name:</td>
<td>.............................................</td>
</tr>
<tr>
<td>ABN</td>
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<tr>
<td>Address:</td>
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<tr>
<td>Email address:</td>
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</tbody>
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Phone: ................................ Facsimile: ................................

Supplier’s Representative: .............................................
Offer Price GST inclusive:

[Delete A or B whichever is inapplicable]

A. $………………………………….. [if lump sum].

B. Schedule of Supplier’s Rates (as described below).

<table>
<thead>
<tr>
<th>(i) Description of Item</th>
<th>(ii) Quantity</th>
<th>Rate ($)</th>
<th>Total Rate x Quantity ($)</th>
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GST: $  

Total: $  

Terms of Offer

1. The Supplier offers to supply the Goods on the terms set out in the Offer Documents for the above Offer Price.

2. The Offer Documents are:
   a. this offer document (including the attached Agreed Terms and Schedules),
   b. the Schedule of Supplier’s Rates (if any) and
   c. all Specifications.

3. The Supplier warrants that the above Offer Price covers all work, materials and other things that the Supplier may be required to do or provide without adjustment to the Offer Price under the terms of the Offer Documents.

4. This Offer remains open for the RMS’ acceptance for 60 days.

5. There is no binding contract with RMS until RMS accepts this Offer in writing.


7. The Supplier warrants it:
   a. is not aware of any other tenderer’s tender price;
   b. has not disclosed its tender price to any other tenderer and
(c) has not entered into any anti-competitive or potentially anti-competitive contract, arrangement or understanding in connection with this Offer.

The Offer Price includes GST.

(iii) Signatures

_______________________________________
Signature of Witness

_______________________________________
Signature of Authorised Signatory*

_______________________________
Print Name

_______________________________
Print Name

*Who warrants to RMS that he or she is authorised to sign this Agreement on behalf of the Supplier

Date of Offer: .................................
Agreed terms

1. **Supply of Goods**
   (a) The Supplier must supply and deliver the Goods and, if relevant, perform associated services in accordance with this Agreement.
   (b) In consideration for the supply and delivery of the Goods and, if relevant, performing associated services, RMS will pay the Charges in accordance with the terms of this Agreement.

2. **Supplier's Warranties**
   (a) The Supplier warrants that the Goods, materials and workmanship supplied to RMS under this Agreement:
      (i) will be free of Defects and fit for their intended purpose;
      (ii) will meet and comply with the requirements and specifications set out in the Specification and all relevant statutory requirements, codes and Australian Standards (unless the Specification provides otherwise)
      (iii) will comply, where relevant, with any samples of the Goods provided by the Supplier and any goods previously supplied by the Supplier; and
      (iv) are free from all liens, charges, claims and other encumbrances upon payment being made in respect of them.

3. **Compliance with Directions**
   (a) The Supplier must supply the Goods in accordance with:
      (i) the directions of the RMS Representative.
   (b) The Supplier must:
      (i) liaise with the RMS Representative 7 days prior to the Date for Delivery to confirm progress and arrangements for the delivery of the Goods.
   (c) The RMS Representative may, within 3 Business Days of the original delivery date as specified in the Delivery Schedule give the Supplier a written direction changing a delivery date in the Delivery Schedule, and the Supplier must comply with this direction; and
   (d) Upon entering an RMS site, premises or facility, the Supplier must strictly comply with the directions of the person or entity appointed by RMS to discharge the responsibilities imposed on a 'principal contractor' by the applicable work health and safety legislation.

4. **Packing**
   (a) The Supplier must ensure that all Goods are suitably packed and prepared for shipment so as to secure the Goods against damage.
   (b) The Supplier must:
      (i) label the Goods as directed by the RMS Representative;
      (ii) supply all necessary resources for handling, loading, unloading and transporting the Goods to the Site; and
      (iii) unload the Goods as directed.

5. **Date for Completion**
   (a) The Supplier must achieve Completion by the Date for Completion.
If Completion has not occurred by the Date for Completion, RMS will be entitled by way of a pre-
estimate of its likely loss to (without limiting its other rights under this Agreement or under the 
common law), and the Supplier must pay RMS, the Liquidated Damages for each calendar week or 
part of a week between the Date for Completion and:

(i) the actual date of Completion; or

(ii) the effective date of termination of this Agreement (whichever is the earlier).

6. Delay
(a) If the Supplier becomes aware of any event or circumstance which is likely to cause delay or 
disruption to:

(i) Completion by the Date for Completion,

the Supplier must:

(i) promptly notify the RMS Representative; and

(ii) take all practical steps as are necessary or appropriate to avoid and minimise such delay and 
disruption.

(b) RMS may, at any time, at its sole discretion and without being obliged to do so, grant an extension 
of time to the Date for Completion for any reason, whether the Supplier is entitled to the extension 
of time.

7. Variations
(a) The RMS Representative may direct the Supplier to carry out a variation to the Work under the 
Agreement by a written variation order or an oral instruction confirmed by a written variation order 
(Variation Direction).

(b) The Supplier must comply with the Variation Direction.

(c) The Charges will be adjusted for all Variations to the Supply Details by a reasonable amount as 
agreed between the parties.

(d) In calculating an adjustment to the Charges under clause 7(c), the Supplier will be entitled to a 
percentage for profit and attendance shown in Item 8 of the Supply Details.

8. Charges all inclusive
(a) Subject to clause 7(c), the Charges are the maximum amount RMS will pay for the Goods to be 
supplied and (if relevant) Installed.

(b) The Charges are inclusive of GST and all charges including, without limitation, freight, taxes, duty, 
packaging, insurance, delivery charges and other expenses incurred by the Supplier.

9. Invoicing and Payment
9.1 Invoice
Within 10 Business Days after the end of each calendar month (Payment Period), the Supplier will 
invoice RMS for the Contract Price in respect of the Goods supplied in that Payment Period. For the 
purposes of this Agreement, an invoice is not correctly rendered unless:

(a) the invoice is a Tax Invoice which includes the Supplier’s Australian Business Number;

(b) the amount claimed in the invoice is due for payment;

(c) the amount specified in the invoice is correctly calculated in accordance with this Agreement;
the invoice includes the RMS’ reference number and is set out in a manner that identifies the
Goods which the invoice covers and itemises each amount claimed to a level of detail satisfactory
to RMS acting reasonably; and

(e) the invoice is accompanied by documents that adequately demonstrate to RMS the services that
were performed.

9.2 Payment
(a) RMS must pay an invoice rendered correctly in accordance with clause 9.1, within 15 Business
Days after receipt of that invoice.
(b) Where RMS considers that an invoice is not correctly rendered, RMS will issue to the Supplier
within 10 Business Days after receipt of the Supplier’s invoice a notice:
(i) setting out the reasons why RMS considers that the invoice is not correctly rendered; and/or
(ii) identifying any amounts which are in dispute and giving reasons why payment is being
withheld in respect of those amounts.

10. Responsibility for the Goods
(a) The Supplier agrees that care for and risk in the Goods remains with the Supplier until the Goods
have been accepted by RMS.
(b) RMS may reject any Goods which, in its reasonable opinion, do not conform with the requirements
of this Agreement (Rejected Goods).
(c) The Supplier agrees that RMS is not liable to pay for any Rejected Goods.
(d) Payment of any invoice relating to particular Goods does not constitute acceptance of Goods by
RMS.

11. Assignment
(a) The Supplier must not:
   (i) assign its rights under this Agreement; or
   (ii) otherwise encumber or grant any right or interest in any of the Goods in favour of any third
        party,
        without the prior written consent of RMS.
(b) RMS may novate this Agreement, in whole or in part, without the consent of the Supplier to any
government department, to any other body created by or pursuant to a statute or ministerial
direction of the State of New South Wales for the purpose of administering the functions or
discharging the role of RMS as described in this Agreement or to any ‘government sector agency’
within the meaning given to that term in section 3 of the Government Sector Employment Act 2013.
The Supplier must execute all documents necessary to give effect to such a novation.

12. Supplier Indemnity
The Supplier indemnifies RMS against all expense, loss, damage and cost that RMS may suffer or incur,
whether directly or indirectly, arising out of or in connection with:
(i) any breach of this Agreement by the Supplier (including where RMS exercises a right to
terminate the Agreement as a result of a breach of the Agreement by the Supplier); or
(ii) any act, error, omission or neglect of the Supplier, its personnel, agents or sub-Suppliers (of
any tier).
13. **Non-compliance of Goods**

(a) If any of the Goods as supplied do not comply with the Specifications, or are otherwise not in accordance with the Agreement, RMS may, at its election:

(i) require that any relevant Defect be rectified by the Supplier;

(ii) return the Goods to the Supplier and require their immediate repair or replacement;

(iii) require that RMS be credited in respect of any Charges that RMS has paid for the supply and (if relevant) Installation of such Goods; or

(iv) return all of the Goods to the Supplier and cancel the balance of any other orders not yet supplied.

(b) The Supplier indemnifies RMS for any cost, loss, damage or expense arising out of or in connection with the return or cancellation of Goods pursuant to subclauses 13(a)(ii) and 13(a)(iv), including the cost of freight and packaging.

14. **Warranty Period**

RMS acknowledges that Goods may be supplied subject to the warranties given by the manufacturer of those Goods (**Manufacturers’ Warranties**). The Supplier must ensure that RMS obtains the full benefit of the Manufacturers’ Warranties.

15. **Intellectual Property Warranty**

(a) The Supplier warrants that the Supplier is the owner or valid licensee of all Intellectual Property in the Goods and that the supply of the Goods in accordance with this Agreement and the use of the Goods by RMS as contemplated by this Agreement, does not and will not infringe any Intellectual Property of any third party.

(b) In the event that either party receives notice of a claim that the Goods or their supply or use in accordance with this Agreement infringes any Intellectual Property rights of any third party (**IPR Claim**), the party receiving such notice must notify the other party of the IPR Claim in writing as soon as practicable.

16. **Termination for default or insolvency**

Without limiting its other rights under this Agreement and at law, RMS may terminate the Supplier’s employment under this Agreement, by written notice if:

(i) the Supplier breaches this Agreement and fails to remedy such breach within the time period reasonably specified (and in any case no later than 10 Business Days) by written notice from RMS requiring remedy of the breach;

(ii) any item of the Goods is rejected by RMS under clause 13; or

(iii) if any of the following occur:

(A) the Supplier becomes insolvent or bankrupt;

(B) the Supplier has a receiver or liquidator appointed;

(C) an application is made to a court for the appointment of a receiver or liquidator to the Supplier;

(D) the Supplier ceases or threatens to cease carrying on business in the Goods; or

(E) the Supplier’s business is sold or otherwise comes under the control of any other person and RMS has not provided its prior written consent in accordance with clause 11.
17. Termination for convenience
RMS may terminate the Supplier’s employment under this Agreement, at any time by issuing the Supplier with 10 Business Days prior written notice of its intention to do so.

18. Consequences of Termination
(a) If RMS terminates the Supplier’s employment under this Agreement in accordance with clause 16:
   (i) RMS will not be obliged to make any further payments to the Supplier; and
   (ii) RMS will be entitled to recover from the Supplier all cost, loss, damage or expense which RMS suffers or incurs arising out of or in connection with, such termination.
(b) If RMS terminates the Supplier’s employment under this Agreement in accordance with clause 17, RMS will pay the Supplier:
   (i) the cost of the Goods delivered in accordance with the Agreement prior to the date of termination;
   (ii) the reasonable cost of materials and goods reasonably ordered prior to the date of termination by the Supplier for the Work under the Agreement, provided that:
      (A) such materials and goods are:
         (I) delivered to a place directed by the RMS Representative;
         (II) labelled as directed by the RMS Representative; and
         (III) free from any liens, charges, claims and other encumbrances, and
      (B) ownership of the materials and goods passes to RMS upon their delivery to and acceptance by RMS.
   (iii) RMS may require the Supplier:
      (A) to novate to RMS or the RMS' nominee, any or all subcontracts between the Supplier and its subcontractors relating to the Goods and the Work under the Agreement;
      (B) to provide all reasonable assistance to RMS in dealing with such subcontractors to ensure supply of the Goods to RMS or the RMS' nominee; and
      (C) to deliver promptly to RMS:
         (I) all confidential information of RMS in the Supplier’s possession;
         (II) all Documentation relevant to the Goods already supplied at the date of termination; and
         (III) all Goods in their then current state of completion.

19. GST
(a) All prices in this Agreement will be inclusive of GST unless otherwise expressly stated.
(b) The Supplier warrants to RMS that, if required under Australian law, it is registered for GST purposes.
(c) In respect of any supply of Goods under this Agreement in respect of which GST is payable (Affected Supplies):
   (i) the Supplier must, within the time required by law (and in any event within 20 Business Days of a request by RMS), issue a tax invoice in respect of such GST which will enable RMS, where entitled under the GST law, to claim an input tax credit in respect of such GST; and
(ii) RMS will pay to you the amount shown on such tax invoice at the same time and in the same manner as the amounts otherwise payable under this Agreement for the affected supplies, provided however that, if the Supplier fails to issue a tax invoice as required by law in respect of the Affected Supplies, the Supplier agrees that RMS is entitled to deduct from any payment an amount required to be deducted by law for remitting to the Australian Taxation Office on your account.

20. **Building Code 2016 Compliance**

The Supplier acknowledges and agrees that, if it is indicated at Item 10 of the Supply Details that the Project has received, is receiving or will receive funding from the Australian Government, the Supplier must ensure that it complies with the Building Code 2016 in undertaking the Work under the Agreement.

21. **Notices and other communications**

21.1 **Service of notices**

A notice, demand, consent, approval or communication under this Agreement (Notice) must be:

(a) in writing; and

(b) hand delivered or sent by prepaid post, facsimile or e-mail to the recipient's address for Notices specified on the cover page of this Agreement, as varied by any Notice given by the recipient to the sender.

21.2 **Waiver**

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

21.3 **Confidentiality**

The Supplier may only use confidential information of RMS for the purposes of this Agreement, and must keep the existence and the terms of this Agreement and any confidential information of RMS confidential except where RMS consents to such disclosure.

21.4 **Governing law and jurisdiction**

This agreement is governed by the law of New South Wales and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

22. **Compliance with Heavy Vehicle National Law – Chain of Responsibility**

The Supplier must:

(a) comply with the chain of responsibility provisions of the *Heavy Vehicle National Law (NSW) (2013)*.

(b) ensure that every subcontract between the Supplier and its subcontractors relating to the Goods and the Work under the Agreement, regardless of the subcontract value, includes provisions of clause 20(a) and a clause to the same effect as this clause 20(b) which is binding on the Subcontractor, and provide evidence of this to RMS when requested by the RMS Representative.
## Schedule 1 – Supply details

<table>
<thead>
<tr>
<th>Item</th>
<th>Issue</th>
<th>Details</th>
</tr>
</thead>
</table>
| 1.   | Charges | [Insert amounts payable for supply and installation of goods or if relevant how such Charges will be calculated.]  
      | (Clause 1(b)) | Charges shown are inclusive of GST. |
| 2.   | Date for Completion | [Insert] |
|      | (Clause 5(a)) | |
| 3.   | Goods | [Insert details of all Goods to be provided under this Agreement.] |
|      | (Clause 1(a)) | |
| 4.   | Liquidated Damages | [Insert] week or part thereof.  
      | (Clauses 5(b)) | (If Liquidated Damages are not to apply insert ‘N/A’) |
| 5.   | Project | [Insert general description of the overall project to which this Agreement relates.] |
| 6.   | Site | [Insert site or sites nominated where Goods are to be delivered and (if relevant) Installed] |
|      | (Clause 4(b)(ii)) | |
| 7.   | Works | [If the Supplier is required to supply the Goods in accordance with specifications for the overall Works of the Project, insert general description of the works form part of the Project in relation to which the Goods are being supplied.]  
      | | (If specifications for the Works are not to relevant to this Agreement insert ‘N/A’) |
| 8.   | Variations | Percentage for profit and attendance: [Insert]  
      | (Clause 7(d)) | (If no percentage is inserted, the percentage is 5%) |
| 9.   | Warranty Period | The warranty period is: [Insert] days  
      | (Clauses 2 and 14) | (If no period is inserted the warranty period is 12 months.) |
| 10.  | Building Code 2016 Compliance | Project has/will receive funding from the Australian Government: [Insert]  
      | (Clause 20) | (Insert ‘Yes’ or ‘No’. If ‘Yes’ is inserted or the item is left blank the Project is deemed to have Federal Government funding for the purpose of clause 20) |
| 11.  | RMS Representative | Name: [Insert]  
      | (Clause 3) | Address: [Insert]  
      | | Fax: [Insert] |
[Include detailed description of the Goods and any related services (for example, any related training or other services) that may be ordered by RMS. Include details on quality and quantity to be supplied.]

Provide details of the sites or locations to which the Goods may be required to be delivered, if ordered, and who will be responsible for each aspect of transport, including loading and unloading.

If there is a particular methodology to be used for the delivery of the goods (for example, a requirement to use only a particular size or type of vehicle for deliveries), also insert those details here.

Include a broad description of the purpose for which the Goods and any related services are required to ensure that RMS obtains the benefit of the Supplier’s fitness for purpose warranty.

The Supplier will provide the following Training: [Insert] (If no Training is required insert ‘N/A’).
Schedule 3 – Delivery Schedule

[Include:

➢ details of delivery timetable

➢ detail of the Sites to which particular goods/deliverables are to be delivered.

➢ if there is a particular methodology for the delivery of the Goods, also insert details here.]

Where RMS has responsibility for the delivery of the Goods, or aspects of the delivery, this should be stated here.]