

**IP USER GUIDE NOTE FOR MODIFIED VERSIONS OF SCHEDULE 4 OF
THE GITC TERM AGREEMENT**

**1. Assignment of IP in Contract Material to the Contractor Version of
Schedule 4**

- (i) Users should consider whether the reference to the “Crown in Right of the State of Tasmania (or any part thereof)”, in paragraph (b) of the recommended Part A clause, is applicable to their particular circumstance or whether a narrower range of licensees should be referenced. For example, should GBEs be excluded? Should a particular Agency be excluded? If the Customer is a GBE, should the Crown or other GBE’s be excluded?
- (ii) Users should consider whether Parts B and C of Schedule 4 are applicable and if so, include the relevant provisions.
- (iii) If the Contractor is to own IP in Contract Material, users should consider whether the Crown should have access to source code materials for ongoing support purposes. If so, the following additional condition should be included in the Official Order, in the relevant Additional Condition Item. Users should also ensure that the additional condition is properly numbered.

“[].1 The parties have agreed:

- (a) The Contractor must provide the Customer with a copy of the Source Code and all Supporting Materials for the Developed Software to be held in escrow by the Customer; and*

- (b) *The Contractor will maintain (and where necessary - replace) the Source Code and Supporting Materials at all times to ensure that the Source Code and Supporting Materials deposited with the Customer are kept fully up to date; and*
- (c) *the Customer will hold the Source Code and Supporting Materials in strictest confidence; and*
- (d) *the Customer may require the Contractor to conduct tests, in the presence of the Customer's representative, to verify that the Source Code and Supporting Materials are virus free and fully capable of performing their desired function; and*
- (e) *the Customer will only be entitled to access the Source Code and the Supporting Materials to assist it with the modification or support of the Developed Software; and*
- (f) *if the Source Code and Supporting Materials are accessed by the Customer pursuant to Clause []1(e):*
 - (i) *the materials will not be released to any third party support provider engaged by the Customer unless that person executes an appropriate Deed of Confidentiality which preserves the confidential nature of the materials; and*
 - (ii) *the Customer will be liable for any breach of confidentiality by its employees or contractors;*

- (g) *this escrow arrangement will remain in force for as long as the Customer wishes to continue using the Developed Software; and*
- (h) *no additional fees will be payable by the Customer to the Contractor for the establishment or maintenance of the above escrow arrangements.*

[] .2 For the purposes of Clause [] .1:

“Source Code” means the Developed Software expressed in human-readable language which is necessary for the understanding, maintaining, modifying, correction and enhancing of the Developed Software;

“Supporting Materials” means all of the material and data developed and used in and for the purpose of creating the Developed Software including (but not limited to) compiled object code, tapes, operating manuals and source code for software tools.”

2. **Ownership of IP by the Crown and the Grant of a Licence to the Contractor - Version of Schedule 4**

Users should consider whether Parts A and B of Schedule 4 are applicable and if so, include the relevant provisions.