



Australian Government Solicitor

GROCERYCHOICE WEBSITE CONTRACT

Commonwealth of Australia as represented by the **Department of the Treasury**
ABN 92 802 414 793

Australian Consumers' Association trading as **Choice**
ACN 000 281 925 ABN 72 000 281 925

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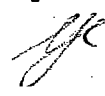
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GROCERY CHOICE WEBSITE CONTRACT

PARTIES

This contract is made between and binds the following parties:

1. **Commonwealth of Australia** as represented by the **Department of the Treasury** 92 802 414 793, Langton Crescent, Parkes ACT 2600, Australia (**Treasury**)
2. **Australian Consumers' Association, trading as Choice** ACN 000 281 925 ABN 72 000 281 925 (**Choice**)

CONTEXT

- A. As part of a package of measures to enhance competition and assist Australian consumers to be better informed about grocery prices, the Australian Government launched the Grocerychoice Website on 6 August 2008.
- B. Choice approached the Australian Government with a proposal to take over the Grocerychoice Website. Choice proposed to provide the public with a more useful website by enhancing and improving upon the current operation and information provided by the ACCC.
- C. This contract sets out the agreed basis on which the Grocerychoice Website and associated functions will be transferred to Choice and for the operation and enhancement of it by Choice during the term of this contract.

OPERATIVE PROVISIONS

In consideration of the mutual promises contained in this contract, the parties to this contract agree as follows:

1. INTERPRETATION

1.1. Definitions

1.1.1. In this contract, unless the context indicates otherwise:

Activity means the activity to be undertaken, the requirements to be met and the accountabilities to be discharged by Choice as described in the Grocerychoice Activity Details and as agreed in accordance with clause 3.3.2, and includes the provision of Activity Material;

Activity Generated Income means any income earned by Choice from its Grocerychoice activities including income generated from third party advertising or promotion but excluding income generated from Choice's advertising or promotion of its own activities,

publications and services;

Activity Material

means:

- a. any Material that is developed, created or generated by Choice (including by third parties directed by, or contracted to, Choice) in respect of, or contemplated by, this contract ('Foreground Material');
- b. any pre-existing tools, object libraries, data, methodologies or Material used by Choice in relation to the Foreground Material or the Grocerychoice Website ('Choice Background Material');

Activity Period

means the period specified as the 'Activity Period' in the Activity Schedule, during which the Activity must be completed;

Adjustment Factor

means the basis by which a Base Funding Amount is adjusted to calculate the Funding (in cash) payable, as specified in the Funding Schedule or as may be otherwise agreed in writing by the parties;

Alternative Phase 3

means the details of all activities necessary for Choice's performance of its obligations in respect to the alternative to Phase 3 including its scope, maximum Funding amount and payment schedule agreed in accordance with clause 3.3.2;

Approved Auditor

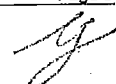
means a person who is:

- a. registered as a company auditor under the *Corporations Act 2001* (Cth) or an appropriately qualified member of the Institute of Chartered Accountants in Australia or of CPA Australia;
- b. not a principal, member, shareholder, officer, agent, subcontractor, employee or related entity of Choice or of a related body corporate (the terms 'related entity' and 'related body corporate' have the same meaning as in section 9 of the *Corporations Act 2001* (Cth)); and
- c. not Choice's Qualified Accountant;

Asset

means any item of property, purchased, leased, hired, financed, created or otherwise brought into existence either wholly or in part with use of the Funding, which has a value of over \$500 exclusive of GST, but excludes any Intellectual Property Rights;

Auditor-General	means the office established under the <i>Auditor-General Act 1997 (Cth)</i> and includes any other entity that may, from time to time, perform the functions of that office;
Australian Accounting Standards	refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the <i>Australian Securities and Investments Commission Act 2001 (Cth)</i> ;
Australian Auditing Standards	refers to the standards made by the Auditing and Assurance Standards Board created by section 227A of the <i>Australian Securities and Investments Commission Act 2001 (Cth)</i> ;
Australian Government	means Commonwealth of Australia;
Australian Government Grocerychoice Initiative	means the Australian Government initiative to provide identified grocery price information to help consumers compare price and other relevant information in relation to supermarkets and groceries;
Base Funding Amount	means the base funding (in cash) amount specified in respect to a part of the Activity, specified as the 'Base Funding Amount' in the Funding Schedule or as otherwise specifically agreed in writing by Treasury, which is subject to adjustment by the Adjustment Factor to calculate the Funding (in cash) for that part of the Activity;
Business Day	means in relation to the doing of any action in a place, any day other than a Saturday, Sunday, or public holiday in that place, or if no such place is specified or reasonably ascertainable, in Canberra;
Business Hours	means 9:00 to 17:00 on Business Days;
Choice	includes officers, employees, agents, volunteers and subcontractors, and successors of Choice;
Completion Date	means the day after Choice has done all that it is required to do under clauses 3 [Conduct of the Grocerychoice website and activities], 5 [Financial accountability] and 9 [Reporting] of this contract;
Confidential Information	means: <ul style="list-style-type: none"> a. in respect of Treasury's confidential information, any information that is by its nature confidential that is provided by Treasury to Choice or which Choice otherwise accesses or becomes aware of as a result of this contract and which: <ul style="list-style-type: none"> i. is listed as "Treasury's Confidential



Information" in the Contract Details; or

- ii. Choice knows or ought to know is confidential; and
- b. in respect of Choice's confidential information, any information that is by its nature confidential and:
 - iii. is listed as "Choice's Confidential Information" in the Contract Details;
 - iv. is otherwise specifically agreed in writing by Treasury in respect of this contract to be confidential; or
 - v. Treasury knows or ought to know is confidential

Conflict

means any matter, circumstance, interest or activity involving or affecting Choice, its Personnel or subcontractors which may or may appear to impair the ability of Choice to perform the Activity fairly, objectively, diligently or independently;

Constitution

means (depending on the context):

- a. a company's constitution, which (where relevant) includes rules and any amendments that are part of the company's constitution; or
- b. in relation to any other kind of body:
 - i. the body's charter, rules or memorandum; or
 - ii. any instrument or law constituting or defining the constitution of the body or governing the activities of the body or its members;

Contract Details

means the schedule to this contract headed 'Contract Details';

Deliverable

means any Material (including Activity Material) that Choice is required to provide to Treasury pursuant to this contract;

Depreciated

means the amount representing the reduction in value of an Asset calculated in accordance with Australian Accounting Standards;

Director

means any of the following:

- a. a person appointed to the position of a director or alternate director and acting in that capacity for a body corporate within the meaning of the *Corporations Act 2001* (Cth) regardless of the

	name given to their position;
	b. a member of the committee of an organisation incorporated pursuant to State or Territory laws relating to the incorporation of associations; or
	c. a member of the board, committee or group of persons (however described) that is responsible for managing or overseeing the affairs of the body corporate;
Dispose	means to sell, licence, lease or sublease, or otherwise transfer or give up ownership or the right to occupy or use, or to enter into an agreement to do any of the preceding acts and 'Disposal' means the method of so disposing;
Financial Year	means each period from 1 July to the following 30 June occurring during the Activity Period, or any part of such a period occurring at the beginning or end of the Activity Period;
Funding	means the amount or amounts (in cash or kind) payable by Treasury under this contract as specified in the Funding Schedule, and includes Activity Generated Income and In-Kind Contributions;
Funding Schedule	means the schedule to this contract headed 'Funding Schedule';
Getronics	means Getronics Australia Pty Ltd;
GST	has the meaning that it has in the <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> ;
Grocerychoice Activity Details	means the schedule to this contract headed 'Grocerychoice Activities Details';
Grocerychoice Website	means the 'Grocerychoice' website accessible at www.grocerychoice.gov.au (and www.grocerychoice.net.au and www.grocerychoice.com.au) and all associated ICT systems and associated facilities as at the date of this contract and as modified, supplemented or replaced by Choice at any time (including all associated domain names);
Grocerychoice Website SOW	means the Grocerychoice website statement of work (SOW) at Schedule 4 which sets out the work to be performed by Getronics pursuant to a work order issued under clause 12 of the Grocerychoice IT Contract;
Grocerychoice IT	means the contract titled 'Grocery Price Monitoring

Contract	Website System Design, Implementation and Services Contract' between Treasury and Getronics, a copy of which is at Schedule 5;
Grocery Product Prices Survey Contract	means the contract between Treasury and The Bailey Group Pty Ltd in relation to services for Grocery Product Prices Survey, dated 6 June 2008, a copy of which is at Schedule 6;
Hosting Arrangement	means the contract for hosting of the Grocerychoice Website between Treasury and Getronics Australia Pty Limited created pursuant to clause 4.4 of the Grocerychoice IT Contract;
Identified Contingent In-Kind Contributions	In-Kind Contributions that may arise during the Term if certain events occur and are identified in the Funding Schedule;
In-Kind Contribution	means the expenditure, liability and cost incurred by Treasury in relation to the Australian Government Grocerychoice Initiative, including without limitation fees under the Hosting Arrangement, Grocerychoice IT Contract or Grocery Products Price Survey Contract;
Intellectual Property Rights	includes: <ul style="list-style-type: none"> a. all copyright (including rights in relation to phonograms and broadcasts); b. all rights in relation to inventions, plant varieties, trademarks (including service marks), designs, circuit layouts; and c. all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; <p>but does not include:</p> <ul style="list-style-type: none"> d. Moral Rights; e. the rights of performers; or f. rights in relation to Confidential Information;
Interest	means interest calculated at an interest rate equal to the general interest charge rate for a day pursuant to section 8AAD of the Taxation Administration Act 1953 (Cth), on a daily compounding basis;
Key Performance Indicators	means the minimum standards of performance specified (no matter how named or referred to) in Grocerychoice Activity Details or otherwise agreed in writing between the parties;

Material	includes any thing in relation to which Intellectual Property Rights arise;
Milestone	means a stage of completion of the Activity as set out in the Funding Schedule;
Milestone Date	means the date for mandatory completion of all specified obligations of Choice in respect of a Milestone;
Moral Rights	includes the following rights of an author of copyright Material: <ul style="list-style-type: none"> a. the right of attribution of authorship; b. the right of integrity of authorship; and c. the right not to have authorship falsely attributed;
Objectives	means the objectives described in Grocerychoice Activity Details;
Official Information	means any information developed, received or collected by or on behalf of the Australian Government, through its agencies and contracted providers.
Official Resources	includes Official Information, people who work for or with the Australian Government, assets in the possession of the Australian Government and assets belonging to the Australian Government, whether in the Australian Government's possession or in the possession of its contractors or agents or any other person;
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;
Personnel	means a party's officers, employees, agents, contractor staff or professional advisers engaged in, or in relation to, the performance or management of this contract;
Phase	means, as the context requires, either Phase 1, Phase 2, Phase 3 or Alternative Phase 3;
Phase 1	means all activities necessary for Choice's performance of its obligations in respect to phase 1 of the Activity in accordance with this contract;
Phase 2	means all activities necessary for Choice's performance of its obligations in respect to phase 2 of

	the Activity in accordance with this contract;
Phase 3	means all activities necessary for Choice's performance of its obligations in respect to phase 3 of the Activity in accordance with this contract;
Phase 3 Commencement Date	means 1 July 2009;
Privacy Act	refers to the <i>Privacy Act 1998</i> (Cth);
Privacy Commissioner	means the Office of the Privacy Commissioner established under the Privacy Act and includes any other entity that may, from time to time, perform the functions of that Office;
Protocol	means the document at the schedule to this contract headed 'Protocol';
Qualified Accountant	means a person who is a member of the Institute of Chartered Accountants in Australia or of CPA Australia;
Records	includes documents, information and data stored by any means and all copies and extracts of the same;
Related Party	means: <ul style="list-style-type: none"> a. a related party within the meaning given to that term in Section 9 of the <i>Corporations Act 2001</i> (Cth); and b. any entity or person with whom any dealing, association, or relationship with in the relevant context might involve a Conflict;
Report	means Activity Material that is provided to Treasury for reporting purposes as stipulated in clause 9;
Security Classified Information	means Official Resources that, if compromised, could have adverse consequences for the Australian Government;
Schedule	refers to the schedule to this contract and may include annexures and incorporate other documents by reference;
Source Code	means the source code to any computer software (including any relevant, module, function, procedure or object) and includes any software tools, software objects or object libraries embedded in that software or otherwise forming part of it and all Materials relating to that software and/or its design, development, modification, operation, support or maintenance (which except as otherwise specifically

	agreed in writing by Treasury must be in English);
Specified Acts	means any of the following classes or types of acts or omissions by or on behalf of Treasury: <ul style="list-style-type: none"> a. using, reproducing, adapting or exploiting all or any part of the Activity Material, with or without attribution of authorship; b. supplementing the Activity Material with any other Material; or c. using the Activity Material in a different context to that originally envisaged, but does not include false attribution of authorship;
Third Party	means a person who is not a party to this contract or a Related Party to a party to this contract;
Third Party Interest	means any legal or equitable right, interest, power or remedy in favour of any person other than Treasury or Choice in connection with the contract, including, without limitation, any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest;
Treasury	includes officers, delegates, employees and agents, and successors of Treasury;
Treasury Background Material	means any Material used by Choice as part of Grocerychoice Website that is provided by Treasury and/ or the ACCC to Choice for the purposes of this contract – but only to the extent that the Intellectual Property Rights are owned by Treasury;
Undepreciated	in relation to the value of an Asset, means the value of the Asset which has not been Depreciated; and
Unpaid Cash Funding	means the amount of Funding (in cash) that has not been paid by Treasury and is not due and payable by Treasury.

1.2. Interpretation

- 1.2.1. In this contract, unless the contrary intention appears:
- a. words importing a gender include any other gender;
 - b. words in the singular include the plural and words in the plural include the singular;
 - c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;

- d. words importing a person include a partnership and a body whether corporate or otherwise;
- e. a reference to dollars is a reference to Australian dollars;
- f. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
- g. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- h. an schedule and any attachments to this document form part of the contract;
- i. if any conflict arises between the terms and conditions contained in the clauses of this contract and any part of any schedule to this contract (and attachments if any), the terms and conditions of the clauses prevail;
- j. if any conflict arises between any part of a schedule and any part of an attachment, the schedule prevails;
- k. a reference to a schedule (or an attachment), is a reference to a schedule (or an attachment) to this contract, including as amended or replaced from time to time by agreement in writing between the parties; and
- l. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

1.3. Guidance on construction of contract

- 1.3.1. This contract records the entire agreement between the parties in relation to its subject matter.
- 1.3.2. As far as possible all provisions of this contract will be construed so as not to be void or otherwise unenforceable.
- 1.3.3. If anything in this contract is void or otherwise unenforceable then it will be severed and the rest of the contract remains in force.
- 1.3.4. A provision of this contract will not be construed to the disadvantage of a party solely on the basis that it proposed that provision.

2. COMMENCEMENT AND TERM

- 2.1.1. The term of this contract commences on the date of execution and, unless terminated earlier, it expires on the Completion Date.

3. CONDUCT OF THE GROCERYCHOICE WEBSITE AND ACTIVITIES

3.1. Summary of Choice accountabilities

- 3.1.1. From the date of this contract, Choice will have full responsibility and accountability for the Grocerychoice Website.
- 3.1.2. Choice will use its best efforts to perform the Activities in a manner that is consistent with and will achieve Australian Government's Grocerychoice objectives.
- 3.1.3. Choice will not be liable to Treasury for any breach of its accountabilities under clauses 3.1.1 and 3.1.2 to the extent that the breach was due to any failure to provide, delay or defect in the In-Kind Contributions and the circumstances were that reasonable action by Choice could not enable the failure, delay or defect to be overcome or the accountabilities met by other actions or means reasonable in the circumstances.
- 3.1.4. Choice must:
- a. undertake:
 - i. Phase 1;
 - ii. Phase 2; and
 - iii. subject to clause 3.3, Phase 3; and
 - b. otherwise fully comply with all of its obligations under this contract.

3.2. Phase 3 Commencement

- 3.2.1. Choice must undertake and perform Phase 3 as and from the Phase 3 Commencement Date in accordance with this contract.

3.3. Phase 3 Review and Alternative Phase 3

- 3.3.1. If Choice does not commence Phase 3 on or before the Phase 3 Commencement Date, Treasury will initiate a structural review of Phase 3 during which Treasury and Choice must meet to discuss:
- a. the continuation of the Activity, including, but not limited to, the conditions for contingency if the Phase 3 Commencement Date is not met, as specified in Option 1 and Option 2 described in the Activities Details Schedule; and
 - b. if applicable, the proposed new commencement date for Phase 3.
- 3.3.2. If the parties agree that Choice will continue the Activity with an alternative to Phase 3, the parties will agree an Alternative Phase 3.

- 3.3.3. Choice must continue to perform Phase 2 obligations until the earlier of:
- a. the date the parties agree an Alternative Phase 3; or
 - b. the end of the Term.

3.4. Choice Responsibility and Availability of Treasury Services

3.4.1. Unless otherwise agreed in writing by the parties, Treasury will make available to Choice the use of services in respect to the Grocerychoice Website under the following contracts as In-Kind Contributions:

- a. hosting via the Hosting Arrangement;
- b. modifications in accordance with the Grocerychoice Website SOW to the Grocerychoice Website as it exists at the date of this contract, to be performed by the Grocerychoice IT Contract contractor;
- c. support and maintenance via the Grocerychoice IT Contract; and
- d. collection of grocery product price data and provision of monthly basket prices in the required .xml format via the Grocery Product Prices Survey Contract,

until the commencement of Phase 3, on condition that:

- e. the availability of these services does not in any way limit or diminish Choice's obligations in any other respect to this contract;
- f. to the extent that legal participation of Treasury is required, including for example to issue work orders under the Grocerychoice IT Contract, the availability of these services is subject to Treasury's internal sign-off process.

3.4.2. Choice acknowledges and agrees that all In-Kind Contributions by Treasury, including the Grocerychoice Website, Treasury Background Material and any services or Material including those under the Hosting Arrangement, the Grocerychoice IT Contract and the Grocery Product Prices Survey Contract, are, to the extent permitted by law, provided to Choice 'as is' and without any represent or warranty (whether express or implied) or liability of any kind.

3.4.3. Where Choice incurs liability to a Third Party in respect to data provided under the Grocery Product Prices Survey Contract that is required to be published by Choice as part of the Activity, clause 3.4.2 shall not prevent Choice from joining Treasury as a party to any proceeding or taking legal action against Treasury in respect to liability Treasury may have to Choice in respect to such matters, providing however that any liability Treasury may have to Choice in respect to such matters is, to the extent permitted by Law, limited to the amount that Treasury recovers from the Grocery Product Prices Survey Contract contractor in respect to the same underlying issues as any action between Choice and Treasury.

3.5. Performance standards

3.5.1. Choice must carry out the Activity:

- a. to achieve the Objectives;
- b. throughout the Activity Period;
- c. in accordance with the Activity Timetable;
- d. to Treasury's reasonable satisfaction; and
- e. otherwise in accordance with this contract.

3.5.2. Choice must undertake and perform the Activity:

- a. diligently, effectively and to a high standard;
- b. in accordance with suitable and appropriate methods and practices;
- c. in a timely, safe, prudent and reasonable manner and with the degree of professional skill, care and diligence which may reasonably be expected of a skilled and professional person suitably qualified and experienced in the conduct of activities similar to the Activity.

3.5.3. Choice must meet or exceed all Key Performance Indicators.

3.5.4. Subject to clause 3.5.5, Choice must ensure that the Grocerychoice Website:

- a. complies with:
 - i. the priority 1 and priority 2 checkpoints of the WC3 Web Content Accessibility Guidelines;
 - ii. the Human Rights and Equal Opportunity Commission's (HREOC) World Wide Web Access: Disability Discrimination Act Advisory Notes;
 - iii. the Australian Government Information Management Office's (AGIMO) Australian Government Web Publishing Guide;
 - iv. the Office of the Federal Privacy Commissioner's Guidelines for Federal and ACT Websites; and
 - v. the *Disability Discrimination Act 1992 (Cth)*;
- b. contains and adequately displays a disclaimer in the manner and in the form specified in the Contract Details or as otherwise advised by Treasury; and
- c. complies with all other requirements of this contract.

3.5.5. Choice will not be in breach of clause 3.5.4.a during either Phase 1 or Phase 2 except to the extent that the breach arises as a result of any change to the Grocerychoice Website made by Choice (for the purposes of clarity, any change to the Grocerychoice Website made pursuant to the Grocerychoice Website

SOW will not be considered a change to Grocerychoice Website by Choice for the purposes of this clause 3.5.5 or as a result of any specific action taken by Choice.

3.6. Subcontractors

- 3.6.1. Choice agrees not to subcontract the performance of any obligations under this contract without Treasury's prior written approval. Any subcontractors approved by Treasury at the date of this contract, and any terms and conditions relating to their use, are identified in the Contract Details. If Choice proposes to replace an approved subcontractor, Choice must also obtain Treasury's approval for the proposed change under this clause 3.6.
- 3.6.2. Choice is fully responsible for the performance of Choice's obligations under this contract regardless of whether Choice has subcontracted any of its obligations.
- 3.6.3. Choice agrees, in any subcontract placed with a subcontractor, to reserve a right of termination to take account of Treasury's rights of termination under clause 17 [Termination, or reduction in scope of contract], and Choice agrees, where appropriate, to make use of that right in the event of a termination or revocation by Treasury.

3.7. Personnel

- 3.7.1. Choice must ensure that it has sufficiently qualified personal and an appropriate allocation of roles and responsibilities within its staff to undertake the activities required for the successful operation of the Grocerychoice Website.
- 3.7.2. Choice must, at the earliest opportunity, provide full details to Treasury of the responsible personnel for each appropriate area of this contract, including, but not limited to, the primary Treasury contact point, the contract manager, IT manager and media liaison.
- 3.7.3. Choice must at all times have in place contingency plans, succession plans, and other relevant plans, processes and procedures to minimise any potential adverse impact for the operation of the Grocerychoice Website if any member of the personal delegated to undertake activities relating the Grocerychoice Website is, for any reason, not available.
- 3.7.4. Choice must provide full details of any replacement personnel to Treasury in writing.

4. PAYMENT

4.1. Making of payment

4.1.1. Treasury agrees to provide Choice with the Funding at the times and in the manner specified in Schedule 2 subject to:

- a. receipt of a correctly rendered invoice issued on or after the relevant part of the Funding falls due for billing;
- b. the due and proper provision of the Activity (including achievement of Milestones) and compliance by Choice with all other requirements of this contract;
- c. adjustment in accordance with clause 4.2 [Calculation of Funding] and 4.3 [Adjustment of Unpaid Cash Funding]; and
- d. sufficient funds being available for the Australian Government Grocerychoice Initiative for the Funding.

4.1.2. Without limiting Treasury's rights, Treasury may suspend any payment in whole or in part until Choice has performed its obligations under this contract that relates to the payment concerned.

4.2. Calculation of Funding

4.2.1. Except to the extent specifically provided to the contrary in this contract or otherwise specifically agreed in writing by the parties, the Funding payable for the Activity, and each part of the Activity, under this contract will be calculated by way of the following formula:

Funding = Base Funding Amount - Adjustment Factor.

4.3. Adjustment of Unpaid Cash Funding

4.3.1. The Unpaid Cash Funding will be reduced by the value of any In-Kind Contributions, not identified in Schedule 2 in the Table of In-Kind Contributions to be paid by Treasury.

4.4. Sanctions for inadequate management or performance

4.4.1. Where Treasury is not satisfied that Choice is adequately:

- a. managing the Funding; or
- b. performing or otherwise undertaking the Activity in accordance with this contract,

or is otherwise not satisfied that Choice will do so, or has the capacity to do so, Treasury may by written notice:

- c. suspend, reduce or cease the release of Funding to Choice; and/or

- d. require Choice to refund some or all of the Funding to Treasury, subject to Treasury providing written advice to Choice and allowing Choice the opportunity to rectify the cause of Treasury's concerns.

4.5. Debt and Interest

- 4.5.1. Choice agrees to pay any amount owed or payable to Treasury or which Treasury is entitled to recover from Choice, under this contract, including any Interest, without prejudice to any other rights available to Treasury under the contract, under statute, at law or in equity, at the discretion of Treasury, as a debt due to Treasury by Choice without further proof of the debt by Treasury being necessary.
- 4.5.2. If Treasury notifies Choice that an amount is to be refunded or repaid to Treasury and the amount is not refunded or repaid within 20 Business Days, or as otherwise notified by Treasury, Choice agrees to pay Interest, unless Treasury notifies Choice otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- 4.5.3. In respect to any obligation Choice may have under this contract to pay Treasury any Interest, Choice agrees that the Interest represents a reasonable pre-estimate of the loss incurred by Treasury.

5. FINANCIAL ACCOUNTABILITY

5.1. Use of Funding

- 5.1.1. Choice agrees to spend the Funding only for the Activity in accordance with this contract.
- 5.1.2. Choice agrees to do all things necessary to ensure that all payments from the Funding that Choice makes to third parties (including subcontractors) are correctly made and properly authorised and that Choice maintains proper and diligent control over the incurring of all liabilities.

5.2. Keeping of Funding

- 5.2.1. Choice agrees to:
 - a. ensure that the Funding is held in an account in Choice's name and which Choice solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia;
 - b. notify Treasury, prior to the receipt of any Funding, of details sufficient to identify the account;
 - c. if requested by Treasury, provide written notification to the authorised deposit-taking institution at which the account is established that the

Funding is held for the purposes of the Activity, and provide a copy of that notification to Treasury;

- d. on notification from Treasury, provide Treasury and the authorised deposit-taking institution with a written authority for Treasury to obtain any details relating to any use of the account;
- e. if the account changes, notify Treasury within 10 Business Days of the change occurring, provide Treasury with details of the new account;
- f. ensure that as a minimum, two signatories, who have Choice's authority to do so, are required to operate the account; and
- g. identify the receipt and expenditure of the Funding separately within Choice's accounts and Records so that at all times the Funding is identifiable.

5.3. Financial Records

5.3.1. Choice agrees to keep financial accounts and Records relating to the Activity so as to enable:

- a. all receipts and payments related to the Activity to be identified and reported in accordance with this contract;
- b. unless otherwise notified by Treasury, the preparation of financial statements in accordance with Australian Accounting Standards including:
 - i. an income and expenditure statement for the Financial Year to date; and
 - ii. a register of the Assets created, acquired, written-off or Disposed of during the Financial Year to date;
- c. the audit of those accounts and Records in accordance with Australian Auditing Standards; and
- d. the identification of all Choice's taxation liabilities and payments.

5.4. Use as security

5.4.1. Except with the prior written approval of Treasury, Choice agrees not to use any of the following as any form of security for the purpose of obtaining or complying with any form of loan, credit, payment or other interest, or for the preparation of, or in the course of, any litigation:

- a. the Funding;
- b. this contract or any of Treasury's obligations under the contract; or
- c. any Assets or Intellectual Property Rights in Activity Material.

5.5. Refunds

- 5.5.1. If, at the completion of any Phase or as at the Completion Date or earlier termination of this contract Treasury determines that:
- a. there remains an amount of Funding that has not been spent or legally committed for expenditure in accordance with the contract; or
 - b. Funding has not been spent in accordance with the contract,
- then at the discretion of Treasury and subject to clause 5.5.2, Choice agrees to refund this amount to Treasury within 20 Business Days of a notice from Treasury or deal with this amount as notified by Treasury, or Treasury may reduce further payments of Funding to Choice by up to this amount.
- 5.5.2. If paragraph 5.5.1a applies and Choice wishes to retain that Funding and use it to further the Government's objectives, Choice agrees to seek Treasury's written consent to retain the Funding and use it for purposes agreed by Treasury. Treasury acknowledges that Choice has discretion as to how the Funding is spent as long as it is to further the agreed objectives of this project.

5.6. No additional Funding

- 5.6.1. Treasury is not responsible for the provision of additional money to meet any expenditure in excess of the Funding.

5.7. Other funding

- 5.7.1. Unless otherwise agreed by Treasury in writing, no Funding will be paid for the conduct of an Activity where Choice receives funding for the same or a similar activity from Treasury or another Commonwealth, State, Territory or local government.
- 5.7.2. Choice agrees to inform Treasury in writing within 20 Business Days of entering into any arrangement (whether contractual or statutory) under which Choice is entitled to receive funding from the Commonwealth or a State, Territory or local government.
- 5.7.3. Any payments under this contract may be suspended by Treasury:
- a. if Choice has amounts to be repaid or unacquitted moneys under any arrangement (whether contractual or statutory) with Treasury; or
 - b. if a Report provided by Choice is not accurate or complete or indicates that Choice currently has unspent Funding.
- 5.7.4. Notwithstanding such suspension of any payments, Choice agrees to continue to perform any obligations under this contract, unless Treasury agrees otherwise in writing.

6. TAXES, DUTIES AND GOVERNMENT CHARGES

- 6.1.1. Unless otherwise indicated, Choice agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this contract.
- 6.1.2. Unless otherwise indicated, any consideration for a supply made under this contract is exclusive of any GST imposed on the supply.
- 6.1.3. If one party (the supplier) makes a taxable supply to the other party (the recipient) under this contract, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.
- 6.1.4. No party may claim or retain from the other party any amount in relation to a supply made under this contract for which the first party can obtain an input tax credit or decreasing adjustment.

7. ASSETS

7.1. Acquisition of Asset

- 7.1.1. Choice agrees not to use the Funding to acquire or create any Asset, apart from those detailed in the Contract Details, without obtaining Treasury's prior written approval. Approval may be given subject to any conditions Treasury may impose.

7.2. Ownership of Asset

- 7.2.1. Unless it is specified in Contract Details that Treasury or a third party own the Asset or Treasury provides written consent to a third party owning the Asset, then Choice must ensure that it owns any Asset acquired with the Funding.

7.3. Terms applicable to Asset

- 7.3.1. If Treasury owns the Asset, clauses 7.6, 7.8 and 7.9 do not apply.
- 7.3.2. If the Asset is owned by a third party then Choice agrees to ensure that the terms of the lease, hire or finance arrangement are consistent with this clause 7 [Assets], except for clauses 7.6, 7.7 and 7.8 and 7.9.

7.4. Use of Asset

- 7.4.1. During the Activity Period Choice agrees to use any Asset in accordance with this contract and for the purposes of the Activity.

7.5. Choices' responsibilities for Asset

- 7.5.1. Throughout the term of this contract, Choice agrees to:

- a. not encumber or Dispose of any Asset, or deal with or use any Asset other than in accordance with this clause 7 [Assets], without Treasury's prior written approval;
- b. hold all Assets securely and safeguard them against theft, loss, damage, or unauthorised use;
- c. maintain all Assets in good working order;
- d. maintain all appropriate insurances for all Assets to their full replacement cost noting Treasury's interest, if any, in the Asset under the contract;
- e. if required by law, maintain registration and licensing of all Assets;
- f. be fully responsible for, and bear all risks relating to, the use or Disposal (where approved by Treasury) of all Assets;
- g. maintain an Assets register in the form and containing the details as described in the Contract Details; and
- h. as and when requested by Treasury, provide copies of the Assets register to Treasury.

7.6. Sale or Disposal of Asset during term of this contract

7.6.1. If Choice Disposes of an Asset during the term of this contract, the greater of the following proportions must be accounted for as Activity Generated Income and used for the Activity:

- a. the proportion of the sale proceeds from the Asset; or
- b. the proportion of the Undepreciated value of the Asset,

that is equivalent to the proportion of the cost of the Asset that was funded from the Funding.

7.7. Loss, damage, etc of Asset

7.7.1. If any of the Assets are lost, damaged or destroyed, Choice agrees to promptly reinstate the Assets including from the proceeds of the insurance, and this clause 7 [Assets] continues to apply to the reinstated Assets. The proportion of any surplus from the proceeds of the insurance, which reflects the proportion of the cost of the Asset that was funded from the Funding, must be notified to Treasury and accounted for as Activity Generated Income and used for the Activity.

7.8. Dealing with Asset

7.8.1. On expiry of the Activity Period or earlier termination of the term of this contract, Treasury may require Choice to deal with an Asset as Treasury may, at the sole discretion of Treasury, notify Choice.

- 7.8.2. Subject to clause 7.8.1, if on expiry of the Activity Period or the earlier termination of this contract, an Asset has not been fully Depreciated, Treasury may, by written notice, require Choice to:
- a. pay to Treasury within 20 Business Days of the expiry of the Activity Period or earlier termination of the contract, an amount equal to the proportion of the Undepreciated value of the Asset that is equivalent to the proportion of the cost of the Asset that was funded from the Funding;
 - b. sell the Asset for the best price reasonably obtainable and pay to Treasury within 20 Business Days of the sale the proportion of the proceeds of the sale that is equivalent to the proportion of the cost of the Asset (less an amount equal to the reasonable Disposal costs incurred by Choice) that was funded from the Funding; or
 - c. continue to use the Asset for the purposes, and in accordance with any conditions, notified by Treasury.

7.9. Failure to make payment

- 7.9.1. Amounts payable to Treasury under clause 7.8.2 form part of the Funding and are recoverable as such.

8. RECORDS

8.1. Keeping Records

- 8.1.1. Choice must create and maintain full and accurate accounts and records of the conduct of the Activity including, without limitation, all:
- a. progress against the Milestones;
 - b. performance against Key Performance Indicators
 - c. receipt and use of Funding;
 - d. creation of Intellectual Property Rights in Activity Material; and
 - e. creation, acquisition and Disposal of Assets.

8.2. Retention of Records

- 8.2.1. Choice agrees to create and maintain records and accounts under clause 8.1.1 and retain them for a period of no less than 7 years after the end of the Activity Period.

9. REPORTING

9.1. Progress Reports

- 9.1.1. Choice agrees to provide to Treasury written Reports of Choice's progress in undertaking the Activity within two weeks of the completion of Phase 1, and quarterly thereafter, which include (but are not limited to):
- a. financial information (prepared by a Qualified Accountant who, if notified by Treasury, must also be a person acceptable to Treasury) including:
 - i. an income and expenditure statement including:
 - A. a statement of the Funding to date including the amount spent and the amount remaining in the account referred to in clause 5.2.1.a; and
 - B. a statement on the amount and use of all Activity Generated Income; and
 - ii. a schedule of the Assets created, acquired written-off or Disposed of during the Financial Year to date; and
 - b. Activity performance information including:
 - i. a description of the progress of the Activity to date;
 - ii. detail of the Objectives achieved during the period to which the Report relates and reasons why any Objectives have not been met;
 - iii. a description of actual performance against the Key Performance Indicators during the period to which the Report relates and reasons why any Key Performance Indicators have not been met; and
 - iv. a discussion and statement as to whether the timeframes and Milestones for the Activity (and specifically during the Report period) are being met and an explanation of any delays that have occurred, including the reasons for those delays and the action Choice proposes to take to address the delay and the expected effects (if any) the delay will have on the Activity (including subsequent Milestones and the overall completion of the Activity).

9.2. Annual Reports and Final Report

- 9.2.1. Within 60 Business Days after:
- a. the completion of each Financial Year in which a payment of Funding is made or used by Choice except the Financial Year in which subparagraph b applies; and
 - b. the expiry of the Activity Period, completion of the Activity or the termination or expiry of this contract, whichever is the earlier,

Choice agrees to provide to Treasury:

- c. audited financial statements prepared in accordance with Australian Accounting Standards in respect of the Funding (separately and in the context of Choice's overall financial position), which must include a definitive statement as to whether the financial information for the Activity represents the financial transactions fairly and is based on proper accounts and Records;
- d. a written statement of Choice's financial position (assets and liabilities by class), which must include, under assets, the balance of Choice's account referred to in clause 5.2.1.a;
- e. a written statement of how much money Choice needs to meet current liabilities under legal commitments entered into by Choice pursuant to this contract;
- f. a copy of a letter to Choice from the Approved Auditor, or a report from the Approved Auditor, including:
 - i. specific comment on the adequacy of financial controls being maintained by Choice;
 - ii. specific comment on Choice's financial position as it relates to any issues affecting Choice's ability to repay surplus Funding or complete the Activity with available Funding;
 - iii. specific comment on Choice's ability to meet Choice's taxation liabilities and any costs associated with any court or tribunal orders made against Choice or involving Choice;
 - iv. specific comment on Choice's compliance with Choice's obligations to pay superannuation entitlements;
 - v. where there are any qualifications or limitations on the audit, an outline of the reason(s) for the qualifications or limitations and the remedial action recommended; and
 - vi. an itemised list of fees paid to Directors, stating how much was paid, to whom, when and what travel costs were involved; and
- g. any other requirements specified in the Contract Details.

9.2.2. Information required to be provided under clauses 9.1 and 9.2 must be accompanied by a statement that:

- a. all Funding received were spent for the purpose of the Activity and in accordance with this contract, and that Choice has complied with the contract;
- b. salaries and allowances paid to persons involved in the Activity are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations;

- c. unless the Activity Period has expired or the contract has been terminated, the unspent portion of the Funding (if any) is available for use within the next Reporting period;
- d. the financial information is presented in accordance with any other financial Reporting requirements Treasury may notify to Choice;
- e. where an Asset has been created or acquired with the Funding, that clauses 7.5.1.d and 7.5.1.g have been complied with in respect to the Asset; and
- f. at the time the Report or financial statement is provided to Treasury, Choice is able to pay all Choice's debts as and when they fall due and Choice has sufficient resources to discharge all Choice's debts at the end of the current Financial Year.

9.3. Use of Approved Auditor and Qualified Accountant

- 9.3.1. The audited statement referred to in clause 9.2.1.c must be prepared by an Approved Auditor and must comply with the Australian Auditing Standards, and the statements referred to in clauses 9.2.1.c, 9.2.1.d and 9.2.1.e must be prepared by a Qualified Accountant who, if notified by Treasury, must also be a person acceptable to Treasury.

9.4. Who provides certification

- 9.4.1. The statement referred to in clause 9.2.2 must be provided by Choice's Chairperson, Chief Executive Officer, Chief Financial Officer or a person authorised by Choice to execute documents and legally bind Choice by their execution. Satisfactory evidence of the authorisation is to be provided to Treasury before the statement is made.

9.5. Other Reports

- 9.5.1. Throughout the Activity Period, Treasury may require Choice to provide ad-hoc Reports concerning:
- a. any significant developments concerning the Activity; and
 - b. any significant delays or difficulties encountered in performing the Activity in accordance with the contract.
- 9.5.2. Choice must provide any such ad-hoc Reports within the timeframe notified by Treasury.

10. RELATIONSHIP MANAGEMENT

10.1. Liaison and monitoring

10.1.1. Choice agrees to liaise with and provide information to Treasury as reasonably notified by Treasury.

10.2. Choice's Representative

10.2.1. Choice shall appoint and at all times maintain a Choice Representative with full power and authority to represent and bind it in any matter related to this contract.

10.3. General

10.3.1. Notwithstanding any other provision of this contract, an instruction, advice or notice given to the Choice Representative is deemed to be given to Choice.

10.3.2. Choice must ensure that the Choice Representative is available to provide information, advice and assistance to Treasury and to discuss and facilitate any matter related to this contract at all reasonable times.

10.4. Schedules Meetings

10.4.1. The parties will meet on a quarterly basis to discuss Choice's progress in undertaking the Activity and any issues that relate to the Grocerychoice Website generally, on a time and day specified by Treasury or as otherwise agreed by the parties.

10.5. Information and Review

10.5.1. Choice agrees to:

- a. provide all reasonable assistance required by Treasury;
- b. respond to all of Treasury's reasonable requests; and
- c. provide any information Treasury reasonably requires,

in relation to the Activity and any matter relevant to this contract.

11. INTELLECTUAL PROPERTY

11.1. Activity Material

11.1.1. Intellectual Property Rights in the Activity Material vest in Choice or as it may otherwise arrange.

11.2. Licence of Treasury Background Material to Choice

11.2.1. Subject to clause 11.2.2, Treasury grants to Choice:

- a. a perpetual, royalty free, worldwide, non-exclusive licence to use, reproduce, modify, adapt, publish and communicate the Treasury Background Material; and
- b. the right to grant a sub-licence on the same terms to third parties.

11.2.2. Treasury may cancel the licence provided under clause 11.2.1 at any time by written notice to Choice should Choice fail to perform the Activity to the reasonable satisfaction of Treasury or if this contract is terminated for any reason.

11.3. Licensing of Choice Material to Treasury

11.3.1. Choice grants (and undertakes to ensure that all relevant third parties will grant) to Treasury:

- a. an irrevocable, perpetual, royalty free, worldwide, non-exclusive licence to use, reproduce, modify, adapt, publish, communicate and exploit the Activity Material; and
- b. the right to grant a sub-licence on the same terms to third parties, providing however, that such a sub-licence shall not be granted to a person where it will be used by the sub-licensee for purposes that might reasonably compete with business activities of Choice being conducted at the time of the grant of the sub-licence unless Choice is no longer operating the Grocerychoice Website.

11.4. Provision of Activity Material to Treasury

11.4.1. Choice will provide a copy of any and all Activity Material (including, as relevant, any Source Code) to Treasury promptly following Treasury's request.

11.5. Dealing with Intellectual Property Rights

11.5.1. Choice:

- a. agrees, if requested by Treasury to do so, to bring into existence, sign, execute or otherwise deal with any document which may be necessary or desirable to give effect to this clause 10 [Intellectual Property]; and
- b. warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property Rights in the Activity Material in accordance with this clause 10 [Intellectual Property].

11.6. Consent to Specified Acts

11.6.1. Choice agrees:

- a. to obtain from each author of any Activity Material a written consent to the Specified Acts (whether occurring before or after the consent is given)



which extends directly or indirectly to the performance of the Specified Acts by Treasury or any person claiming under or through Treasury;

- b. to obtain from each author of any Activity Material a written consent to the Specified Acts (whether occurring before or after the consent is given) which extends directly or indirectly for Treasury's benefit in relation to Treasury's licensed use of such material; and
- c. upon request, to provide the executed original of each such consent to Treasury.

12. CONFIDENTIAL INFORMATION

12.1. Confidential Information not to be Disclosed

- 12.1.1. Subject to clause 12.3, a party must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.

12.2. Written Undertakings

- 12.2.1. Choice must, on request by Treasury at any time, arrange for:

- a. its Personnel; or
- b. any person with a Third Party Interest,

to give a written undertaking in a form acceptable to Treasury relating to the use and non disclosure of Treasury's Confidential Information.

12.3. Exceptions to Obligations

- 12.3.1. The obligations on the parties under this clause 12 [Confidential Information] will not be taken to have been breached to the extent that Confidential Information:
 - a. is disclosed by a party to its Personnel solely in order to comply with obligations, or to exercise rights, under this contract;
 - b. is disclosed to a party's internal management Personnel, solely to enable effective management or auditing of contract-related activities;
 - c. is disclosed by Treasury to the responsible Minister;
 - d. is disclosed by Treasury, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - e. is shared by Treasury within Treasury's organisation, or with another agency, where this serves the Commonwealth's legitimate interests;
 - f. is authorised or required by law to be disclosed; or
 - g. is in the public domain otherwise than due to a breach of this clause 12 [Confidential Information].

12.3.2. Where a party discloses Confidential Information to another person pursuant to clauses 12.3.1.a - 12.3.1.e, the disclosing party must notify the receiving person that the information is confidential.

12.3.3. In the circumstances referred to in clauses 12.3.1.a, 12.3.1.b and 12.3.1.e, the disclosing party agrees not to provide the information unless the receiving person agrees to keep the information confidential.

12.3.4. Choice agrees to secure all of the Commonwealth's Confidential Information against loss and unauthorised access, use, modification or disclosure.

12.4. Period of Confidentiality

12.4.1. The obligations under this clause 12 [Confidential Information] will continue, notwithstanding the expiry or termination of this contract:

- a. in relation to an item of information described in the Contract Details – for the period set out in respect of that item; and
- b. in relation to any item of information agreed after the date of this contract to be Confidential Information – for the period agreed by the parties in writing in respect of that item.

12.5. No reduction in Privacy Obligations

12.5.1. This clause 12 [Confidential Information] does not detract from any of Choice's obligations under the Privacy Act or under clause 13 [Privacy], in relation to the protection of Personal Information (as defined in clause 13.1.1).

13. PRIVACY

13.1. Interpretation and application of clause

13.1.1. In this clause 13 [Privacy]:

Information has the same meaning as it has in the Privacy Act; and
Privacy Principle

Personal Information has the same meaning as it has in the Privacy Act.

13.1.2. This clause applies only where Choice deals with Personal Information when, and for the purpose of, conducting the Activity.

13.2. Obligations of Recipient in relation to privacy

13.2.1. Choice agrees, in conducting the Activity:

- a. not to do any act or engage in any practice which, if done or engaged in by Treasury, would be a breach of an Information Privacy Principle; and

- b. to comply with any directions, guidelines, determinations or recommendations of Treasury, to the extent that they are consistent with the Information Privacy Principles.
- 13.2.2. Choice agrees to notify Treasury immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause 13 [Privacy].

14. ACKNOWLEDGEMENT AND PUBLICITY

14.1. Acknowledgement of support

- 14.1.1. Unless or until notified by Treasury, Choice agrees, in all publications, promotional and advertising materials, public announcements and activities by Choice or on Choice's behalf in relation to the Activity, or any products, processes or inventions developed as a result of it including on the Grocerychoice Website to acknowledge the financial and other support Choice has received from the Australian Government, in the manner set out in the Contract Details or as otherwise approved by Treasury prior to its use.

14.2. Right to publicise Funding

- 14.2.1. Treasury reserves the right to publicise and report on the awarding of Funding to Choice. Treasury may do (but is not limited to doing) this by including Choices' name, the amount of the Funding given to Choice, the title and a brief description of the Activity in media releases, general announcements about the Funding, annual reports or through any other means as determined by Treasury.

14.3. Copies of publications

- 14.3.1. Where Choice has been provided with Funding to produce any publication, a copy of the publication must be provided to Treasury, if notified by Treasury.

14.4. Public Announcements/Media Contact

- 14.4.1. Choice must not make any public announcement or make any representation to any media representative about or concerning:
- a. this contract;
 - b. the Grocerychoice Website to the extent that the announcement involves any matter that might directly or indirectly be construed as relating to the Australian Government's association with the Activity; or
 - c. the Australian Government Grocerychoice Initiative;
- or any related matter without providing details of the relevant public announcement or representation to Treasury prior to its public release.

14.4.2. Communications by Choice with external parties regarding the Grocerychoice Website or the Australian Government Grocerychoice Initiative must be consistent with the Australian Government's public policy in respect to the Grocerychoice Website and the Australian Government Grocerychoice Initiative.

14.5. No restriction on advocacy activities

14.5.1. Treasury confirms that, subject to clause 14.5.2:

- a. no right or obligation arising under this contract should be interpreted as limiting Choice's ability to enter into public debate or criticism of the Commonwealth or its agencies, employees, servants or agents;
- b. Treasury does not require Choice to obtain advance approval of any involvement by Choice in public debate or advocacy activities; and
- c. Treasury will only exercise its rights under clause 3.7 on reasonable grounds relating to the performance of the Activity.

14.5.2. Nothing in this clause 14.4 limits or derogates from Choice's obligations under clauses 12 [Confidential Information] and 13 [Privacy].

15. INDEMNITY

15.1. General indemnity

15.1.1. Choice indemnifies (and agrees to keep indemnified) Treasury against any:

- a. cost or liability incurred by Treasury or Treasury's Personnel;
- b. loss of or damage to property of Treasury; or
- c. loss or expense incurred by Treasury in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by Treasury,

arising from:

- d. any act or omission by Choice or Choice's Personnel, in connection with this contract, the Grocerychoice Website, the Australian Government Grocerychoice Initiative or the Activity, where there was fault on the part of the person whose conduct gave rise to that cost, liability, loss, damage, or expense;
- e. any breach by Choice of the contract;
- f. use or Disposal of the Assets; or
- g. the use by Treasury of the Activity Material, including any claims by third parties about the ownership or right to use Intellectual Property Rights or Moral Rights in the Activity Material.

15.2. Reduction of scope

15.2.1. Choice's liability to indemnify Treasury under this clause 15 [Indemnity] will be reduced proportionally to the extent that any act or omission involving fault on the part of Treasury or its Personnel contributed to the relevant cost, liability, loss, damage or expense.

15.3. Preservation of other rights

15.3.1. The right of Treasury to be indemnified under this clause 15 [Indemnity] is in addition to, and not exclusive of, any other right, power or remedy provided by law, but Treasury is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage or expense.

15.4. Meaning of 'fault'

15.4.1. In this clause 15 [Indemnity], 'fault' means any negligent or unlawful act or omission or wilful misconduct.

16. DISPUTE RESOLUTION

16.1. Procedure for dispute resolution

16.1.1. The parties agree that a dispute arising under this contract will be dealt with as follows:

- a. the party claiming that there is a dispute will give the other party a notice setting out the nature of the dispute;
- b. within 5 Business Days each party will nominate a representative not having any prior involvement in the dispute;
- c. the representatives will try to settle the dispute by direct negotiation between them;
- d. failing settlement within a further 10 Business Days, the parties may agree to refer the dispute to an independent third person with power:
 - i. to intervene and direct some form of resolution, in which case the parties will be bound by that resolution; or
 - ii. to mediate and recommend some form of non-binding resolution;
- e. the parties will co-operate fully with any process instigated under clause 16.1.1 d in order to achieve a speedy resolution; and
- f. if a resolution is not reached within a further 20 Business Days, either party may commence legal proceedings.

16.2. Costs

16.2.1. Each party will bear its own costs of complying with this clause 16 [Dispute resolution], and the parties will bear equally the cost of any third person engaged under clause 16.1.1. d.

16.3. Application of clause

16.3.1. This clause 16 [Dispute resolution] does not apply to:

- a. legal proceedings by either party for urgent interlocutory relief; or
- b. clauses 4 [Payment], 5 [Financial accountability], 21.1 [Audit and Access] or 17 [Termination, or reduction in scope of contract].

16.4. Performance of obligations

16.4.1. Despite the existence of a dispute, Choice will (unless requested in writing by Treasury not to do so) continue to perform Choice's obligations under this contract.

17. TERMINATION, OR REDUCTION IN SCOPE OF CONTRACT

17.1. Termination for convenience

17.1.1. In addition to any other rights it has under this contract, Treasury may by notice, at any time and in its absolute discretion, terminate this contract or reduce the scope of the contract.

17.1.2. Treasury will give Choice not less than three month's prior written notice in respect to any termination under clause 17.1.1

17.1.3. Choice acknowledges and agrees that it must take all reasonable action to arrange its affairs to ensure that its involvement in this contract and all matters supporting it can be terminated, cancelled, unwound or discontinued at minimal cost, expense or damage should Treasury exercise its rights under clause 17.1.1 and will immediately comply with any directions given in the notice by Treasury. Without limiting the foregoing, Choice must in each order, contract, or subcontract to the value or potential liability exposure of \$5,000 or more include a right for Choice to terminate it for convenience on terms no less favourable than as between Treasury and Choice in these clauses 17.1.1 to 17.1.8.

17.1.4. Choice agrees, on receipt of a notice of termination or reduction, to:

- a. stop or reduce the performance of Choice's obligations as specified in the notice;
- b. do everything possible to minimise loss arising out of resulting from or otherwise connected with that termination or reduction;
- c. continue work on any part of the Activity not affected by the notice; and

- d. immediately return to Treasury any Funding in accordance with clause 17.1.5.e, or deal with any such Funding as directed by Treasury.
- 17.1.5. In the event of termination under clause 17.1.1, Treasury:
- a. will be liable only for payments due and owing to Choice under the payment provisions of the contract as at the date of the notice;
 - b. will be liable to reimburse any reasonable costs incurred by Choice and directly attributable to the termination of the contract;
 - c. will, in addition to amounts payable under clause 17.1.5.b, pay to Choice a sum equivalent to twenty per cent of the committed cash Funding that would have been paid to Choice but for the termination, as liquidated termination to cover costs and expenses incurred by Choice as a result of the termination that cannot be identified and claimed under clause 17.1.5.b;
 - d. will not be liable to pay amounts under 17.1.5. a and 17.1.5. b which would, added to any payments already paid to Choice under this contract, together exceed the Funding set out in Schedule 2;
 - e. will be entitled to recover from Choice any part of the Funding which:
 - i. has not been legally committed for expenditure by Choice in accordance with the contract and payable by Choice as a current liability by the date that the notice of termination is received; or
 - ii. has not, in Treasury's opinion, been spent by Choice in accordance with the contract.
- 17.1.6. In the event of a reduction in the scope of the contract under clause 17.1.1, Treasury's liability to pay any part of the Funding will, unless there is agreement in writing to the contrary, reduce in accordance with the reduction in the Activity.
- 17.1.7. Treasury's liability to pay any compensation under or in relation to this clause 17.1 [Termination, or reduction in scope of contract] is subject to:
- a. Choice's compliance with this clause 17.1 [Termination, or reduction in scope of contract]; and
 - b. Choice's substantiation of any amount claimed under clause 17.1.5.b.
- 17.1.8. Choice will not be entitled to compensation for loss of prospective profits or loss of any benefits that would have been conferred on Choice.
- 17.2. Termination for fault**
- 17.2.1. Treasury may by notice terminate this contract immediately (but without prejudice to any right of action or remedy which either party has or may have) if:

- a. Choice fails to fulfil, or is in breach of any of its obligations under this contract, and Treasury considers that this failure or breach is not capable of remedy;
- b. Choice fails to fulfil, or is in breach of any of its obligations under this contract, and does not rectify the omission or breach within 10 Business Days of receiving a notice from Treasury to do so;
- c. Choice is unable to pay all its debts as and when they become due and payable;
- d. Choice has applied to come under, received a notice requiring it to show cause why it should not come under, or has otherwise come under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or equivalent provisions in legislation of the States and Territories pertaining to incorporated associations or an order has been made for the purpose of placing Choice under external administration;
- e. in relation to the contract, Choice breaches any law of the Commonwealth, or of a State or Territory;
- f. Treasury is satisfied that any statement made in Choice's application for Funding is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the Funding; or
- g. Treasury exercises any other specific right of termination under the contract.

17.2.2. Where Treasury terminates this contract under clause 17.2.1 Treasury:

- a. will be liable only for payments due and owing to Choice under the payment provisions of the contract as at the date of the notice; and
- b. will be entitled to recover from Choice any part of the Funding which:
 - i. has not been legally committed for expenditure by Choice in accordance with the contract and is not payable by Choice as a current liability by the date that the notice of termination is received; or
 - ii. has not, in Treasury's opinion, been spent by Choice in accordance with the contract.

17.3. Preservation of other rights

17.3.1. Clause 17.2 does not limit or exclude any of Treasury's other rights under this contract.

18. OCCUPATIONAL HEALTH AND SAFETY

18.1. Use of Agency's premises

- 18.1.1. Choice agrees, when using Treasury's premises or facilities, to comply with all reasonable directions and procedures relating to occupational health, safety and security in effect at those premises or in regard to those facilities, as notified by Treasury or as might reasonably be inferred from the use to which the premises or facilities are being put.

19. CORPORATE GOVERNANCE

19.1. Constitution

- 19.1.1. Choice agrees to provide a copy of Choice's Constitution to Treasury upon notification by Treasury.
- 19.1.2. Choice agrees to inform Treasury whenever there is a change in Choice's Constitution.
- 19.1.3. If Choice is registered under the *Corporations Act 2001* (Cth), in the event that Choice applies to come under, receives a notice requiring Choice to show cause why Choice should not come under, receives a notice or an application from any other person for Choice to come under or has otherwise come under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* or an order has been made for the purpose of placing Choice under external administration, Choice agrees to notify Treasury within 5 Business Days of the date of the making or receipt of such a notice or application or the making of such an order.

20. NOTICES

20.1. Format, addressing and delivery

- 20.1.1. A notice under this contract is only effective if it is in writing, and dealt with as follows:
- a. *if given by Choice to Treasury* - addressed to Treasury at the address specified in the Contract Details or as otherwise notified by Treasury; or
 - b. *if given by Treasury to Choice* - given by Treasury and addressed (and marked for attention) as specified in the Contract Details or as otherwise notified by Choice.
- 20.1.2. A notice must be:
- a. signed by the person giving the notice and delivered by hand;
 - b. signed by the person giving the notice and sent by pre-paid post; or

- c. transmitted electronically by the person giving the notice by electronic mail or facsimile transmission.

20.2. When effective

- 20.2.1. A notice is deemed to be effected:
 - a. *if delivered by hand* - upon delivery to the relevant address;
 - b. *if sent by post* - upon delivery to the relevant address; or
 - c. *if transmitted electronically* - upon actual receipt by the addressee.
- 20.2.2. A notice received after 5.00 pm, or on a weekend or public holiday in the place of receipt, is deemed to be effected on the next Business Day in that place.

21. GENERAL PROVISIONS

21.1. Audit and Access

21.1.1. Choice agrees:

- a. to give Treasury, or any persons authorised in writing by Treasury, access to premises where obligations under this contract are being carried out; and
- b. to permit those persons to inspect and take copies of any Material relevant to this contract.

21.1.2. The rights referred to in clause 21.1.1. are subject to:

- a. Treasury providing reasonable prior notice;
- b. the reasonable security procedures in place at the premises; and
- c. if appropriate, execution of a deed of confidentiality by the persons to whom access is given.

21.1.3. The Auditor-General and the Privacy Commissioner are persons authorised for the purposes of clause 21.1.1.

21.1.4. This clause 21.1 does not detract from the statutory powers of the Auditor-General or the Privacy Commissioner.

21.2. Insurance

21.2.1. Choice agrees:

- a. to effect and maintain the insurance specified in the Contract Details; and
- b. on request, to provide proof of insurance acceptable to Treasury.

21.2.2. This clause 21.2 continues in operation for so long as any obligations remain in connection with this contract.

21.3. Conflict of interest

21.3.1. Choice warrants that, to the best of its knowledge after making diligent inquiry, at the date of this contract no Conflict exists or is likely to arise in the performance of Choice's obligations under the contract.

21.3.2. If during the term of this contract a Conflict arises, Choice agrees to:

- a. notify Treasury immediately;
- b. make full disclosure to Treasury of all relevant information relating to the Conflict; and
- c. take any steps Treasury reasonably requires to resolve or otherwise deal with that Conflict.

21.4. Relationship of parties

21.4.1. Choice is not by virtue of this contract an officer, employee, partner or agent of Treasury, nor does Choice have any power or authority to bind or represent Treasury.

21.4.2. Choice agrees:

- a. not to misrepresent its relationship with Treasury; and
- b. not to engage in any misleading or deceptive conduct in relation to the Activity.

21.5. Waiver

21.5.1. A failure or delay by a party to exercise any right or remedy it holds under this contract or at law does not operate as a waiver of that right.

21.5.2. A single or partial exercise by a party of any right or remedy it holds under this contract or at law does not prevent the party from exercising the right again or to the extent it has not fully exercised the right.

21.6. Variation of contract

21.6.1. Except for action Treasury is expressly authorised to take elsewhere in this contract, no variation of this contract is binding unless it is agreed in writing and signed by both parties.

21.7. Assignment

21.7.1. Choice cannot assign its obligations, and agrees not to assign its rights, under this contract without Treasury's prior written approval.

21.8. Survival

21.8.1. The operation of clauses 7 [Assets], 8 [Records], 10 [Relationship Management], 11 [Intellectual Property], 12 [Confidential Information], 13 [Privacy], 15 [Indemnity], 21.2 [Insurance], 16 [Dispute resolution] and any other provision which expressly or by implication from its nature is intended to continue survive the expiration or earlier termination of this contract.

21.8.2. Clause 21.1 applies for the term of this contract and for a period of 7 years from the date of expiration or earlier termination of the contract.

21.9. Applicable law and jurisdiction

21.9.1. This contract is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory.

21.9.2. The parties submit to the jurisdiction of the courts of that State or Territory.

SCHEDULE 1 GROCERYCHOICE ACTIVITY DETAILS

1. Activity Period

(Recital A, clauses 1.1.1 and 3.5.1)

The Activity Period commences on the date of this contract and ends on 31 March 2011 (or as otherwise agreed in writing between the parties).

2. Objectives

The Australian Government's objective for this contract is to

2.1.1. provide a dedicated website for consumers that provides reliable information on overall grocery prices, so as to help them make better informed purchasing decisions, and to provide this information in a manner which promotes competition in the market, without introducing distortions.

2.1.2. More specifically, the Grocerychoice Website will:

- a. provide current, relevant and accurate information on the prices of supermarket grocery products;
- b. provide functionality that allows consumers to make assessments about grocery prices both at detailed level and from an overall perspective within and across appropriately defined regions;
- c. will be available to all users and capable of facilitating a high volume of traffic with minimum disruptions to the user experience;
- d. will provide all information free of charge; and
- e. will represent the information made available via the Grocerychoice Website as a Choice product.

3. Activity Description

3.1. Overview

Choice is responsible for the management, editorial content, IT, data collection and publication and other operational requirements necessary to successfully operate the Grocerychoice Website according to three main phases:

Phase 1

Choice must re-skin the Grocerychoice Website with the Choice brand and style and takes editorial responsibility for the content of the Grocerychoice Website.

Choice must launch the re-skinned Grocerychoice Website no later than 30 January 2009.

Phase 2

Choice must continue to publish monthly basket prices using the data provided by the ACCC under the existing data collection survey, with the option to modify the presentation of this information and include additional information.

Choice must research and develop the new website strategy to be implemented from the commencement of Phase 3.

Phase 2 commences immediately upon the completion of Phase 1.

Phase 3

Choice must launch a new Grocerychoice Website on or before 01 July 2009.

The new website must have an expanded range of services for consumers, an amended data presentation and alternative user functionality to the existing Grocerychoice Website.

3.2. Detailed Description of Phases

PHASE 1

Treasury will facilitate arrangements Choice wishes to put in place as a matter of expediency with the contractor under the Grocerychoice IT Contract (Getronics). This will include the work relating to the Grocerychoice Website SOW. This work will be in accordance with clause 3.4 and be an Identified In-Kind Contribution. Choice will be responsible for performing tasks and responsibilities specified in the Grocerychoice Website SOW to be performed by Choice and working with Getronics to ensure that the changes associated with the re-skin of the Grocerychoice Website are implemented no later than 30 January 2009.

The re-skin of the Grocerychoice Website is detailed in the Grocerychoice Website SOW, and must include, but is not restricted to, the following website changes;

- a. the Grocerychoice Website must display the Choice brand and style (including new colour presentation and maps) and replace the ACCC name and logo on the website to ensure no conflict of interest, real or apparent, for the ACCC;
- b. the Grocerychoice Website must include a comments forum where users can provide moderated feedback and comments;

- c. the Grocerychoice Website must include access to a user survey; and
- d. the Grocerychoice Website must continue to make available to consumers the option to subscribe to a service which informs consumers about new data releases.

Choice will have responsibility for all editorial content on the re-skinned Grocerychoice Website from the commencement of the re-skin.

All changes to the Grocerychoice Website under Phase 1 not specified above or in the Grocerychoice Website IT Contract must be made in accordance with the Change Management processes specified in this Schedule.

PHASE 2

Choice will be responsible for all changes to the 'live' website.

Choice must continue to publish monthly basket prices from the existing survey data provided under the Grocerychoice Survey Contract until the introduction of the new Grocerychoice Website from the commencement of Phase 3.

Choice must publish the existing survey data provided under the Grocerychoice Survey Contract on the first business day of the month following the survey. Choice must ensure that the basket prices remain on the Grocerychoice Website until the next set of basket prices are published.

Treasury will have responsibility for the management of the Grocery Product Prices Survey Contract and will conduct the management of this contract in consultation with Choice.

A protocol document (Protocol for the publication of monthly survey results under Phase 2 of the Grocerychoice website contract), to be agreed between Treasury, Choice and the ACCC will set out the roles and responsibilities of the ACCC and Choice under Phase 2 in relation to the collection, dissemination, and quality assurance of the monthly survey data, in preparation for its publication.

The Protocol is at Schedule 7 to this contract. Choice must conduct the tasks assigned to it in, and otherwise comply with, the Protocol.

Choice must research and develop the new Grocerychoice Website to be implemented from the commencement of Phase 3. The development must include consideration of at least the following elements and functionality and achieve the following outcomes:

- a. publication of basket prices for individual supermarkets, with the contents of the baskets transparent to users;

- b. publication of basket prices for all leading supermarkets chains or groups (e.g. Coles, Woolworths, IGA, Franklins, Supabarn, Foodworks, ALDI etc) and other smaller independent operators;
- c. publication of a 'staples' basket, or similar basket, that allows for a suitable comparison of prices between the larger supermarket chains, smaller independent supermarkets and ALDI;
- d. publication of grocery prices on a no less than a weekly basis with the 'date updated' clearly indicated on the Grocerychoice Website;

Choice must ensure that independent verification of data on the Grocerychoice Website is conducted to ensure the accuracy of prices data displayed on the Grocerychoice Website.

Choice must examine the implementation of appropriate changes to the method of data collection for grocery prices to fully support the above in the most efficient and effective way possible. To the extent that these changes involve the introduction of data capture through electronic means, appropriate alternative arrangements must also be developed for those supermarkets unable to provide data in Choice's desired format.

Choice must engage with major interest groups and independent experts regarding potential amendments to the Grocerychoice Website with initial consultations to be completed prior to the commencement of Phase 3.

Choice must continue to provide the existing Grocerychoice Website subscription service up to the launch of the Phase 3 Grocerychoice Website. This must include despatching monthly emails to subscribers as well as the addition of new subscribers and the deletion of subscribers requesting removal from the list.

Choice must continue, in an amended form if required, the existing Grocerychoice Website electronic feedback and inquiry service until the commencement of Phase 3. Choice must respond to all inquiries within 7 Business Days.

Choice, in consultation with Treasury, may consider publishing an alternative presentation of the data collected from the existing Grocerychoice Website survey.

All changes to the Grocerychoice Website under Phase 2 not specified above must be made in accordance with the Change Management processes specified in this Schedule.

Contingency if Phase 3 Commencement Date not met

In the event that Choice is unable to transition to Phase 3 by the Phase 3 Commencement Date, Treasury and Choice, in consultation with the ACCC where applicable, will reach an agreement on the future roles and responsibilities of the parties in relation to the Grocerychoice Website beyond this period, in accordance with the two options specified below.

Under both options, Choice will continue to improve and progress the Grocerychoice Website, consistent with the Australian Government's objectives for the Grocerychoice Website. This may include, but is not limited to:

- a. providing a small subset of grocery prices updated on a more frequent basis, in addition to the existing data presented on the website (such as weekly specials);
- a. providing additional information on grocery products, supermarkets, smart shopping etc; or
- b. providing greater detail on grocery prices for some individual supermarkets.

All changes to the Grocerychoice Website under the continuation of Phase 2 not specified above must be made in accordance with the Change Management arrangements specified in this Schedule.

If Choice requests a change in the scope of the Activity under Phase 3, outside of the review process in accordance with clause 3.3, it will be dealt with in accordance with clause 17, 21.6 or other relevant provisions of the contract.

Option 1

The ACCC will continue to provide support to Choice as specified in the Protocol, and continue the corresponding financial arrangements. Choice will continue its responsibility for the publication of monthly basket prices as per the arrangements specified under Phase 2.

In the event of a change in the roles and responsibilities specified in the Protocol being agreed, the funding arrangements will also be modified accordingly.

All parties will be required to agree to any changes. In the event of disagreement, the existing Protocol arrangements will continue.

As part of this arrangement, Treasury will, if requested by Choice, enable Choice to contract directly with the Bailey Group Pty Ltd (Retail Facts) for the services provided under the Grocery Product Prices Survey Contract by:

- a. subject to agreement of Retail Facts and Choice, novating the Grocery Product Prices Survey Contract to Choice; or
- b. terminating the Grocery Product Prices Survey Contract.

Should Choice not wish to retain the Grocery Product Prices Survey Contract, it will make arrangements for a similar data collection survey to be undertaken, with no gap between survey collection periods.

Option 2

Choice will assume all responsibility for the data management, collection and publication of the survey undertaken by the ACCC in the Protocol and continue its responsibility for the publication of monthly basket prices. The ACCC will assist in facilitating the transfer of knowledge and skills from the ACCC to Choice as quickly as possible.

As part of this arrangement, Treasury will, if requested by Choice, enable Choice to contract directly with Retail Facts for the services provided under the Grocery Product Prices Survey Contract by:

- c. subject to agreement of Retail Facts and Choice, novating the Grocery Product Prices Survey Contract to Choice; or
- d. terminating the Grocery Product Prices Survey Contract.

Should Choice not wish to retain the Grocery Product Prices Survey Contract, it will make arrangements for a similar data collection survey to be undertaken, with no gap between survey collection periods.

PHASE 3

Choice must launch a new Grocerychoice Website on or before the Phase 3 Commencement Date.

The Grocerychoice Website must at all times include at least the following elements and functionality and achieve the following outcomes:

- a. publication of basket prices for individual supermarkets locations, with the contents of the baskets transparent to users;
- c. publication of basket prices for all leading supermarkets chains or groups (e.g. Coles, Woolworths, IGA, Franklins, Supabarn, Foodworks, ALDI etc) and other smaller independent operators;
- d. publication of a 'staples' basket, or something similar, that allows for a suitable comparison of prices between the larger supermarket chains, smaller independent supermarkets and ALDI;

- e. publication of grocery prices on a no less than a weekly basis with the 'date updated' clearly indicated on the Grocerychoice Website. All data that is out of date or has not been updated in over a week must be removed from the Grocerychoice Website;

Choice must ensure that independent verification of data on the Grocerychoice Website is conducted to ensure the accuracy of prices data displayed on the Grocerychoice Website; and

Choice must examine the implementation of appropriate changes to the method of data collection for grocery prices to fully support the above in the most efficient and effective way possible. To the extent that these changes involve the introduction of data capture through electronic means, appropriate alternative arrangements must also be developed for those supermarkets unable to provide data in Choice's desired format.

Choice must continue to research and develop improvements in the Grocerychoice Website. Any future developments must comply with the Objectives.

Further enhancements to the Grocerychoice Website may include, but are not restricted to, the following;

- a. the provision of additional information on grocery products, such as nutritional information, unit pricing information, product origin etc; and
- f. the addition of new functionality that allows users to construct their own baskets of grocery products and to compare these baskets across supermarkets.

All changes to the Grocerychoice Website under Phase 3 not specified above must be made in accordance with the Change Management processes specified in this Schedule.

The ACCC may be called upon to assist as appropriate in the transfer of knowledge from the ACCC to Choice under Phase 3.

3.3. Website Hardware

- a. Choice must acquire all the necessary hardware, software and other facilities and systems for the development, testing and hosting of the Grocerychoice Website prior to the Phase 3 Commencement Date.

3.4. Website Hosting

- a. Except as otherwise specifically agreed in writing by Treasury, the Grocerychoice Website will continue to be hosted in accordance with the Hosting Arrangement until the commencement of Phase 3.
 - b. Choice must host and support the Grocerychoice Website on its own infrastructure or under its own outsourcing arrangements from the commencement of Phase 3.
-

3.5. Website Performance

The Grocerychoice Website must be a highly available system capable of meeting traffic peaks without failure or performance loss.

The Grocerychoice Website must have a highly detailed website usage monitoring in place.

The Grocerychoice Website must perform with each page taking no longer than 5 seconds to load. This must also occur when being used on a low speed (56kbs) connection.

The Grocerychoice Website must be available to the public 24 hours x 7 days per week, excluding scheduled maintenance.

The Grocerychoice Website must have 24 hours x 7 days per week monitoring and alert processes to identify unexpected system and software failures.

Choice must provide Grocerychoice Website support during normal business hours.

The Grocerychoice Website must not be offline for a period exceeding 30 minutes. Choice must notify Treasury of all outages exceeding 10 minutes in duration.

Choice must notify Treasury of scheduled maintenance for the website. Scheduled maintenance will be in addition to the offline period requirements detailed above.

Choice must implement appropriate systems and user testing procedures to ensure that all amendments to the Grocerychoice Website are made effectively and without error.

3.6. GroceryChoice domain names

Subject to this contract, Treasury will provide Choice with technical control of the www.grocerychoice.net.au and grocerychoice.com.au, but the Commonwealth will remain the registered domain name holder during the term of this contract.

Providing Choice performs this contract to Treasury's satisfaction and Treasury is satisfied that Choice will continue to operate the Grocerychoice website in an appropriate manner into the indefinite future, Treasury will transfer the www.grocerychoice.net.au and grocerychoice.com.au domain names to Choice following the completion of this contract.

Treasury will also arrange for the www.grocerychoice.gov.au domain to be redirected to grocerychoice.com.au for an appropriate period to ensure a smooth transition.

3.7. Change management processes

Choice must notify Treasury about all changes to the Grocerychoice Website prior to their occurrence in accordance with the following requirements:

- a. changes classified as 'minor' in nature will require notification only, and will not be subject to Treasury approval. Changes classified as 'significant' in nature will require Treasury approval.

—'minor' changes are those that do not affect the substantive experience for consumers, and include, but are not limited to, changes to presentation, text, layout, graphic, editorial content or formatting of the website, minor operational changes to the data collection methods or presentation etc.

—'significant' changes are those that affect the substantive experience for consumers are include, but not limited to, changes to the consumer's interaction with the website, the number or types of grocery baskets, the representation of aggregated grocery price information, and the expansion of the grocery price/product information to include other information about supermarkets or grocery products etc.

- b. changes classified as 'significant' that are considered by Choice and Treasury to be consistent with the Objectives cannot be rejected by Treasury without explanation.

Choice should consult Treasury for clarification in the event of uncertainty regarding the definition of a change.

4. Activity Timetable

Activity	Completion Date or Period (as applicable)
Phase 1	From date of contract signing until the commencement of Phase 2.
Launch of re-skinned Grocerychoice Website	By no later than 30 January 2009
Phase 2	From the launch of the re-skinned Grocerychoice website until the commencement of Phase 3.
Phase 3	No later than 01 July 2009 until 31 March 2011

5. Key Performance Indicators

Key Performance Indicators may be changed, added to or subtracted from with agreement between Treasury and Choice. Each rating assigned to a KPI denotes the partial Adjustment Factor assigned to that criteria for which a penalty may be applied, if it is not met.

Consumer experience KPIs will include either a and b or c and d but not both.

The maximum penalty that can be imposed for non-compliance with KPIs is 20 per cent of the Base Funding Amount.

Consumer experience

Phases 1 and 2

- a. Updated grocery price information for all 61 regions is provided no less frequently than on the first Business Day of each month. (12.5 per cent of 20 per cent of Base Funding Amount)
- b. Consumers can successfully locate information about grocery prices in their area by using the Grocerychoice Website search functions. (12.5 per cent of 20 per cent of Base Funding Amount)

Phase 3

- c. Updated grocery price information for all defined regions is provided no less frequently than on a weekly basis. (12.5 per cent of 20 per cent of Base Funding Amount)
- d. Consumers can successfully locate information about grocery prices in their area by using the Grocerychoice Website search functions. (12.5 per cent of 20 per cent of Base Funding Amount)

IT

- e. All Grocerychoice Website pages complete loading in 5 seconds or less. (12.5 per cent of 20 per cent of Base Funding Amount)
- f. The Grocerychoice Website is available 99.7 per cent of each month. (12.5 per cent of 20 per cent of Base Funding Amount)
- g. The Grocerychoice Website is not offline for more than 30 minutes within each 24 hour period, excluding scheduled maintenance. (12.5 per cent of 20 per cent of Base Funding Amount)

Communications

- h. Choice responds to requests from the Treasury in a timely manner. (5 per cent of 20 per cent of Base Funding Amount)
- i. Choice responds to all inquiries by the general public to the Grocerychoice Website within 7 Business Days. (5 per cent of 20 per cent of Base Funding Amount)
- j. Choice notifies Treasury of all 'minor' changes to the Grocerychoice Website. (5 per cent of 20 per cent of Base Funding Amount)
- k. Choice consults Treasury on all 'significant' changes to the Grocerychoice Website. (5 per cent of 20 per cent of Base Funding Amount)

Quality of service

- l. Where complaints are made in respect to the Grocerychoice Website, Choice will act to investigate and if necessary correct such information, within 2 Business Days. (8 per cent of 20 per cent of Base Funding Amount)
- m. Choice records, investigates and rectifies all legitimate complaints about the Grocerychoice Website. (7.5 per cent of 20 per cent of Base Funding Amount)

Record keeping

- n. Choice records website 'hits' on a daily basis. (1 per cent of 20 per cent of Base Funding Amount)

- o. All information provided in the consumer feedback forums and the Grocerychoice Website survey is recorded.(1 per cent of 20 per cent of Base Funding Amount)
-

SCHEDULE 2 Funding Schedule

Funding and Payment

(clauses 1.1.1, 4.1, 4.2, 4.4)

Payments will be conditional upon Milestones being achieved. Once a Milestone has been achieved, the KPI Adjustment Factors (if applicable) will then be applied to determine the final payment.

The maximum amount of Funding for the Activity is **\$8.0** million GST inclusive, which will be paid as follows:

Table of Milestones and Funding Allocations

Milestone	Milestone Date	Base Funding Amount upon delivery of Milestone (cash) (GST Incl) (\$)	Applicable KPIs	Total KPI Adjustment Factor	Maximum penalty imposed for non-compliance with KPIs
2008-09					
Execution of this contract	19 Dec 09	\$1,000,000	n/a	n/a	n/a
Website re-skinned: Phase 2 begins	30 Jan 09	\$1,000,000	n/a	n/a	n/a
Phase 2 progressed: Specification documents issued for tender	1 Mar 09	\$1,000,000	a, b and e-o	Maximum 20 per cent of Base Funding Amount	\$200,000
Phase 2 progressed: Tender awarded; Website built; Data feeds from supermarkets received	1 Jun 09	\$1,000,000	a, b and e-o	Maximum 20 per cent of Base Funding Amount	\$200,000
2009-10					
New Website launched: Phase 3 begins	1 Jul 09	\$1,000,000	c-o	Maximum 20 per cent of Base Funding	\$200,000

				Amount	
Phase 3 KPI period 1: Report to Treasury delivered; Consumer survey published	1 Oct 09	\$500,000	c-o	Maximum 20 per cent of Base Funding Amount	\$100,000
Phase 3 KPI period 2: Report to Treasury delivered; Small supermarket facility added; New features added	1 Jan 10	\$500,000	c-o	Maximum 20 per cent of Base Funding Amount	\$100,000
Phase 3 KPI period 3: Report to Treasury delivered; New features added	1 May 10	\$500,000	c-o	Maximum 20 per cent of Base Funding Amount	\$100,000
2010-11					
Phase 3 KPI period 4: Report to Treasury delivered; New features added	1 Aug 10	\$500,000	c-o	Maximum 20 per cent of Base Funding Amount	\$100,000
Phase 3 KPI period 5: Report to Treasury delivered	1 Nov 2010	\$750,000	c-o	Maximum 20 per cent of Base Funding Amount	\$150,000
Phase 3 KPI period 6 and completion of Phase 3: Final report to Treasury delivered; Final audit carried out	31 Mar 2011	\$250,000	c-o	Maximum 20 per cent of Base Funding Amount	\$50,000

Treasury will also make In-Kind Contributions in accordance with the table below. Choice will be notified of any changes to these contributions.

Table of In-Kind Contributions to be paid by Treasury

Activity Phase	Expenditure Item	Date	Funding (cash) GST Incl (\$)
Phase 1	Grocerychoice website SOW	December 2008	\$95,372 (currently GST exclusive)
	Grocery Product Prices Survey Contract	December 2008 survey	\$208,019
Phase 2	Grocery Product Prices Survey Contract	January 2009 survey	\$208,019
	Grocery Product Prices Survey Contract	February 2009 survey	\$208,019
	Grocery Product Prices Survey Contract	March 2009 survey	\$208,019
	Grocery Product Prices Survey Contract	April 2009 survey	\$208,019
	Grocery Product Prices Survey Contract	May 2009 survey	\$208,019
	ACCC staff costs (\$15,911 per month)	Jan -June	\$95,466

Invoicing

Invoices forwarded by Choice in accordance with this contract must be correctly addressed to Heather Cotching, Department of the Treasury, and include the following information:

- (a) title of Activity;
- (b) date and name of this contract (including the contract number (if any));
- (c) the amount invoiced (separately identifying the amount charged as GST and other taxes, interest or other charges);
- (d) details of all aspects of the Activity performed in respect of the amount invoiced; and
- (e) any other details as notified by Treasury from time to time.

SCHEDULE 3 Contract Details

A. Reporting
(clauses 1.1.1, 9)

A.1. Final Report

The final progress Report must be a stand-alone document that can be used for public information dissemination purposes.

The final progress Report must:

- a. summarise Choice's actual performance against the Key Performance Indicators during the whole Activity Period and the reasons why any Key Performance Indicators were not met;
- b. discuss in detail the conduct, benefits and outcomes of the Activity as a whole during the entire Activity Period; and
- c. evaluate the Activity and include a detailed discussion as to whether the Objectives of the Activity were achieved, and if not, an explanation of why any Objectives were not met.

Choice must also include in the final progress Report a discussion of any other matters, relating to the evaluation of the Activity, which Treasury notifies Choice is required to be included in the final progress Report. Any such requirement will be notified to Choice at least 20 Business Days before the final progress Report is due.

B. Assets
(clauses 1.1.1 and 7)

Treasury approves the use of the Funding for purchase of the following Assets:

- 1) the necessary hardware and software for the development, testing and hosting of the Grocerychoice Website prior to the commencement of Phase 3.

Choice must for the term of this contract maintain an Asset register in the following form and containing the following information:

Asset number	Description of Asset	Creation, acquisition or total lease cost	Date of creation, acquisition or lease	Term of lease or other arrangement	Location of Asset	Method of, and date, which Asset was written off or Disposed of

C. Insurance
(clause 21.2)

Choice must maintain:

- a. workers compensation insurance as required by law where Choice carries out activities under this contract;
- b. public liability insurance to the value of at least \$20 million for each and every claim, or occurrence giving rise to a claim, in respect to activities undertaken under this contract, where occurrence means either a single occurrence or a series of occurrences if these are linked or occur in connection with one another from one original cause, as the case may be; and
- c. insurance against any loss or damage to an Asset for its full replacement cost including where relevant the costs of demolition and removal of debris and the cost of architects, engineers and other consultants.

D. Subcontracting
(clause 3.6)

not applicable

E. Acknowledgement and publicity and Disclaimer
(clause 3.5.4.b, 14)

Acknowledgement

Choice must acknowledge the provision of the Funding by Treasury in the following way:

- a. The Grocerychoice Website is supported by funding from the Australian Government.

Disclaimer

Although the Australian Government supports this website by contributing funding to its operation, it is not an Australian Government website and the Australian Government is not responsible for its content or operation and, to the extent permitted by law the Australian Government makes no representation and gives no warranty and accepts no liability in respect to it.

F. Notice
(clause 20.1)

Treasury's details are as follows:

HK Holdaway, Project Manager Grocerychoice contract. Manager, Competition Policy Framework Unit, The Treasury. Phone 02 6263 3791, email hk.holdaway@treasury.gov.au

Choice's details are as follows:

Linda Magee, Manager, Choice Online. Phone 02 9577 3378, email limagee@choice.com.au

G. Confidential Information
(clause 12)

Treasury Confidential Information	Period of Confidentiality
Treasury Personal Information	Indefinitely
Security Classified Information	Indefinitely
Funding details (not publicly available)	Indefinitely
Grocerychoice IT Contract	Indefinitely
Grocery Product Prices Survey Contract	Indefinitely

Choice Confidential Information	Period of Confidentiality
Choice Personal Information	Indefinitely



Australian
Competition &
Consumer
Commission

Transition ACCC Grocery Price monitoring web site

Statement Of Work

A handwritten signature in black ink, appearing to be a stylized 'A' or similar character.

Document Authorisation

General Manager transitional of Grocerychoice website to CHOICE		
Signature	<i>Name</i>	HK Holdaway
	<i>Position</i>	Manager, Competition Policy Framework Unit, the Treasury
	<i>Date</i>	8/12/08

Manager, Choice online		
Signature	<i>Name</i>	Linda Magee
	<i>Position</i>	Head of Online Services and Business Growth, CHOICE
	<i>Date</i>	11/12/08

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1. Introduction

1.1 Purpose of the Statement of Work

1.1.1 This statement of work (SOW) addresses the changes required for building and supporting the Grocerychoice website transition to Choice.

1.1.2 The SOW is approved by the manager of the Grocerychoice website contract, HK Holdaway and the manager of Choice online, Linda Magee.

1.2 Related Documents

The following documents have been referred to during the development of the SOW:

Table 1 – Related Documents

1.3 Abbreviations

Serial	Abbreviation	Meaning
1	ACCC	Australian Competition and Consumer Commission
2	ACT	Australian Capital Territory
3	AEDST	Australian Eastern Daylight Savings Time
4	AEST	Australian Eastern Standard Time
5	APS	Australian Public Service
6	AS	Australian Standard
7	ACSI	Australian Communications - Electronic Security Instruction
8	CAB	Change Advisory Board
9	CCB	Configuration Control Board
10	CCP	Contract Change Proposal
11	CD ROM	Compact Disk Read Only Memory
12	CFO	Chief Finance Officer
13	CMDB	Configuration Management Database
14	CPU	Central Processing Unit
15	DBA	Database Administration
16	DMZ	Demilitarized Zone
17	DR & BC	Disaster Recovery and Business Continuity
18	DSD	Defence Signals Directorate
19	DVD	Digital Video Disc (also Digital Versatile Disc)
20	EOI	Register an Expression of Interest
21	FTE	Full Time Equivalent
22	IRR	Implementation Readiness Review
23	ICT	Information and Communications Technology
24	ISO	International Organisation for Standardisation

Serial	Abbreviation	Meaning
25	ISP	Internet Service Provider
26	ITIL	IT Infrastructure Library
27	LAN	Local Area Network
28	LDAP	Lightweight Directory Access Protocol
29	MFD	Multi-function Devices
30	MOF	Microsoft Operations Framework
31	MS	Microsoft
32	NZS	New Zealand Standard
33	OS	Operating System
34	PABX	Private Automatic Branch Exchange
35	PSM	Protective Security Manual
36	QR	Quality Review
37	RAM	Random Access memory
38	RAS	Remote Access System
39	RFT	Request for Tender
40	SES	Senior Executive Service
41	SLA	Service Level Agreement
42	SMF	Service Management Functions
43	SMS	Short Message Service
44	SOE	Standard Operating Environment
45	SOP	Standard Operating Procedures
46	SOW	Statement of Work
47	TPA	Trade Practices Act
48	TRACKIT	The Reporting and Corporate Knowledge Information Tool
49	VLAN	Virtual Local Area Network
50	VCU	Video Conferencing Unit
51	WAN	Wide Area Network

Table 2 - Abbreviations

1.4 SOW Priority Ratings

1.4.1 The SOW uses a priority rating system to indicate the level of compliance required for each statement or requirement. The priority rating system and their definitions are:

- a. **Essential.** Indicates a requirement that Department of Treasury (and the ACCC) considers that without which its achievement would not be possible. Getronics (UXC)s are required to meet any "Essential" requirements;
- b. **Very Important.** Indicates a requirement that Department of Treasury considers makes a very important contribution to its achievement;

- c. **Important.** Indicates a requirement that Department of Treasury considers makes an important contribution to its achievement;
- d. **Desirable.** Indicates a requirement that Department of Treasury considers is not a key factor, but which is perceived to be beneficial; and
- e. **Advice.** Indicates that the clause provides advice, information, examples or clarification of requirements.

1.5 SOW Structure

- 1.5.1 The SOW has the following structure:
 - a. Department of the Treasury transition of Grocerychoice website to Choice;
 - b. Required changes to the existing Grocerychoice web site ;
 - c. Systems Testing; and
 - d. Implementation and Hosting

2. Transition of the Grocerychoice website to CHOICE Services Description

2.1 General

- 2.1.1 Responsibility for the existing ACCC Grocerychoice web site will transfer to the Department of Treasury on 5 January 2009. The Department of Treasury will provide funding to CHOICE for the transfer of the Grocerychoice web site and associated functions to CHOICE and the operation and enhancement of the Grocerychoice web site by CHOICE.
- 2.1.2 Amendments to the website will be made to reflect these changes. The changes, outlined in this document, are to be completed and operational by **30 January 2009**.
- 2.1.3 *Department of the Treasury transition of the Grocerychoice website to CHOICE scope*
- 2.1.4 The transitional Grocerychoice website will be branded with the Choice logos and the Choice colour scheme and styles. There will be no reference to the ACCC or Department of the Treasury on the website, other than an acknowledgement and disclaimer in accordance with the Grocerychoice contract between the Department of Treasury and Choice. **(Mandatory)**. This will include a re-direct being provided from www.grocerychoice.gov.au.
- 2.1.5 Additional functionality will also be added and this is outlined in 2.5 and 2.6. All other aspects of the website will remain unchanged.
- 2.1.6 The intended scope of the transitional arrangements are as follows:
- a. design and development of the transitional Grocerychoice website, based on the current Grocerychoice application;
 - b. provision of testing for the transitional Grocerychoice website application;
 - c. implementation of the transitional Grocerychoice website into the production environment;
 - a. Update of all documentation and project artefacts for the design, development, testing, deployment and operation of the transitional Grocerychoice website;

2.2 Assumptions

2.2.1.1 Non Function assumptions:

- a. The existing Grocerychoice application is to be used as a basis for the transitional web site

2.3 General Constraints

- 2.3.1 The Service Provider is expected to provide the transitional Grocerychoice website and Services in accordance with best practice and apply processes of continuous improvement and ensure that the benefits of this are passed on to Department of Treasury. However:
- 2.3.2 The System must be fully available across Australia by **30 January 2009**.
- 2.3.3 The design of the transitional Grocerychoice web site is to be provided and approved by Choice.

Transitional Grocerychoice Website Requirements

2.4 General

- 2.4.1 The indicative overview of the transitional Grocerychoice website is shown in Figure 2 below:
- 2.4.2 Web site – main page
- 2.4.3 The main page is to provide the viewer a facility to easily and quickly access the location that they need.

Figure 1 Transition Web site Home page

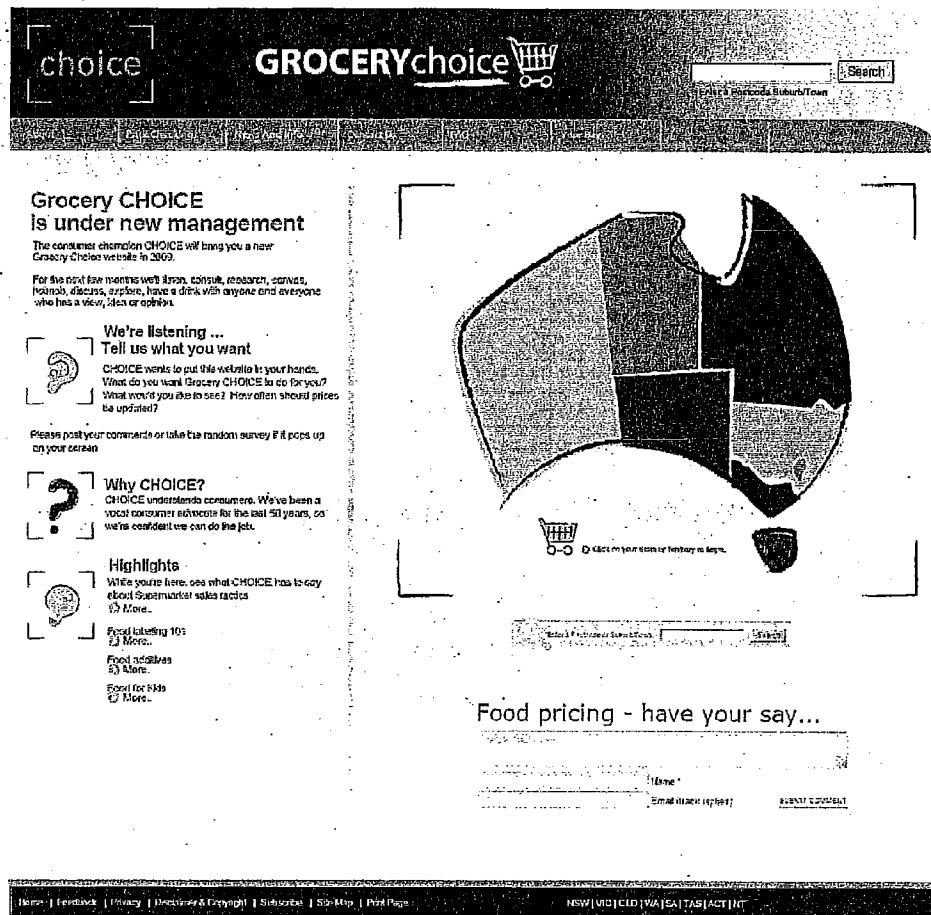
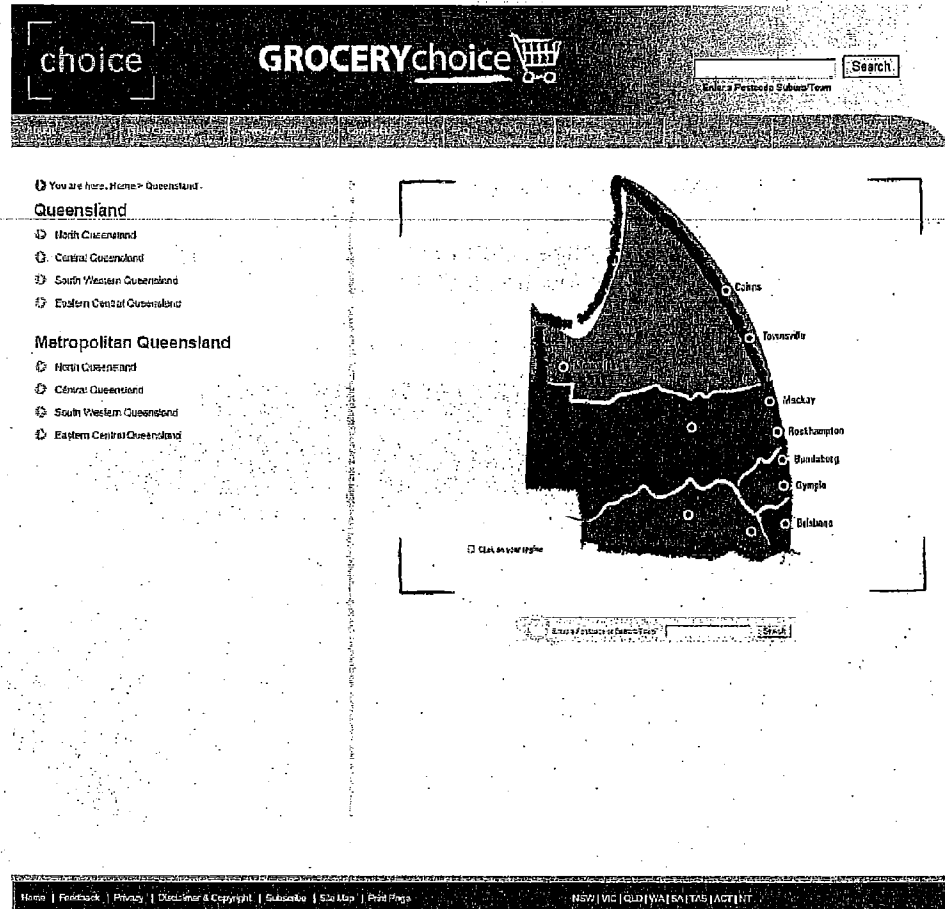


Figure 2 transitional Grocerychoice website regions page



2.4.4 The user will drill down to a detail page which will show the grocery baskets prices in the selected region.

Figure 3 transitional Grocerychoice website baskets page

choice
GROCERYchoice
Search:

[You are here: Home > Queensland > Central Queensland](#)

Central Queensland

Grocery Basket Prices Nov 08 Release

These basket prices represent the average basket price for the region for each supermarket chain. The Total basket price reflects weekly grocery purchases by the average Cairns town household.

Independent testing of product quality has been done to allow 'like-for-like' comparisons between retailers. However, some differences in the quality of fresh meat, fruit and vegetables may still exist and consumers should consider this when making price comparisons.

Note 1: Basket prices for individual stores are not available.

Note 2: 'Independents' refers to supermarket retailers other than Woolworths/Saleway, Coles/BLD, FreshView, Superann and ALDI.

Note 3: ALDI supermarkets do not stock all of the 500 products included in the survey. A smaller number of staple products have been selected and are presented as the 'Basic Staples' basket. This is the only basket that lists an ALDI supermarket price.

Basket	Coles / BLD	Woolworths / Saleway	Independents
Meat & Seafood Basket	\$27.23	\$27.47	\$26.15
Fruit & Vegetable Basket	\$24.85	\$27.54	\$27.89
Dairy Basket	\$15.11	\$15.81	\$15.50
Bread & Cereals Basket	\$21.15	\$21.33	\$22.40
Drinks & Snacks Basket	\$20.62	\$20.53	\$21.54
General Groceries Basket	\$18.05	\$16.20	\$17.44
Household & Personal Care Basket	\$27.83	\$28.92	\$27.77
Total of above baskets	\$165.87	\$157.90	\$168.89
Basic Staples Basket	\$76.01	\$76.53	\$80.40

Home | Feedback | Privacy | Disclaimer & Copyright | Sitemap | Print Page
NSW | VIC | QLD | WA | SA | TAS | ACT | NT

Figure 4 new "have your say page"

choice
GROCERYchoice

You are here: Home > Your Say

Food Pricing

Grocery Basket Prices Oz Wide Survey

These basket prices represent the average basket price for the region for each supermarket chain. The Total basket price reflects weekly grocery purchases by the average Australian household.

Independent testing of product quality has been done to allow like-for-like comparisons between retailers. However, some differences in the quality of fresh meat, fish and vegetables may still exist and consumers should consider this when making price comparisons.

Note 1: Basket prices for individual stores are not available.

Note 2: 'Independent' refers to supermarket retailers other than Woolworths/Big W, Coles/BAL, Franklins, Superann and ALDI.

Note 3: ALDI supermarkets do not stock all of the 500 products included in the survey. A smaller number of staple products have been selected and are presented as the 'Basic Staples' basket. This is the only basket that lists an ALDI supermarket price.

Food pricing - have your say...

Name: _____

Email (to keep replies): _____

ENTER COMMENT

Sort by: [Date](#) [Rating](#) [Latest](#)

16 New Comments

For a so-called smart phone at this price, it's unbelievable that it doesn't support stereo bluetooth (which means you can't use wireless headphones). For features and price, it beats the Nokia N9500 by a mile, although it's not as handy to use.

> 16 weeks ago

15 The iPhone

In terms of speed and user interface nothing compares to the iPhone. In concept it's a revolution, and on the first of it it can seem terrible. As with the iPad, Apple have entered into the market knowing it will generate more problems. As a student looking for a reliable video for money. Yes, looking in camera features - however because that does carry a heavy weight for me and no dual ones that will add to phone in 5 more editions.

The biggest disappointment are the plans the phone is available on in general data in for to expensive here in Australia and the carriers should really come to the table with what to do for the world wide they want to sell these products like the iPhone. Which carrier? hard choice - still trying to figure that one out!

> 16 weeks ago

14 My View

Having used a variety of smartphones for a number of years now, the technology is barely revolutionary. A combination of the interface that improves the more than anything else. But it still has sufficient to casual browsing in a smartphone is not to my liking. It's a bit more complex with camera and it's not designed for those who have to make do with a camera that's not quite as good as a camera, and a camera that's not quite as good as a camera. It's not really "value for money" since the price is commensurate with other phones that offer superior features. Congratulations to the Apple marketing department however, they have done a fantastic job.

> 16 weeks ago

13 iPhone

Despite doing amazing business, such as the classic Bluetooth, the iPhone and it's the best mobile browsing device I have come across. Many phone features, the iPhone has exceeded, don't support all apps, use the very slow to load apps. They also have a lot of features to browse.

If you are a Mac owner, and go for the Mac OS X version, you will enjoy the added benefit of having all your data, bookmarks and settings synced across all your devices. This feature alone can't be understated. All your mobile passwords etc are synced, so when you log on and about, and want to log onto a second website, you're not caught out because you can't remember the username or password.

In my view, iPhone offer the best value data plans: Telstra the most expensive. The new Telstra hotspot might be handy, but does that mean you to McDonalds, Starbucks etc, so don't think you can't charge a data plan and use it anywhere eventually.

To give you an idea how handy the device can be, the other day while shopping, I opened the type of store I needed, got the address, then used the map application to find my way there (no need). It's also useful for providing products on the spot. With most other phones capable of doing the job, this sort of usage has been the slow and painful to be of any use, Nokia N9500 included.

> 16 weeks ago

Home | Feedback | Privacy | Disclaimer & Copyright | Subscribe | Site Map | PWA Page

NEW | MID | OLD | WA | EA | TAS | ACT | NT

2.5 Have Your Say – Comments (New function)

- 2.5.1 The "have your say" function is to allow Grocerychoice visitors to provide comments. This functionality will be provided via a 3rd party application (Intense Debate) and will require integration into the site using their API **(Essential)**
- 2.5.2 Comment moderation and administration is provided via the 3rd party application (Intense Debate) and is managed separately and outside of the Grocerychoice site. **(Advice)**

2.6 Surveys (New function)

- 2.6.1 This is a new function that will allow CHOICE to define a particular set of questions which are available to visitors to the website. The survey functionality will be provided by a 3rd party (Nielsen) and will require the integration of "launch code" into the site (see Appendix A). **(Essential)**

2.7 Search page

- 2.7.1 This should allow the viewer to search for grocery prices based on multiple criteria **(Function Unchanged)**

2.8 File Upload

- 2.8.1 File upload should continue to be using industry standard XML format rather than CSV. This will mean a negotiation with the supplier about the format, the values and the edit rules. **(Function Unchanged)**
- 2.8.2 The file upload should continue to be via a secure web page where the file is validated before being applied to the database. **(Function Unchanged)**

2.9 Administration facility (Function Unchanged)

- 2.9.1 The administration site will provide for the following functions:
- File upload of new survey data
 - Changes to the highlights text
 - Remove email subscribers
 - Send email to subscribers

3 Transitional Grocerychoice website environment components

- 3.1.1 The transitional Grocerychoice has to be stable, reliable and available on the **30 January 2009**. It will need to be in beta 1 week prior so that appropriate testing and comments on the system can be made.

4 Project Management, Documentation and Reporting

4.1 Project Management Processes

4.1.1 Project Artefacts

- 4.1.2 Project Artefacts are the components of a system that are developed as part of a project.

- 4.1.3 Project Artefacts shall include but shall not be limited to:

- project documentation;
- source code;
- scripts;
- test data;
- test packs;
- configurations;
- reports; and
- bug, issues and error logs.

4.1.4 Project Management Methodology

- 4.1.5 Getronics (UXC) shall establish a formal project management methodology.

- 4.1.6 Getronics (UXC) will provide access to the Jira project portal to Choice staff involved with the Transitional grocery prices monitoring web site.
(Very Important)

4.2 Reporting

Project Progress Meetings

- 4.2.1 Project progress meetings between the Department of Treasury, Choice and Getronics (UXC) shall be scheduled weekly.

- 4.2.2 The interval between meetings may be reviewed by mutual agreement between the Department of Treasury, Choice and Getronics (UXC).
- 4.2.3 Getronics (UXC)'s project manager shall attend the project progress meetings.
- 4.2.4 Getronics (UXC) shall be responsible for recording the minutes of the meeting and for distributing the minutes within two (2) Working Days of the meeting date for agreement by Choice.
-
- 4.2.5 Getronics (UXC) shall post all meeting notes onto the Project portal.

Project Status Report

- 4.2.6 Getronics (UXC) shall provide a written project status report to the Choice It (whoever) manager on a weekly basis, copied to the Department of Treasury.
- 4.2.7 Getronics (UXC) shall deliver the first project status report one week following contract signature.
- 4.2.8 The Project Status Report shall be delivered to Choice and the Department of Treasury during the project progress meetings.
- 4.2.9 The report shall include:
- significant issues, risks and actions taken.
 - progress against the project schedule.
 - project tasks and deliverables completed and in progress.
 - project tasks and deliverables planned for the next reporting period.
 - changes in Getronics (UXC) project management organisation.
 - other issues that may affect the project in the short or long term.

5. Systems Design

5.1 General

- 5.1.1 The design will be directed by Choice, in consultation with the Department of the Treasury.
- 5.1.2 Getronics shall be responsible for the implementation of the design of the transitional Grocerychoice monitoring website.

6 Systems Testing

6.1 General

- 6.1.1 Getronics (UXC) shall revise the Grocerychoice Systems test plan (STP) and deliver for agreement by the Choice and the Department of Treasury an updated STP that describes Getronics (UXC)'s test strategies for unit, integration and system testing.
- 6.1.2 Getronics (UXC) shall make available on the Project Portal:
- all testing documentation, and
 - all test results and resolutions.
- 6.1.3 Getronics (UXC) shall deliver the STP to Choice, copied to the Department of Treasury as part of the Implementation readiness review (IRR).
- 6.1.4 The STP unless otherwise agreed by the Choice, shall include:
- **document introduction:** to include a description of the STP, its scope, definitions and abbreviations, references or reference documents.
 - **test methodology:** to include test processes and strategies, test success/fail criteria, regression testing.
 - **test documentation:** to include lists of all tests undertaken, test results and summary logs, problem reports, status and resolution reports/logs.
 - unit test processes and procedures.
 - integration test processes and procedures.
 - system test processes and procedures.
 - performance, stress and load testing, processes and procedures.

- defect resolution: to include change control processes for identifying and correcting defects.

6.1.5 The test environment and UAT will utilise the ACCC Grocerychoice test and UAT environments.

6.1.6 Getronics (UXC) shall conduct unit testing in accordance with the STP.

6.1.7 The terms Unit and Module in relation to testing for this SRS are interchangeable.

6.1.8 Getronics (UXC) shall record the unit test results and shall demonstrate that:

- all units of code prepared for project systems have been tested.
- all units of code prepared for project systems have passed testing.
- all units of code failing testing or requiring re-work have undergone the required re-work and passed subsequent testing.

6.2 Integration Testing

6.2.1 Getronics (UXC) shall conduct integration testing in accordance with the revised STP.

6.2.2 Integration Testing involves the testing of combined parts of an application ensuring they function correctly together.

6.2.3 Getronics (UXC) shall record integration test results and shall demonstrate that:

- components prepared for project systems have been tested.
- all components prepared for project systems have passed testing.
- all components failing testing or requiring re-work have undergone the required re-work and passed subsequent testing.

6.3 System Testing

6.3.1 Getronics (UXC) shall conduct system testing in accordance with the STP.

6.3.2 System testing tests the integrated system ensuring it meets specified requirements and to identify system specific errors

- 6.3.3 System testing shall incorporate end-to-end testing.
- 6.3.4 System testing shall be conducted in the ACCC UAT environment.
- 6.3.5 Getronics (UXC) shall perform a security review of the application in accordance with the STP.
- 6.3.6 Getronics (UXC)'s security review shall examine, but is not limited to, the following areas:

- SQL injection,
- URL and Buffer overflow,
- denial of service,
- uploading of virus or malicious packages, and
- cross site scripting.

- 6.3.7 Getronics (UXC) shall conduct regular checks to ensure the host site has no vulnerabilities.
- 6.3.8 The checks should be conducted between the developer and host of the site and not impact on the site's performance.
- 6.3.9 Getronics (UXC) shall conduct compatibility testing.
- 6.3.10 Getronics (UXC) shall conduct sociability testing.
- 6.3.11 Getronics (UXC) shall conduct accessibility testing to ensure that the GROCERYchoice website complies with all priority 1 and priority 2 checkpoints of the WC3 Website Content Accessibility Guidelines. **(Essential)**
- 6.3.12 Getronics (UXC) shall record system test results and shall demonstrate that:
- 6.3.13 project systems have been tested;
- 6.3.14 project systems have passed testing; and
- 6.3.15 project systems failing testing or requiring re-work have undergone the required re-work and passed subsequent testing.
- 6.3.16 Systems testing shall include any interface testing.

6.4 User Acceptance Testing

- 6.4.1 Choice will develop appropriate UAT plans and will be responsible for the completion of all UAT.
- 6.4.2 UAT will occur in the ACCC's existing UAT environment.
- 6.4.3 Choice shall prepare test data and test cases for acceptance testing.
- 6.4.4 Getronics (UXC) shall rectify any defects, encountered during acceptance testing, in accordance with the STP and at no cost to the Department of Treasury.
- 6.4.5 Getronics (UXC) shall assist Choice, at no cost to Department of Treasury, during UAT to resolve application defects which are stopping UAT from progressing.

6.5 Defect Resolution

- 6.5.1 Getronics (UXC) shall implement the defect resolution process defined in the STP.
- 6.5.2 The process shall facilitate the recording of details of the defect, including:
 - its severity; and
 - priority.
 - the assessment of the impact of the defect.
 - the recording of the action required to correct the defect.
 - the recording of the status of the defect (e.g. open, tested, accepted, closed).
 - an audit log for all tests completed as a result of regression testing.
- 6.5.3 Getronics (UXC) shall, throughout the testing process, make an initial categorisation and severity determination for each defect.

6.6 Implementation

- 6.6.1 Getronics (UXC) will be responsible for implementing the Transitional web site onto the ACCC Grocerychoice infrastructure. This will be done using the existing processes for implementing a change in code.

Appendix A: Work required for re-skinning of Grocerychoice website

Re-skin site

Much of the colour and text changes can be done by changing the CSS (style sheet). This would then have to be checked against the Accessibility standards for colour/brightness and contrast.

Changing the header menu to will require restructuring the menu bar and changing some of the drop down menus. Moving the top menu bar from the right to the left should be relatively easy and have no impact on the sites accessibility.

Menu changes are as follows:

1. Grocerychoice becomes About
2. The survey becomes Price Checking
3. The Website is removed
4. News and Info remains
5. Contact us remains
6. FAQ remains
7. New menu "Your say" is added.

Replacing the maps is an involved process as there are 14 maps and each new map image has to have the regions redrawn so it becomes clickable. The bulk of the work here is in retesting the changes. CHOICE will supply the new map images, and the clickable areas.

Change content

Choice will supply revised content pages and these will be incorporated into the site. Careful review will be required to ensure all ACCC references have been removed.

Addition of Comments (or discussion) functionality

This is a new function. Much of the functionality required is provided by the Intense Debate commenting tool. Choice is already using Intense Debate on their site to provide basic Commenting functionality.

However this implementation of commenting will required the use of the Intense Debate API to provide the required extra functionality.

In particular, the Homepage mock-up (Figure 2) shows the requirement for a simple comment input area (comment text, name, email address), which is linked to the comments list on the "Your Say" page. On the "Your Say" page there is the requirement to have the same comment input form, plus the threaded comments list displayed below it (Figure 5).

Comment administration/moderation is all handled from within Intense Debate.

Addition of survey facilities

This is a new function. The survey functionality will be provided by Nielsen and will require the following code be placed before the end body tag on the home page level.

```
<!-- Start Nielsen Online Survey Code -->  
<script language="JavaScript1.2" type="text/javascript">  
var _rsCl="qt0231gch"; var _rsSM=1.0;  
var _rsND="//secure-au.imrworldwide.com/";  
document.write('<scr'+ipt type="text/javascript" src="'+_rsND+'isc.js"></scr'+ipt>');  
</script>  
<!-- END Nielsen Online Survey Code -->
```

The actual survey will not be activated/"switched on" until CHOICE gives Nielsen the go ahead, which means that the above launch code can be placed on the site as early as desired.

Table of changes

Task	Work required	Issues	Comment	Estimate (Days)
Re-skin Grocerychoice	New cascading style sheet	Need to conform to WCAG level 1 and/or 2	Need confirmation on what is the applicable standard	
	Change header/footer	As above		
	Move navigation	Only top menu bar		

	Change maps	Need to redraw links	Will need extensive testing
	Sub-Total		
Update of Content	Change text in various pages	Choice to supply text	
Addition of Comments	Download, install, test and integrate code using API	Needs testing	Need to ensure that moderation function is bullet-proof
Addition of Surveys	Test and integrate code	Needs testing, especially session and user selection processes	Need to ensure function is bullet-proof and does not open security holes
UAT testing			
Implementation			
Total man days			
Min Elapsed days	Longest task + UAT + implementation	Longest task is the reskin Grocerychoice	Assume all 4 changes are done in parallel, need 3 developers and 3 people from grocery team.

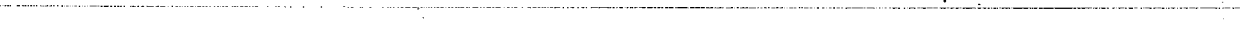
SCHEDULE 5 - GROCERYCHOICE IT CONTRACT

**Grocery Price Monitoring Website System Design,
Implementation and Services Contract**

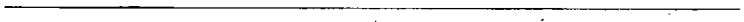
Commonwealth of Australia represented by ACCC A.B.N. 94 410 483 623

Getronics Australia Pty Limited A.C.N. 001 002 731 A.B.N. 69 001 002 731

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6

DATE

This contract is dated ^day(numeric) month(name) year(numeric) in full^.

Parties

This contract is made between and binds the following parties:

1. Commonwealth of Australia acting through and represented by the Australian Competition and Consumer Commission, A.B.N. 94 410 483 623 (ACCC)
2. Getronics Australia Pty Limited A.C.N. 001 002 731 A.B.N. 69 001 002 731 (Getronics)

Context

This contract is made in the following context:

- A The Grocery Price Monitoring Website is a national program by which representative supermarket chains from specified regions are required to lodge information concerning the pricing of a number of 'baskets' of grocery items available in the marketplace, and which enables consumers to conveniently access such information so as to assist them in making a comparison on a regional basis with regard to the pricing of a number of 'baskets' of grocery items available in the marketplace.
- B ACCC wishes to implement a comprehensive ICT solution that will enable it to cost effectively implement, operate, administer, manage, maintain and enhance the Grocery Price Monitoring Website system, and perform all Grocery Price Monitoring Website associated functions and accountabilities, in a highly efficient, effective, flexible and customer focussed way and in accordance with best practice and demonstrable full compliance with all Laws and relevant Australian Government policies.
- C Getronics represents that it is highly skilled, experienced and qualified in all matters relating to design, implementation, support, maintenance, customisation, integration, ongoing development and hosting of mission critical ICT systems and solutions of the type required for the Grocery Price Monitoring Website, and can and will provide ACCC with a Solution that is fully fit for purpose and will fully meet ACCC's requirements as set out in this contract.

OPERATIVE PROVISIONS

In consideration of the mutual promises contained in this contract, the parties to this contract agree as follows:

1 INTERPRETATION

1.1 Definitions

- 1.1.1 In this contract, unless the context implies a contrary intention, a term in bold type in the table below has the meaning shown opposite it.

ACCC	means Commonwealth of Australia acting through and represented by the Australian Competition and Consumer Commission and includes any department or agency that is from time to time responsible for the administration of any part of this contract or that commences to perform any relevant function or responsibility performed at any relevant time by the Australian Competition and Consumer Commission, for so long as it performs those functions or responsibilities.
ACCC Contract Authority	means, at a relevant point-in-time, the person occupying the post specified (or the post held at the date of this contract by the person specified) as the "ACCC Contract Authority" in the Contract Details or as otherwise may be notified by ACCC to Getronics from time to time.
ACCC Data	means all relevant data and information relating to ACCC, or its clients or other stakeholders, operations, facilities, Personnel, plans, objectives, policies, procedures, assets and programs in whatever form that information may exist and whether entered into, stored in, generated by or processed through any ICT System by or on behalf of ACCC and includes any data and information created as a result of any Service.
ACCC Personal Information	means Personal Information that is accessed, used or held by Getronics as a result of this contract.
ACCC Project Manager	means the post specified (or the post held by the person specified) as the "ACCC Project Manager" in the Contract Details or as otherwise may be notified by ACCC to Getronics from time to time.
ACCC Project Timetable	means the timetable for mandatory completion of all specified obligations of Getronics in respect of key Milestones and other relevant matters.
ACSI 33	means at any point in time the current version of the "Australian Government Information Technology Security Manual " (currently published and maintained by the Defence Signals Directorate - see http://www.dsd.gov.au/library/infosec/acsi33.html).
Additional Disengagement Services	means Disengagement Services outside of the scope of the Disengagement Plan.
Additional Security Requirements	means the requirements specified as "Additional Security Requirements" in the Contract Details.
Applicable Standards	means in respect of an Item, all applicable standards stated in this contract or relevant Work Order.
Approved Subcontractor	means a Subcontractor to Getronics approved by ACCC in accordance with clause 9.
Australian Accounting Standards	means at any point in time the then current standards published or endorsed by the Australian Accounting Standards Board (a body created by section 226 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)).

Australian Government	means Commonwealth of Australia.
Australian Government Auditor	means, as the context requires, the Commonwealth Auditor General, or the Commonwealth Privacy Commissioner, or the delegate or nominee of either of them; or ACCC and / or an independent person or persons appointed by ACCC.
Australian Government Protective Security Manual	means the Protective Security Manual as defined in these definitions.
Authorisation	means: <ul style="list-style-type: none"> (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and (b) in relation to anything that could be prohibited or restricted by Law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken, including any renewal or amendment.
Authorised Person	means a person authorised under the security provisions in clause 18 to perform or support a Service or other obligation of Getronics pursuant to this contract.
Business Day	means in respect of the location at which a right or obligation is to be performed pursuant to this contract, a day not being a Saturday, Sunday or public holiday in that location, or if no such location is specified or reasonably ascertainable, in Canberra.
Change of Control	means, in relation to a corporation, a change in: <ul style="list-style-type: none"> (a) Control of the composition of the board of directors of the corporation; (b) Control of more than half the voting rights attaching to shares in the corporation; or (c) Control of more than half the issued shares of the corporation (excluding any part which carries no right to participate beyond a specified amount in the distribution of either profit or capital).
Change Order	means a written document issued by ACCC and accepted by Getronics detailing a change to the details of a Work Order in accordance with clause 37.1, in the form set out in the Standard Document Schedule or as otherwise reasonably specified by ACCC.
Charge	means any charge or other amount payable by ACCC in respect of this contract as specified in the Price Schedule or a relevant Work Order or as otherwise specifically agreed in writing by ACCC Contract Authority.
Claim	includes any dispute, action, application, claim, suit, proceeding, demand, of any kind, whether formal or informal, and whether or not involving any legal, administrative or other process.
Code of Conduct	means any relevant code of conduct including those that operate by force of Law, or are endorsed by any relevant industry association

or professional body or to which a relevant party has formally or informally ascribed.

Commencement Date means the date specified as the 'Commencement Date' in the Contract Details or, if no such date is specified, the date of execution of this contract by the last party to sign it.

Confidential Information means:

- (a) in respect of ACCC's confidential information, any information that is by its nature confidential that is provided by ACCC to Getronics or which Getronics otherwise accesses or becomes aware of as a result of this contract and which:
 - (i) is listed as 'ACCC's Confidential Information' in the Contract Details; or
 - (ii) Getronics knows or ought to know is confidential; and
- (b) in respect of Getronics' confidential information, any information that is by its nature confidential and:
 - (i) is listed as 'Getronics' Confidential Information' in the Contract Details; or
 - (ii) is otherwise specifically agreed in writing by ACCC in respect of this contract to be confidential.

Conflict of Interest includes engaging or participating in, or otherwise being directly or indirectly involved in or associated with, any activity or relationship, or directly or indirectly obtaining any interest or benefit, that does or might reasonably be seen to conflict with or restrict, diminish or potentially compromise Getronics', or a member of Getronics' Personnel's, willingness or ability to perform or support any Service or security requirement or any other obligation of Getronics under this contract in a fair, objective or independent manner or to act in good faith and in the best interests of ACCC.

Contract Details means Schedule 1 or, in respect of a Work Order, any equivalent document contained in that Work Order;

Contract Specific Material includes:

- (a) any Material that is developed, created or generated for or on behalf of ACCC pursuant to this contract ('Foreground Material'); and
- (b) any pre-existing tools, object libraries, methodologies or Materials used to perform this contract – but only to the extent that they are incorporated in the Foreground Material ('Background Material').

Control includes control or a power or ability to control that is direct or indirect or is or can be, exercised as a result of, by means of, in breach of, or by revocation of, trusts, relevant agreements and practices, or any of them, whether or not they are enforceable.

Corporations Act means the *Corporations Act 2001* (Cth).

Correctly Rendered Invoice means an invoice submitted only where permitted and strictly in accordance with this contract by Getronics to ACCC that meets the

requirements set out below.

- (a) Unless otherwise specified by ACCC, it is a single invoice in respect of all Items that have been fully and completely provided in accordance with this contract during the month to which it relates.
- (b) The invoice is properly delivered to ACCC at its notified address for invoices.
- (c) The invoice details all Fees, Charges, credits, discounts, and allowances relating to the period of the invoice.
- (d) The amount specified in the invoice as payable is correctly calculated and is due for payment.
- (e) The invoice is set out in a manner that enables ACCC to ascertain the ACCC Work Order relevant to each item to which the invoice relates and the amount payable in respect of each of those items.
- (f) The invoice is a valid Tax Invoice in respect of all taxable Items.
- (g) The invoice is in a format meeting the reasonable requirements of ACCC notified from time to time to Getronics (which, without limitation, may include a break down of Fees and Charges by cost centre or other internal management requirement of ACCC).
- (h) The invoice is accompanied by:
 - (i) a comprehensive statement of account; and
 - (ii) where necessary, or where reasonably requested by ACCC, any other verifying or supporting documentation.

COTS Software Product means a commercial off-the-shelf Software Product - i.e. one that is generally available in the market in its generic and uncustomised format.

Cure Plan means a detailed written plan in accordance with clause 10.3 to remedy a breach of this contract by Getronics or address a Service Incident or Security Incident and its underlying causes (and to ensure that no similar breach or incident occurs).

Deliverable means any Material (including Contract Specific Material) other than a Product that Getronics is required to provide to ACCC pursuant to this contract.

Delivery Certificate means, in respect of an Item, a certificate in a form reasonably specified by ACCC, issued by Getronics to ACCC pursuant to clause 7.7.6.

Delivery Date means in respect of an Item, the date specified (or any date with a date range specified) as the 'Delivery Date' in respect the Item in the relevant schedule to this contract or Work Order or as otherwise agreed in writing between the parties.

Designated Person means a person who is required to be approved by ACCC for security reasons as specified in clause 18.

Development and Implementation Project means Getronics' detailed and comprehensive written Project Plan for the development and implementation of the System and the

Plan

Solution as a whole, and all components of them.

Disengagement

means all work and activities necessary for Getronics to ensure that the cessation or handover (whether to ACCC or another party or parties) of the Services (and where relevant any Service or part of a Service) and operations generally under this contract is fully, properly and professionally planned, documented, communicated, implemented, managed and achieved within the timeframe required by ACCC, and in full consultation and cooperation with all relevant stakeholders, and in ACCC's best interests.

Disengagement Date

means the date of termination or expiry of this contract (or relevant part of this contract) or, in respect to Disengagement not relating to the termination or expiry of this contract, the date the relevant Service is cancelled, suspended, varied or terminated.

Disengagement Period

means:

- (a) in respect to each Service that is cancelled, terminated or suspended due to Force Majeure, the period commencing on the date of suspension, the date cancellation is agreed, or the date notice of termination is given, or such earlier date as ACCC may reasonably request;
- (b) in respect to each Service that is subject to a Change Order or otherwise varied, to the extent that ACCC considers Disengagement Services are required due to the nature of the variation, the period commencing on the date the Change Order or variation is agreed, or such earlier date as ACCC may reasonably request; and
- (c) in respect to the expiry or termination of this contract generally, the period commencing on the earlier of:
 - (i) 12 months prior to the date on which the term of this contract is due to expire (or such earlier date as ACCC may reasonably request); and
 - (ii) the date on which a notice of termination of this contract is given by either party

and continuing for a period:

- (d) 12 months after the date:
 - (i) the relevant Service or part of the Service is cancelled, suspended, terminated or varied; or
 - (ii) this contract expires or is terminated; or

the date on which ACCC notifies Getronics that it no longer requires relevant Disengagement Services.

Disengagement Plan

means, if requested by the ACCC, the comprehensive plan developed and continuously maintained by Getronics on a time and materials basis in respect to Disengagement, which Getronics must ensure, is certified (and at all times remains certified) by ACCC in accordance with clause 32 and otherwise fully meets the requirements of this contract.

Disengagement Services	means all Services provided (or to be provided) by Getronics in accordance with the Disengagement Plan or otherwise in respect to Disengagement on a time and materials basis.
Disengagement Services Fees	means the total all inclusive fee for Disengagement of all Services as and when required under this contract, stated as the Disengagement Services Fee in the Pricing Schedule or as otherwise agreed in writing by the parties.
Dispute	means any dispute or difference of opinion between the parties in respect of rights or obligations or any other matter relevant to the due and proper performance of this contract.
Draft Key Project Document	means the draft version of a Key Project Document as set out in Schedule 5.
Equipment	means an item of equipment and includes all relevant components including firmware, microcode or embedded Software.
Encumbrance	means a mortgage, charge, pledge, lien, hypothecation or title retention arrangement, a right of set-off or right to withhold payment of a deposit or other money, a notice under section 218 or 255 of the <i>Income Tax Assessment Act 1936</i> (Cth) or under section 260 of Schedule 1 to the <i>Taxation Administration Act 1953</i> or any similar legislation, or an easement, restrictive covenant, caveat or similar restriction over property, or an agreement to create any of them or to allow any of them to exist.
Facility	includes any equipment, ICT System, tool, device, facility, premises, or infrastructure of any kind.
Fault	means any defect, error, malfunction or problem in or arising from a Product, Service, or other relevant Item that relates to, arises from, or threatens or results in: <ul style="list-style-type: none"> (a) a non-compliance with any relevant Specification; or (b) a breach of an obligation of Getronics under this contract; or (c) interferes with or threatens ACCC's normal production environment and includes any circumstance where such matters are reasonably suspected until such time as they are reasonably established not to apply.
Fee	means any fee or other amount payable by ACCC in respect of this contract as specified in the Price Schedule or a relevant Work Order or as otherwise specifically agreed in writing by ACCC Contract Authority.
Force Majeure Event	means any occurrence or omission as a result of which the party relying on it is prevented from or delayed in performing any of its obligations under this contract and that is beyond the reasonable control of that party (which for the purposes of this definition will not under any circumstances include any act or omission of any Related Body Corporate or other related entity or Related Party of any kind or, in respect of any matter related to this contract, any act