# GRS Model Contract Clause - Streamlined

**December 2023**

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| **Explanatory Note:** These GRS Model Contract Clauses on modern slavery have been prepared by the Office of the NSW Anti-slavery Commissioner. They were prepared with generous support from the Responsible Contracting Project ([RCP](https://urldefense.com/v3/__https:/www.responsiblecontracting.org/__;!!MuTgN5zQqgRwsA!BSGJ6_lLX8h1W1Dft4KP1of4PDkn6gX4GQIDYRiWmDZsvrQ4Wa428VmWVcHnf7pbfaN45tfnxXa_A_-w6AcbOFrrVfyVU9Z_j4EOi-L1$)) and their pro bono counsel, Allens. The GRS Model Contract Clauses are intended as a resource for entities implementing the NSW Anti-slavery Commissioner’s *Guidance on Reasonable Steps*. The concepts and identification of ‘Heightened’, ‘Standard’, ‘Light’ and ‘Minimal’ modern slavery due diligence procurements are set out in that Guidance. |

***Drafting Note****: This clause is designed to be used in conjunction with the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps (‘GRS’).*

*This clause is not mandatory, but is intended as a resource. Covered entities are strongly encouraged to use this clause where they determine, in conformance with the GRS, that the procurement requires Light, Minimal and Standard Due Diligence.*

*This clause may be subject to negotiation with counterparties, but covered entities should avoid fundamentally altering or removing any of the parties’ obligations and should ensure that any adapted version of this clause maintains the ‘shared responsibility’ approach to modern slavery risk management provided for here.*

*This clause assists the reporting entity to discharge its statutory responsibility to take reasonable steps to ensure it is not procuring goods or services that are products of modern slavery.*

*It does this by creating a framework for shared responsibility for modern slavery risk management between the parties to the contract.*

*In this clause, the reporting entity is referred to as the ‘Buyer’ and the counterparty is referred to as the ‘Supplier’. This terminology should be adjusted for consistency with the agreement in which this clause will be inserted.*

## Modern Slavery

### Definitions

**Contract** means this agreement.

**Contract Date** means the date of execution of this agreement.

**Core Obligations** means those obligations set out in clause 1.2 (Core Obligations).

**Engaged Entity** of a party means any first tier (direct) suppliers, subcontractors, consultants and contractors engaged by that party (or that party’s directors, officers and employees) in connection with this Contract. For the avoidance of doubt, ‘Engaged Entities’ includes independent contractors (whether an individual or body corporate), secondees, consultants and any other workers (however described) who may be engaged for the purposes of this Contract but are not employed by the relevant party.

**Management Plan** means a plan to take reasonable steps to manage risks of Modern Slavery in the Supplier’s operations and supply chains (including in the operations and supply chains of Supplier’s Engaged Entities).

**Material Breach** has the meaning given in clause 1.8.

**Modern Slavery**:

* + 1. means any conduct that constitutes or would constitute any offence listed in Schedule 2 of the *Modern Slavery Act 2018* (NSW), including an offence of attempting or incitement to commit such an offence;
    2. includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and
    3. includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (a) or (b).

**Modern Slavery Laws** means:

* + 1. the *Modern Slavery Act 2018* (Cth);
    2. the *Modern Slavery Act 2018* (NSW);
    3. Divisions 270 and 271 of the Commonwealth Criminal Code;
    4. section 176(1A) of the *Public Works and Procurement Act 1912* (NSW);
    5. section 438ZE of the *Local Government Act 1993* (NSW); and
    6. any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate,

each as amended from time to time.

**Price** means [the price specified in clause [\*] / the rates for the supply of the goods specified in Schedule [\*] / the performance of the services specified in Schedule [\*]].

**reasonable steps** means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In assessing whether steps are reasonable, the parties may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.

**Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001* (Cth).

**Related Entity** means, in respect of a party, a Related Body Corporate of such party.

**Remediation Plan** has the meaning given to it in clause 1.9.

### Core Obligations

Each party must:

* + 1. not engage in Modern Slavery;
    2. take reasonable steps to ensure that it, its directors, officers, employees, Related Entities and Engaged Entities comply with Modern Slavery Laws as applicable;
    3. take reasonable steps to ensure that its Engaged Entities include provisions equivalent to the Core Obligations (including this sub-clause) in their contracts with their suppliers; and
    4. take reasonable steps to ensure that its Engaged Entities provide their respective directors, officers, employees and suppliers with at least the minimum level of wages and other entitlements required by law.

### Price

Each party acknowledges and agrees that the Price supports each Party to comply with its Core Obligations.

### Systems and policies

Each party agrees that it will establish, implement, and maintain for the term of this Contract, appropriate systems and policies as required to meet its Core Obligations.

### Implementation

Without limiting the Core Obligations and clause 1.4, and to the extent permitted by law, the Supplier agrees that it will notify the Buyer immediately with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the Supplier becomes aware of any actual or reasonably suspected Modern Slavery engaged in, or any notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws by the Supplier, the Supplier's directors, officers, employees, Related Entities, or by any of its Engaged Entities, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Contract.

### Assistance

Without limiting the Core Obligations, clause 1.4 (Systems and policies) and clause 1.5 (Implementation) each party must provide, and use reasonable endeavours to ensure its directors, officers, employees, Related Entities and Engaged Entities provide, all reasonable assistance to the other party to enable the other party to comply with its obligations under this clause 1.6 (Modern Slavery) and under applicable Modern Slavery Laws.

### Disclosure

The Supplier represents and warrants to, and for the benefit of, the Buyer that, as at the Contract Date and on a continuing basis for the duration of the term of this Contract, the Supplier has disclosed, in accordance with clause 1.5:

* + 1. to the extent the Supplier is aware, any:

1. actual or reasonably suspected Modern Slavery engaged in; and
2. notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws,

by the Supplier, the Supplier's directors, officers, employees, or Related Entities, or by any of the Supplier’s Engaged Entities while performing any contract with the Supplier, whether or not the Modern Slavery arises in the performance of the Contract; and

* + 1. all actions taken to remedy said Modern Slavery or breach of Modern Slavery Laws.

### Material Breach and termination

Without limiting the parties’ rights under this Contract, the parties agree that:

* + 1. a breach of either party’s obligations under this clause will be taken to be a **Material Breach** of this Contract; and
    2. before exercising any termination rights that may arise as a result of this Material Breach, a party shall consult with relevant stakeholders on whether Modern Slavery may arise from such termination and the reasonable steps to prevent or mitigate such risk of Modern Slavery.

### Remediation Plan

* + 1. Where one party forms the view that there is a Material Breach that is reasonably capable of being remedied, then the parties shall develop a remediation plan to take reasonable steps to remedy the breach in accordance with this Contract (the **Remediation Plan**).
    2. Each party shall take reasonable efforts proportionate to their contribution to the Material Breach to implement this Remediation Plan.