

Major Services Agreement

The Council of the City of Sydney (ABN 22 636 550 790) and
Reino International Pty Limited (ABN 75 079 147 201) t/as
Duncan Solutions

For Parking Machine Maintenance & Services for 2022-2025
with options for 2026 and 2027 (Contract ID # 3878)

TRIM Reference: X092546 / X091906

KEY DETAILS

1 **Date** See Execution page

2 **Parties**

City
Name

Council of the City of Sydney
ABN 22 636 550 790 of Town Hall House, 456 Kent Street,
NSW 2000

Service Provider
Name

Reino International Pty Limited t/as Duncan Solutions
ABN 75 079 147 201 of 15/39 Herbert Street, St Leonards
NSW 2065

BACKGROUND

- A The City wishes to engage the Service Provider, and the Service Provider has agreed to perform the Services, on the terms set out in the Contract.

TERMS

1. In this Formal Instrument of Agreement, terms which are defined in the General Conditions of Contract have the same meanings when used in this Formal Instrument of Agreement.
2. The parties agree that the Contract comprises the following documents:
 - (a) this Formal Instrument of Agreement;
 - (b) the General Conditions of Contract;
 - (c) Schedule 1 (Contract information);
 - (d) Schedule 2 (Fee);
 - (e) Schedule 3 (Specifications);
 - (f) Schedule 4 (Contract Area);
 - (g) Schedule 5 (Statutory Declaration and Subcontractor's Statement);
 - (h) Schedule 6 (Bank Guarantee); and
 - (i) Schedule 7 (Expert Determination Agreement).

3. The parties agree that they must perform their respective obligations under the Contract.
4. The parties acknowledge and agree that:
 - (a) the Contract applies to all Services, whether they are performed before, on or after the Date of the Contract; and
 - (b) if any payments have been made to the Service Provider by the City prior to the Date of the Contract with respect to any Services, those payments are deemed to have been made pursuant to the Contract.
5. Each party represents and warrants to the other party that:
 - (a) it has full power to enter into and to comply with its obligations under the Contract;
 - (b) it has taken all necessary action to authorise its entry into and to comply with its obligations under the Contract;
 - (c) it has in full force and effect the authorisations necessary to enter into the Contract and to comply with its obligations under it and to allow it to be enforced; and
 - (d) its obligations under the Contract constitute its binding obligations and are completely and lawfully enforceable against it in accordance with their terms subject to laws generally affecting creditors' rights and to principles of equity.
6. If the Contract is signed in counterparts, then each counterpart is deemed an original and together they constitute one document.

EXECUTION

Executed as a deed

Signed for and on behalf of the **Council of the City of Sydney** ABN 22 636 550 790
by its duly authorised officer in the
presence of:



Signature of witness

WILLIAM PEARCE

Print name



Signature of authorised officer

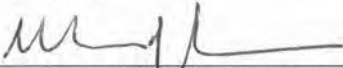
Veronica Lee

Print name

30/11/22

Date signed by authorised officer

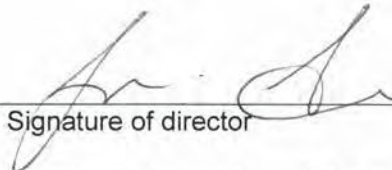
Signed by Reino International Pty Limited t/as Duncan Solutions
ABN 75 079 147 201 in accordance with
section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director/company secretary

MARK BYRNE

Print name



Signature of director

GIOVANNI LAUDICINA

Print name

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GENERAL CONDITIONS OF CONTRACT

1 Definitions and interpretation

1.1 Definitions

In the Contract, except where the context otherwise requires:

Approved means approved, an approval or selection by the Contract Manager at their sole discretion.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; 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,

Background Intellectual Property Rights means Intellectual Property Rights in documents or materials (including the Deliverables) provided by a party in connection with the Contract or the Services that is in existence prior to the Date of the Contract or developed or conceived by a party independently of the Contract.

Business Day means a day other than:

- (a) a Saturday, Sunday or a public holiday in New South Wales; or
- (b) 27, 28, 29, 30 or 31 December.

City's Material means all Material provided by or on behalf of the City to the Service Provider for the purposes of the Contract, and all adaptations, enhancements and derivative works of such Material.

City's Policies means all policies and procedures relevant to the provision of the Services, as notified in writing to the Service Provider.

City's Property means any property used or operated by or on behalf of the City and includes the Parking Machines, and any systems, equipment or premises, whether owned, leased, licensed or rented by or on behalf of the City.

Claim includes any claim for an increase in the Fee, or for payment of money (including damages) or for an extension of time:

- (a) under, arising out of or in any way connected with the Contract, including any direction of the Contract Manager;

- (b) arising out of or in any way connected with the Services or either party's conduct before the Date of the Contract; or
- (c) otherwise at law or in equity including:
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
 - (iii) for restitution;

Commencement Date means the date specified in Item 1, being the date on which the Service Provider must commence carrying out the Services.

Contract means the agreement between the City and the Service Provider comprising the documents identified in clause 2 of the Formal Instrument of Agreement.

Contract Area means the area within which the Services will be provided as illustrated in Schedule 4 and further described in the Specifications.

Contract Manager means the person named in Item 2 who is appointed by the City to manage and supervise the performance of the Services.

Date of the Contract means the date on which the City executes the Formal Instrument of Agreement.

Defect means one or both of the following:

- (a) any defect, shrinkage, fault or omission in any part of the Services;
- (b) any other aspect of the Services which is not in accordance with the requirements of the Contract.

Deliverables means any tangible property, including the establishment of any tree or plant life (as detailed or described in the Specifications), goods, products, documents, Materials or information (including notes, drawings, specifications, tools, methodologies, processes, sketches, templates, tables, reports and software programs) in any format, electronic or otherwise which the Service Provider is required to provide or supply to the City under the Contract or otherwise produces in connection with the Contract.

Developed Material means all systems and Material brought or required to be brought into existence by or on behalf of the Service Provider (excluding Material provided to the Service Provider by the City), product or results produced, concepts developed or work done by the Service Provider in the provision of Services, including the Deliverables.

Disengagement Period means the period commencing on the date specified in clause 22 and ending on the intended date of termination of the Contract, which will either be:

- (a) the end of the Term; or

- (b) the date specified by the City in a termination notice given pursuant to a right to terminate under the Contract.

Disengagement Services means the services to be provided by the Service Provider in anticipation of the termination of the Contract, which will include:

- (a) selling, transferring, assigning or relocating the Developed Material (whether finalised or works in progress), and any associated equipment, parts, documents, files, plans and related items;
- (b) novating or assigning or securing the novation or assignment of such third party agreements (including software licences) as are specified by the City; and
- (c) transferring the Services,

to another services provider or to the City itself.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with the Contract, including any dispute or difference as to the formation, validity, existence or termination of the Contract.

Environmental Laws means all laws and legislation relating to environmental protection, building and planning matters and includes the following:

- (a) the *Protection of the Environmental Operations Act 1997* (NSW);
- (b) the *Biosecurity Act 2015* (NSW); and
- (c) the *Contaminated Land Management Act 1997* (NSW).

Expiry Date means the date referred to in Item 3.

Fee means the fee as set out in Part A, Part B and Part C of Schedule 2 as may be adjusted in accordance with the Contract.

Force Majeure Event means in relation to a party an act, omission or circumstance which:

- (a) is beyond the reasonable control of that party; and
- (b) constitutes a fire, flood, earthquake, terrorism, riot, explosion or war, communicable disease for which the World Health Organisation or Department of Foreign Affairs and Trade have issued affected area or travel warnings, state-wide or national strike or other state-wide wide or national industrial action (except where such act, omission or circumstances is caused by the Service Provider).

Formal Instrument of Agreement means the "Formal Instrument of Agreement" to which the General Conditions of Contract are attached.

Further Term means an extension of the Term under clause 20.2.

General Conditions of Contract means the part of the Contract headed "General Conditions of Contract".

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

GST means the same as in the GST Law.

GST Law means the same as "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Information Documents means:

- (a) the documents and other information described in Item 4; and
- (b) any other information identified by the City, whether before, on or after the Date of the Contract, as being for information only.

Insolvency Event means, in relation to the Service Provider, where:

- (a) it informs the City in writing or its creditors that it is insolvent or is financially unable to proceed with the Contract;
- (b) it is unable to pay its debts as and when they fall due;
- (c) notice is given of a meeting of its creditors with a view to the corporation entering a deed of company arrangement;
- (d) it enters a deed of company arrangement with its creditors;
- (e) a controller or administrator is appointed;
- (f) a winding-up order is made against it;
- (g) it resolves by special resolution that it should be wound up voluntarily; or
- (h) it suffers an event or circumstance analogous to an event or circumstance set out in paragraphs (a) to (g) above.

Intellectual Property Right means:

- (a) all intellectual property rights, including copyright, trade marks, designs, circuit layouts, patents, inventions, discoveries and rights of confidence; and
- (b) all other rights or forms of protection of a similar nature or having similar or equivalent effect to any of them, whether under international convention or otherwise,

that may subsist anywhere in the world, whether current or future or registered (including applications for any of the above) or unregistered (but excluding Moral Rights).

Item means an Item in Schedule 1.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws, the GST Law, Privacy Laws and WHS Law.

Material means material in any form (whether visible or not), including documents, advertisements (in print, electronic or recorded format), recordings on disc or any other form of storage, reports, products, equipment, information, data, software, software tools and software development methodologies, and includes all releases, updates and amendments to the original material.

Material Obligation means the obligations set out clauses 3, 4.2, 4.3, 5, 6, 11, 16, 18 and 19.

Moral Rights means moral rights as described under Part IX of the *Copyright Act 1968* (Cth), and any analogous rights that exist anywhere in the world.

Operations Manager means the person named in Item 6 of Schedule 1 who is appointed by the Service Provider to manage and supervise the performance of the Services.

Parking Machines means the parking machines owned by the City that are installed within the City's Local Government Area at the locations in Schedule 4 (as updated from time to time), and parking machines owned by the City that are stored by the Service Provider, as described in the Specifications.

Personal Information means all personal information as defined under section 6 of the *Privacy Act 1988* (Cth) and section 4 of the *Privacy and Personal Information Protection Act 1998* (NSW) that is provided or obtained by the Service Provider or its Personnel in connection with the performance of its obligations under the Contract.

Personnel means a party's officers, employees, agents or contractors, and in relation to the Service Provider, includes its Subcontractors.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), the *Spam Act 2003* (Cth), the *Do Not Call Register Act 2006* (Cth) and any other applicable legislation, principles, industry codes and policies relating to the handling of Personal Information.

Schedule of Rates means the schedules of rates set out in Part A, Part B and Part C of Schedule 2.

Security means:

- (a) an approved unconditional undertaking (the form in Schedule 6 is approved);
- (b) an approved performance undertaking given by an approved financial institution; or

- (c) such other form of security approved by the City.

Services means the services described in the Specifications, as may be varied in accordance with clause 12.1.

Service Provider's Material means any Material owned by or licensed to the Service Provider associated or connected with the performance of the Services or provision of the Deliverables but does not include the Developed Material.

Specifications means the document referred to in Schedule 3.

Subcontractor means a person engaged by the Service Provider in accordance with clause 4.3 to assist in the provision of the Services.

Tax means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

Technician means a technician employed or engaged by the Service Provider or its Subcontractor to provide any aspect of the Services.

Term has the meaning given to that term in clause 20.1.

WHS Law means the *Work Health and Safety Act 2011* (NSW), regulations and other instruments under it including any codes of practice and any consolidations, amendments, re-enactments or replacements.

WHS Returnable Documents means the work health and safety documentation described in Item 11, including risk assessments and safe work method statements in relation to the Services.

Work Site means the site referred to in Item 7.

1.2 Interpretation

In the Contract, except where the context otherwise requires:

- (a) clause and subclause headings shall not be used in the interpretation of the Contract;
- (b) words in the singular include the plural and words in the plural include the singular, according to the requirements of the context;
- (c) words importing a gender include every gender;
- (d) a reference to \$ or dollars is to Australian dollars;
- (e) the words "including", "include" and "included" are deemed to be followed by the words "without limitation";
- (f) a reference to legislation or a provision of legislation is to that provision or legislation as amended, re-enacted or replaced from time to time;

- (g) a reference to a document that comprises the Contract includes a reference to a part, clause, schedule, exhibit, annexure and appendix to, of and in that document;
- (h) a reference to a body which ceases to exist is a reference to a body that the parties agree to substitute for the named body or, failing agreement, to a body having substantially the same objects as the named body; and
- (i) where the Service Provider comprises of more than one person, each of the persons comprising the Service Provider will be jointly and severally liable under the Contract.

1.3 Contra proferentem

This Contract is not to be interpreted against the interests of a party merely because that party proposed the Contract or some provision in it.

1.4 Ambiguity or discrepancy

- (a) If the Service Provider becomes aware of any ambiguity or discrepancy in any document forming, or a provision of, the Contract, the Service Provider must, within 10 Business Days of becoming aware, give written notice to the City detailing the ambiguity or discrepancy.
- (b) The City must direct the Service Provider as to the interpretation to be followed as soon as reasonably practicable after receipt of a notice under clause 1.4(a).

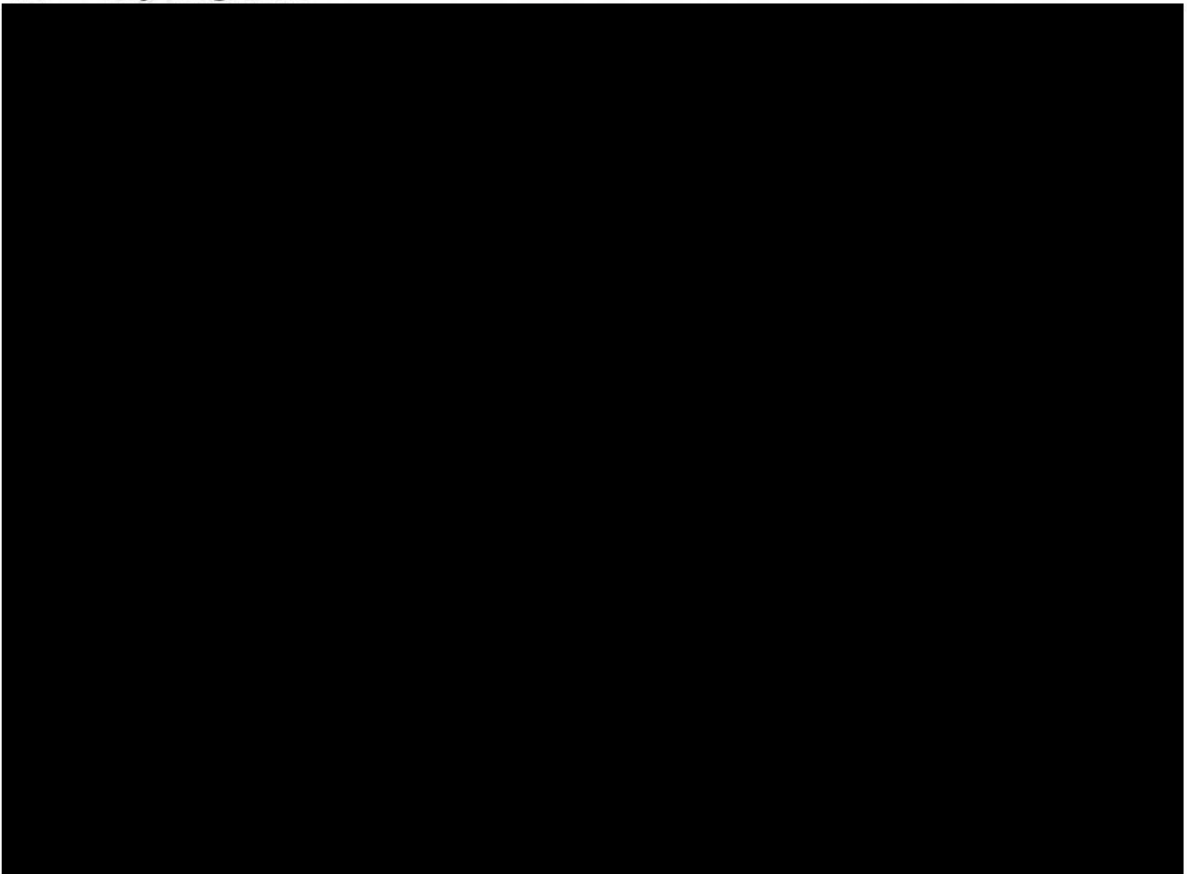
1.5 Miscellaneous

- (a) Where a party is comprised of two or more persons, each person will be jointly and severally bound by that party's obligations under the Contract.
- (b) Any provision of the Contract which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and such illegality, voidness or unenforceability will not invalidate any other provision of the Contract.
- (c) Any consent or approval required under the Contract will only be effective if given in writing and may be given conditionally or unconditionally or withheld in the absolute discretion of the person whose consent or approval is required unless otherwise expressly provided.
- (d) Any amendment or modification to the Contract will only be effective if given in writing and signed by or on behalf of both parties.
- (e) Unless a contrary intention is specifically expressed, no provision of the Contract limits any right of the City or the Service Provider, whether under the Contract or under any law.

- (f) Unless a contrary intention is specifically expressed, none of the following items limit or otherwise reduce the Service Provider's warranties or obligations under the Contract:
 - (i) an approval or consent given by or on behalf of the City;
 - (ii) any review, consultation, monitoring or audit undertaken by or on behalf of the City; or
 - (iii) any comments made by the Contract Manager whether oral or in writing.

2 Engagement of the Service Provider

2.1 Key obligations



2.2 Independent contractor

- (a) The Service Provider is engaged as an independent contractor.
- (b) Nothing in the Contract makes the Service Provider an employee, agent, partner or joint venturer of the City.

2.3 No authority

Except with the prior written consent of the City, the Service Provider acknowledges and agrees that it has no authority to, and must not:

- (a) act on behalf of the City;
- (b) incur any obligation on behalf of the City; or
- (c) enter into any verbal or written agreement on behalf of the City.

2.4 Conflict of interest

- (a) As at the Date of the Contract, the Service Provider is not aware of any matter which may give rise to an actual or perceived conflict of interest relating to the performance of the Services by the Service Provider.
- (b) If, at any time prior to the expiry or earlier termination of the Contract, the Service Provider becomes aware of any matter which may give rise to an actual or perceived conflict of interest relating to the performance of the Services by the Service Provider, the Service Provider must:
 - (i) immediately notify the City of such matters, including making full disclosure of all relevant information relating to the conflict; and
 - (ii) take such steps to resolve or manage such conflict as required by the City.

3 Provision of the Services

3.1 General

The Service Provider must:

- (a) perform the Services (including providing the Deliverables) in accordance with the terms of the Contract;
- (b) comply strictly with the Specifications; and
- (c) ensure that all Services and Deliverables comply with all applicable Laws and Australian Standards.

3.2 Acknowledgements by Service Provider

- (a) The Service Provider represents and confirms that it has the requisite technology, Personnel, resources and ability to enable it to perform the Services and all of its other obligations under the Contract.
- (b) The Service Provider acknowledges and agrees that the City has entered into the Contract relying on the representations and confirmations set out in clause 3.2(a).

3.3 Standard of Services

The Service Provider must:

- (a) at all times be suitably qualified and experienced for the performance of the Services;
- (b) perform the Services competently and professionally and with the due skill, care and diligence reasonably expected of a qualified and competent service provider experienced in providing services of a similar size, scope and complexity to the Services;
- (c) supply everything necessary for the performance of its obligations under the Contract;
- (d) use any equipment in performance of the Services in the proper manner and for the purposes for which it is provided and in accordance with the manufacturer's and supplier's directions;
- (e) maintain the City's Property, and any Work Site used in the performance of the Services, in good condition;
- (f) cooperate with any of the City's Personnel in the performance of the Services or as otherwise directed by the Contract Manager from time to time;
- (g) take all necessary and reasonable steps to ensure the security of the Work Site is maintained where applicable;
- (h) attend inspections of the Work Site with the City at the City's request;
- (i) ensure that:
 - (i) the Deliverables are fit for the purposes expressly stated in the Specifications; and
 - (ii) the Deliverables and Services comply strictly with the Specifications;
- (j) ensure that the City has the benefit of all manufacturer's warranties for all products or goods supplied or used in relation to the Services and will enter into all documents and do all things required to do so; and
- (k) upon request by the City, give to the City free of cost one copy of the manufacturer's specifications (if any) for any products or goods used in performance of the Services.

3.4 Timely provision of the Services

The Service Provider must:

- (a) commence, progress and provide the Services expeditiously, without delay and in accordance with any directions of the Contract Manager; and

- (b) complete the Services by the Expiry Date unless the Contract Manager, in their absolute discretion but acting reasonably, directs an extension to the Expiry Date, or the Term is extended pursuant to clause 20.2.

3.5 Acceleration Directions

- (a) The City may direct the Service Provider to accelerate the progress of the Services (whether or not the City seeks to advance rate of progress) by written notice entitled '**Acceleration Direction**'.
- (b) Provided that:
 - (i) a notice given under clause 3.5(a) is not necessarily given due to the default of the Service Provider; and
 - (ii) the Service Provider has received a written Acceleration Direction before incurring the cost,

the Service Provider will be entitled to the cost of acceleration. The cost of complying with the direction to accelerate will be agreed by the City and the Service Provider prior to commencement of acceleration, or, failing agreement, the Fee will be increased by the reasonable direct costs incurred by the Service Provider (if any) valued in accordance with clause 12.3.
- (c) The Service Provider has no entitlement to the costs of acceleration in connection with an Acceleration Direction where the Acceleration Direction is given due to a default of the Service Provider as determined by the Contract Manager acting reasonably.

3.6 Safety and the environment

Without limiting its other obligations under the Contract or otherwise at law, when carrying out the Services, the Service Provider must:

- (a) immediately inform the Contract Manager if it becomes aware of the existence or possibility of any major work health, safety and environmental risks that cannot be managed to as low as reasonably practicable by the Service Provider (including any potential breach of any WHS Law) that comes to its attention in connection with the Services,
- (b) notwithstanding the obligations in clause 3.6(a), advise the Contract Manager is informed of the risk cause and remedy within 24 hours of becoming aware of the risk identified pursuant to clause 3.6(a);
- (c) have a work health and safety management system in place and apply that system at all times whilst carrying out the Services;
- (d) if applicable, prior to commencing any Services on the Work Site, ensure that all Personnel have undertaken any required induction; and
- (e) as necessary, consult, cooperate and coordinate activities with the City and any other persons who have a common duty under the WHS Law.

3.7 Review of Deliverables

- (a) The Contract Manager may:
 - (i) review any Deliverable, or any resubmitted Deliverable, prepared and submitted by the Service Provider; and
 - (ii) within the number of days set out in Item 8 (or other mutually agreed period) of the submission by the Service Provider of such Deliverable or resubmitted Deliverable, reject the Deliverable if the Contract Manager, acting reasonably, determines the Deliverable is Defective.
- (b) If any Deliverable is rejected, the Service Provider must promptly (and in any event within the period specified in Item 9) resubmit the amended Deliverable to the Contract Manager.
- (c) The Service Provider acknowledges and agrees that:
 - (i) the City shall not be required to check any Deliverable for Defects, errors, omissions or compliance with the Contract; and
 - (ii) any review of, or comment by, the Contract Manager or the City in relation to a Deliverable provided by the Service Provider under the Contract, shall not relieve the Service Provider from its liabilities and responsibilities under the Contract or otherwise at law.

3.8 Risk of loss of documents

Until the Service Provider stores all documents created in connection with the Services on the City's relevant asset or document management system, the Service Provider is responsible for the preservation from loss or damage of all documents (including documents stored electronically) created by or provided to the Service Provider in connection with the Services, including the Deliverables.

3.9 Authorisations

The Service Provider must:

- (a) ensure that it has all Authorisations which are necessary for it to lawfully provide the Services;
- (b) ensure that any such Authorisations are held throughout the Term; and
- (c) provide the City with a copy of any Authorisation and give proof of its currency at the City's request.

3.10 Quality assurance

- (a) The Service Provider must establish and maintain a documented quality assurance system about the Services in accordance with any standard referred to in Item 10.

- (b) The Service Provider must allow the City, or any person nominated by the City, reasonable access to all premises, Personnel, systems, equipment and documents necessary to permit the auditing of the Service Provider's quality control system.

3.11 WHS and environmental obligations

- (a) The Service Provider must accurately complete and provide to the City the WHS Returnable Documents by the due dates set out in Item 11.
- (b) Without limiting clause 3.1(c), the Service Provider must in the performance of the Services:
 - (i) comply with the City's environmental and work health and safety policies or directions as notified by the City to the Service Provider in writing;
 - (ii) comply, and must ensure that its workers (as that term is defined by the WHS Law), Personnel, and any other person engaged, or caused to be engaged, by the Service Provider, and any person whose activities in carrying out the Services are influenced or directed by the Service Provider, comply, with the WHS Law;
 - (iii) without limiting clause 3.11(b)(i):
 - (A) act in such a manner as to avoid nuisance, unreasonable interference, or damage to the environment and in accordance with any environmental management plan provided by the City to the Service Provider;
 - (B) dispose of all solid, liquid and gaseous contaminants in accordance with applicable Laws and/or the City's requirements and/or the requirements of any relevant Government Agency;
 - (C) remove all refuse resulting from the performance of the Services; and
 - (D) not use or permit the use of any toxic chemicals or materials in connection with the performance of the Services without the City's prior consent and the prior consent of any relevant Government Agency or land owner.
- (c) The Service Provider must notify the City if the Service Provider becomes aware that any of its Personnel is not complying with the City's Policies notified by the City to the Service Provider in accordance with clause 3.11(b)(i) or with any work health and safety requirements applicable to the Services.
- (d) To the extent that the Services, or any part of it, is a Construction Project (within the meaning of the WHS Law), the Service Provider is engaged as the Principal Contractor for the Services, or that part of the Services, and the City authorises the Service Provider to have management and control of

the Site and to discharge the Service Provider's duties as a Principal Contractor under the WHS Law until the Services are complete.

- (e) The Service Provider acknowledges and agrees that:
 - (i) the City may carry out periodic inspections of the Service Provider's compliance with the WHS Law and this Contract (and the Service Provider agrees to provide the City with reasonable access to the Work Site and/or information to enable such monitoring to be carried out); and
 - (ii) by exercising its right of access, or conducting any monitoring, under this subclause 3.11(e) or otherwise, the City is not assuming any management or control of the Work Site or the Services and is only accessing the Work Site or receiving information to monitor the Service Provider's compliance with its obligations under the Contract and/or the WHS Law.

4 Contract Manager and Service Provider's Personnel

4.1 Contract Manager

- (a) The Contract Manager has authority to act on behalf of the City as its agent and for all purposes in connection with the Contract, except as notified to the Service Provider by the City.
- (b) The Contract Manager may, from time to time, appoint individuals to exercise delegated functions of the Contract Manager, provided that:
 - (i) the Contract Manager gives the Service Provider written notice of respectively:
 - (A) the appointment, including the name and delegated functions of the appointed person; and
 - (B) the termination of each appointment.

4.2 Service Provider's Personnel

- (a) The Service Provider must only engage Personnel in the performance of the Services who:
 - (i) are appropriately qualified, competent and experienced in the provision of the type of services required under the Contract; and
 - (ii) hold and maintain all necessary professional, technical, trade or other licences, authorisations and registrations relevant to the Services and the Contract.
- (b) The Service Provider must replace any Personnel involved in the performance of the Services who, in the reasonable opinion of the Contract Manager:

- (i) do not fulfil any of the criteria set out in clause 4.2(a); or
 - (ii) fails to comply with the obligations set out in clause 4.2(c).
- (c) The Service Provider must:
- (i) ensure the Personnel comply with any specific dress code and other requirements notified in writing by the City from time to time, including any requirement to display identification (such as name tags or badges) and accreditation issued by the City; and
 - (ii) ensure the Personnel render the Services in a polite and helpful manner.
- (d) The Service Provider is solely responsible for maintaining the employer/employee relationship with all Personnel, including but not limited to payment to Personnel of all wages, superannuation, annual leave, sick leave, long service leave, public holidays, redundancy payments or any other similar benefits or allowances under any legislation, industrial award, agreement or contract of employment that are the employer's responsibility to pay for work performed by Personnel in the execution of an assignment.
- (e) The Service Provider's responsibility for the performance of the Services and for the work and performance of its Personnel is not lessened or otherwise affected in any way by this clause 4.2 or by anything done in accordance with this clause 4.2.

4.3 Subcontracting

- (a) Without limiting clause 4.2, the Service Provider may only engage Subcontractors in connection with the provision of the Services if, before the engagement of any proposed Subcontractor, the City has approved in writing the engagement of that Subcontractor for the relevant part of the Services (each an Approved Subcontractor).
- (b) Other than in emergency situations, the City's consent to approve the engagement of any Subcontractor may be withheld at the City's absolute discretion.
- (c) If the Service Provider engages a Subcontractor, the Service Provider must:
 - (i) ensure the services performed by the Subcontractor meet the applicable requirements of the Contract;
 - (ii) be entitled to immediately terminate the engagement of the Subcontractor if the Contract is terminated;
 - (iii) ensure that the proposed Subcontractor and its officers, employees, agents or contractors involved in the performance of the subcontracted services:
 - (A) are appropriately qualified, competent and experienced in the provision of the type of services required under the Contract; and

- (B) hold and maintain all necessary professional, technical, trade or other licences, authorisations, registrations and insurances relevant to the subcontracted services; and
- (iv) on request from the Contract Manager, provide the City with a copy of any subcontract entered into with the Subcontractor (without prices if the Service Provider requires).
- (d) The obligations of the Service Provider under the Contract are not lessened or otherwise affected by any subcontracting.
- (e) The Service Provider is responsible for the acts and omissions of its Subcontractors as if they were acts and omissions of the Service Provider.
- (f) The parties agree to meet at least once every 6 months to consider, and if necessary amend, the list of Approved Subcontractors.

5 Security

5.1 Provision

Security must be provided by the Service Provider in accordance with Item 12.

5.2 Recourse

Security will be subject to recourse by the City where the City:

- (a) considers that the Service Provider is in breach of any of its Material Obligations, or otherwise has a Claim against the Service Provider:
 - (i) the breach gives rise to a right of the City to terminate the Contract; or
 - (ii) there is money due and payable to the City under the Contract that is unpaid; or
- (b) has any other entitlement under the Contract to have recourse to the Security,

notwithstanding the existence of any Dispute between the City and the Service Provider.

5.3 Reduction and release

- (a) Subject to clause 14.4, the City's entitlement to the Security will cease upon the expiry of the Term or, if the Term is extended pursuant to clause 20.2, the expiry of the Further Term.
- (b) Upon the City's entitlement to Security ceasing, the City will release and return forthwith the Security to the Service Provider.

5.4 No injunction

The Service Provider acknowledges and agrees that it will not at any time take steps to injunct or restrain or attempt to injunct or restrain any issuer of Security contemplated in this clause 5 from paying the City pursuant to that Security or the City from taking any steps to obtain payment under any such Security or using the proceeds of any such Security.

6 Behaviour and conduct

The Service Provider must ensure that it and its Personnel do not engage in any conduct that:

- (a) will, or is likely to, harm the City or its name, reputation or services; or
- (b) may bring the Service Provider or the City into disrepute, scandal or ridicule.

7 Administration of the Contract

7.1 Directions by Contract Manager

- (a) Subject to clause 12.1, the Service Provider must comply with all reasonable directions given by the Contract Manager.
- (b) If a direction by the Contract Manager is given orally, the Contract Manager must confirm the oral direction in writing within 5 Business Days.
- (c) If a direction by the Contract Manager is given orally and is to be relied upon by the Service Provider in seeking additional payment, the Service Provider must confirm the oral direction in writing with the Contract Manager within 1 Business Days of the direction in clause 7.1(b) being given.

7.2 Operations Manager

- (a) The Service Provider agrees that the Operations Manager has authority to receive and sign notices and written communications for the Service Provider under the Contract and accept any request or direction in relation to the Services.
- (b) The Service Provider may replace the Operations Manager from time to time by nominating a senior officer to take the place of the Operations Manager in writing to the City. The City may reject such person if it sees fit, acting reasonably.
- (c) The City may, on reasonable grounds, give notice to the Service Provider requiring it to replace the Operations Manager. The Service Provider must promptly nominate a senior officer acceptable to the City, acting reasonably, to take the place of the Operations Manager.

- (d) The Operations Manager must, from time to time, give sufficient information to the Contract Manager to enable the Contract Manager and the City to properly assess the performance of the Service Provider under the Contract.

8 Non-complying Services

8.1 Direction by Contract Manager

If the Contract Manager discovers a Defect or reasonably believes that any of the Services have not been performed in accordance with the Contract (including in strict accordance with the Specifications), and without limiting the City's rights elsewhere under the Contract or otherwise at law, the Contract Manager may at any time give the Service Provider a direction specifying the non-complying Services and may do one or more of the following:

- (a) require the Service Provider to:
 - (i) remedy the Defect to the Contract Manager's reasonable satisfaction, or re-perform the Services which are defective or otherwise non-complying and specify the time within which this must occur; and
 - (ii) take all such steps as are reasonably necessary to:
 - (A) mitigate the effect on the City of the failure to carry out the Services in accordance with the Contract; and
 - (B) put the City as closely as possible in the position in which it would have been if the Service Provider had carried out the Services in accordance with the Contract; or
- (b) advise the Service Provider that the City will accept the Defect or non-complying Services and make an appropriate adjustment to the Fee to take account of such Defect or non-compliance as reasonably determined by the Contract Manager.

8.2 Service Provider to re-perform

If a direction is given under clause 8.1(a), the Service Provider must re-perform the non-complying Services or rectify the Defect within the time specified in the Contract Manager's direction. The Contract Manager must act reasonably in giving such directions, including in relation to timeframes for re-performance or rectification of Defects.

9 Access to a Work Site

9.1 Non-exclusive access

- (a) Without limiting the Service Provider's other obligations under the Contract and subject to any limitation in Item 13, the City must give the Service Provider non-exclusive access to that part of a Work Site sufficient to enable the Service Provider to carry out the Services.
- (b) Delay by the City in giving access to a Work Site will not constitute a breach of the Contract.
- (c) The Service Provider will not be penalised for any delay in providing Services caused by insufficient access to, or an inability to access a Work Site.
- (d) This clause 9.1 only applies where the delay is of a material nature or access is severely restricted and the Service Provider has notified the City of this hindrance immediately.

9.2 Requirement for access to a Work Site

- (a) The Service Provider must:
 - (i) act co-operatively with the City and its Personnel and any occupiers and users of a Work Site; and
 - (ii) perform the Services so as to cause as little inconvenience as possible to those persons as well as occupiers and users of land adjacent to a Work Site.
- (b) Without limiting the Service Provider's other obligations under the Contract, the Service Provider must at all times while it is on a Work Site:
 - (i) comply with all procedures and policies of the City relating to a Work Site and directions of the Contract Manager; and
 - (ii) confine its activities within the minimum area necessary for the performance of the Services.

10 City's Property

10.1 Access to the City's Property

Unless otherwise agreed between the parties, where the Service Provider requires access or connection to the City's Property:

- (a) the City will grant the Service Provider access to the City's Property for the sole purpose of and only to the extent necessary as determined by the City to enable the Service Provider to provide the Services to the City, and by such means as the City determines in its absolute discretion;

- (b) the Service Provider must comply with any systems, health, safety, technical, security and other requirements, regulations, policies, directions and safety standards notified to it by or on behalf of the City from time to time or as might reasonably be inferred from the use to which the City's Property are put;
- (c) the Service Provider must not use its access or connection to the City's Property to:
 - (i) interfere with or disrupt the City's Property or any equipment or service of any person (including the City customers and service providers);
 - (ii) circulate any unsolicited or unauthorised marketing, publicity or advertising material;
 - (iii) transmit computer worms or viruses;
 - (iv) send harassing, obscene, indecent or threatening electronic mail or messages; or
 - (v) forge electronic mail or messages or their source; and
- (d) the City may, without notice, suspend or terminate the Service Provider's access or the connection to the City's Property if:
 - (i) the Service Provider fails to comply with its obligations under this clause 10; or
 - (ii) the City reasonably believes that the Service Provider's access or connection to the City's Property is impairing, interfering with or damaging any part of the City's Property or their operation or any other equipment or service of any person (including any customers or service providers of the City).

10.2 **Service Provider acknowledgment**

The Service Provider acknowledges and agrees that access to the City's Property under clause 10 is at its own risk, except for any negligent act or omission by the City.

10.3 **Public information**

The Service Provider must not:

- (a) take or permit to be taken any photograph, drawing or sketch of the Services being performed on a Work Site except for the purpose of performing the Services; or
- (b) in any advertising or promotional material, use or permit to be used the City's name,

except with the prior written consent of the City.

10.4 Keys

The Service Provider:

- (a) must comply with any directions of the City concerning the use of keys (including electronic cards or other devices necessary for obtaining access) supplied by the City to the Service Provider;
- (b) will be responsible for all keys issued;
- (c) must not lend the keys or remove the keys from a Work Site;
- (d) must maintain a key register which sets out, at a minimum:
 - (i) what keys have been provided to the Service Provider from the City;
 - (ii) the current location of those keys; and
 - (iii) the movement of those keys, including which Personnel have had access to or used those keys;
- (e) must not use the keys other than for access for provision of the Services; and
- (f) must meet the costs of the City supplying additional or replacement keys and any repining, re-programming or re-keying of locks or security devices that the City requires due to keys being lost, stolen, damaged or unaccounted for by the Service Provider.

11 Reports, meetings and audits

11.1 Reports

The Service Provider must provide to the City:

- (a) all reports set out in the Specifications in accordance with the Specifications as applicable, and which are accurate and not misleading in any respect;
- (b) such other reports in relation to the Contract or the Services as may be reasonably requested by the Contract Manager from time to time and the Service Provider acting reasonably agrees to provide; and
- (c) without limiting the foregoing, if requested, a schedule demonstrating the Service Provider's resources available to meet the requirements of the Contract.

11.2 Meetings

The Service Provider must:

- (a) attend all meetings set out in the Specifications;

- (b) attend such other meetings in relation to the Services as may be reasonably requested by the Contract Manager; and
- (c) if requested by the Contract Manager, ensure that any relevant Subcontractors attend the meetings contemplated in this clause 11.2.

11.3 Availability, audit and access

- (a) Without limiting any of its other obligations under the Contract, the Service Provider must:
 - (i) keep complete, accurate and up to date records, including books of account, labour time sheets, final accounts and any other documents or papers which:
 - (A) show all details in relation to the Services (including evidence of compliance with clause 3.10 and matters relating to work health and safety such as any applicable safe work method statements); and
 - (B) are maintained in a form and manner that facilitates access and inspection under this clause 11;
 - (ii) at the request of the Contract Manager at any time during the performance of the Services, and the additional period of time (if any) stated in Item 14 following the completion of the Services or the earlier termination of the Contract, make available one complete set of the records referred to in clause 11.3(a)(i) for inspection and copying by:
 - (A) the City or the Contract Manager; or
 - (B) any other person nominated by the Contract Manager;
 - (iii) provide the Contract Manager with copies of documents affecting the Services as may be required by the Contract Manager;
 - (iv) participate in audits under the Contract at the frequency and in relation to the matters specified by the City (including on an ad hoc basis if requested by the City), for the purpose of ensuring that the Contract is being properly performed and administered. The City may, but is not obliged to, appoint an independent person to assist in the audits. Audits may consider all aspects of the Service Provider's performance; and
 - (v) participate promptly and cooperatively in any audits conducted by the City or its nominee.
- (b) The Service Provider must promptly take corrective action to rectify any error, non-compliance or inaccuracy identified during an audit in relation to the discharge of its obligations under the Contract.

12 Variation or suspension of Services

12.1 Directions to vary

- (a) The Contract Manager may, by a written document titled "Variation Order", direct the Service Provider to vary the Services (including by way of increase, decrease, omission or change), if the variation is within the general scope of the Contract. The Service Provider must comply with any direction issued pursuant to this clause 12.1(a).
- (b) If the Service Provider receives a direction from the Contract Manager which, although not stated to be a "Variation Order", the Service Provider considers to be a direction to carry out a variation, the Service Provider must:
 - (i) within 5 Business Days of receipt of such direction, advise the Contract Manager that it considers the direction to be a variation direction; and
 - (ii) not commence the services the subject of the direction until the Contract Manager advises:
 - (A) whether it considers the direction to be a variation; or
 - (B) that the Service Provider should commence the relevant service immediately whether or not the Contract Manager considers the direction to be a variation.
- (c) If the Service Provider does not comply strictly with the requirements of clause 12.1(b), the Service Provider will not be entitled to any additional time or costs for complying with the direction.
- (d) If the Contract Manager directs a variation which omits any part of the Services:
 - (i) the City may thereafter carry out this omitted service either itself or by engaging another Service Provider; and
 - (ii) clause 12.2 applies.
- (e) The variation to the Services must be performed in accordance with and subject to the terms and conditions of the Contract and is deemed to be incorporated into the Contract.
- (f) The Service Provider must not vary the Services except as directed in writing by the Contract Manager pursuant to this clause 12.1.

12.2 Consequences of variation or proposed variation

- (a) Before directing a variation, the Contract Manager may request the Service Provider to provide a written estimate of the time, cost and programming effects of the proposed variation.

- (b) If the Contract Manager requests the Service Provider to provide an estimate under clause 12.2(a), the Service Provider must provide the written estimate within the time nominated by the Contract Manager, acting reasonably.

12.3 Valuation of variations

- (a) Unless otherwise agreed in writing between the Contract Manager and the Service Provider, the value of a variation must be determined using the rates and prices set out in Parts B and C of Schedule 2.
- (b) If the Contract Manager reasonably believes that Parts B and C of Schedule 2 is not applicable to the variation, the value of the variation must be determined using the rates and prices that in the opinion of the Contract Manager are reasonable, having regard to the market for services similar to the Services.
- (c) Following valuation of a variation in accordance with this clause 12.3, the Contract Manager will adjust the Fee accordingly.

12.4 Change in law

If a new law or a change in a law after the Date of the Contract:

- (a) necessitates a change to the Services;
- (b) has effect after the Date of the Contract; and
- (c) could not reasonably have been anticipated at the Date of the Contract,

then, to the extent the Services cost more for the Service Provider to perform due to the new or changed law, any such additional cost shall be valued pursuant to clause 12.3.

12.5 Suspension of Services

- (a) Except as permitted by law or directed by the Contract Manager, the Service Provider must not suspend the performance of any or all of the Services.
- (b) The Contract Manager may immediately suspend the performance of any or all of the Services at any time and for any reason by giving a direction to that effect to the Service Provider.
- (c) Except to the extent permitted by law, the Service Provider must resume the performance of the suspended Services as soon as practicable after being directed by the Contract Manager and, in any event, not later than 5 Business Days after receiving a written direction to do so from the Contract Manager.
- (d) The Service Provider is entitled to claim reasonable costs and expenses to the extent they:

- (i) are necessarily incurred during any suspension directed under clause 12.5(b);
- (ii) are substantiated to the reasonable satisfaction of the City; and
- (iii) do not exceed the maximum daily amount (if any) specified in Item 15,

provided the Service Provider will have no entitlement under this clause 12.5(d) to the extent the suspension is a result of an act or omission of the Service Provider or its Personnel.

- (e) To the extent permitted by law, the Service Provider is not entitled in contract, tort or otherwise to any payment or compensation for any costs or losses suffered by the Service Provider as a result of a suspension of the Services, except as provided for in this clause 12.5.

13 Force Majeure

13.1 Notice and suspension of obligations

If a party to this Contract is affected, or likely to be affected, by a Force Majeure Event:

- (a) that party must immediately give the other party prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it; and
- (b) the obligations under this Contract of the party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

13.2 Effort to overcome

A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. This does not require a party to settle any industrial dispute in any way that it considers inappropriate.

13.3 Alternative supply

During any period in which the Service Provider is not performing obligations because of a claimed Force Majeure Event, the City may (but need not) make alternative arrangements for the performance, whether by another person or

otherwise, of any obligation which the Service Provider is not performing without incurring any liability to the Service Provider.

13.4 Termination

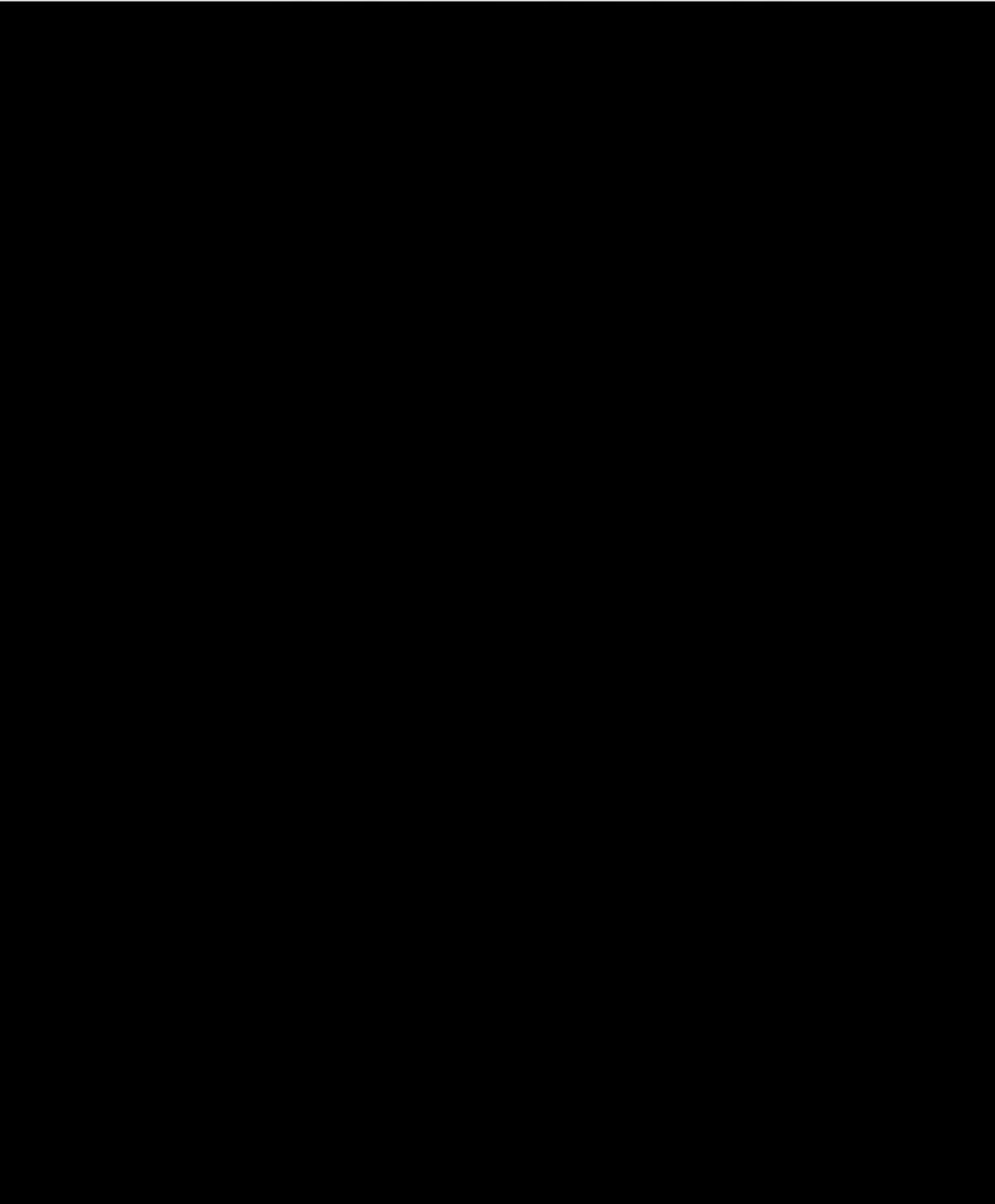
If a Force Majeure Event continues for more than 14 Business Days, the City may terminate this Contract by giving at least one Business Day's written notice to the other party.

14 Fee and Payment

14.1 Fee

- (a) The parties agree that the Fee will be calculated in accordance with Schedule 2, subject to any adjustments in accordance with clause 14.7.
- (b) The parties acknowledge that the quantity of Parking Machines to be maintained as part of the Services may vary over the Term.

14.2 Payment claims



14.3 Payment

- (a) The City must pay correctly rendered invoices, less any amount due from the Service Provider to the City as a result of clause 14.4 or otherwise, within 30 days of the date the City receives an invoice.
- (b) Unless otherwise agreed by the City, payment to the Service Provider will be made by electronic funds transfer to the Service Provider's nominated bank account as notified in writing to the City from time to time.
- (c) Payment of the Fee:
 - (i) is on account only; and

- (ii) does not constitute any admission that performance by the Service Provider is in any respect in accordance with this Contract.

14.4 **Set off**

The City may set off or deduct at any time from any money payable to the Service Provider under this Contract:

- (a) any debt or other moneys due and payable from the Service Provider to the City under this Contract; or
- (b) any other money where the City has a bona-fide claim against the Service Provider under this Contract provided that the City has given the Consultant prior written notice of such claim.

14.5 **GST**

- (a) Terms used in this clause 14.5 which are not defined in the Contract, but which are defined in the GST Law, have the meanings given to them in the GST Law.
- (b) Amounts payable, and consideration to be provided, under any other provision of the Contract exclude GST unless otherwise stated in the Contract.
- (c) If GST is payable on a supply made under or in connection with the Contract (not being a supply the consideration for which is specifically described in the Contract as being inclusive of GST), the recipient of the supply ('**recipient**') must pay to the party making the supply ('**supplier**') an amount equal to the GST payable on that supply at the time the recipient pays or provides any part of the consideration for the supply.
- (d) The supplier must give a tax invoice to the recipient before the time when the recipient is required to pay or provide any part of the consideration for the supply. Without limiting the foregoing, but subject to clause 14.6, where the supplier is the Service Provider, the Service Provider must, as soon as possible and in any event within 5 Business Days of the date specified in Item 16, provide the City with a tax invoice.
- (e) If an adjustment event arises in connection with a supply made under or in connection with the Contract, the supplier must recalculate the GST payable to reflect the adjustment event and give the recipient an adjustment note as soon as reasonably practicable after the supplier becomes aware of the adjustment event. The adjustment amount must be paid without delay either by the recipient to the supplier or by the supplier to the recipient, as the case requires.
- (f) If any part of a supply is treated as a separate supply for the purposes of the GST Law (including attributing GST payable to tax periods), that part of the supply will be treated as a separate supply for the purposes of this clause 14.5.
- (g) Where a party ('**payer**') must pay to another party ('**payee**') an amount in respect of a cost, expense or loss ('**outgoing**') of the payee, the amount payable is the sum of:
 - (i) the amount of the outgoing less any input tax credit in respect of it to which the payee, or its GST group representative member, is entitled; and

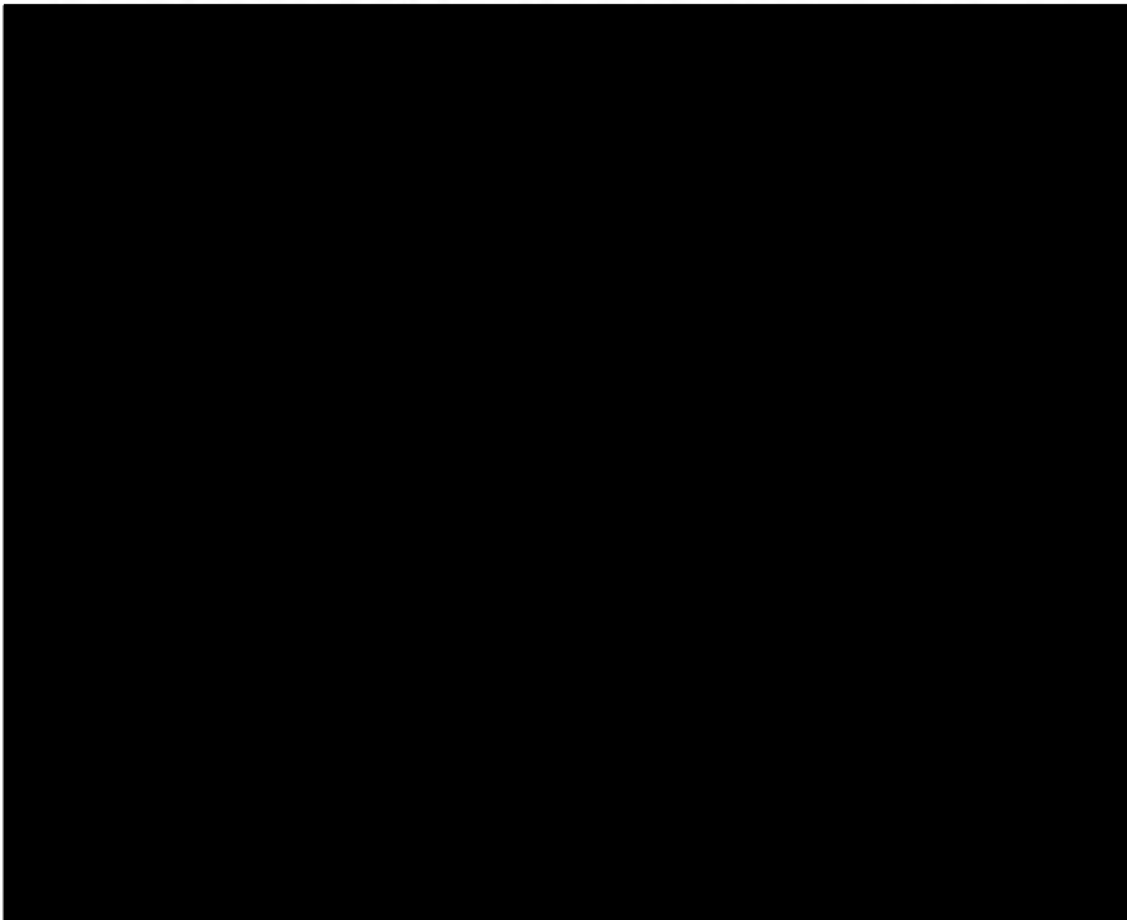
- (ii) if the amount payable is subject to GST, an amount equal to that GST.

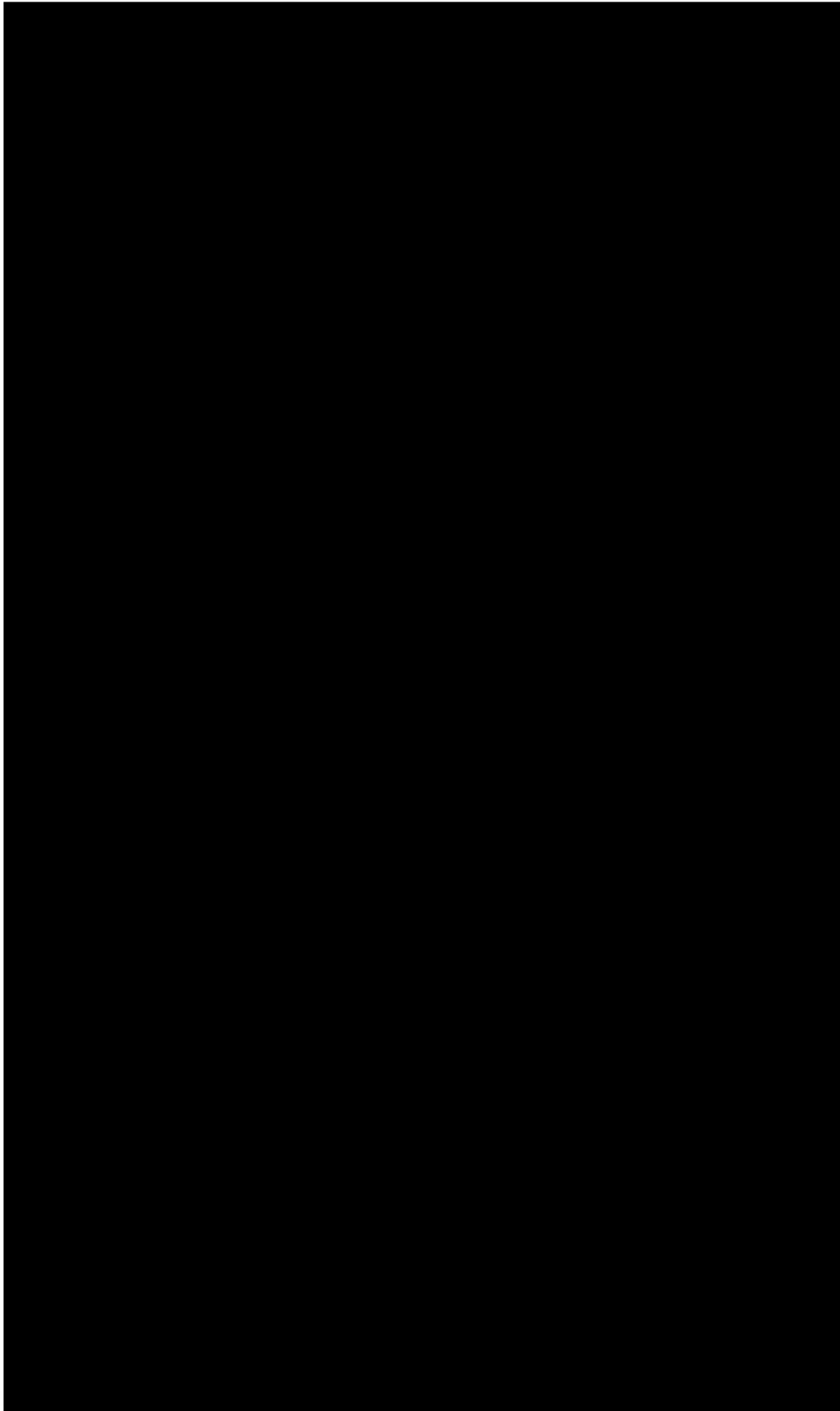
14.6 Recipient created tax invoices

The parties acknowledge that:

- (a) the City may, in its sole discretion, issue tax invoices in respect of all supplies under, or in connection with, the Contract and the Service Provider will not issue tax invoices when the City exercises this discretion;
- (b) the Service Provider is registered for GST and will notify the City if it ceases to be registered;
- (c) the City is registered for GST and will notify the Service Provider if it ceases to be registered, or if it ceases to satisfy any of the requirements of any tax ruling relating to the issue of recipient created tax invoices; and
- (d) if one, or more, of the criteria, which must be satisfied to allow the City to issue recipient created tax invoices, is not satisfied, such that the City cannot issue a tax invoice in respect of supplies made under, or in connection with, the Contract, the Service Provider must issue a tax invoice (being an invoice that complies with GST Law and contains both the ABN details of the City and the Service Provider) to the City for the amount specified by the City, when requested.

14.7 Price adjustment – rise and fall of the schedule of rates







15 Step in rights

15.1 Failure to perform a Material Obligation

(a) If the Service Provider:

- (i) fails to perform a Material Obligation strictly in accordance with the Contract; and
- (ii) fails to rectify that failure within 5 Business Days of being required by written notice from the City to do so,

then the City may, either by itself or through a third party, perform that obligation.

(b) If the City:

- (i) has not yet paid the Service Provider in relation to the Material Obligation that the Service Provider has failed to perform, then the costs, expenses, losses and damages incurred by the City in performing that obligation will be a reduction of the Fee; and

- (ii) has already paid the Service Provider in relation to the obligation that the Service Provider has failed to perform, then any costs, expenses, losses and damages in excess of the proportion of the payment applicable to the obligation, incurred by the City in performing that obligation will be a debt due from the Service Provider to the City.
- (c) This clause 15.1 does not limit any other remedy which the City may have against the Service Provider for any breach of the Contract.

16 Intellectual Property and Information Documents

16.1 Background Intellectual Property Rights

- (a) Each party will retain all of its Background Intellectual Property Rights.
- (b) The City grants the Service Provider a non-exclusive, royalty-free and non-transferable licence for the term of the Contract, to use the City's Background Intellectual Property Rights for the sole purpose of enabling the Service Provider to perform its obligations under the Contract.
- (c) The Service Provider grants to the City an irrevocable, perpetual, royalty-free, non-exclusive licence (with the right to sub-licence) to use, copy, modify and publish the Service Provider's Background Intellectual Property Rights for the purpose of this Contract and to the extent the City considers necessary to enable it to derive the full benefit the City reasonably expected from the Services.

16.2 Intellectual Property Rights in the Deliverables

- (a) The Service Provider assigns to the City, all Intellectual Property Rights in the Developed Material (including all draft and interim versions):
 - (i) in existence at the Date of the Contract, with effect on and from the Date of the Contract; and
 - (ii) created after the Date of the Contract, with effect on and from the date of creation of such Developed Material.
- (b) The Service Provider undertakes to do all acts and execute all documents necessary or desirable for perfecting the City's title to the Developed Material.
- (c) The Service Provider acknowledges that its only rights in respect of the Developed Material are those rights of use pursuant to the Contract and the Service Provider does not have any right, title or interest to the Developed Material or any goodwill in any Materials.
- (d) The City grants to the Service Provider a non-exclusive, royalty-free and non-transferable licence for the term of the Contract, to use the Developed Material for the sole purpose of the Service Provider performing its obligations under the Contract.

- (e) The Service Provider must not sublicense the licence granted to it under clauses 16.1(b) and 16.2(d) to any person without the prior written consent of the City.

16.3 Moral Rights

- (a) The Service Provider agrees, and must procure that it obtains all necessary consents from its Personnel, to any act or omission that might otherwise infringe an author's Moral Rights, including acts or omissions that occurred before, on or after the Date of the Contract.
- (b) Where requested by the City, the Service Provider must promptly and, in any event within 10 Business Days of such request, provide the City with evidence of the written consents required to be obtained under clause 16.3(a).

16.4 Intellectual Property representations

The Service Provider represents to the City that in providing the Services:

- (a) it owns or is licenced to use all Intellectual Property Rights (including Background Intellectual Property Rights) provided under or in connection with the Contract; and
- (b) the use of the Deliverables as permitted or contemplated under the Contract will not cause the City to incur any liability for infringement of any third party's Intellectual Property Rights or Moral Rights.

16.5 Information Documents

- (a) Information Documents are provided to the Service Provider for information only and the Service Provider acknowledges that it has:
 - (i) not relied on the contents of any Information Documents; and
 - (ii) made its own enquiries and formed its own view on the issues covered in the Information Documents.
- (b) Neither the City nor the Contract Manager is responsible for the accuracy or the contents of, or makes any representation or assumes any duty of care in respect of, the Information Documents.

17 Indemnity

17.1 Indemnity

Without limiting the City's other rights under the Contract or otherwise at law, the Service Provider must indemnify the City on demand against any claim, damage, expense, loss, cost (including reasonable legal costs) or liability (including liabilities of the City to third parties) arising out of or in connection with:

- (a) loss of, loss of use of, destruction or damage to real or personal property of the City or any third party, including existing property;

- (b) breach of confidentiality or privacy;
- (c) infringement of Intellectual Property Rights or Moral Rights; or
- (d) injury to, or disease or illness (including mental illness) or death of, persons,

to the extent that, and in proportion to which, such claim, damage, expense, loss, cost or liability arises from a breach by the Service Provider of the Contract or any negligent act or omission of the Service Provider or its Personnel.

- (e) The Service Provider's liability to indemnify the City will be reduced proportionally to the extent that the City's breach of Contract, or any negligent act or omission of the City or its Personnel has contributed to the claim, liability, loss, damage, expense or other liability.
- (f) Neither the City or the Service Provider is liable for any indirect or consequential loss, loss of profit, loss of opportunity, loss of use or goodwill or other indirect, remote, abnormal or unforeseeable loss whether arising in contract, tort, equity, under statute or otherwise.

18 Insurance

18.1 Service Provider's insurances

The Service Provider must:

- (a) from the date the Service Provider commences the Services, effect and maintain the following insurances:
 - (i) public liability insurance that:
 - (A) is for not less than the amount referred to in Item 17;
 - (B) is written on an occurrence basis covering the liability of the Service Provider and its Personnel to third parties (including each other) for property loss or damage or loss of use (including to property of the City in the care, custody or control of the Service Provider) and injury to, disease or illness (including mental illness) of or death of persons arising out of, or in connection with, the performance of the Services; and
 - (C) covers the City for its liability for the acts and omissions of the Service Provider and its Personnel;
 - (ii) workers compensation insurance as required by law;
 - (iii) professional indemnity insurance that:
 - (A) is for not less than the amounts referred to in Item 18;

- (B) covers the Service Provider for civil liability arising from breach of its professional duty in performing the Services as a result of an act or omission of the Service Provider and including cover for breaches of any consumer protection legislation and unintentional breaches of Intellectual Property Rights;
 - (C) has a retroactive date of no later than the date on which the Service Provider commences the Services or any earlier preparatory work; and
 - (D) includes a definition of professional business which is broad enough to cover all professional activities and services to be provided by the Service Provider under the Contract;
- (iv) plant and equipment insurance that:
 - (A) covers the repair and/or replacement costs for damaged or stolen City Property when used or operated by the Service Provider under the Contract; and
 - (B) covers liability to third parties for loss, damage, injury or death arising from the use and operation of any of the City's Property by the Service Provider under the Contract;
- (v) compulsory third party and comprehensive motor vehicle insurance that:
 - (A) covers the repair and/or replacement for any damaged or stolen motor vehicle used by the Service Provider under the Contract;
 - (B) covers liability to third parties for loss, damage, injury or death arising from the use and operation of any vehicle by the Service Provider under the Contract; and
- (vi) Property or Industrial Special Risk insurance that:
 - (A) covers against any loss or damage to buildings, contents, fittings, machinery, equipment or other tools not otherwise insured which the Service Provider owns or has care and control over that is used in carrying out Services under the Contract.
- (b) effect the insurances set out in clause 18.1(a) with an insurer licensed by the Australian Prudential Regulatory Authority in Australia or with an investment grade rating from an industry recognised rating agency such as Moody's, Standard & Poor's or A M Best;
- (c) ensure that its Subcontractors maintain the insurances stated in Item 19;
- (d) on request, provide the City with a certificate of currency for each policy of insurance and the financial security rating of each insurer;

- (e) ensure that:
 - (i) if the insurer gives the Service Provider notice of cancellation of, rescission of or intention not to renew any required insurance policy, the Service Provider as soon as possible informs the City in writing that the notice has been given and effects the appropriate replacement insurance in accordance with the requirements of this clause 18;
 - (ii) the Service Provider does not cancel, rescind or fail to renew any required insurance policy without effecting replacement insurance as required by the Contract so as to ensure no gap in cover and inform the City in writing as soon as possible of the identity of the replacement insurer and the terms of that insurance, and providing such evidence as the City reasonably requires that the replacement insurance complies in all relevant respects with the requirements of the Contract; and
 - (iii) if the available limit under its professional indemnity insurance is materially depleted by claims unrelated to the Contract, it informs the City as soon as possible and reinstates or replaces the available limit unless the City has otherwise agreed in writing; and
- (f) ensure that it:
 - (i) does not do or omit to do anything whereby any insurance may be prejudiced;
 - (ii) if necessary, takes all reasonable steps to rectify any situation which might prejudice any insurance;
 - (iii) renews or replaces any required insurance policy if it expires during the relevant period;
 - (iv) does not cancel or allow an insurance policy to lapse during the period for which it is required by the Contract without the prior written consent of the City;
 - (v) immediately notifies the City in writing of any event which may result in a required insurance policy lapsing, being cancelled or rescinded; and
 - (vi) complies fully with its duty of disclosure and obligations of utmost good faith toward the insurer and in connection with all of the required insurance policies.

The obtaining of insurance as required under this clause 18.1 will not in any way limit, reduce or otherwise affect or be affected by any of the obligations, responsibilities and liabilities of the Service Provider under any other provision of the Contract or otherwise at law or in equity.

18.2 Period of insurance

The insurance which the Service Provider is required to obtain under clause 18.1 must be maintained:

- (a) in the case of public liability insurance, workers compensation insurance, plant and equipment, compulsory third party and comprehensive motor vehicle insurance and property or industrial special risk insurance, until the completion of the Services or the earlier termination of the Contract; and
- (b) in the case of professional indemnity insurance, until the expiration of the period specified in Item 20.

18.3 Notice of potential claim

The Service Provider must:

- (a) as soon as possible inform the City in writing of any occurrence that gives rise or may give rise to a claim under an insurance policy maintained in compliance with clause 18.1 which arises in connection with the Contract and may involve the City; and
- (b) keep the City informed of all significant developments concerning the claim, except in circumstances where the City is making a claim against the Service Provider,

provided that, in respect of professional indemnity insurance, the Service Provider:

- (c) is not required to provide details of individual claims; and
- (d) must notify the City if the estimated total combined value of claims made against the Service Provider and claims which may arise from circumstances reported by the Service Provider to its insurer in a policy year would potentially reduce the available limit of policy indemnity for that year below the amount required by the Contract.

18.4 Severability and cross liability

- (a) This clause 18.4 does not apply to statutory insurances required under the Contract.
- (b) The Service Provider must ensure that insurances maintained in compliance with clause 18.1 which extend cover to more than one insured provide that:
 - (i) the insurance (with the exception of limits of liability) will operate in the same manner as if there were separate policies of insurance covering each insured and the acts and omissions (including any failure to comply with the duty of disclosure) of any one insured will not be imputed to any other insured for the purposes of determining rights to cover of that other insured;

- (ii) the insurer waives all rights, remedies or relief to which it might become entitled by subrogation against any of the parties to whom coverage extends; and
- (iii) a notice to the insurer by one insured will be deemed to be notice on behalf of all insureds.

19 Confidentiality, privacy and related matters

19.1 Confidential information

- (a) Subject to clause 19.1(b):
 - (i) the Service Provider must:
 - (A) keep confidential the terms of the Contract, any documents produced under the Contract and any information leading to the creation of the Contract; and
 - (B) ensure that each of its Personnel comply with the terms of clause 19.1(a)(i)(A); and
 - (ii) each party (and all their respective managers, representatives or nominees) must keep confidential all information of the other that:
 - (A) is by its nature confidential;
 - (B) is marked or designated as confidential at the time of its disclosure by or on behalf of the disclosing party; or
 - (C) the receiving party knows or ought to know is confidential.
- (b) Neither party is obliged to keep confidential any information disclosed to it by or on behalf of the other party:
 - (i) which is otherwise in the public domain other than by a breach of the Contract by the receiving party;
 - (ii) the disclosure of which is:
 - (A) required by law;
 - (B) made with the prior written consent of the disclosing party;
 - (C) made to a court in the course of proceedings to which the disclosing party is a party; or
 - (D) required by the listing rules of a recognised stock exchange; or
 - (iii) which is disclosed by the receiving party to its legal or other advisers, or to its Personnel in order to comply with its obligations or

to exercise its rights under or in connection with the Contract provided that such persons are under an obligation to keep the information confidential.

- (c) The Service Provider must promptly return to the City or destroy such Confidential Information on the written request by the City provided that (except in the case of any termination of the Contract), the Service Provider may retain for bone fide record keeping purposes only one copy of any Deliverable. The copy of the Deliverable retained by the Service Provider must be kept in a secure area and access restricted to the Deliverable in accordance with this clause 19.1.

19.2 Privacy

Without limiting its obligations at law with respect to privacy and the protection of Personal Information, the Service Provider must (and must procure that its Personnel):

- (a) comply with the Privacy Laws and any other privacy guidelines and requirements that the City notifies the Service Provider that it must comply with;
- (b) only use Personal Information for the sole purpose of fulfilling its obligations under the Contract;
- (c) protect all Personal Information from unauthorised access, modification, disclosure or use; and
- (d) immediately notify the City on becoming aware of any unauthorised access, modification, disclosure or use of Personal Information or privacy breach in relation to any Personal Information.

19.3 No publicity

- (a) The Service Provider must not use the City's name, trade mark or logo in any advertisement, media release, public statement, promotional materials or announcement relating to the Contract or the Services without the City's prior written approval.
- (b) If the Service Provider receives any enquires from the media in relation to the Contract or the Services, the Service Provider must promptly refer such enquires to the City.

19.4 Public Access to Government Information

- (a) The Service Provider acknowledges and agrees that the City may disclose information in the Contract (including the entire Contract) on its nominated website established for disclosures under the *Government Information (Public Access) Act 2009 (NSW)* ('**GIPA Act**').
- (b) The Service Provider must, upon receipt of a written request by the City, provide the City with immediate access to the following information

contained in records (as defined in the GIPA Act) held by the Service Provider:

- (i) information that relates directly to the Services; and
 - (ii) information received by the Service Provider from the City to enable it to provide the Services.
- (c) For the purposes of clause 19.4(b), information does not include:
- (i) information that discloses or would tend to disclose the Service Provider's financing arrangements, financial modelling, cost structure or profit margin;
 - (ii) information that the Service Provider is prohibited from disclosing to the City by provision made by or under any law; or
 - (iii) information that, if disclosed to the City, could reasonably be expected to place the Service Provider at a substantial commercial disadvantage in relation to the City, whether at present or in the future.
- (d) The Service Provider must provide copies of any of the information in clause 19.4(b), as requested by the City, at the Service Provider's own expense.

20 Term and termination

20.1 Term

The Contract commences on the Date of the Contract and, unless otherwise extended under clause 20.2 or terminated on its terms, expires on the Expiry Date ('Term').

20.2 Further Terms

The City may extend the Contract for the Further Term (if any) specified in Item 21, commencing on the Expiry Date or the expiry of a previous Further Term (as applicable), by giving written notice to the Service Provider no later than 2 months prior to the Expiry Date or the expiry of a previous Further Term (as applicable). The maximum number of Further Terms is specified in Item 21.

20.3 City may terminate for convenience

- (a) The City may terminate the Contract at any time and for any reason, and in its sole discretion, by giving to the Service Provider not less than the period of prior written notice specified in Item 22.

- (b) If the Contract is terminated pursuant to this clause 20.1, the City must pay the Service Provider:
 - (i) any accrued portion of the Fee for Services carried out up to and including the date of termination; and
 - (ii) the Service Provider's direct costs and expenses (excluding profit) reasonably and necessarily incurred by reason of the termination except to the extent that such costs and expenses are already payable pursuant to clause 20.3(b)(i)
- (c) Except as set out in clause 20.3(b), the Service Provider is not entitled to any other payment in connection with the termination of the Contract under this clause 20.1, including for any costs, losses (including loss of profit) or damage.

20.4 Termination for cause

- (a) In addition to any other rights that it has under the Contract or at law, the City may terminate the Contract by giving notice in writing to the Service Provider if:
 - (i) the Service Provider breaches any provision of the Contract and that failure or breach:
 - (A) is incapable of remedy; or
 - (B) if it is capable of remedy, continues for 10 Business Days after the date the City gives the Service Provider a notice requiring the breach to be remedied;
 - (ii) the Service Provider notifies the City of an actual or perceived conflict of interest under clause 2.4 that is unable to be rectified or managed by the Service Provider to the reasonable satisfaction of the City within a reasonable time;
 - (iii) an Insolvency Event occurs; or
 - (iv) the Service Provider breaches a Material Obligation.
- (b) In addition to any other rights that it has under the Contract or at law, the Service Provider may terminate the Contract by giving notice in writing to the City if the City breaches any provision of the Contract and that failure or breach continues for 10 Business Days after the date the Service Provider gives the City a notice requiring the breach to be remedied.
- (c) The parties agree that any termination in accordance with clause 20.4(a) or clause 20.4(b) will be treated as if it were termination for repudiation of the Contract by the Service Provider or the City (as the case may be).

20.5 Service Provider's obligations on termination or completion of the Services

Without limiting the Service Provider's obligations elsewhere in the Contract, within 5 Business Days of the completion of the Services or earlier termination of the Contract, the Service Provider must:

- (a) deliver to the City, or if directed by the Contract Manager destroy, all material and information made available by the City to the Service Provider;
- (b) deliver to the City, at a time and date agreed with the Contract Manager, all City Property including keys and Parking Machines in the Service Provider's possession; and
- (c) deliver to the City copies of all documents produced by the Service Provider in relation to the Services,

including all confidential information and Information Documents, except that the Service Provider is entitled to retain a copy of such materials, information and documents to the extent that it is required to do so by law or for a legitimate quality assurance purpose.

21 Dispute resolution

21.1 Notice of dispute

- (a) If a Dispute between the parties arises out of, or in any way in connection with, the subject matter of the Contract, then either party may, by hand or by registered post, give the other and the Contract Manager a written notice of dispute adequately identifying and providing details of the Dispute.
- (b) Notwithstanding the existence of a Dispute, the parties must, subject to clause 20 and clause 21.3, continue to perform the Contract.

21.2 Negotiation

- (a) Within 10 Business Days after receiving a notice of dispute, representatives from the senior management of the parties set out in Item 23 must undertake genuine negotiations with a view to resolving the Dispute.
- (b) If the Dispute has not been resolved within 20 Business Days of service of the notice of dispute, either party may commence legal proceedings as they see fit.

21.3 Expert determination

- (a) If the dispute has not been resolved within 20 Business Days of service of the notice of dispute, either party may refer the dispute to expert determination in accordance with clauses 21.4 to 21.11.
- (b) Clauses 21.2(b) and 21.4 to 21.11 will only apply if both parties agree in writing, within 20 Business Days of services of the notice of dispute, to have the matter resolved by way of expert determination.

21.4 The expert

The expert determination is to be conducted by an independent industry expert:

- (a) agreed by the parties; or
- (b) failing agreement within 10 Business Days of the referral, as nominated by the Principal (acting reasonably, which expert must be suitably qualified and experienced in light of the nature of the dispute in question).

21.5 Not arbitration

An expert determination conducted under this clause 21 is not arbitration and the expert is not an arbitrator. The expert may reach a decision from his or her own knowledge and expertise.

21.6 Procedure for determination

The expert will:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in any manner he or she thinks fit but must observe the rules of natural justice;
- (c) conduct any investigation which he or she considers necessary to resolve the dispute;
- (d) examine such documents, and interview such persons, as he or she may require; and
- (e) make such directions for the conduct of the expert determination as he or she considers necessary.

21.7 Disclosure of interest

The expert must:

- (a) disclose to the parties any interest he or she has in the outcome of the expert determination; and
- (b) not communicate with one party to the expert determination without the knowledge of the other.

21.8 Costs

Each party will:

- (a) bear its own costs in respect of any expert determination; and
- (b) unless determined otherwise by the expert, pay one-half of the expert's costs.

21.9 Conclusion of expert determination

Unless otherwise agreed between the parties, the expert must notify the parties of his or her decision upon an expert determination conducted under this clause 21 within 20 Business Days from the acceptance by the expert of his or her appointment.

21.10 Liability of expert

The expert will not be liable to the parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud. The parties must enter into an agreement with the appointed expert on the terms set out in Schedule 7 or such other terms as the parties and the expert may agree.

21.11 Determination of expert

The determination of the expert:

- (a) must be in writing;
- (b) will be:
 - (i) substituted for the relevant direction of the Principal's Representative (where applicable); and
 - (ii) final and binding,unless:
 - (iii) the amount determined by the expert exceeds the amount in Item 24; and
 - (iv) a party gives notice of appeal to the other party within 15 Business Days of the determination; and
- (c) is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under the procedure in the following subclauses.

21.12 Litigation

If a notice of appeal is given under clause 21.11(b)(iv), or if the parties are unable to resolve the dispute within the timeframe set out in clause 21.2(b), then either party may commence proceedings in relation to the dispute.

21.13 Summary relief

Nothing herein will prejudice the right of a party to institute proceedings to seek injunctive or urgent declaratory relief.

22 Disengagement

22.1 Application

This clause 22 applies whenever Services are to be terminated. This includes:

- (a) 2 months before the Expiry Date or the expiry of a previous Further Term (as applicable); or
- (b) if Services are terminated before that date, the date on which the City issues a termination notice in respect of the Contract.

22.2 Objectives

The purpose of the Disengagement Services is to:

- (a) enable the City or its nominee to perform the Services from the end of the Disengagement Period; and
- (b) eliminate or minimise any disruption to the Services (including the Disengagement Services) as a result of the transition of the Services from the Service Provider to the City or its nominee.

22.3 Requirements for Disengagement

- (a) The Service Provider must ensure that as part of the Disengagement Services:
 - (i) the City's right to use the Materials, equipment and parts provided by the Service Provider to the City under the Contract continues following the Disengagement Period at no cost to the City (other than agreed maintenance and support fees);
 - (ii) it makes available to the City all of its Personnel and provides all resources necessary to maintain the provision of the Services while the Disengagement Services are being performed;
 - (iii) there is no degradation of Service Levels or quality of service during the Disengagement Period; and
 - (iv) there is no interruption to the Services during the Disengagement Period.
- (b) The Service Provider must use best endeavours to ensure that the Disengagement Services are completed by the end of the Disengagement Period.

22.4 Implementation of Disengagement

- (a) The Service Provider must ensure that, at all times during the Term, on 30 days' notice it is able to deploy all necessary resources to complete the Disengagement Services.

- (b) If clause 22 applies, the Service Provider must, unless directed otherwise by the Contract Manager:
 - (i) do all things necessary to effect the Disengagement Services;
 - (ii) at the Service Provider's expense, immediately deliver to the City or a third party nominated by the City all Developed Material and completed Deliverables;
 - (iii) do all things reasonably necessary to deliver all partially completed Developed Material and Deliverables to the City; and
 - (iv) ensure that all Subcontractors comply with this clause 22.
- (c) The Service Provider acknowledges all Service Levels and Service Level Rights apply during the Disengagement Period.
- (d) The fees payable for the Disengagement Services will be the same as, or calculated in the same manner as, the fees in effect immediately prior to the termination or expiry of the Contract.

22.5 Third party services

- (a) The Service Provider will make available to the City or its nominee the contact details of any party providing third party services utilised by the Service Provider in the performance of the Services during the Disengagement Period.
- (b) For the avoidance of doubt, if the City elects to use any third party services made available to the City by the Service Provider pursuant to this clause, the City shall be solely liable for any costs, fees or other liabilities arising in respect of the use of those services by the City.

22.6 Assistance to third parties

If the City appoints a third party to assume its role in relation to any or all of the Services, the Service Provider must provide all reasonable assistance to that third party during the Disengagement Period and in performing the Disengagement Services.

23 General

23.1 Governing law

- (a) This Contract is governed by the law in force in New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts in New South Wales, and any court that may hear appeals from those courts, for any proceedings in connection with the Contract.

23.2 Entire agreement

This Contract contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or promise relating to that subject matter is replaced by the Contract and has no further effect.

23.3 Council acting as an Authority

- (a) Nothing in the Contract will fetter, limit or restrict in any way the discharge by the City of its obligations or rights under any legislative requirements or as an authority.
- (b) The Service Provider will deal with the City as it would with any other authority with respect to obtaining any permits, approvals or licences.

23.4 Exclusion of Part 4 of the Civil Liability Act 2002 (NSW)

In determining the rights, obligations and liabilities of the parties in any claim arising in relation to the Contract the operation of Part 4 of the *Civil Liability Act 2002* (NSW) which would otherwise be applicable is expressly excluded to the maximum extent permitted by law.

23.5 Notices

- (a) A notice, consent or other communication under the Contract is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email.
- (b) A notice, consent or other communication that complies with this clause is regarded as given and received:
 - (i) if it is delivered, when it has been received by a representative of the addressee at the addressee's address;
 - (ii) if it is sent by mail, 5 Business Days after it is posted; or
 - (iii) if it is sent by email, at the time sent, unless the sender is notified, by a system or person involved in the delivery of the email, that the email was not successfully sent.
- (c) For the purpose of this clause 23.5, the address and email address of the City and the address and email address of the Service Provider are as set out at Item 25 and Item 26 respectively, or, in either case, another address or email address of which that party has given notice to the other party as its address for notices.
- (d) Notices referred to in the Contract must be given within the time provided for in the Contract. If the Service Provider fails to give a notice in that time, then:
 - (i) the City will not be liable upon any Claim by the Service Provider;and

- (ii) the Service Provider will be absolutely barred from making any claim against the City,

arising out of, or in any way in connection with, the relevant act, default, omission, direction, fact, matter or thing (as the case may be) in respect of that Claim or Dispute.

23.6 Liability for expenses

Each party must pay its own expenses incurred in negotiating and executing the Contract.

23.7 Survival of clauses

Clauses 1.2 (Interpretation), 3 (Provision of Services), 17.1 (Indemnity), 18 (Insurance), 19 (Confidentiality, privacy and related matters), 21 (Dispute Resolution), 22 (Disengagement) and 23 (General) survive the expiry or earlier termination of the Contract, together with any other term which by its nature is intended to do so.

23.8 Counterparts

This Contract may be executed in counterparts and together they constitute one document.

23.9 Attorneys

Each person who executes the Contract on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

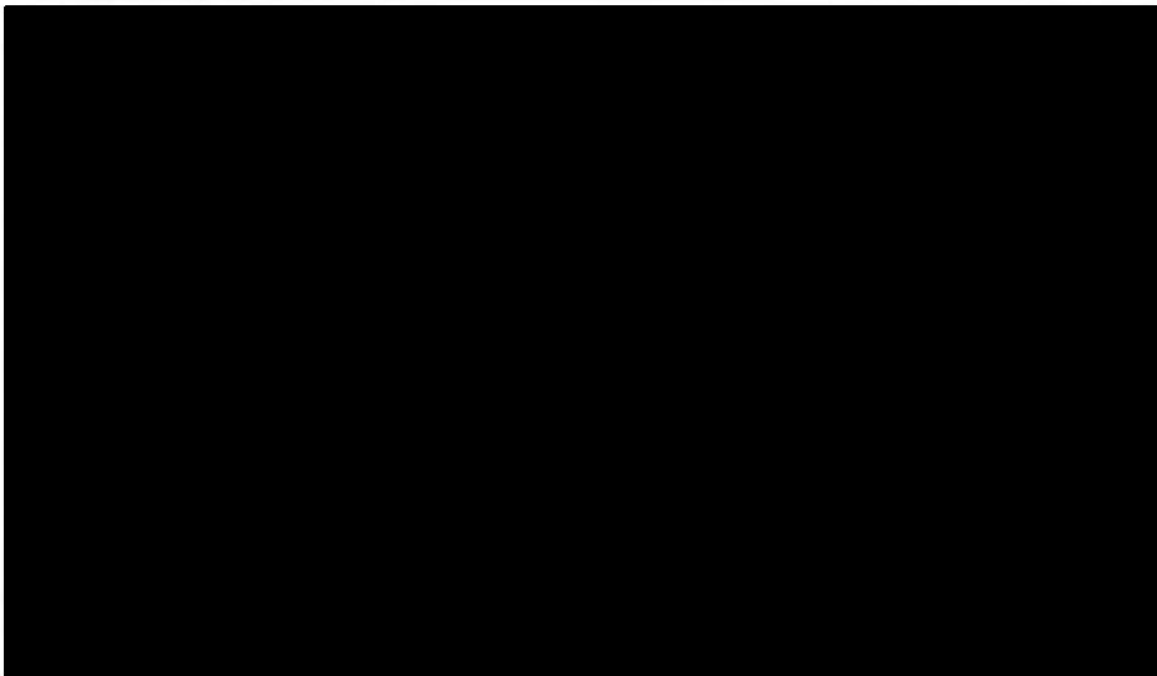
Schedule 1 - Contract information

Item	Description	Contract reference	Details	
1.	Commencement Date	Clause 1.1	1 December 2022	
2.	Contract Manager	Clause 1.1	Gary Flockton - Contract Coordinator	
3.	Expiry Date	Clause 1.1	30 November 2025	
4.	Information Documents	Clause 1.1	Nil	
5.	Not used			
6.	Operations Manager	Clause 1.1	Jonathon Martin	
7.	Work Site	Clause 1.1	Any location where the Services are required to be performed within the Contract Area, as more particularly described in the Specifications.	
8.	Timeframe for review of Deliverables	Clause 3.7(a)(ii)	As reasonably determined by the Contract Manager	
9.	Period of time for resubmission of an amended Deliverable	Clause 3.7(b)	7 Business Days	
10.	Quality assurance system	Clause 3.10	ISO 9001	
11.	WHS Returnable Documents	Clauses 1.1 and 3.11.	Document Description	Due Date
			WHS Management Plan	Before the commencement of any Services
			Safe Work Method Statements	15 Business Days prior to commencement of relevant or applicable part of the Service
			Any other document which the City considers relevant to the safe delivery of the Services	As required

Item	Description	Contract reference	Details
13.	Limitation on providing Work Site access	Clause 9.1	Site specific limitations as set out in the Specification
14.	Additional period of time the City is permitted to access records and documents	Clause 11.3(a)(ii)	7 years
16.	Frequency of invoices	Clause 14.2(e)(ii)	On the 5th Business Day of each month for the part of the Services carried out up to and including to the last calendar day of the previous month.
19.	Insurance requirements for Subcontractors	Clause 18.1(c)	The insurances set out in clause 18.1(a) as relevant to that part of the Services undertaken by the relevant Subcontractor.
20.	Period for professional indemnity insurance	Clause 18.2(b)	7 years after the completion of the Services or the earlier termination of the Contract.
21.	Further Term	Clause 20.2	Two Further Terms of one year each
22.	Period of notice for termination for convenience	Clause 20.3(a)	60 Business Days

Item	Description	Contract reference	Details
23.	Representative for senior negotiations	Clause 21.2	<p>City: Mary-Anne Priest - Manager Parking & Fleet Services</p> <p>Service Provider: Giovanni Laudicina - Chief Executive Officer</p>
25.	Address of the City (including the Contract Manager) for service of notices	Clause 23.5(c)	<p>Attention: Gary Flockton</p> <p>Address: Council of the City of Sydney Level 13, Town Hall House 456 Kent Street Sydney NSW 2000</p> <p>Email: gflockto@cityofsydney.nsw.gov.au</p>
26.	Address of the Service Provider for service of notices	Clause 23.5(c)	<p>Attention: Jonathon Martin</p> <p>Address: Unit 15 39 Herbert street St Leonards NSW 2065</p> <p>Email: jmartin@duncansolutions.com.au</p>

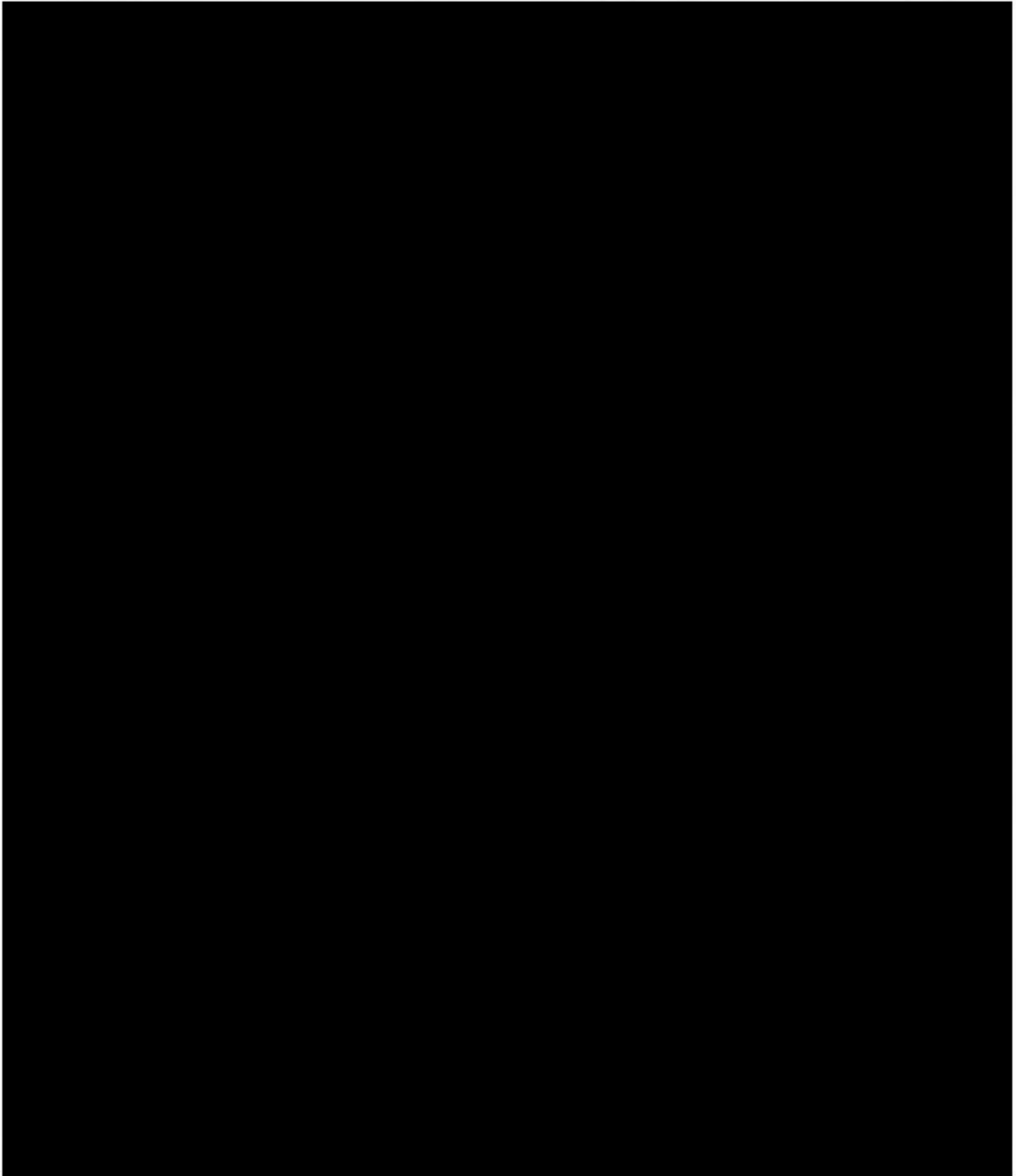
Schedule 2 - Fee

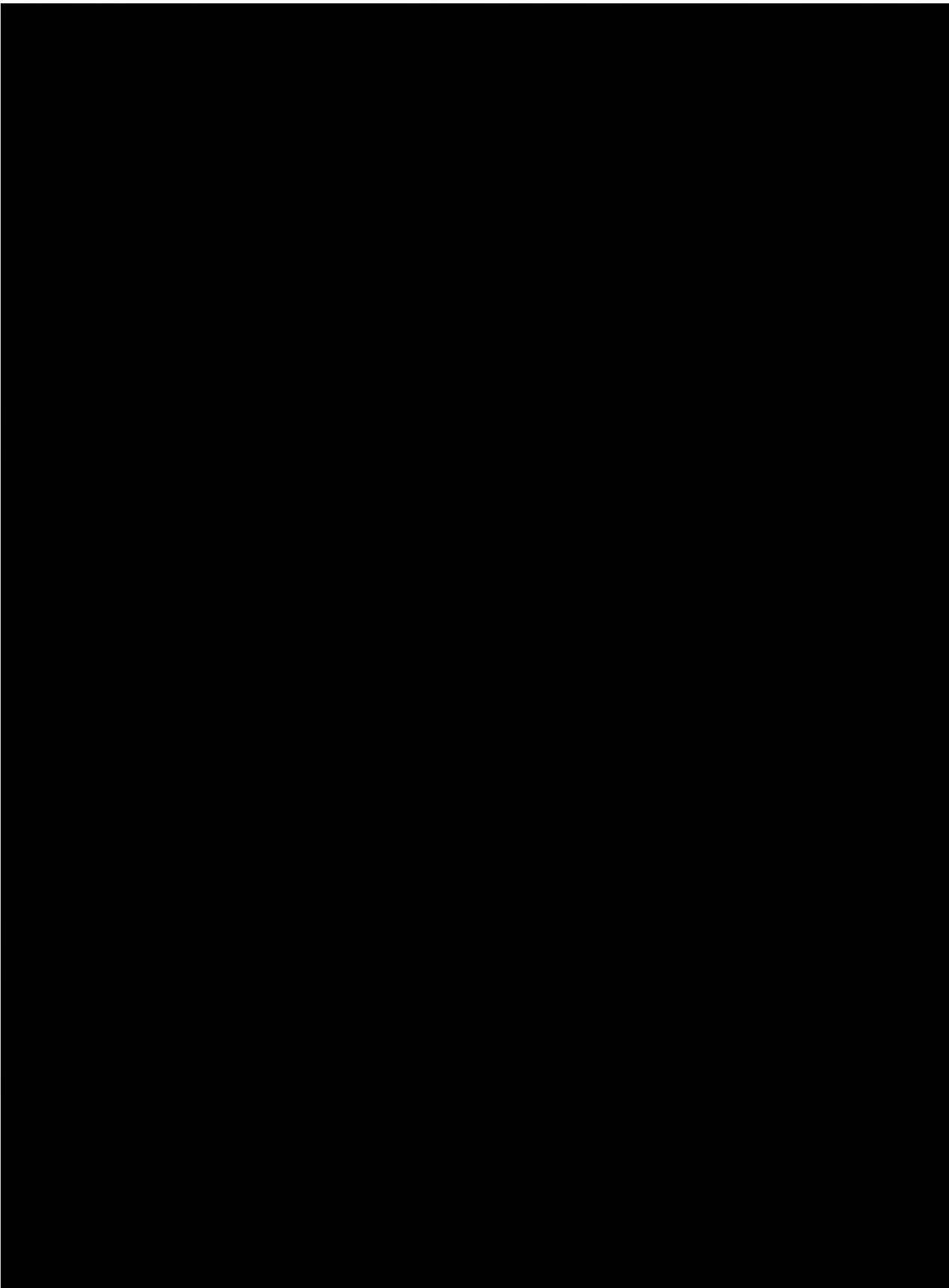


The Service Provider acknowledges and agrees that the rates and prices in this Schedule include:

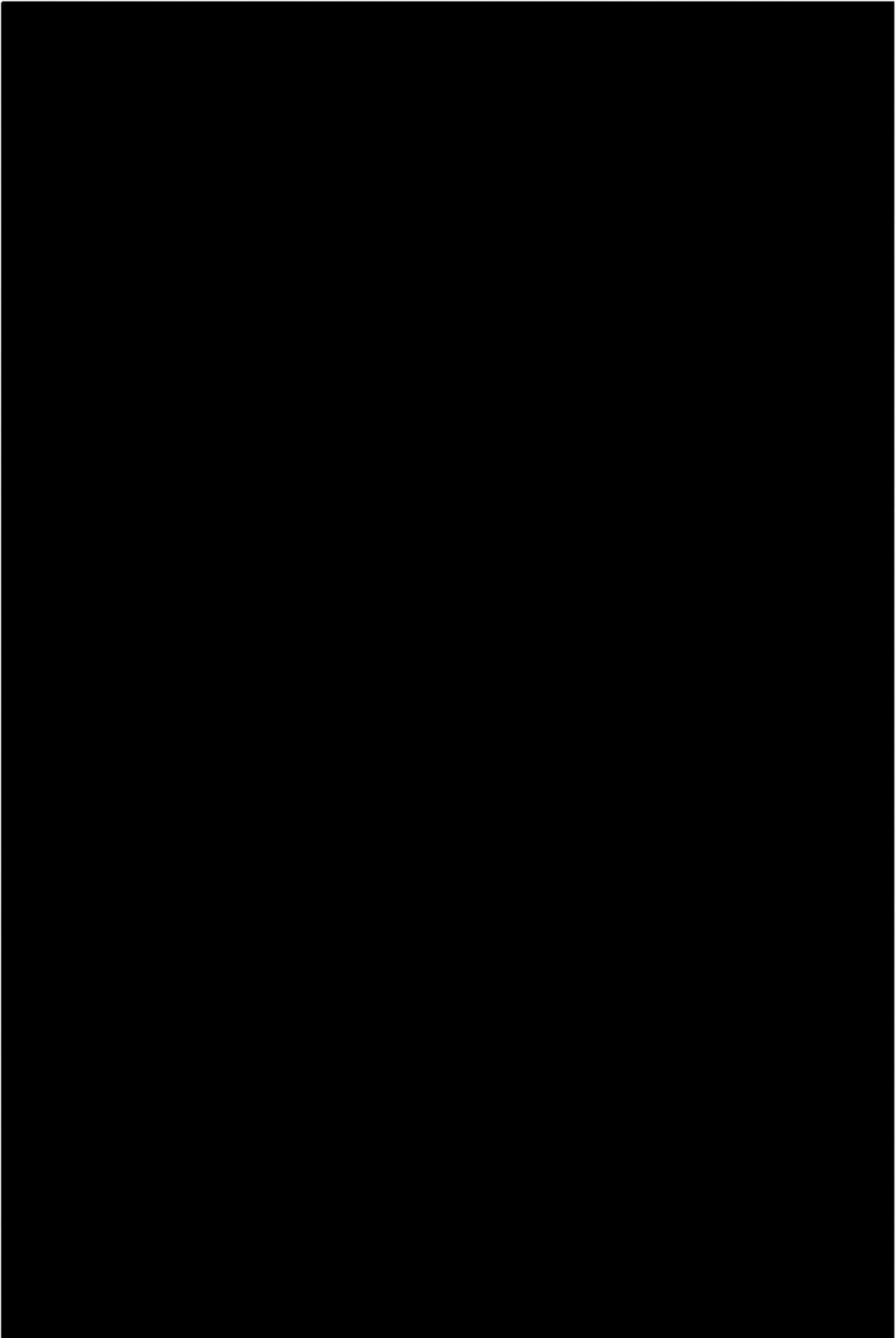
- a) training for City staff and the City's cash collection service provider as per the Specification;
- b) all costs for Technicians travelling to and from a Parking Machine with the equipment and materials required to carry out maintenance works per the Specifications;
- c) any costs required for the Service Provider's staff to receive communications from the Parking Machines, or for CMS to monitor Parking Machine status;
- d) any costs required for the Service Provider to provide the Services described in the Specifications;
- e) all charges required to carry out the specified work or services. The City **will not pay** for any work or services which have not been included in the Schedule of Rates.

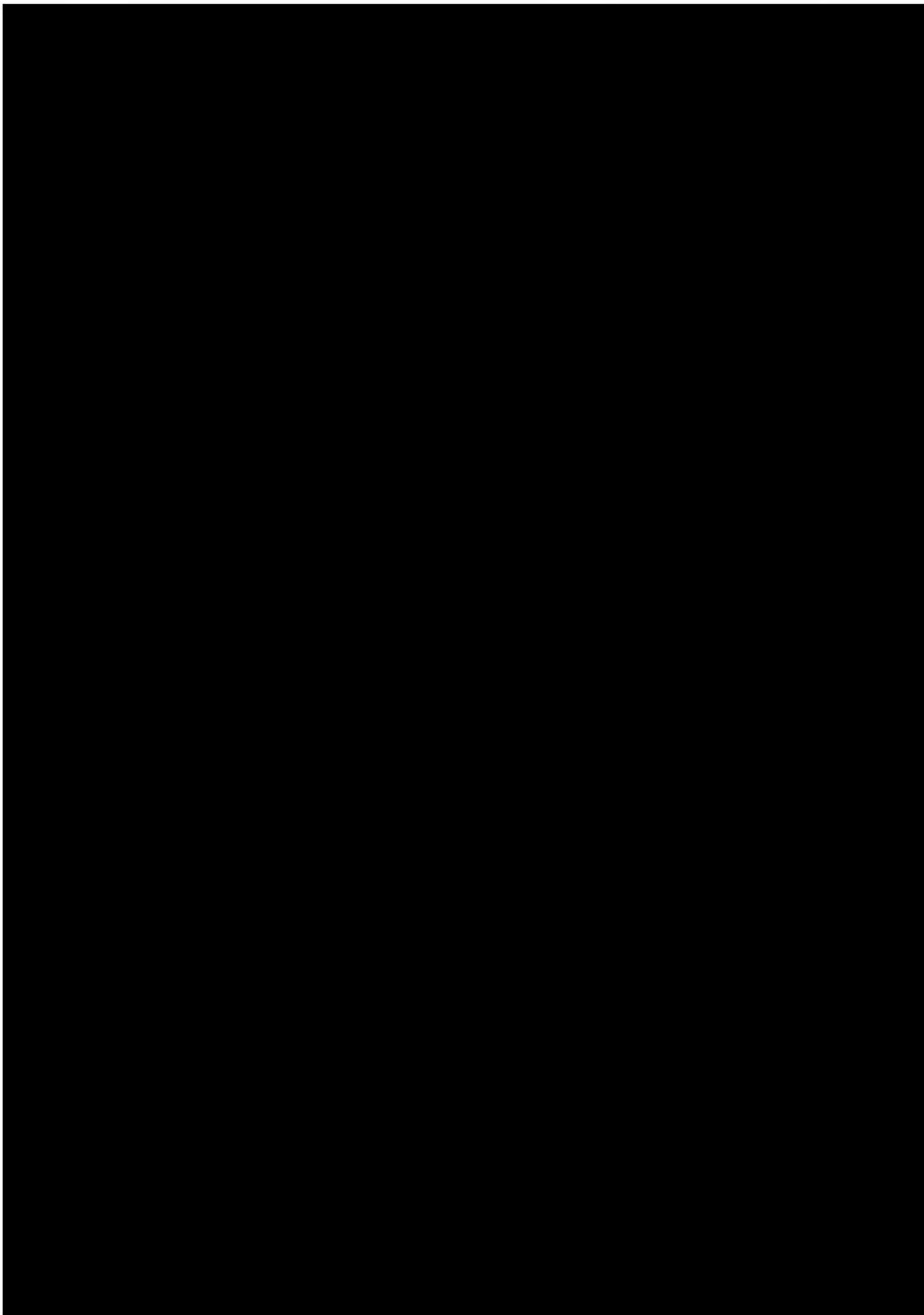
Part A – Schedule of Rates (Maintenance)

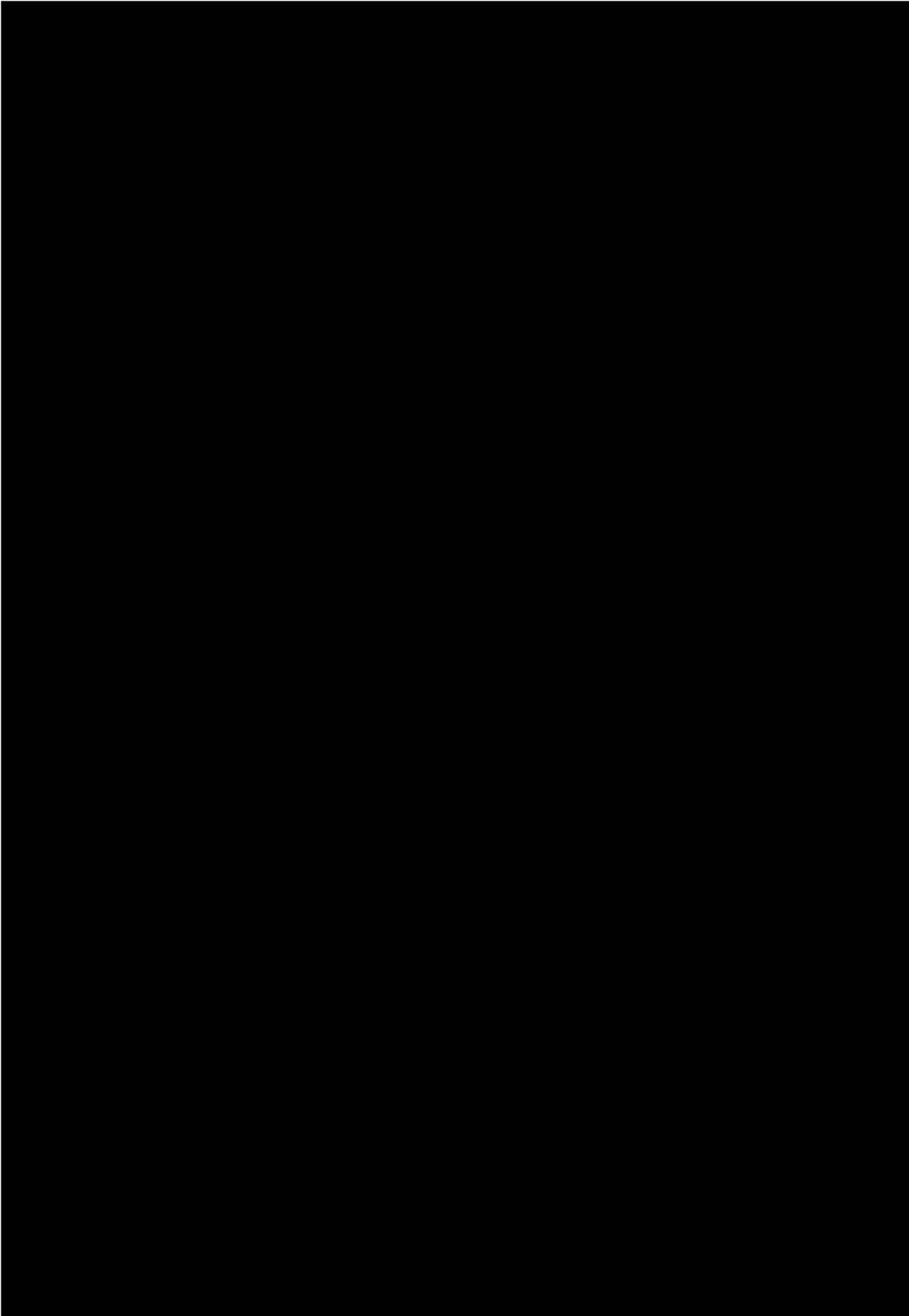




Part B – Schedule of Rates (Parts, Consumables, Upgrades and Optional Items)







APPENDIX 1

WEEKLY INSPECTION PROCEDURES

Technicians are required to inspect and clean each machine weekly, in addition to inspections conducted with reactive maintenance.

The inspection plan is required to outline how the Service Provider intends to cover the Parking Machine network. Results are to be included in regular activity reports.

Credit card & test token tests must also be conducted.

If the Parking Machine is in loading zone mode, then the Technician is required to inspect the machine at a time when it is in payment mode.

The Parking Machine needs to be inspected for any damage to panels, tariff cards and outer shell.

Tariff programs and tariff cards are to be checked against the street signage. Any discrepancies are to be reported to the Contract Manager.

Check damage due to external sources:

- Remove any graffiti, foreign objects, stickers, posters and substances on the Parking Machine housing.
- Check for, and fix, any water entry into the Parking Machine and note any corrosion occurring.
- Remove any dust, dirt or foreign objects that may be inside the Parking Machine.

Parking Machines that have been switched off due to roadworks, work zones and clearways are included in weekly inspections, although cannot be tested. The Service Provider is still required to check for vandalism and respond to graffiti.

Schedule 5 – Statutory Declaration and Subcontractor's Statement

(Clause 14.2(e)(iii)(C))

_____ of _____, do solemnly and sincerely declare as follows:

1. I am **[Position held in Service Provider's organisation]** of **[Service Provider's name and ABN]** ("Service Provider").
2. The Service Provider has a contract with the Council of the City of Sydney (ABN 22 636 550 790) for **[Description of services]** dated **[Date]** ("Contract").
3. All subcontractors and suppliers engaged by the Service Provider with respect to services under the Contract have been paid all moneys due and payable to them in respect of services carried out for or materials supplied to the Service Provider.
4. Attached to and forming part of this declaration is a subcontractor's statement given by the Service Provider in its capacity as 'subcontractor' (as that term is defined in the *Workers Compensation Act 1987* (NSW), *Payroll Tax Act 2007* (NSW) and *Industrial Relations Act 1996* (NSW) ("**Acts**") which is a written statement:
 - (a) under section 175B of the *Workers Compensation Act 1987* (NSW), in the form and providing the detail required by that legislation;
 - (b) under Schedule 2 section 18 of the *Payroll Tax Act 2007* (NSW), in the form and providing the detail required by that legislation; and
 - (c) under section 127 of the *Industrial Relations Act 1996* (NSW), in the form and providing the detail required by that legislation.
5. The matters which are contained in this declaration and the attached subcontractor's statement are true.
6. If the Service Provider has subcontractors, the Service Provider has received from each of those subcontractors a statutory declaration and subcontractor's statement in equivalent terms to this declaration (made no earlier than 14 days before the date of this declaration).
7. All statutory declarations and subcontractor's statements received by the Service Provider from subcontractors referred to in clause 6 were:
 - (a) given to the Service Provider in its capacity as 'principal contractor' as defined in the Acts; and
 - (b) given by the subcontractors in their capacity as 'subcontractors' as defined in the Acts.
8. The period of the Contract covered by this declaration and the attached subcontractor's statement is from **[insert]** to **[insert]**.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the *Oaths Act 1900* (NSW).

Declared at _____ on _____
(place where declaration made) (date of declaration)
by _____

Signature of person making the declaration

Name of person making the declaration

in the presence of an authorised witness, who states:

I, **[name of authorised witness]**, a **[qualification to be authorised witness]**, certify the following matters concerning the making of this statutory declaration by the person who made it:

- (a) **Alt**[I saw the face of the person. / I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering].
- (b) **Alt**[I have known the person for at least 12 months. / I have confirmed the person's identity using an identification document and the document I relied on was [describe identification document relied on]].

Signature of authorised witness

Date:

**SUBCONTRACTOR'S STATEMENT
REGARDING WORKER'S COMPENSATION, PAYROLL TAX AND
REMUNERATION (Note 1 – see back of form)**

For the purposes of this Statement a "subcontractor" is a person (or other legal entity) that has entered into a contract with a "principal contractor" to carry out work.

This Statement must be signed by a "subcontractor" (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007*, and s127 *Industrial Relations Act 1996* where the "subcontractor" has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s).

The signed Statement is to be submitted to the relevant principal contractor.

SUBCONTRACTOR'S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.

Subcontractor: _____ ABN: _____
(Business name)

of

(Address of Subcontractor)

has entered into a contract with _____ ABN: _____

(Business name of principal contractor)

(Note 2)

Contract number/identifier _____ (Note 3)

This Statement applies for work between:/...../..... and/...../..... inclusive, (Note 4)
subject of the payment claim dated:/...../.....

(Note 5)

I, a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

- (a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [] and only complete (f) and (g) below. You must tick one box.

(Note 6)

- (b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated/...../.....

(Note 7)

- (c) All remuneration payable to relevant employees for work under the contract for the above period has been paid.

(Note 8)

- (d) Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement.

(Note 9)

- (e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above.

(Note 10)

(f) Signature _____ Full name _____

(g) Position/Title _____ Date/...../.....

NOTE: Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the *Workers Compensation Act 1987*.

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007* and section 127 of the *Industrial Relation Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called **the subcontractor**) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.
2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s 127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the Industrial Relations Act 1996 defines remuneration 'as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.'

Section 127(11) of the Industrial Relations Act 1996 states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'
5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

Offences in respect of a false Statement

In terms of s 127 of the Industrial Relations Act 1996, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

- (a) the person is the subcontractor;
- (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
- (c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s 175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

For more information, visit the WorkerCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

Schedule 7 – Expert determination agreement

(Clause 21.10)

THIS AGREEMENT is made on20.....

BETWEEN Council of the City of Sydney (ABN 22 636 550 790) ("**Principal**")

AND ("**Service Provider**")

AND ("**Expert**")

BACKGROUND

- A. The Principal and the Service Provider have entered into the Contract.
- B. The Principal and the Service Provider have agreed to refer the Dispute for determination by the Expert acting as an expert and not as an arbitrator.

TERMS

1. DEFINITIONS

"**Contract**" means the contract entered into between the Principal and the Service Provider described in Item 1 of Annexure 1.

"**Dispute**" means the dispute or difference described in Item 2 of Annexure 1.

2. DECIDE ON DISPUTES

The Expert must:

- (a) determine the Dispute and not any other matter; and
- (b) in discharging his or her obligations under this agreement, abide and be bound by the provisions of the Contract.

3. PROCEDURES

Subject to clause 4, the Expert must determine the Dispute in accordance with the procedures set out in Item 3 of Annexure 1 unless varied, amended or otherwise changed by agreement between the Principal, Service Provider and Expert.

4. EXPERT'S POWERS

The Expert must in discharging his or her obligations under this agreement:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in such manner as the Expert thinks fit without being bound to observe the rules of evidence but subject to the rules of natural justice;
- (c) take into consideration all documents, information and other written and oral material that the Principal and Service Provider place before the Expert

including documents, information and material relating to the facts the subject of the Dispute and to arguments and submissions upon the matters the subject of the Dispute;

- (d) not be expected or required to obtain or refer to any other documents, information or material but may do so if he or she so desires;
- (e) giving reasons, make a decision in writing stating the determination of the Dispute; and
- (f) act with expedition with a view to making a decision within two weeks of the date of this agreement.

5. MEET WITH PARTIES

If as part of the procedures under clause 3, the Expert meets with the Principal and Service Provider, the Principal and Service Provider agree to be bound by such procedural directions as may be given by the Expert both in preparation for, and during the course of, the meeting.

The parties agree that any such meeting or meetings are not in any way to be regarded as a formal hearing.

6. REMUNERATION

In consideration of the Expert performing his obligations under this agreement the parties shall pay to the Expert the amount of set out in Item 4 of Annexure 1 or such other amount as is agreed between the Principal, Service Provider and Expert.

7. CONFIDENTIALITY

The Expert must not at any time, without the consent of both the Principal and Service Provider, disclose or suffer or permit his or her employees, consultants or agents to disclose to any person:

- (a) any details concerning the subject matter of the Dispute;
- (b) any of the contents of the Contract, this agreement or any other collateral or supplemental agreements or any of the commercial bases or any information relating to the negotiations concerning the same; or
- (c) any other information which may have come to the Expert's knowledge in the course of this agreement including information concerning the operations, dealings, transactions, contracts, commercial or financial arrangements or affairs of the Principal or Service Provider.

8. NATURE OF EXPERT'S ROLE

The Expert:

- (a) is to be independent from the Principal and Service Provider; and

- (b) without limitation, warrants that he or she has no conflict of interest in acting under this agreement.

9. **TERMINATION**

This agreement may be terminated by either the Principal or the Service Provider in any of the following events:

- (a) the Expert being declared of unsound mind or mentally ill;
- (b) the Expert being declared bankrupt;
- (c) the Expert committing any proven act of dishonesty or, by wilful act or omission or by gross neglect, behaving in a fashion clearly prejudicial to the interests of the Principal or the Service Provider;
- (d) the Expert failing to observe and fulfil any of the substantive terms of this agreement; or
- (e) the Expert being prevented by illness or incapacity from performing his or her obligations under this agreement.

10. **NOTICES**

All notices to be given to the Expert under this agreement will be deemed to be properly given if:

- (a) hand delivered to the Expert;
- (b) sent by certified or registered mail to the Expert's address set out in Item 5 of Annexure 1 or to such other address as the Expert may from time to time advise by notice in writing; or
- (c) forwarded by facsimile transmission to the Expert's facsimile number as set out in Item 6 of Annexure 1 or to such other facsimile number as the Expert may from time to time advise by notice in writing.

11. **GOVERNING LAW**

Unless specified otherwise in Item 7 of Annexure 1, this agreement is to be construed for all purposes in accordance with the laws applying to the Contract.

12. **INCONSISTENCY BETWEEN AGREEMENT AND CONTRACT**

If there is any inconsistency between the terms of this agreement and the Contract, then unless otherwise specified in Item 8 of Annexure 1 the terms of the Contract will prevail.

SIGNED by the **PRINCIPAL**
in the presence of:

)
)

(Signature of Witness)

(Name Of Witness in Full)

SIGNED by the **SERVICE PROVIDER**
in the presence of:

)
)

(Signature of Witness)

(Name Of Witness in Full)

SIGNED by the **EXPERT**
in the presence of:

)
)

(Signature of Witness)

(Name Of Witness in Full)

ANNEXURE 1

Item 1: (Contract):

Item 2: (Dispute):

Item 3: (Procedures):

Item 4: (Expert's Hourly Remuneration):

Item 5: (Expert's Address):

Item 6: (Expert's Facsimile):

Item 7: (Governing law):

Item 8: (Inconsistency):