

Master Goods and Services Agreement

City of Sydney and Artcraft Pty Ltd

For the Public Domain Signage Contract 3728

Reference: 2021/330800

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THIS AGREEMENT is made on 16th DAY OF APRIL

20 22

BETWEEN:

- (1) **Council of the City of Sydney** whose registered office is at Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **City**); and
- (2) **Artcraft Pty Ltd** ABN 77 004 399 642 of 79-81 Wedgewood Road, Hallam Vic, 3803 (the **Service Provider**).

RECITALS

- (A) The City wishes to appoint the Service Provider to supply Goods and Services on the terms and conditions of this Agreement.
- (B) The Service Provider agrees to supply Goods and Services to the City on the terms and conditions of this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this Agreement, except where the context otherwise requires:

Agreement means the complete framework and agreement between the Parties for the provision of Goods and Services, and is comprised of the following documents:

- (a) clauses 1 to 0 of this document;
- (b) Schedule 1 (Agreement Details);
- (c) Schedule 2 (Schedule of Rates); and
- (d) Schedule 3 (Administrative Specification), including annexures of Schedule 3.

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,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which businesses are open for general business in Sydney, Australia.

City's Data means all data (including metadata) and information (in whatever form, including in electronic format) relating to the City and its operations, facilities, customers, personnel, assets, products, sales and transactions, including any:

- (a) database (including the database schema) in which such data or information is contained;

- (b) documentation or records related to such data or information;
- (c) products resulting from the use or manipulation of such data or information; and

any and all copies of any of the above, including any copies of such data and information provided to, generated by or otherwise used by the Service Provider in connection with the Goods and Services.

City's Policies means all policies and procedures of the City relevant to the provision of the Goods and Services 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 any systems, equipment or premises, whether owned, leased, licensed or rented by or on behalf of the City.

City's System includes telecommunications facilities, equipment and systems, computer systems (including end user devices, servers and mainframes), information technology equipment and hardware, telecommunication and information technology networks, computer programs and databases, and the tangible media on which they are recorded and their supporting documentation owned by or licensed to the City.

Commencement Date means the date set out in a Purchase Order by which the supply of Goods or Services must commence.

Commissioner means the Commonwealth Information Commissioner and the Privacy Commissioner.

Commonwealth Information Commissioner has the meaning given to commissioner under the *Privacy Act 1988* (Cth).

Completion Date means the date set out in a Purchase Order by which the Services must be completed or the Goods delivered (as applicable).

Contract Manager means the person named in Schedule 1, or their delegate or replacement as the City notifies the Service Provider in writing.

Confidential Information means the terms of this Agreement and information of a party (**disclosing party**) that is made available by or on behalf of the disclosing party to the other party (**receiving party**), or is otherwise obtained by or on behalf of the receiving party that is:

- (i) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential; or
- (ii) by its nature sensitive or security classified information or the receiving party knows, or ought reasonably to know, is sensitive or security classified information (having regard to the definitions given in the Protective Security Policy Framework)

but does not include information that:

- (a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;
- (b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or
- (c) has been de-identified, de-sensitised or de-classified by or with the written consent

of the disclosing party such that it is no longer confidential or sensitive or security classified information.

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

Covid-19 means the disease known as Coronavirus (COVID-19) caused by the virus SARS-CoV-2, which was characterised as a pandemic by the World Health Organisation on 11 March 2020.

Date of the Agreement means the date of this Agreement, or if the Agreement is undated, the date the City executes the Agreement.

Defect means any defect, fault, error or omission in the Goods or Services or any aspect of them, which is not in accordance with the requirements of this Agreement, including:

- (a) any failure of the Goods or Services to meet the Specifications;
- (b) any defect, fault, error or omission in the Goods or Services;
- (c) any failure of the Goods or Services to pass acceptance testing.

Deliverables means any data, software, documentation, records, reports, plans, specifications, designs, manuals, user guides, instruction booklets, policies, photographs, videos, recordings, artwork, drawings, models, advices, records or other similar materials (whether in paper or electronic form) which the Service Provider provides or is required to provide to the City with or as part of the supply of any Goods and Services under a Goods & Service Order.

Developed Material means all Material to the extent that it is brought or required to be brought into existence under this Agreement by or on behalf of the Service Provider in the provision of the Services, including the Deliverables.

Disengagement Services means the services to be provided by the Service Provider in anticipation of the termination of this Agreement, 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 this Agreement, including any dispute or difference as to the formation, validity, existence or termination of this Agreement.

Eligible Data Breach has the meaning given to that term in the Privacy Laws and also data breaches defined in the City's Policies.

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

- (a) the *Protection of the Environment Operations Act 1997* (NSW); and
- (b) the *Contaminated Land Management Act 1997* (NSW).

Existing Material means any Material developed by a party prior to the Date of the Agreement or independently of this Agreement and any Goods & Service Order.

Expiry Date means the date in Schedule 1.

Fee means the fee for the Goods and/or Services set out in a Purchase Order, as may be adjusted in accordance with the Agreement.

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 caused by the Service Provider).

Further Term means an extension of the Term under clause 24.2.

Good Industry Practice means, in relation to any undertaking and any circumstances, the exercise of the skill, diligence, prudence, foresight and judgment and the implementation of such capabilities, functions and processes which would be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances, applying the best standards currently generally applied in the Service Provider's industry.

Goods means the goods (including equipment and Software) that the Service Provider supplies or is required to supply under a Purchase Order and includes, where applicable, the Deliverables associated with those Goods.

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 Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Infringement Claim means any actual, threatened or potential claim, demand, proceeding, suit, objection or other challenge:

- (a) affecting ownership of the Intellectual Property Rights in the Developed Material; or
- (b) that the supply or other use of the Goods or Services, the Service Provider's Existing Material or the Developed Material infringes or may infringe the Intellectual Property Rights of a third party.

Information Documents means any information provided by the City to the Service Provider whether before on or after the Date of the Agreement, which does not form part of the Agreement and is identified as being for information only.

- (a) **Insolvency Event** means, in relation to the Service Provider, where: it informs the City in writing or its creditors that it is insolvent or is financially unable to proceed with this Agreement;
- (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 into a deed of company arrangement with its creditors;
- (e) a controller or administrator is appointed to it;
- (f) a winding-up order is made against it;
- (g) it resolves by special resolution that it should be wound up voluntarily;
- (h) an insolvency notice is published by the Australian Securities and Investment Commission on its website; or
- (i) it suffers an event or circumstance analogous to an event or circumstance set out in paragraphs (a) to (h) above.

Intellectual Property Rights means all present and future rights conferred in law in relation to any copyright, trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and Confidential Information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, throughout the world, whether or not registrable, registered or patentable that exist or that may come to exist anywhere in the world, but excluding any Moral Rights.

Laws means all applicable laws, regulations, orders, industry codes and standards, including all Environmental Laws.

Material means data (including metadata), software, documentation, records, reports, plans, specifications, designs, manuals, user guides, instruction booklets, policies, photographs, videos, recordings, artwork, drawings, models, advices, records or other similar materials (whether in paper or electronic form).

Milestone means a date, stage or phase for the provision of the Goods and Services specified in the Purchase Order.

Milestone Date means a date by which a Milestone must be completed by the Service Provider as set out in a Purchase Order.

Moral Rights means rights of integrity of authorship or performership, rights of attribution of authorship or performership, rights not to have authorship or performership falsely attributed, and rights of a similar nature conferred by statute anywhere in the world that may now exist or that may come to exist in relation to a work.

Personal Information includes:

- (a) personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* (NSW);
- (b) health information within the meaning of the *Health Records and Information Privacy Act 2002* (NSW); and
- (c) any information which does not fall within the scope of paragraphs (a) and (b) above, but is personal information within the meaning of the *Privacy Act 1988* (Cth).

Personnel means the Service Provider's directors, officers, employees, secondees, agents, contractors, subcontractors and professional advisers.

Privacy Laws means:

- (a) the *Privacy Act 1988* (Cth);
- (b) the *Privacy and Personal Information Protection Act 1998* (NSW);
- (c) *Health Records and Information Privacy Act 2002* (NSW);
- (d) any legislation from time to time in force in New South Wales or the Commonwealth of Australia which affects privacy rights or Personal Information; and
- (e) any rules, regulations, guidelines or orders issued under the legislation referred to in paragraphs (a) to (d).

Privacy Commissioner has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW).

Protective Security Policy Framework means the Protective Security Policy Framework that is managed by the Commonwealth Government's Attorney General's Department and is available at <https://www.protectivesecurity.gov.au/>

Schedule of Rates means the schedule of rates set out in Schedule 2 that will apply to a Purchase Order.

Service Levels means service levels used for measuring the performance of the Service Provider's obligations under this Agreement, as set out in the Administrative Specification.

Service Level Rights means the rights that may be exercised by the City in relation to a Service Level as specified in the Administrative Specification Purchase Order, including the right to claim rebates and other remedies.

Service Provider Activities means all work and activities which the Service Provider is or may be required to undertake to provide or supply the Goods and Services under this Agreement or any Purchase Order.

Service Provider's Representative means the person named in Schedule 1 or his/her delegate.

Services means the services that the Service Provider supplies or is required to supply under the Administrative Specification or a Purchase Order to the City including, where applicable, the Deliverables associated with those Services.

Site means the site or sites for the performance of the Services or delivery of the Goods as set out in a Purchase Order.

Specifications means the Administrative Specifications set out in Schedule 3 , annexures, and any specifications attached to the Purchase Order.

Start Date means the date the Agreement commences.

State Records Act means the *State Records Act 1988* (NSW), regulations and other instruments under it including any codes of practice and any consolidations, amendments, re-enactments or replacements.

Software means any software which the Service Provider supplies or is required to supply under the Administrative Specification.

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.

Term has the meaning given to that term in clause 24.1 and includes any Further terms that are directed under clause 24.2.

Warranty Period means the warranty period specified in the Administrative Specification for particular Goods and Services, ~~provided that if none is specified the warranty period will be deemed to be 1 year from the date of supply to the City.~~

WHS means work health and safety.

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 WHS documentation listed in Schedule 1, including any risk assessments and safe work method statements in relation to the Goods and Services.

1.2 Rules for interpreting this Agreement

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) parts, clauses, schedules, exhibits and annexures refers to them of, in and to this Agreement;
 - (ii) this Agreement includes all schedules, exhibits and annexures to this Agreement;
 - (iii) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (iv) a document (including this Agreement) or agreement, or a provision of a document (including this Agreement) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (v) a party to this Agreement or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (vi) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (vii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.

- (e) If an example is given of anything, the example does not limit the scope of that thing. The words "includes" and "including" and any variation of those words must be read as if followed by the words "without limitation".
- (f) A reference to **dollars** or **\$** is to an amount in Australian currency.
- (g) Words defined in the GST Act have the same meaning in clauses about GST.
- (h) This Agreement is not to be interpreted against the interests of a party merely because that party proposed this Agreement or some provision in it or because that party relies on a provision of this Agreement to protect itself.

1.3 Inconsistency with other documents

If there is an inconsistency or discrepancy between any of one or more of:

- (a) clauses 1 to 0 of this Agreement;
- (b) Agreement Details (Schedule 1);
- (c) the Schedule of Rates (Schedule 2);
- (d) the Specifications (Schedule 3);
- (e) any other document, including but not limited to, a delivery docket, invoice, account or other document issued by the Service Provider, if any is attached and expressed to be incorporated with this Agreement

the order of precedence between them will be the order listed above, with clauses 1 to 0 of this Agreement having the highest level of precedence, unless the City acting reasonably determines that a different order of precedence should apply with regard to a particular inconsistency or discrepancy.

The parties agree that, to the extent that any Purchase Orders issued by the City in connection with the Goods or Services, or any other documents provided by the City in relation to the provision of the Goods or Services, includes or refers to terms and conditions which differ to this Agreement, those terms and conditions will be of no legal effect and will not constitute part of the Agreement.

2. MASTER AGREEMENT AND PURCHASE ORDERS

2.1 Master Agreement

- (a) This Agreement is a master agreement under which the City may from time to time during the Term elect to acquire Goods and Services from the Service Provider.
- (b) The Service Provider acknowledges that it is not, and will not be, the exclusive provider of the Goods and Services or any goods or services the same as or similar to the Goods and Services, to the City, and nothing in this Agreement obliges the City to acquire any Goods or Services from the Service Provider.

2.2 No volume guarantee

The City is under no obligation, at law or under this Agreement, to obtain any quantity or volume of any Goods or Services from the Service Provider.

2.3 Purchase Orders

- (a) The City may order Goods and Services pursuant to this Agreement by issuing a

Purchase Order to the Service Provider. The Purchase Order must at a minimum:

- (i) specify the Goods or Services being ordered;
 - (ii) specify the Fee for the Goods and Services being ordered; and
 - (iii) specify the details regarding the delivery of the Goods and Services.
- (b) ~~If the Service Provider is incapable of supplying the Goods or carrying out the Services, it must notify the City by email as soon as possible and no later than 5 Business Days from receipt of the Purchase Order.~~
- (c) A Purchase Order issued under clause 2.3 will take effect between the parties on the earlier of:
- (i) the Service Provider confirming in writing to the City receipt of the Purchase Order;
 - (ii) the Service Provider commencing the carrying out of any Services or the supply of any Goods in relation to that Purchase Order.
- (d) Each Purchase Order, once it takes effect, will be subject to and incorporate the terms of this Agreement and form a separate contract between the parties.

3. RELATIONSHIP BETWEEN THE PARTIES

3.1 Independent contractor

The Service Provider is a non-exclusive independent contractor of the City. The Service Provider must not represent itself, and must ensure that its employees, subcontractors and agents do not represent themselves, as being partners, employees or agents of City.

3.2 Subcontractors

- (a) The Service Provider must not appoint any subcontractors to assist with the provision of the Goods or Services unless it has obtained the prior written consent of the City. The City's consent may be withheld at the City's absolute discretion or granted subject to conditions.
- (b) If the Service Provider appoints a subcontractor under this Agreement, the Service Provider will remain responsible for all acts and omissions of the sub-contractor as if they were acts or omissions of the Service Provider.

3.3 No authority to make certain representations

The Service Provider must not make any representation, statement or warranty that it has authority to bind the City, whether by entering into contracts or otherwise, except with the prior written consent of the City.

4. SUPPLY OF GOODS AND SERVICES

4.1 Supply

- (a) The Service Provider must manufacture and supply (and if required in the Specifications, install and maintain) the Goods and Services in accordance with the Purchase Order, including:
 - (i) at the Sites(s) identified in the Purchase Order;

- (ii) in compliance with the Specifications; and
 - (iii) using any identified Personnel as specified in the Purchase Order.
- (b) The Service Provider must supply the documentation described in the Administrative Specification or Purchase Order and any other documentation or information reasonably required by the City to enable the City to make full use of the Goods and Services.

4.2 Standard of performance

In providing the Goods and Services and performing its obligations under this Agreement, the Service Provider must at all times ensure that the Goods and Services are provided:

- (a) in a professional manner, in accordance with Good Industry Practice and with the level of due care and skill which may be expected of a professional organisation experienced in providing goods and services of the type and complexity of the Goods and Services;
- (b) so that the Goods and Services are fit for the purposes for which goods and services of that type are commonly acquired and any other purposes which have been notified to the Service Provider by the City;
- (c) in accordance with all Laws, the Specifications and the City's Policies;
- (d) so that the Services meet or exceed the Service Levels.

4.3 Additional Service Provider obligations

The Service Provider must:

- (a) do all acts, matters and things that may be necessary for and incidental to the proper and efficient supply of the Goods and Services;
- (b) supply everything necessary for the performance of its obligations under this Agreement;
- (c) use any equipment in performance and supply of the Goods and Services in the proper manner for the purposes for which it is provided and in accordance with the manufacturer's and supplier's directions;
- (d) where the Service Provider is required to provide or utilise tools, equipment and vehicles, ensure they are suitable for the supply of the Goods and Services and are maintained in good and safe working condition;
- (e) ensure that the supply of the Goods and Services at the Site(s) causes as little disruption as reasonably possible to the business activities of the City;
- (f) maintain the City's Property and any Site used in the performance or supply of the Goods and Services in good condition;
- (g) cooperate with any of the City's personnel and contractors in the performance of and supply of the Goods and Services or as otherwise directed by the Contract Manager from time to time;
- (h) take all necessary and reasonable steps to ensure the security of the Site is maintained;
- (i) attend inspections of the Site with the City at the City's request;

- (j) ensure that the City is fully and accurately informed of all matters relevant to the supply of the Goods and Services and their acquisition by the City;
 - (k) at all times hold stocks of spare parts and replacements for the Goods at levels which are sufficient to meet the reasonably anticipated requirements of the City;
 - (l) transfer or assign or otherwise procure for the City the full benefit of all manufacturer's warranties for all Goods supplied and will enter into all such documents and do all things required to effect such warranties; and
-
- (m) upon request by the City, give to the City, free of cost, one copy of the manufacturer's specifications, warranty documents and user manual for the Goods supplied.
 - (n) ensure that it and the Personnel do not engage in any conduct that:
 - (i) will, or is likely to, harm the City or its name, reputation or services; or
 - (ii) may bring the Service Provider or the City into disrepute, scandal or ridicule.

4.4 Warranty Period

- (a) Without limiting any other rights or remedies of the City under this Agreement or otherwise at law, the Service Provider will promptly rectify any Defect in the Deliverables, Goods or Services during the Warranty Period.
- (b) The Warranty Period will not be deemed to exclude or restrict any guarantee, right or remedy that is provided at law.

4.5 Availability

The Service Provider must ensure the sufficient availability at all times of the Personnel, equipment, parts (including spare parts) and materials required to provide the Goods and Services in accordance with this Agreement.

4.6 Maintenance

- (a) The Service Provider must, to the extent required under the Agreement, maintain the Goods and Services:
 - (i) as contemplated by the Administrative Specification and/or Purchase Order;
 - (ii) for the period of time specified in the Administrative Specification and/or Purchase Order from the date of delivery of the Goods or supply of the Services (**Maintenance Works**).
- (b) Without limiting or otherwise restricting any other provision of the Agreement, the Service Provider warrants to the City that the Service Provider:
 - (i) has the skill, competence, resources, commitment and experienced personnel available to undertake the Maintenance Works and that all personnel used by the Service Provider to undertake the Maintenance Works possess the appropriate skills;
 - (ii) at all times will be suitably qualified and experienced, and will exercise due skill, care and diligence in the carrying out and completion of the Maintenance Works;
 - (iii) will ensure that the Maintenance Works:

- (A) will be fit for purpose;
- (B) comply with all Laws; and
- (C) comply with all the requirements of the Agreement; and
- (iv) will not, in the carrying out of the Maintenance Works, do anything that will adversely impact the warranty provided under clause 4.4 or any other warranty provided under the Agreement.

4.7 Quality assurance

- (a) The Service Provider must establish and maintain a documented quality assurance system about the Services in accordance with the standard set out in the Administrative Specification and/or Purchase Order.
- (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.

4.8 Cooperation with third parties

The Service Provider must work co-operatively with and provide all reasonable assistance to any third party engaged by the City to provide goods and services to the City relating to or associated with the Goods and Services, including any NSW State Government agencies and their representatives.

4.9 Title and Risk in Goods

- (a) Title to Goods provided to the City passes to the City when the Service Provider delivers those Goods to the City.
- (b) Risk in Goods passes to the City on the date on which the City accepts those Goods under clause 5.5, or if clause 5.5 does not apply, upon payment of the Goods.

4.10 Information Documents

- (a) Information Documents are provided to the Service Provider for information only and the Service Provider acknowledges and agrees 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 matters covered in the Information Documents.
- (b) The City is not responsible for the accuracy or the contents of, or makes any representation or assumes any duty of care in respect of, the Information Documents.

4.11 COVID-19

- (a) In providing the Goods and Services, the Service Provider must comply with and enforce all Laws and other government guidance, directions and restrictions in relation to Covid-19.
- (b) The Service Provider must use reasonable endeavours to avoid, minimise and mitigate the impact of Covid-19 on the provision of the Goods and Services, including where applicable by:
 - (i) utilising remote working arrangements for the Service Provider's Personnel where practicable;

- (ii) ordering and using goods, equipment and materials from subcontractors and suppliers and places least affected by Covid-19 as possible;
 - (iii) devising and implementing policies and procedures to avoid, minimise and mitigate the impact of Covid-19 on the people performing the Services;
 - (iv) scheduling Services with sufficient time to mitigate the risk of delays relating to Covid-19.
- (c) If the Service Provider is or is likely to be delayed or otherwise impacted by Covid-19 in the performance of the Services, the Service Provider must promptly notify the City's Representative.

5. ACCEPTANCE TESTING

5.1 Right to conduct testing

The City reserves the right to review or conduct testing of the Goods and Services (**Test Items, also known as Samples and Prototypes**) to satisfy itself that those Test Items meet the Specifications and the City's requirements as contemplated by the Administrative Specification and/or Purchase Order for those Test Items.

Where specified in the Administrative Specification and/or a Purchase Order or otherwise required by the City, the Service Provider must conduct, or assist in the conduct of, such testing and where the Service Provider conducts such testing the Service Provider must deliver the results to the City not less than five (5) Business Days prior to delivery of the Goods or at a date nominated by the City. Where testing is not conducted by the Service Provider, it will be conducted as soon as practicable after delivery of the Test Items. The testing may include tests that the Goods, Services (including the Deliverables) interoperate correctly with all other equipment and systems of the City with which they must interface and interoperate.

5.2 Testing in accordance with a test plan

If there is a test plan specified in the Administrative Specification and/or Purchase Order or if a test plan is otherwise agreed in writing between the parties, the testing will be conducted in accordance with that test plan.

5.3 Simple testing

If the Administrative Specification and/or Purchase Order does not require testing using a test plan, the City may still examine and test the relevant Test Items following delivery to assess whether the Goods and Services (and including the Deliverables) comply with this Agreement, the Administrative Specification and the applicable Purchase Order, and, if they do comply, the City will accept them.

5.4 Rejection

- (a) If, after testing, the City is not satisfied that a Test Item meets the Specification and the City's requirements, then the City may, at its option, do one or more of the following:
 - (i) require the Service Provider to re-perform, replace or make modifications to the Test Items at its cost so that they meet the Specifications City's requirements, in which case City may conduct further testing under this clause;

- (ii) withhold payments under the relevant Goods & Service Order (and if applicable, for the relevant milestone) until such time as the Test Items meet the City's requirements; or
 - (iii) conditionally accept the Test Item on such terms and conditions as may be agreed by the parties (which may include including a reduction in the Fee).
- (b) Where a Test Item has failed testing more than three (3) times or has failed to pass testing within a period of 20 Business Days after testing first commenced, and the Service Provider has failed to offer a substitute for the Test Item that is acceptable to City (acting reasonably), the City may reject the Test Item and in the case of:
 - (i) a Test Item that is part of and critical to the operation of an overall system or solution being supplied by the Service Provider, reject the all or part of the relevant system or solution and terminate the Purchase Order in respect of all of the rejected items; and
 - (ii) any other Test Item, terminate the relevant Purchase Order to the extent that it relates to that Test Item.

If the City exercises its rights under clause 5.4(b), then, without prejudice to the City's other rights and remedies, the Service Provider must refund all Fees and other amounts paid by the City under the applicable Purchase Order in respect of the Test Item and, if applicable, the parts of system or solution which have also been rejected by the City and the City must return all such items to the Service Provider.

- (c) A Test Item will not fail review or testing to the extent that any failure to meet the City's requirements is due to:
 - (i) the failure of (or a defect in) a relevant telecommunications link, service, item of equipment or utility on which the operation of the Test Item depends that is, in each case, not provided by, and is outside the reasonable control of, the Service Provider;
 - (ii) any failure or defects in any items supplied by the City for use in the testing;
 - (iii) any unauthorised modifications made by the City to the Test Item; or
 - (iv) a Force Majeure Event.

5.5 Notification

Where the Contract Manager is satisfied after testing a Test Item that it meets the City's requirements then the City will promptly notify the Service Provider that the Test Item has passed the tests. Any testing or notification by the City will not constitute any waiver of rights, or give rise to any estoppel, if the Test Item is later found not to comply with the City's requirements or contains Defects.

6. AUTHORISATIONS

The Service Provider must:

- (a) ensure that it has all Authorisations which are necessary for it to lawfully provide the Goods and 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.

7. PERSONNEL

- (a) The Service Provider must ensure that the Personnel:
 - (i) are suitably skilled, experienced, trained and qualified to perform the Service Provider's obligations under this Agreement;
 - (ii) comply with all Laws applicable to the provision of the Goods and Services;
 - (iii) have a good understanding of the City's Policies relevant to the provision of the Goods and Services;
 - (iv) 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
 - (v) render the Goods and Services in a polite and helpful manner.
- (b) The City may, at any time during the Term in its absolute discretion, give notice requiring the Service Provider to remove Personnel from work relating to the supply of the Goods and Services, in which case the Service Provider must promptly arrange for the removal of such Personnel and ensure that any replacement Personnel are acceptable to the City.
- (c) The Service Provider is solely responsible for maintaining the employer/employee relationship with all Personnel which includes:
 - (i) payment to all 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 all Personnel in the execution of an assignment, and payment by the Service Provider of all costs incurred by the Service Provider providing Services to the City; and
 - (ii) ensuring the Personnel comply with any other requirements notified by the City.

8. WHS OBLIGATIONS

8.1 WHS Returnable Documents

The Service Provider must accurately complete and provide to the City the WHS Returnable Documents by the due dates set out in Schedule 1.

8.2 Compliance with WHS Law

- (a) Without limiting any other term of this Agreement, the Service Provider must in the performance of the Service Provider Activities:
 - (i) at all times, comply and 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;
 - (ii) develop, maintain and implement an WHS management system that, as a minimum:

- (A) complies with all WHS Laws applicable to the Service Provider; and
- (B) complies with AS/NZS ISO 45001:2018;
- (iii) provide copies of documents recording the WHS management system to the City if requested; and
- (iv) not, and must ensure that the Service Provider's subcontractors do not, at any time, cause the City to be in contravention of any WHS Law.

8.3 Service Provider Activities

Without limiting the Service Provider's obligations under this Agreement or otherwise at Law, the Service Provider acknowledges and agrees that it is responsible for:

- (a) controlling and supervising all aspects of the Service Provider Activities and ensuring that such work is only undertaken without risks to the safety, health and welfare of any persons;
- (b) ensuring that each person employed or engaged to perform the Service Provider Activities, including the Personnel and persons engaged by any of the Service Provider's subcontractors, is aware of and fully complies with the Service Provider's WHS management system; and
- (c) ensuring that before any form of work commences a comprehensive hazard risk assessment has been carried out in relation to that work and that that assessment has been taken into account by the relevant Personnel and has then been communicated to those persons performing the work.

8.4 Notification of incidents

The Service Provider must immediately advise the City of any hazard or safety incident with respect to the Service Provider Activities or arising out of the performance of the Service Provider Activities. For the purposes of this section 8.4, an incident includes:

- (a) an act or omission which is required to be notified to a regulatory authority in accordance with any WHS Law; or
- (b) an event which occurs, in any way, as a result of the execution of the Service Provider Activities which results or may result in, injury to any person, or damage to or failure of construction plant.

8.5 Non-compliance

- (a) If during the performance of the Service Provider Activities, a representative of the City informs the Service Provider that in his or her reasonable opinion, or on advice from an advisor appointed by the City, the Service Provider or the Service Provider's Personnel are:
 - (i) not conducting the Service Provider Activities in compliance with the WHS management system, WHS Law, any safety requirement, this Agreement or any Goods & Service Order; or
 - (ii) conducting the Service Provider Activities in such a way as to endanger the WHS of the City, the City's personnel, the Service Provider, the Personnel or members of the public,

the Service Provider must promptly remedy that breach of its obligations under this Agreement or the relevant Purchase Order.

- (b) Without limiting The City's rights pursuant to this clause 8.5, the City may direct the Service Provider to suspend the Service Provider Activities until such time as the Service Provider satisfies the City that the Service Provider Activities will be resumed in accordance with WHS Law, this Agreement or the relevant Purchase Order.
- (c) During the periods of suspension referred to in clause 8.5:
 - (i) the City will not be required to make any payment whatsoever to the Service Provider; and
 - (ii) the Service Provider will have no entitlement to:
 - (A) an extension of time; or
 - (B) recover any loss, cost, damage or expense of any kind arising under this Agreement or any Supply Contract or out of or in connection with the Service Provider's Activities or the performance of the Service Provider's Activities (including a quantum merit),
 - (C) arising out of or in connection with a suspension directed in accordance with clause 8.5.
- (d) If the Service Provider fails to comply with an obligation under this clause 8.5, the City may perform, or have performed, the obligation on the Service Provider's behalf and recover as a debt due from the Service Provider all costs, loss, expense, damage or liability suffered or incurred by the City.

8.6 WHS and supply of Goods

Where the Service Provider's Activities involve the supply of Goods, the Service Provider must, at the time of initial supply (or at some other time if agreed by the parties in writing), provide the City with a product data sheet in a form acceptable to the City and where the supply comprises substances, a material safety data sheet in a form acceptable to the City.

8.7 Principal contractor

To the extent that the Service Provider Activities, or any part of them, is a Construction Project (within the meaning of the WHS Law), the Service Provider is engaged as the Principal Contractor (as that term is defined by the WHS Law) for those Service Provider Activities, 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 Service Provider Activities are complete.

8.8 WHS Inspection

- (a) 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 its WHS obligations under this Agreement (and the Service Provider agrees to provide the City with reasonable access to the 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 8.8(a) or otherwise, the City is not assuming any management or control of the Site or the Services and is only accessing the Site or receiving information to monitor the Service Provider's compliance with its WHS obligations under the Agreement and/or the WHS Law.

9. ENVIRONMENTAL COMPLIANCE

- (a) Without limiting clause 4.2(c), the Service Provider must in the performance and supply of the Goods and Services:
 - (i) comply with all Environmental Laws and environmental best practice; and
 - (ii) comply with the City's Policies relating to the environment; and
 - (iii) without limiting clause 9(a)(i):
 - (A) act in such a manner as to avoid nuisance, 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 Laws, the Specifications, the City's requirements and the requirements of any relevant Government Agency;
 - (C) remove all refuse resulting from the performance and supply of the Goods and Services; and
 - (D) not use or permit the use of any toxic chemicals or materials without the City's prior consent and the prior consent of any relevant Government Agency or land owner.
- (b) The Service Provider must notify the City if:
 - (i) the Service Provider becomes aware that any member of the Personnel is not complying with the City's Policies relating to the environment;
 - (ii) the Service Provider reasonably suspects the Service Provider has breached any Environmental Laws in the course of performing its obligations under this Agreement;
 - (iii) the Service Provider is issued with any notices, "show cause" demands, orders, demands or other written communications received from a Government Agency which relate to the breach of any Environmental Laws;
 - (iv) the Service Provider or its subcontractors are charged, prosecuted or convicted of an offence or breach of any Environmental Laws.

10. CHAIN OF RESPONSIBILITY

- (a) In this clause:
 - (i) **Chain of Responsibility** means legislation that extends liability for Road Law offences to all parties whose actions, inactions or demands influence conduct on the road particularly in relation to speed, fatigue, vehicle standards, vehicle roadworthiness, load restraint, and mass and dimension.
 - (ii) **HVNL** means the *Heavy Vehicle National Law (NSW)*, regulations and other instruments under it including any codes of practice and any consolidations, amendments, re-enactments or replacements.
 - (iii) **Heavy Vehicle** has the meaning given to it in the HVNL.

- (iv) **Road Law** means any law, regulation or rule relating to the use of a road, restrictions on driving hours (in whichever legislative instrument those requirements may appear), mass, load and restraint requirements for the carriage of goods, dangerous goods, environmental impacts and speed and traffic requirements and includes the HVNL.
- (b) The Service Provider must in connection with any activity carried out under or in relation to this Agreement:
 - (i) comply with all Chain of Responsibility legislation and must ensure that any activity relating to a Heavy Vehicle used in connection with this Agreement is undertaken in accordance with all applicable Chain of Responsibility obligations (including any fatigue, speed, mass, dimension or load restraint requirements);
 - (ii) not ask, direct or require (directly or indirectly) the driver of a Heavy Vehicle or a party in the Chain of Responsibility to do or not do something the Service Provider knows, or ought reasonably to know, would have the effect of causing the driver to contravene their Chain of Responsibility obligations, including to breach any fatigue, speed, mass, dimension or load restraint requirements;
 - (iii) ensure that any subcontractors (where any Heavy Vehicle activities are subcontracted under this Agreement) are contractually bound by similar Chain of Responsibility obligations to those set out in this clause 10(b).
- (c) The Service Provider will ensure that it has proper processes in place to manage its Chain of Responsibility obligations.
- (d) The Service Provider must provide the City, upon request, with all information and documentation reasonably required by the City to monitor or audit compliance with this clause (including permitting inspections of vehicles and business premises).

11. CONFLICT OF INTEREST

- (a) The Service Provider must not engage in any activity that may result in a conflict of interest arising or continuing during the Term.
- (b) If, during the Term, a conflict or risk of conflict of interest arises, the Service Provider must notify the City immediately in writing of that conflict or risk and take such steps as the City may reasonably require to resolve or otherwise deal with the conflict or risk.

12. MILESTONES AND SERVICE LEVELS

12.1 Milestones

- (a) If specified in the Administrative Specification and/or Purchase Order, the Service Provider must complete each Milestone by the Milestone Date.
- (b) If the Service Provider reasonably believes that any Milestone will not be performed by the Milestone Date, the Service Provider must give the City prompt notice. The notice must specify the reason for the delay and the expected date of performance of the Milestone.
- (c) If the Service Provider gives a notice under clause 12.1(b), the City:
 - (i) must, to the extent the Service Provider's obligations are suspended under clause 27 or the delay arises from the City's failure to comply with this Agreement; and

(ii) otherwise may, in its absolute discretion,

without limiting the City's rights, extend the time for performance of the Milestone, by notifying the Service Provider of a later Milestone Date.

12.2 Compliance with Service Levels

- (a) The Service Provider must comply with each of the Service Levels in carrying out the Services to which they apply.
- (b) Without limiting any other rights or remedies of the City under this Agreement or otherwise, if the Service Provider fails to perform its obligations to the standard required by a Service Level:
 - (i) the Service Provider must promptly:
 - (A) investigate the underlying cause of the failure;
 - (B) prepare and supply to the City a comprehensive report on the problem;
 - (C) take whatever action is reasonably necessary to minimise the impact of the problem;
 - (D) correct the problem as soon as practicable; and
 - (E) keep the City advised at all times as to progress being made in rectifying the problem; and
 - (ii) the City may, in its absolute discretion:
 - (A) require the Service Provider to:
 - (aa) submit to the City, within the period specified by the City, a remedial plan; and
 - (bb) on notification by the City that the remedial plan is acceptable to the City, implement the remedial plan; or
 - (B) exercise its Service Level Rights.
- (c) The City may bring proceedings to recover damages from the Service Provider if the City's actual loss resulting from the Service Provider not performing to the standard required by a Service Level exceeds any amount recovered by the City from the Service Provider under a Service Level Right.

12.3 Service Level measurement

- (a) Without limiting any right or remedy of the City under this Agreement or otherwise, the Service Provider must:
 - (i) use measurement and monitoring tools and procedures reasonably required by the City to measure performance accurately;
 - (ii) if requested by the City, establish an automated process for measuring the delivery of the Goods and Services against Service Levels; and
 - (iii) provide the City with information and access to measurement and monitoring tools and procedures used in assessing the Service Provider's performance pursuant to this clause;

- (iv) provide the City with a Service Level Monthly Report as determined by the Contract Manager.
 - (b) The City may appoint an independent third party to review measurement and monitoring tools and/or procedures implemented by the Service Provider in accordance with clause 12.3(a).
 - (c) The City may also elect to establish and operate its own performance measurement and monitoring systems to measure and monitor the performance of the Service Provider against the Service Levels.
-

13. CITY'S FACILITIES

13.1 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 or will connect the Service Provider's facilities to the City's Property for the sole purpose of and only to the extent necessary to enable the Service Provider to provide the Goods and Services to the City and by such means as the City determines in its absolute discretion;
- (b) the Service Provider must comply with the City's Policies and 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) send harassing, obscene, indecent or threatening electronic mail or messages; or
 - (iv) 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 13; 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).

13.2 City's Systems

- (a) In providing the Goods and Services and in performing its other obligations under this Agreement, the Service Provider must:
 - (i) not access or attempt to access any of the City's Systems, except to the extent specified in or expressly contemplated by the Administrative Specification and/or relevant Purchase Order, without the prior written consent of the City;

- (ii) not disclose any passwords supplied by the City to access any of the City's Systems to any person other than the Service Provider's Personnel who have a strict need-to-know; and
- (iii) not introduce any virus into the Services or any of the City's Systems.

13.3 Service Provider acknowledgment

The Service Provider acknowledges and agrees that access to the City's Property under clause 13 is at its own risk, except for any negligent act or omission by the City.

13.4 Public information

The Service Provider must not:

- (a) take or permit to be taken any photograph, drawing or sketch of the Goods or Services being supplied or performed on the Site except for the purpose of performing the Agreement;
- (b) take or permit to be taken any photograph within a surrounding school environment during NSW School Traffic Zone times, being 8.00 – 9.30am and 2.30 – 4.00pm, or
- (c) 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.

13.5 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 the Site;
- (d) must not use the keys other than for access for provision of the Goods and Services; and
- (e) 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.

14. PAYMENT, INVOICING AND GST

14.1 Fees

- (a) In consideration of the supply of the Goods and Services under a Purchase Order issued under this Agreement, the City will pay the Fee to the Service Provider in accordance with the terms of this Agreement and the Purchase Order and within 30 days of receipt of a valid tax invoice from the Service Provider in respect of each instalment.
- (b) Except as otherwise stated in a Purchase Order, the Fee is inclusive of all costs, expenses, disbursements, levies and Taxes incurred by the Service Provider in providing the Goods and Services, including any costs incurred by the Service Provider in procuring any equipment for use in connection with the Goods and

Services.

14.2 Invoices

- (a) Invoices will be issued and payments will be made as required by the relevant Purchase Order and in accordance with clauses 14.2 to 14.4 of this Agreement.
- (b) Any correctly rendered invoice submitted to the City under this Agreement must specify:
 - (i) the City's Purchase Order number;
 - (ii) the details of the Goods and Services provided and any reference number (if applicable);
 - (iii) the date of performance or supply of the Goods and Services;
 - (iv) the month to which the invoice applies; and
 - (v) the Fee for the Goods and Services.
- (c) Unless otherwise set out in a Purchase Order, invoices must be issued monthly, in arrears, for Goods supplied and Services provided and adhoc costs incurred during a month.

14.3 Method of payment

The Service Provider will be paid by electronic funds transfer (**EFT**).

14.4 Effect of payment

The Service Provider acknowledges that any payment made to it by the City is on account only and does not imply or constitute an admission on the part of the City that the Goods and Services have been properly performed or a waiver or release of the Service Provider's obligations under this Agreement.

14.5 Disputed invoices

If the City disputes an invoice, then within 30 days of the date of the invoice the City must:

- (a) pay to the Service Provider the portion of the invoiced amount(s) not in dispute; and
- (b) give the Service Provider details about the disputed amount.

14.6 Responsibility for Taxes

- (a) The Service Provider is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this Agreement or the Goods or Services.
- (b) The Service Provider must indemnify the City in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Service Provider is responsible under clause 14.6(a).

14.7 GST

- (a) If one party (**Supplying Party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the

consideration (**Receiving Party**) must also pay an amount (**GST Amount**) equal to the GST payable in respect of that supply.

- (b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.
- (c) If one party must indemnify or reimburse another party (**Payee**) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased if the payment is consideration for a taxable supply.
- (d) If an adjustment event arises in respect of a taxable supply made by a Supplying Party, the GST Amount payable by the Receiving Party under clause 14.7(a) will be recalculated to reflect the adjustment event and a payment will be made by the Receiving Party to the Supplying Party, or by the Supplying Party to the Receiving Party, as the case requires.
- (e) In this Agreement:
 - (i) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and
 - (ii) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

14.8 Withholding tax

The City may deduct from amounts payable to the Service Provider under this Agreement any amounts required by law to be deducted from such payments. The City will:

- (a) before deducting any such amounts inform the Service Provider of its intention to do so; and
- (b) provide to the Service Provider on request, receipts issued from the Australian Taxation Office evidencing payment of any amounts deducted under this clause 14.8.

14.9 Price Adjustment – Rise and Fall of the Schedule of Rates

The intent of this clause is to provide the Service Provider with a guide as to how to claim for an adjustment to the Schedule of Rates:

- (a) as a result of changes to the CPI ("Claim for CPI Adjustment"); or
- (b) where the adjustment sought is higher than the amount of CPI ("Claim for Adjustment").

For the purposes of this clause, "CPI" means the Consumer Price Index (All Groups) for Sydney compiled by the Australian Government Statistician, or if such index ceases to exist, such other index nominated by the City in substitution of the same).

Although this clause applies to claims made either during the Term or an Additional Term, the Service Provider is only entitled to make a claim under this clause:

- (a) within 6 weeks before the first 12-month anniversary of the Date of Agreement; and
- (b) within 6 weeks before each subsequent 12-month anniversary of the Date of Agreement.

Time is of the essence in relation to these periods, and there will be no right for the Service Provider to seek a claim outside the time periods.

The prices included in the Schedule of Rates are fixed for both the Term and any Additional Term, subject to the Service Provider making a claim under this clause.

The purpose of the City providing the Service Provider with an entitlement to make a claim under this clause is to help the Service Provider manage the rising costs they will or are likely to incur in carrying out the Services:

- (a) as a result of changes to the CPI; or
- (b) where those costs have increased above the amount of CPI.

To take up this entitlement, the Service Provider must:

- (a) submit a claim under this clause to the City within the timeframe specified above (which may either be during the Term or during an Addition Term); and
- (b) ensure that the claim is supported and accompanied by applicable and relevant evidence to justify the claim. If, in the reasonable opinion of the City, applicable and relevant evidence has not been provided by the Service Provider, the City will reject the claim. Time is of the essence in relation to the provision of the evidence by the Service Provider and if the evidence is not provided within the timeframe specified above, the City will be under no obligation to consider the claim.

The City will increase the Schedule of Rates by the amount of CPI if a Claim for CPI Adjustment is made within the timeframe specified above. However, the City has no obligation to consider any claim made under this clause which is made outside of the above specified timeframe – whether a claim is made early or late.

Examples for making a claim:

Year 1 Claim: If the Date of Agreement is 1 October 2018, a claim under this clause must be submitted to the City within 6 weeks before 30 September 2019.

Year 2 Claim: A claim under this clause must be submitted to the City within 6 weeks before 30 September 2020.

The City will provide its written assessment in response to a claim made under this clause no later than 4 weeks after receiving the Service Provider's submission of a claim made under this clause.

In making an assessment of a Claim for Adjustment, the City will exercise its complete discretion as to whether to approve or reject a Claim for Adjustment.

If the City approves an adjustment under this clause for any claim, any adjustment granted will only apply from the date the City provides the Service Provider with a written copy of its assessment. Under no circumstances will an adjustment apply retrospectively.

The guiding principle to calculating CPI price requires both the City and the Service Provider to take into consideration the delay of CPI statistics being published, whereby the most recent consecutive four (4) quarters (that is, 12 months) of CPI index numbers published must be used in the calculation in a Claim for CPI Adjustment. This principle should be applied to establish the baseline index at the time of the execution of the Agreement and again at the time of calculation.

15. REPORTS, MEETINGS, ACCOUNTS AND AUDITS

15.1 Business as Usual Reports and Meetings

- (a) The Contract Manager and the Service Provider's Representative under this Agreement will meet when necessary, and at least every three months, to discuss the reports provided under this clause 15.1(a), delivery of the Goods and Services, and any other matter related to this Agreement.
- (b) The Service Provider will provide to the City, at least 3 Business Days prior to each meeting under clause 15.1(a), written reports of progress on the Services, the Service Levels, problems and recommendations for resolution and any other matter related to this Agreement which requires discussion in the meeting under clause 15.1(a).

15.2 Progress reports

The Service Provider must deliver to the City during the Term, in accordance with and at the frequency set out in Administrative Specification and as otherwise reasonably requested by the City from time to time, a written report providing full details of:

- (a) the Service Provider's progress in supplying the Goods and Services and ability to achieve upcoming Milestones or other action items;
- (b) detailed analysis of the Service Provider's compliance with the Service Levels; and
- (c) such other information as the City may from time to time request.

15.3 Content of reports

The Service Provider must ensure that:

- (a) all reports provided under this clause 15 contain all required information and are accurate and not misleading in any respect; and
- (b) all recommendations are clearly explained and substantiated.

15.4 Meetings

In addition to the meetings under clause 15.1(a), the Service Provider and the City must meet with the frequency specified in the Administrative Specification to review the progress of the performance and supply of the Goods and Services. If no frequency is specified, the Service Provider and the City must meet as requested by the City (but no more frequently than once a month unless agreed otherwise).

15.5 General audit rights

The Service Provider must permit the City, its personnel or approved agents access, on at least 5 Business Days' prior notice in writing and not more than twice in any 12 month period (unless such access is required to satisfy any legal or regulatory requirements imposed on the City, in which case the City's right of access will be unlimited and subject only to statutory notification requirements), to:

- (a) the Service Provider's premises;
- (b) the Service Provider's systems, including information technology systems and physical storage systems;
- (c) the Service Provider's accounts and any other records relating to the provision of the

Goods and Services;

- (d) the Personnel;
- (e) the work being carried out by the Service Provider under this Agreement;
- (f) the Service Provider's data and records relating to this Agreement and any of the City's Data in the Service Provider's power, possession or control; and

-
- (g) any other material or thing to which the City reasonably requires access,

in order to, at the City's cost:

- (h) monitor, inspect and assess the Service Provider's compliance with this Agreement, including in relation to the security of the City's Data;
- (i) verify the Fee; or
- (j) satisfy any legal or regulatory requirements imposed on the City (including under the Privacy Laws and the State Records Act).

16. ADMINISTRATION OF THIS AGREEMENT

16.1 Direction of Contract Manager

The Service Provider must comply with all directions given by the Contract Manager in relation to this Agreement. 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 two Business Days of the direction being given.

16.2 Service Provider's Representative

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

16.3 Meetings

The Contract Manager and the Service Provider's Representative must meet at the times set out in the Administrative Specification, or at such time reasonably required by the Contract Manager at the City's offices (unless the parties agree otherwise) at a time agreed between the parties.

17. VARIATIONS

17.1 Notice by the City

At any time during the Term, the Contract Manager may by notice in writing to the Service Provider change the requirements for the provision of the Goods and Services (a "**Variation Order**") including:

- (a) directing additional services be performed by the Service Provider; or
- (b) directing that a particular part of the Service is no longer required to be performed by the Service Provider.

17.2 Effect of Variation Order

Subject to clause 17.3, if no date is specified in the Variation Order, the change to the Goods and Services will take effect on the date on which agreement is reached between the parties under clause 17.5 or determined in accordance with clause 17.6.

17.3 Urgent additional services

- (a) The Contract Manager may require the performance of additional services on an urgent basis and may issue an oral direction for urgent additional services.
- (b) The Service Provider must use its best endeavours to comply with each request for additional services and confirm the details of each request and the extent of compliance to the Contract Manager within seven days after receipt of the request.

17.4 Quotation for additional services

If the Variation Order requires the Service Provider to provide additional goods or services:

- (a) the Service Provider must submit a quotation to the Contract Manager for the additional goods and services based on the Schedule of Rates (if applicable) or if no rate is applicable, reasonable rates no higher than Service Provider's then standard prices or time and materials rates; and
- (b) until agreement is reached between the parties in relation to the variation, the City will not be liable to pay any fee or expense to the Service Provider for the additional goods and services.

17.5 Changes to the Fee

Upon receipt by the Service Provider of a Variation Order, the parties must meet as soon as possible to negotiate and conclude in good faith an agreement about the value of the variation or the amount by which the Fee should be reduced in the case of a direction by the Contract Manager to omit Goods or Services.

17.6 If no agreement reached

If within ten Business Days after receipt by the Service Provider of the Variation Order, the parties are unable to agree on the value of a variation or the amount by which the Fee should be reduced in the case of an omission, the Contract Manager, acting reasonably, will determine the value of a variation having regard to the Schedule of Rates or if no rate is applicable, reasonable prices and rates.

17.7 Variations of omission

If the Contract Manager directs a variation which omits any part of the Goods or Services,

the City may thereafter carry out the omitted Services either itself or by engaging another service provider.

17.8 Variation request by the Service Provider

- (a) If the Service Provider considers that a variation to the Goods or Services would be beneficial in relation to the Administrative Specification and/or a Purchase Order, the Service Provider may make a written request to the Contract Manager to direct a Variation Order. The Contract Manager may in its absolute discretion issue a Variation Order in relation to that request, but is not required to exercise its discretion under this clause 17.8(a) for the benefit of the Service Provider.
- (b) If the Service Provider considers that a direction by the Contract Manager requires the Service Provider to provide additional goods or carry out additional services, but is not in the form of a Variation Order, the Service Provider must within 5 Business Days of receiving the direction notify the Contract Manager in writing.
- (c) The Contract Manager must within 15 Business Days of receiving the Service Provider's notice under clause 17.8(b) do one of the following:
 - (i) withdraw the direction;
 - (ii) confirm in writing the direction is a Variation Order; or
 - (iii) provide written reasons as to why the direction does not constitute a Variation Order.
- (d) If the Service Provider has not complied with the notice requirements in clause 17.8(b) it will not be entitled to claim for any additional costs in relation to that direction.

18. DATA AND PRIVACY

18.1 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) in performing its obligations under this Agreement:

- (a) comply with all Privacy Laws as if it were a party subject to the Privacy Laws;
- (b) not do any act or engage in any practice that would breach the Privacy Laws, or which if done or engaged in by the City, would be a breach of any Privacy Laws;
- (c) only use Personal Information for the sole purpose of fulfilling its obligations under this Agreement or Purchase Order;
- (d) protect all Personal Information from unauthorised access, modification, disclosure or use;
- (e) ensure that any agreement with any subcontractor who may be fulfilling a requirement in relation to the Agreement which includes the handling of Personal Information contains substantially the same or equivalent obligations to this clause 18.1 which are enforceable by the Service Provider against the subcontractor.

18.2 Ownership of and access to the City's Data

- (a) The Service Provider acknowledges that the City's Data remains the property of the

City.

(b) The Service Provider must ensure the City's Data:

- (i) are to the extent practicable designated as the property of the City; and
- (ii) remains free of any lien, charge or other encumbrance of a third party.

The Service Provider must provide the City at regular intervals during the Term with extraction of the City's Data in formats and transfer mechanisms and transfer mechanisms via an Application Programming Interface (API) or such other format or mechanism as required by the City.

(c) The Service Provider must follow the City's reasonable directions when collecting, storing and protecting the City's Data. The Service Provider must:

- (i) ensure that the City (and any party authorised in writing by the City) has the ability to promptly access, extract or delete City Data stored by the Service Provider;
- (ii) ensure that it takes a backup of the City's Data at regular intervals or otherwise in accordance with the Contract Specifications;
- (iii) in the event that the City's Data is lost or destroyed, do all things reasonably necessary to promptly restore the City's Data and within any timeframes reasonably requested by the City;
- (iv) in respect of any records (as that term is defined under the State Records Act) that the Service Provider hosts, accesses or processes for the City, comply with the requirements set out in the State Records Act, together with any standards or directions issued by NSW State Archives and Records as amended from time to time.

18.3 Use and disclosure of the City's Data

- (a) The City does not warrant, represent or guarantee that the City's Data will be free from errors or omissions, or will be accurate, complete or fit for any particular purpose.
- (b) The Service Provider:
 - (i) may use the City's Data, but only as is necessary for the purposes of providing the Services;
 - (ii) must not directly or indirectly disclose or transfer any of the City's Data to, or allow access to any of the City's Data by, any person:
 - (A) without the City's prior written consent;
 - (B) except to those of the Personnel who need to know the City's Data for the purposes of providing the Goods and Services, on the condition that the Personnel will only use the City's Data for the purposes of providing the Services; or
 - (C) except as required by law;
 - (iii) must ensure that any person to whom City's Data is disclosed under this Agreement, does not do any act, engage in any practice, or omit to do any act or engage in any practice, which if done, engaged in or omitted to be done by the Service Provider would constitute a breach of this clause 18;

- (iv) must implement, maintain and enforce safety and security procedures and safeguards to ensure that the City's Data is protected against corruption, misuse, interference, destruction, loss or unauthorised access, use, modification, or disclosure in accordance with the City's information security policies notified to it (including those listed in Schedule 1), Good Industry Practice and all applicable Laws;
- (v) must notify and keep the City notified at all times of the Service Provider's current safety and security procedures and safeguards in respect of City Data ~~and keep the City notified of any amendments to such procedures and safeguards that are made from time to time.~~
- (vi) must not transfer to a person (including itself) or store any of the City's Data outside of Australia without the City's prior written consent, which may be granted or withheld at the City's sole and absolute discretion;
- (vii) must not purport to use, sell, let for hire, assign rights in or otherwise dispose of any of the City's Data, commercially exploit the City's Data, or allow any of the Personnel to commercially exploit the City's Data; and
- (viii) must not alter the City's Data in any way, other than as required to fulfil its obligations under this Agreement.

18.4 Data Confidentiality

The Service Provider acknowledges and agrees that the City's Data is Confidential Information and is subject to the confidentiality obligations at clause 26.

18.5 Obligation to cease use

On the date any of the City's Data is no longer needed for the purposes of the Service Provider providing the Goods and Services, the Service Provider at its cost must:

- (a) immediately stop using the relevant City's Data; and
 - (i) within 14 days and subject to any legal requirement in relation to the retention of records:
 - (A) deliver to the City, in a format specified by the City, the City's Data; and
 - (B) subject to 18.5(b), erase or destroy in another way (in accordance with the City's approved destruction methods) all electronic and other intangible records containing, recording or referring to the City's Data

which are in the possession, power or control of the Service Provider or of any person to whom the Service Provider has given access.

- (b) If the City requests, instead of erasing or destroying the City's Data and any Permitted User's Data under clause 18.5(a), the Service Provider must permanently de-identify, de-sensitise and de-classify, all electronic and other intangible records containing, recording or referring to the City's Data.

18.6 Notification

The Service Provider must immediately notify the City if the Service Provider becomes aware of any breach or alleged breach of the Service Provider's obligations under this clause 18, and comply with any reasonable direction from the City with respect to remedying that breach.

18.7 Security Incidents and Data Breach

- (a) The Service Provider must take reasonable steps to continuously monitor (or if this is not practicable, to frequently check) the systems on which it holds Personal Information or confidential information (or both) of, relating to or provided or made available to the Service Provider by the City or its Personnel or customers for any actual or suspected accidental or unauthorised access to or loss involving any such Personal Information or confidential information (or both) which it has access to as a result of this Agreement (**Security Incident**), including any events that could amount to Eligible Data Breaches.
- (b) If the Service Provider becomes aware of an event that could amount to a Security Incident, the Service Provider must:
 - (i) as soon as possible, but in any event within twenty four (24) hours, notify the City of the Security Incident;
 - (ii) comply with its obligations under the Privacy Law in relation to the Security Incident (where applicable);
 - (iii) provide the City with all information that the City requests in relation to the Security Incident; and
 - (iv) if the City requires it, allow the City to participate in the Service Provider's assessment of the Security Incident to determine if the Security Incident is an Eligible Data Breach.
- (c) If:
 - (i) the Service Provider determines, or the City determines and notifies the Service Provider, that an Eligible Data Breach has or may have occurred; and
 - (ii) the Privacy Law or the City's Policies requires that the Eligible Data Breach be notified to one or both Commissioners,then the Service Provider must, as soon as possible and no later than two (2) Business Days of the determination or notification (as applicable), prepare and give to the City a draft notice to the Commissioner(s) in respect of the Eligible Data Breach.
- (d) The Service Provider acknowledges and agrees that if the *Privacy Act 1988* (Cth) applies to it, nothing in this Agreement will limit or restrict the Service Provider's obligations in relation to Eligible Data Breaches under Part IIIC of the *Privacy Act 1988* (Cth) including its responsibility to notify the Commonwealth Information Commissioner of an Eligible Data Breach.
- (e) The Service Provider must ensure that the City is promptly advised and kept informed of any investigation or other action taken by a Commissioner in connection with the actual or suspected Eligible Data Breach.

19. INTELLECTUAL PROPERTY

19.1 Existing Material

- (a) Each party will retain its Intellectual Property Rights in the Existing Material.
- (b) The City grants the Service Provider a non-exclusive, royalty-free and non-transferable licence for the term of this Agreement, to use the City's Existing Material

for the sole purpose of enabling the Service Provider to perform its obligations under this Agreement.

- (c) The Service Provider grants the City an irrevocable, perpetual, royalty-free, worldwide, non-exclusive licence (with the right to sub-licence) to use, copy, modify, and publish, the Service Provider's Existing Material for any purpose in relation to the Services, or to the extent required to use the Deliverables as contemplated by this Agreement.

19.2 Developed Material

- (a) The City will exclusively own all Intellectual Property Rights in and to the Developed Material from the date of its creation.
- (b) By this Agreement, the Service Provider:
 - (i) assigns absolutely, or will procure the assignment absolutely of, the right, title and interest, including all Intellectual Property Rights, in or to all Developed Material and all modifications made to any of the Developed Material so that all such right, title and interest throughout the world rests automatically on creation in the City;
 - (ii) must ensure that the Developed Material is only used, copied, supplied and reproduced by the Service Provider solely and directly for the purposes of this Agreement;
 - (iii) must not do or cause to be done anything which will encumber any interest in or to the Developed Material to any person other than the City; and
 - (iv) at the City's request, must execute all documents necessary or desirable to ensure that all Intellectual Property Rights in or to all Developed Material and any modifications made to any of the Developed Material are assigned to the City, and to give full effect to this clause.
- (c) The City grants to the Service Provider a non-exclusive, royalty-free, revocable, non-transferrable licence to use the Developed Material during the Term to the extent needed to perform its obligations under this Agreement, but not to any greater extent or for any other purpose.

19.3 Third Party Licences and Moral Rights

- (a) The Service Provider must obtain, at its own cost, all necessary licences and consents from any person relating to each copyright work or other subject matter comprised in the Developed Material, which are necessary to enable the parties to do all things contemplated by this Agreement without infringing any laws or the rights (including the Intellectual Property Rights) of or duties owed to any person whether arising under statute, common law, contract or otherwise.
- (b) Without limiting clause 19.3(a), the Service Provider must ensure that each person involved in creating all or any part of the Developed Material and each person whose performance is recorded in the Developed Material irrevocably waives any and all Moral Rights they have in each copyright work or such other subject matter comprised in the Developed Material and consents to the City doing or failing to do any act in relation to those works that may, except for this clause, infringe their Moral Rights in the works including:
 - (i) exercising any of the rights in the works without identifying them;
 - (ii) exercising any of the rights in the works in a manner which incorrectly attributes any work created by them or their performance to someone else;

and

- (iii) editing, deleting from or otherwise altering the works in any manner determined by the City as contemplated by this Agreement.
- (c) The Service Provider must ensure that the Developed Material does not use the image, likeness or name of any person or any property of any person, unless it has ensured that the person or the property owner has given their written consent to such use in the Developed Material and the use of it as contemplated in this Agreement.

19.4 Infringement Claim

- (a) In the event of an Infringement Claim, the Service Provider must:
 - (i) unless otherwise notified by the City, conduct the defence of the Infringement Claim at the Service Provider's cost;
 - (ii) as soon as reasonably practicable, consult with the City about the Infringement Claim; and
 - (iii) not agree to any settlement of an Infringement Claim without the City's consent.
- (b) If reasonably requested by the Service Provider, the City must co-operate, at the Service Provider's cost, in the Service Provider's conduct of the defence of an Infringement Claim. The City may, at the Service Provider's cost, conduct the defence of an Infringement Claim if the Service Provider does not use its best endeavours to comply with its obligations under clause 19.4(a).
- (c) Without limiting the City's other rights or remedies under this Agreement or otherwise, if an Infringement Claim occurs, the City may:
 - (i) require the Service Provider promptly and at the Service Provider's cost to:
 - (A) procure for the City and its sub-licensees the right to continue to use the Developed Material, Service Provider Material or any other material that is the subject of the claim (**Infringing Material**);
 - (B) modify the Infringing Material in a manner acceptable to the City to circumvent the Infringement Claim; or
 - (C) replace the Infringing Material with other content or material acceptable to the City; or
 - (ii) terminate this Agreement on 10 Business Days' written notice to the Service Provider.

20. WARRANTIES

20.1 Mutual warranties

Each party represents and warrants that:

- (a) (**power**) it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this Agreement and to carry out the transactions that it

contemplates;

- (b) (**corporate authority**) it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and to carry out the transactions contemplated;
- (c) (**Authorisations**) it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this Agreement and to carry out the transactions that it contemplates;
 - (ii) ensure that this Agreement is legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business as it is now being conducted, and it is complying with any conditions to which any of these Authorisations is subject;
- (d) (**Agreements effective**) this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (e) (**solvency**) there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
- (f) (**no Controller**) no Controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

20.2 Service Provider's warranties

The Service Provider warrants to the City that, at the Date of the Agreement and at all times during the Term:

- (a) it has the right and power to grant to the City the licences and assignments granted under this Agreement;
- (b) it has obtained all Authorisations and insurances required under any Law to carry out its obligations under this Agreement;
- (c) all work performed by the Service Provider and the Personnel under this Agreement will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Service Provider's size and experience;
- (d) all Goods and Services supplied, including all components thereof, under this Agreement will:
 - (i) be free from Defects in design, material and workmanship; and
 - (ii) be in conformity with any Specifications and requirements referred to in a Purchase Order;
- (e) in the case of Goods, will be:
 - (i) fit for the purpose or purposes expressly set out in the Specifications;
 - (ii) newly manufactured and not second hand and of good and merchantable

quality;

- (f) it will use its best endeavours (which must at least comply with accepted information technology industry standards) to ensure that all Goods and Services will be free from any computer program virus or other destructive code or device;
- (g) it is not aware of any matter which may materially affect the Service Provider's ability to perform its obligations under this Agreement;
- (h) all information provided by the Service Provider is complete, true, accurate and not misleading in any respect;
- (i) all Personnel will be appropriately trained and experienced;
- (j) the Goods and the Services and the supply or use of either of them in accordance with this Agreement and applicable Laws, will not:
 - (a) breach any Laws or infringe the rights (including Intellectual Property Rights) of or duties owed to any person, whether under contract, statute, common law or otherwise; or
 - (b) prejudice or compromise the reputation of the City; and
- (k) it is not aware of any claim, actual or threatened, in relation to the Service Provider's Existing Material or Developed Material (including a claim that the Services Providers' Material or the Developed Material infringes a person's Intellectual Property Rights) and has no grounds to suspect that such a claim will or might be made.

20.3 Breach of warranties

If the Service Provider is in breach of any of the representations and warranties set out in clause 20.2, the City may (without prejudice to any other rights or remedies of the City), by written notice to the Service Provider:

- (a) require the Service Provider promptly to correct or replace (at the Service Provider's expense) the defective elements of the Goods and Services until the Goods and Services comply with the representations and warranties in that clause; or
- (b) if the Service Provider is unable or unwilling to comply with clause 20.3(a), by written notice to the Service Provider, terminate this Agreement or a Purchase Order in which the Completion Date has not yet been reached with effect from the date that is specified in the notice.

21. INDEMNITY

The Service Provider must indemnify and hold harmless the City and each of its employees and agents against, all claims, demands and proceedings made against the City and pay the City on demand the amount of all claims, losses, costs, liabilities, expenses and damages (including loss of profits, legal costs, and Taxes) which are suffered or incurred by the City in connection with or arising from:

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

- (e) fraud, misrepresentation or wilful misconduct by the Service Provider;

to the extent that, and in proportion to which, such claim, losses, costs, liabilities, expenses, and damages arises from an act or omission of the Service Provider or its Personnel.

22. INSURANCE

22.1 Insurance policies

While this Agreement is in force, the Service Provider must effect and maintain (or cause to be effected and maintained under one or more policies of insurance and without requiring any risk to be double insured) the following insurances on terms that a reasonably prudent and experienced Service Provider of a similar size would maintain (without any unusual exclusions or limitations, having regard for the Services) in relation to the provision of similar goods and services:

- (a) worker's compensation insurance or registrations as required by law;
- (b) public and products liability insurance written on an occurrence basis with a limit of cover of not less than the amount specified in Schedule 1 for each and every occurrence giving rise to a public liability claim and with a limit of cover of not less than the amount specified in Schedule 1 for each occurrence and in the aggregate for all occurrences in any 12 month policy period giving rise to a products liability claim, which covers the liability of the Service Provider and the Personnel (including to each other), in respect of:
 - (i) loss of, damage to, or loss of use of, any tangible property; and
 - (ii) the bodily injury of, disease or illness to, or death of, any person (including worker to worker liability but excluding any liability insured under the insurance referred to in clause 22.1(a)),

arising out of or in connection with the performance of this Agreement by the Service Provider; and

- (c) professional indemnity covering the liability of the Service Provider for a breach of professional duty as a result of an act or omission by the Service Provider or the Personnel in connection with the performance of this Agreement with a limit of cover of not less than the amount specified in Schedule 1 for each claim and in the aggregate for claims in any 12 month policy period.
- (d) Other insurances required by this agreement - e.g. vehicle and equipment/property in care, custody or control.

22.2 Duration of insurance

The insurances referred to in clause 22.1 must be effected on or before the Date of the Agreement and be thereafter maintained until the later of the expiry or termination of this Agreement and all Goods & Service Orders, except that professional indemnity insurance must be maintained for at least 6 years after such date.

22.3 Evidence of policies

The Service Provider must, whenever requested by the City, provide the City with a certificate of currency evidencing compliance with clause 22.1.

22.4 Insurance generally

- (a) All insurances which the Service Provider effects or causes to be effected under this

Agreement must be effected with insurers approved by the City.

- (b) The Service Provider must:
 - (i) notify the City if an insurer gives a notice of cancellation or other notice in respect of any policy;
 - (ii) not do or allow anything to be done which reduces the Service Provider's insurances or makes them either void or voidable.
- (c) The insurances contemplated under this Agreement are primary and not secondary to the indemnities referred to in this Agreement.

22.5 Subcontractors Insurance

The Service Provider must ensure that each subcontractor engaged to provide any part of the Services effects and maintains insurance as stated in clause 22.1, unless agreed otherwise in writing by the City (in its absolute discretion).

23. STEP IN RIGHTS

- (a) If the Service Provider fails to perform a material obligation strictly in accordance with the terms of this Agreement and 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 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 debt due from the Service Provider to the City; 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) the City will set off any debt from the Service Provider arising under this clause or make appropriate adjustments to the Service Provider's invoice for the subsequent month.
- (d) This clause 23 does not limit any other remedy which the City may have against the Service Provider for any breach of this Agreement.

24. TERM AND TERMINATION

24.1 Term

This Agreement commences on the **Start Date** nominated in Schedule 1 and, unless otherwise extended under clause 24.2 or terminated on its terms, expires on the Expiry Date (**Term**).

24.2 Further Terms

The City may extend this Agreement for the Further Term (if any) specified in Schedule 1, 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 Schedule 1.

24.3 Termination for convenience

The City may, without prejudice to any other rights and remedies it may have under this Agreement or at law, at any time terminate any Purchase Order or this Agreement in whole or in part by 30 days' notice in writing to the Service Provider. If a Purchase Order or this Agreement is terminated in accordance with this clause 24.3, then:

- (a) the provisions of clause 24.7 will apply; and
- (b) the Service Provider must take all steps reasonably necessary to mitigate any loss the Service Provider may suffer as a result of the termination of this Agreement.

24.4 Termination for the Service Provider's default

The City may, without prejudice to any other rights and remedies it may have under this Agreement or at law, immediately terminate any Purchase Order or this Agreement in whole or in part by notice in writing to the Service Provider, if:

- (a) the Service Provider is in material breach of any of its obligations under any Purchase Order or this Agreement, including any warranties in clause 20, and if the breach is capable of remedy, the Service Provider has failed to rectify that breach within 15 Business Days after receipt of written notice from the City or any further time allowed by the City;
- (b) the Service Provider is in material breach of any of its obligations under this Agreement or any Purchase Order and the breach is not capable of remedy;
- (c) subject to Parts 5.1, 5.2 and 5.3A of the *Corporations Act 2001* (Cth) and to any regulations or Ministerial declarations made thereunder, an Insolvency Event occurs in respect of the Service Provider;
- (d) the Service Provider or any employee or agent of the Service Provider acts in a way that in the City's opinion may cause harm or bring into disrepute or otherwise adversely affect the reputation or image of the City;
- (e) a material change in ownership or control of the Service Provider occurs which in the reasonable opinion of the City:
 - (i) adversely affects the City's rights;
 - (ii) adversely affects the Service Provider's ability to perform its obligations under this Agreement or any Purchase Order; or
 - (iii) is otherwise contrary to the City's interests;
- (f) the Service Provider is unable to provide acceptable replacement Personnel under clause 7(b);
- (g) the Service Provider does not permit the City access for auditing purposes in accordance with clause 15.5; or
- (h) the Service Provider fails to meet the same Service Level on one or more occasion in a consecutive two-month period.

24.5 Termination rights under a Purchase Order

Without limiting this clause 24, a Purchase Order may also be terminated in accordance with any termination rights that may be specified in the relevant Purchase Order.

24.6 Survival

The following clauses survive termination or expiry of this Agreement: 1 (Interpretation), 4.3 (additional Service Provider obligations), 18.1 (Privacy), 19 (Intellectual Property) 21 (Indemnity), 22 (Insurance), 24.7 (Consequences of termination), 25 (Disengagement), 26 (Confidentiality and disclosures), 0 (Dispute Resolution), 29 (Notices), 30 (Amendment and assignment), 0 (General) and any other clauses which are expressed to, or by their nature, survive the termination or expiry of this Agreement.

24.7 Consequences of termination

If the City terminates any Purchase Order or this Agreement then, without limiting any other rights or remedies of the City under this Agreement or otherwise:

- (a) if this Agreement has been terminated by the City under clause 24.3, the City will meet costs and value of labour substantiated and incurred by the Service Provider resulting from Services carried out prior to the date of termination and other costs reasonably and properly incurred by the Service Provider as a direct result of the termination (excluding any loss of profit, loss of business or loss of opportunity) and agreed by the City in writing;
- (b) the City will not be required to make any payment in respect of Goods or Services not yet supplied on the effective date of termination unless the City has directed a variation in accordance with clause 17 and then cancels the direction before it comes into effect, in which case the City will be liable for the Service Provider's reasonable costs incurred in preparing to deliver the variation;
- (c) the City may recover from the Service Provider all money paid for any Good or Service, or part of any Good or Service, not yet supplied but paid for as at the date of termination;
- (d) the Service Provider must take all steps reasonably necessary to minimise any loss the City may suffer as a result of the expiry of termination of this Agreement;
- (e) the Service Provider must cease to use the City's Data, the City's Material, the Developed Material and any Confidential Information;
- (f) the Service Provider must deliver to the City at a place specified by the City, without retaining any copies (in hard copy or electronically), all copies of the City's Data, the Developed Material and Confidential Information in the possession custody or power of the Service Provider.
- (g) without limiting the City's rights under clause 32.8 or other enforcement rights, the City may apply (without notice) any amount due from the City to the Service Provider under this Agreement, any Purchase Order, or any other agreement between the parties, towards satisfaction of:
 - (i) any damages, costs and expenses recoverable by the City from the Service Provider in consequence of the Service Provider's breach of this Agreement or any Purchase Order; and
 - (ii) any amounts payable by the Service Provider to the City under this Agreement, any Purchase Order, or any other agreement between the City and the Service Provider,

and the Service Provider authorises the City to do anything (including to execute Agreements) that is required for that purpose.

24.8 Preservation of rights

Expiry or termination of this Agreement for any reason does not affect any rights of either party against the other which arose prior to the time at which such termination or expiry occurred, or which otherwise relate to or which may arise at any future time for any breach or non-observance of obligations under this Agreement occurring prior to the termination or expiry.

25. DISENGAGEMENT

25.1 Application

This clause 25 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 this Agreement or a Purchase Order.

25.2 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.

25.3 Requirements for Disengagement

- (a) The Service Provider must carry out the Disengagement Services at its own cost and 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 this Agreement and the Service Provider's Existing Material 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 the 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 its best efforts to ensure that the Disengagement Services are completed by the end of the Disengagement Period.

25.4 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 25 applies, the Service Provider must, unless directed otherwise by the City:
 - (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 permitted subcontractors comply with this clause 25.
- (c) The Service Provider acknowledges all Service Levels and Service Level Rights apply during the Disengagement Period.
- (d) The fees payable for any services directed by the City to be performed by the Service Provider in addition to the Disengagement Services during the Disengagement Period will be the same as, or calculated in the same manner as, the Fees in effect immediately prior to the termination or expiry of this Agreement.

25.5 Third party services

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. 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.

25.6 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.

26. CONFIDENTIALITY AND DISCLOSURES

26.1 Use and disclosure of Confidential Information

A party (**receiving party**) which acquires Confidential Information of another party (**disclosing party**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this Agreement; or
- (b) disclose any of the Confidential Information except in accordance with clauses 26.2 or 26.3.

26.2 Disclosures to personnel and advisers

- (a) The receiving party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the receiving party to perform its

obligations or to exercise its rights under this Agreement; and

- (ii) prior to disclosure, the receiving party informs the person of the receiving party's obligations in relation to the Confidential Information under this Agreement and obtains an undertaking from the person to comply with those obligations.
 - (b) The receiving party must ensure that any person to whom Confidential Information is disclosed under clause 26.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 26.2(a).
-

26.3 Disclosures required by law

- (a) The receiving party may disclose Confidential Information that the receiving party is required to disclose:
 - (i) by law or by order of any court or tribunal of competent jurisdiction; or
 - (ii) by any Government Agency, stock exchange or other regulatory body.

26.4 Receiving party's return or destruction of documents

- (a) Subject to any legal requirement in relation to the retention of records (including the State Records Act), on termination of this Agreement the receiving party must immediately:
 - (i) deliver to the disclosing party all documents and other materials containing, recording or referring to Confidential Information; and
 - (ii) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the receiving party or of any person to whom the receiving party has given access.
- (b) If the disclosing party requests, instead of erasing or destroying under clause 26.4(a), the receiving party must permanently de-identify, de-sensitise and declassify, all electronic and other intangible records containing, recording or referring to Confidential Information.

26.5 Security and control

The receiving party must:

- (a) keep effective control of the Confidential Information; and
- (b) ensure that the Confidential Information is secure from theft, loss, damage or unauthorised access or alteration.

26.6 Media releases

The Service Provider must not issue any information, publication, document or article for publication in any media concerning the Good or Services or the Developed Material without the City's prior written consent.

27. FORCE MAJEURE

27.1 Notice and suspension of obligations

If a party to this Agreement 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 Agreement 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.

27.2 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.

27.3 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.

27.4 Termination

If a Force Majeure Event continues for more than 10 Business Days, the City may terminate this Agreement by giving at least one Business Day's written notice to the other party.

28. DISPUTE RESOLUTION

28.1 Application

Any Dispute must be determined in accordance with the procedure in this clause 0.

28.2 Negotiation

- (a) If any Dispute arises, a party to the Dispute (**Referring Party**) may by giving notice to the other party or parties to the Dispute (**Dispute Notice**) refer the Dispute to the Service Provider's Representative and the Contract Manager for resolution. The Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is given pursuant to this clause 0; and
 - (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;

- (B) references to any:
 - (aa) provisions of this Agreement; and
 - (bb) acts or omissions of any person,
relevant to the Dispute; and
 - (C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.
-

- (b) Within 10 Business Days of the Referring Party giving the Dispute Notice (**Resolution Period**), the Service Provider's Representative and the Contract Manager must meet at least once to attempt to resolve the Dispute.
- (c) The Service Provider's Representative and the Contract Manager may meet more than once to resolve a Dispute. The Service Provider's Representative and the Contract Manager may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.

28.3 Condition precedent to litigation

Subject to clause 28.4, a party must not commence legal proceedings in respect of a Dispute unless:

- (a) a Dispute Notice has been given; and
- (b) the Resolution Period has expired.

28.4 Summary or urgent relief

Nothing in this clause 0 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

29. NOTICES

- (a) A notice, consent or other communication under this Agreement 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 29 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 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.

30. AMENDMENT AND ASSIGNMENT

30.1 Amendment

This Agreement can only be amended or replaced by another document executed by the

parties.

30.2 Assignment

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this Agreement with the written consent of the other party.

31. PUBLIC HEALTH ORDER

31.1 In this clause "Public Health Order" means an order made by the Minister for Health and Medical Research under section 7 of the Public health Act 2010(NSW) as amended, updated, replaced or superseded.

31.2 This clause 31 takes priority over every other clause in this Agreement. To the extent of any inconsistency between this clause and any other clause of this Agreement this clause prevails.

31.3 The Service provider must:

(a) at all times comply with any Public Health Order issued that is applicable to the provision of the Goods and Services; and

(b) immediately comply with and follow any of the City's directions in order for the City to comply with any Public Health Order.

31.4 To the fullest extent permitted by Law, the Service Provider agrees that the City is not liable for and releases the City from all claims, actions, demands, liabilities, costs, claims for compensation, rights of action, losses, forfeitures, proceedings (whether actual or potential) expenses or demands incurred by the Service Provider as a result of:

(a) the Service Provider's compliance with this clause 31; and

(b) the exercise of the City's rights under this clause 31.

32. GENERAL

32.1 Governing law

(a) This Agreement is governed by the law in force in New South Wales, Australia.

(b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia.

32.2 Access to information

In accordance with s121 of the *Government Information (Public Access) Act 2009 (NSW)*, the Service Provider agrees to allow the City immediate access to the following information contained in records held by the Service Provider:

(a) information that relates directly to the performance and supply of the Goods and Services by the Service Provider;

(b) information collected by the Service Provider from members of the public to whom the Service Provider provides, or offers to provide, services on behalf of the City; and

(c) information received by the Service Provider from the City to enable the Service Provider to provide services to the public.

For the purposes of clause 32.2, 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.
-

32.3 Liability for expenses

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this Agreement.

32.4 Giving effect to this Agreement

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this Agreement.

32.5 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

32.6 Operation of this Agreement

- (a) This Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Agreement and has no further effect.
- (b) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the intended effect of this Agreement.

32.7 Operation of indemnities

- (a) Each indemnity in this Agreement survives the expiry or termination of this Agreement.
- (b) A party may recover a payment under an indemnity in this Agreement before it makes the payment in respect of which the indemnity is given.

32.8 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 Agreement, 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.

32.9 Set off

The City at its discretion may set off or apply any amounts payable by it to the Service Provider under this Agreement towards satisfaction of any amount payable to the City by the Service Provider under this Agreement after giving the Service Provider prior written notice of its intention to do so.

32.10 No fetter

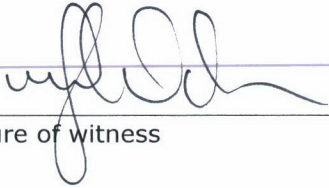
Nothing in this Agreement in any way restricts or otherwise affects the City's unfettered discretion to exercise its statutory powers as a public authority.

32.11 Counterparts

This Agreement may be executed in counterparts.

EXECUTED as an agreement.

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

Tersiia Wilson.

Name



Signature of officer

Veronica Lee

Name

SIGNED by Artcraft, CAN 77 004 399 642,)
in accordance with Section 127 of the)
Corporations Act 2001(Cth):)



Director:

JOHN MANCINI

Name (printed):

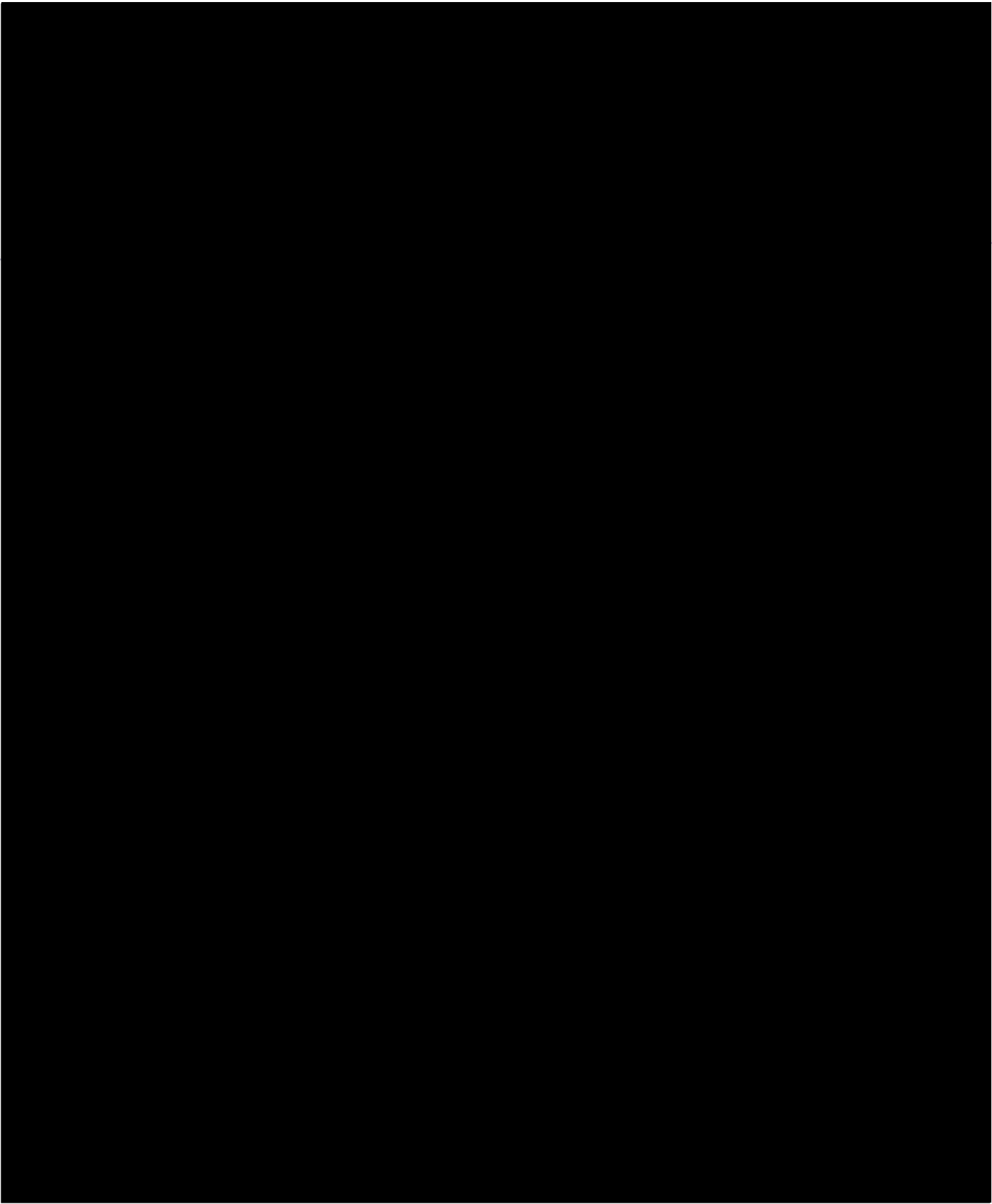


Director/Secretary:

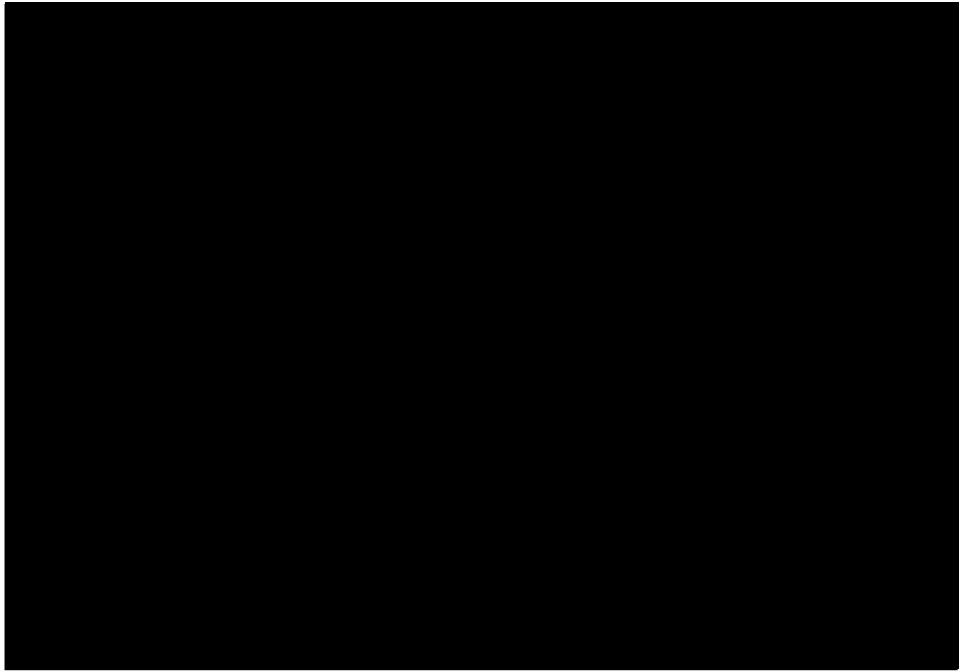
RICCARDO LETARI

Name (printed):

		Ongoing Security	To be reviewed after 2 years from Start Date, based on Quality and Performance
10.	Minimum level of Insurance	Public and Products liability	\$20,000,000
		Professional indemnity	\$5,000,000
		Workers Compensation	As required by law
		ANY OTHER INSURANCE	e.g. vehicle and equipment/property in care custody or control
Address of the City (including the Contract Manager) for service of notices		Attention: Matthew Waterman Project Coordinator Address: Council of the City of Sydney Level 2, Town Hall House 456 Kent Street Sydney NSW 2000 Email: MWaterman@cityofsydney.nsw.gov.au	
Address of the Contractor for service of notices		Attention: Gary Flexman General Manager Address: 31 Boron Street, Sumner Park, Qld, 4074 Email: GFlexman@ausam.com.au	







Request for Tender

City's Public Domain Signage Contract

Principal's Contract Requirements (PCR)



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

Sydney2030/Green/Global/Connected

Document Issue

Revision	Date	Owner	Comments	Approver	Signature
A	24/5/21	PGS	DRAFT		
B	23/6/21	PGS	DRAFT		
C	20/7/21	PGS	DRAFT		
D	29/7/21	KF	DRAFT		

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1 INTRODUCTION

This Principal's Contract Requirements (PCR) sets out the summary of the Principal's minimum performance objectives for the Public Domain Signage Contract (the Contract) and must be read in conjunction with the existing documentation supplied for the Request for Tender (RFT), specifically

- Principal's Contract Requirements
- Master Services Agreement
- Part A – Request for Tender Invitation
- Part B – Administrative Specification inc. Tender Specifications & Performance Review
- Part C – Request for Tender Returnable Forms
- Documents for Information Only

The Public Domain Signage Contract relates specifically to the provision of signage maintenance and auditing services for the City's Wayfinding, Parks, Cycleways and Road Signs (Street, Regulatory & Non-Regulatory). However, it also requires the Service Provider where necessary to provides services relating to design, artwork (including maps) and content management.

The Principal in this PCR is also referred to as the Council of the City of Sydney. Terms, which are defined in the Master Goods and Services Agreement, have the same meanings when used in this document.

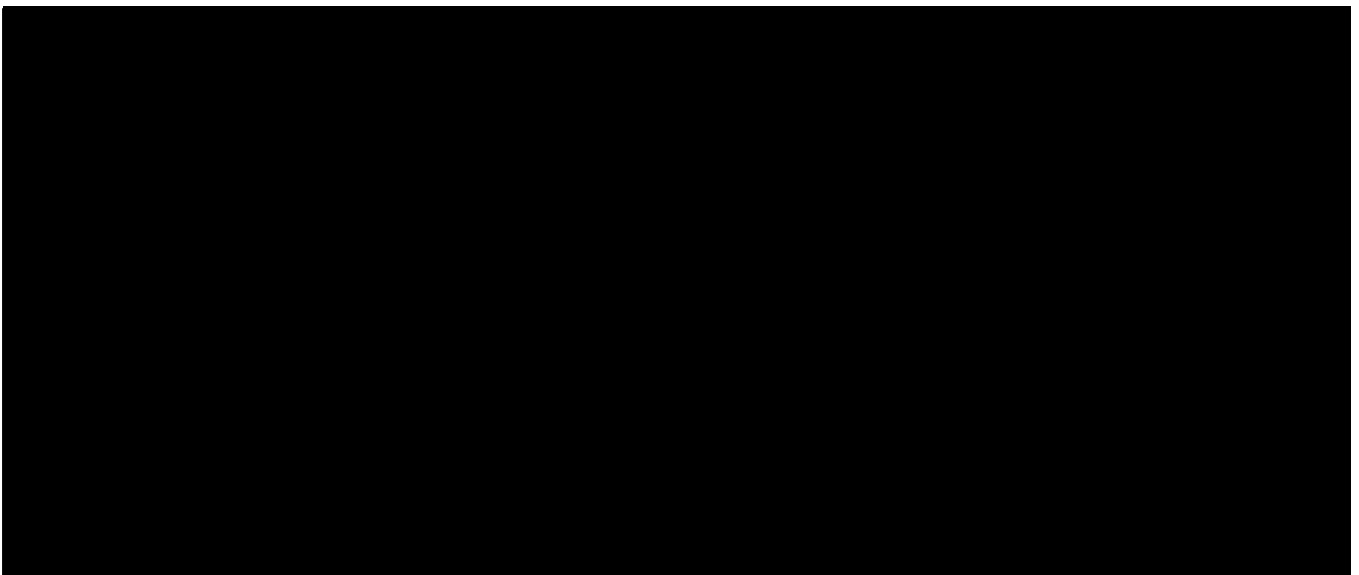
The contract scope of services for this RFT will require a multidisciplinary approach. For a successful submission, tenderers will demonstrate a range of expertise within the proposed project team, including the manufacturing and installation of signage in the public domain, engineering design, underground service scanning, minor civil works, asset & data management, as well as graphic design and the development and management of signage content.

1.1 The Contract





1.4 Contract Annual Values



1. Condition Assessments and Audits

- a. Condition assessments and rating for existing signage will determine the program of maintenance works.
- b. Site audits of existing is required for new and assets and out of date signage (10yrs +)

2. Design

- a. Content layout, design, artwork (and map) management, production & content file management.
- b. Engineering design development and detailing as required.

3. Manufacture, Supply and Installation of New & Replacement Signage

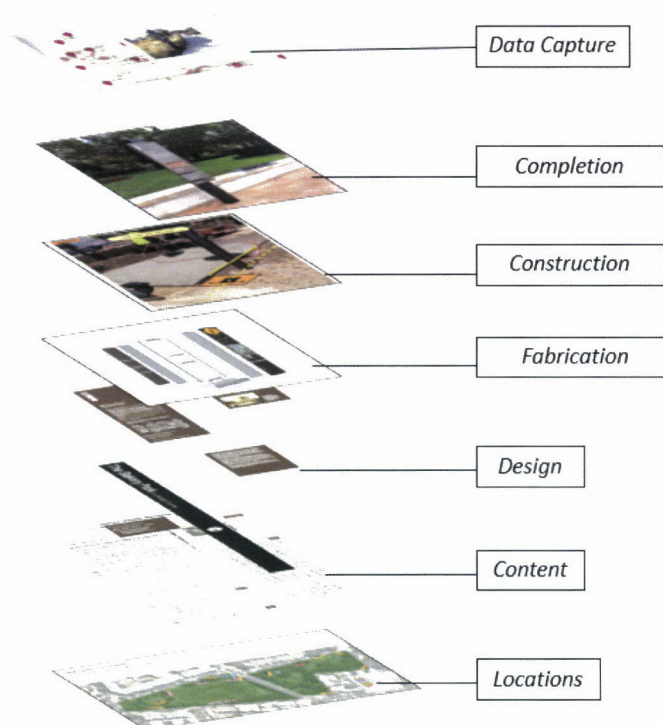
- a. Manufacture & Fabrication
- b. Preparation & Painting
- c. Direct Digital Printing
- d. Anti-graffiti film application
- e. Signage and Braille manufacturing and installation
- f. Installed inground surface make good works
- g. Engineering design/details for any new signage types.

4. Maintenance of existing.

- a. Replacement of parts or whole signage elements.
- b. Re-alignment of signage
- c. Other "make good" requirements as agreed

1.8 Asset Management Ownership

The diagram below identifies the components of the signage design, development and installation process for Parks.



1.9 The table below identifies the owner of each process within the signage asset management cycle.

	<i>Package 1</i> <i>Wayfinding, Parks Cycleways</i>	<i>Package 2</i> <i>Road Signs</i>
<i>Data Capture</i>	<i>Service Provider</i>	<i>Service Provider</i>
<i>Completion</i>	<i>Service Provider</i>	<i>Service Provider</i>
<i>New Signs & Maintenance</i>	<i>Service Provider</i>	<i>Service Provider</i>
<i>Fabrication</i>	<i>Service Provider</i>	<i>Service Provider</i>
<i>Design</i>	<i>Service Provider (To City Supplied Specifications)</i>	<i>Service Provider (To Australian Standards Specs.)</i>
<i>Content Management</i>	<i>Service Provider</i>	<i>Service Provider</i>
<i>Content Supply</i>	<i>City of Sydney</i>	<i>City of Sydney</i>
<i>Locations</i>	<i>City of Sydney</i>	<i>City of Sydney</i>

1.10 Signage Types per Package

Package No.1 Wayfinding, Parks and Cycleways	Package No.2 Road Signs
<p><u>Wayfinding</u></p> <p><i>Sign Structures</i></p> <ul style="list-style-type: none"> a. Pylon (free standing) b. Flag Signs (smart pole mounted) c. Finger Signs (smart pole mounted) d. Braille (smart pole mounted) <p><i>Information applied to structures</i></p> <ul style="list-style-type: none"> a. Directional wayfinding b. Detail and overview maps with walking routes, roads, buildings and landmarks + orientation to link areas of City c. Braille/tactile contact detail 	<p><u>Road Signs</u></p> <p>Street signage assets defined as regulatory, non-regulatory and street name plates.</p> <p><i>Sign Structures</i></p> <ul style="list-style-type: none"> a. Pylon b. Smartpole c. Building d. Wall e. Steel Pole <p><i>Sign Types</i></p> <ul style="list-style-type: none"> a. Street Nameplate Signs (Fingerboard) b. Parking signs c. Regulatory signs d. Guide signs e. Non-standard sign
<p><u>Parks</u></p> <p><i>Sign Structures</i></p> <ul style="list-style-type: none"> a. Post & Wall Mounted signs <p><i>Sign Types</i></p> <ul style="list-style-type: none"> a. Entry b. Regulatory c. Facility Specific d. Community Facilities e. Ecology f. Wayfinding g. History 	
<p><u>Cycleways</u></p> <p><i>Sign Structures</i></p> <ul style="list-style-type: none"> a. Independent steel pole, wall, smart pole, timber pole <p><i>Signage Types</i></p> <ul style="list-style-type: none"> b. Finger c. Advanced Directional d. Reassurance e. Route Markers f. Dismount Signs 	

	<ul style="list-style-type: none">• Austroads Guide to Traffic Management Part 10, Transport Control Type Devices (2020)• Austroads Bicycle Wayfinding Publication No. AP-R492-15
--	--

Wayfinding & Park Signage

City Wayfinding and Park Signage design documentation is supplied within the tender documentation, all work and materials shall comply with the latest editions of applicable Australian codes or standards.

All the above standards, codes, preliminaries, guidelines, specifications and associated documentation are to be obtained from relative authorities at the tenderers cost.

1.16 Warranty Period

1.16.1 Road Sign and Cycleways Warranty

The Service Provider shall provide installation warranty and manufacturer warranty for all of its products. The coverage type for warranty shall also be detailed in the tender submission.

1.16.2 Wayfinding and Parks Warranty

The Service Provider is to provide the following warranties for each individual sign.

- Minimum of 5 year warranty for colour fastness
- Minimum of 7 years warranty for adhesion
- Minimum of 10 years for the overall installed sign, including required labour, all components and finishes

The warranty shall be against deterioration by weather, fading, non-uniformity of finishes (i.e. beyond that tolerance accepted on completion) and defects due to faulty workmanship or materials. The warranty must include the supply of all parts required, labour and plant to rectify any quality issues.

1.17 Program & Job Origination

Programs will result from the initial and ongoing condition assessments coupled with jobs captured by the City's Customer Services Management System (currently CAMS via Pathways).

The Contract Manager will coordinate and schedule both delivery requirements with the Service Provider to ensure efficiency of time and resourcing. It is expected that all will be automated direct from CAMS through to the Service Provider to deliver requested maintenance services with the City validating outcomes and invoices. This will be presented and discussed at the initial "on-boarding" meeting with the Service Provider. Note, the City is also considering use of the City's GIS system for data capture. This will have no impact on the Service Provider and will be advised at Contract award.

1.18 Programmed Work (Program)

A program of works will be developed by the Service Provider following or at intervals during each condition assessment, for approval and budget allocation by the City for each financial year. If budgets are adjusted, the Service Provider will be requested to similarly adjust the programs of

work to suit. Programs of work will be approved by the Contract Manager for scheduling within each Financial Year.

Programs of work are not guaranteed until budgets are approved by the City and the Contract Manager has delivered a purchase order to the Service Provider. Works are to proceed upon receipt and confirmation of the purchase order and approved programs of work.

Non-guaranteed programs of work for each financial year will be confirmed before the commencement of that financial year, for information only.

1.19 Responsive Works (Jobs)

The City's Customer Services Management System is currently known as "Pathways". Pathways captures internal and external communications and records issues identified by City staff and members of the public. This information updates to CAMS with the relevant information for a job.

Jobs will be allocated direct to the Service Provider for scheduling within the financial year. This process will be presented and discussed at the initial "on-boarding" meeting

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2 CONTRACT ROLES

2.1 Contract Roles and Responsibilities - City Staff

Contract Manager: the Service Provider must obtain required approvals to perform works under the Contract, from the Contract Manager, prior to carrying out any instructions from other City employees and external parties.

Project Coordinator: the City employee responsible for issuing and monitoring the program of works allocated to the Service Provider. The Project Coordinator coordinates and manages the delivery of approved works and manages funding and program changes. The Project Coordinator verifies the Service Provider is delivering works to the specifications, and the scope of works and audits work sites for safety and Contract compliance during, and at the completion of, works.

Design Manager: the City employee who coordinates content and design between the asset owner, client / stakeholders and the Service Provider. He/she is responsible for confirming delivery scope, keeping documentation and content up to date, and managing artwork and maps for the Service Provider to deliver.

2.2 Contract Roles and Responsibilities - Service Provider's Staff

Operations Manager: the Service Provider's employee named in Schedule 1 (Contract Information) nominated to coordinate the delivery of all City allocated Job programs. The Operations Manager will liaise with the Project Coordinator in planning the delivery of each Job program.

The Service Provider's nominated operations manager is responsible for all coordination and management of the project team members including their payments, as well as all communication with the Council representing the one point of contact of the project team.

Project Manager: the Service Provider's employee for which Jobs are allocated by the Operations Manager to deliver for the City. The Project Manager will be the Service Provider's employee who will coordinate with the Contract Coordinator for all Job delivery issues.

Design Manager: the Service Provider's employee who coordinates with the City Design Manager to provide design work as needed and prepare received delivery scope for manufacture. He/she will also compile completion photos for return and will need industrial design input for any structural detailing if required. Their work involves artwork production, map design, documentation, artwork management and possible industrial design.

2.3 Scope of Work and Services

The scope of work under the Contract includes but is not limited to:

- The manufacture and installation of new and replacement signs to the standards specified
- Underground services scanning for all new locations of footings
- Confirmation of all sign locations/placements on site
- Installation of footings for damaged and replacement pylons and posts.
- Re-connection of power for the taxi rank pylon signs
- Make good of all surfaces around pylon, post and pole locations for sign installation to match existing finishes
- The preparation of prototypes and samples as identified in prototype requirements.

- Provision of workshop drawings for approval by the City prior to prototyping & design development.
- Provision of photographic documentation of all installed signs and all removed signs
- Removed signage to be disposed of via recycling plan.
- Capture of required data in CAMS for all signs installed, condition assessments and audits
- Condition assessments and audits as scheduled by the Contract Manager
- Responsibility for procuring other service information from relevant authorities and/or surveying the sites to establish no disruption/damage to services will occur as a result of the signage works
- Responsibility for obtaining any required permits to carry out the works
- Provision of pedestrian traffic control measures during installation as required
- Provision of all labour, materials and equipment needed to do the work or as necessary for its proper completion
- The protection of all finished materials from damage during storage, transport, installation and on the various sites prior to completion
- Coordination of all associated trades as required to complete the works
- Working with the City on design, content and communication solutions for issues that might arise during the installation process
- Cleaning on completion and making good any damage to existing surfaces.
- Attendance at required meetings as listed.
- Attending online or at the City of Sydney Offices a weekly status report meeting and a monthly meeting for KPI reporting. To be agreed at the initial on-boarding meeting.
- Applying the signage types maintenance requirements as per the supporting design documentation.
- Provision of a warranty for all works produced as an 'as built' product – supplied and fitted and warranted as a finished product.
- Performance of all work contemplated by this contract (including any specialist sub-contractor input, etc.) and completion of all the services which are necessary to accomplish all of the objectives and requirements of this contract
- Clarification and confirmation of the City's requirements for the services as expressed in this Contract
- Directly engaging of sub-contractors and coordination of their work throughout all stages of the project as required
- Cooperate fully with, coordinate and integrate the services of any consultants/contractors engaged directly by the City
- Perform services to the City's approved budgets, purchase orders and works programs
- Ensuring all services and scope of the work under the Contract is to be executed in accordance with the specifications and the associated Technical & Design Manuals.

3 TENDER SUBMISSIONS

3.1 Request for Tender Returnable Forms

All returnable tender forms identified in PARTC must be completed as part of this request for tender.

4 POST AWARD DOCUMENTATION FOR COMPLETION BY BOTH PARTIES

4.1 Contract Management Plan

The City and the Service Provider will complete a Contract Management Plan to ensure works under the Contract progress with a clear understanding of requirements and obligations.

The City will develop and table the Contract Management Plan at the on-boarding meeting for review and refinement.

The City's Contract Manager and the Service Provider's Operations Manager will be required to approve the Contract Management Plan

Below are the items covered within the Contract Management Plan.

Item	Documents
1. Key Contacts Information	Title, names, and contact info
2. Records Management	Access to city Document management Systems TRIM
3. Transition Planning	As per table below
4. Risk Management	Submitted Risk Management Plan
5. Communications	Submitted Comms platform proposed
6. Performance Management	KPI's and reporting set up
7. WHS and Environment	Submitted Work Health & Safety & Environment Plan
8. Inspection & Audits	Identified and agreed (QA)
9. Financials	Workflow and payment process
10. Securities	Service Provider contract requirements
11. Insurance Requirements	Service Provider contract requirements
12. Reporting	Monthly and weekly format and delivery
13. Variations	Notification and capture
14. Options	Renewal lead in for contract option
15. Transition Out	Documentation and handover status

16. Calendar of Events	Proposed meeting and contract related activities
17. Risk Assessment	Start of contract & annually
18. Performance	Outcome against KPI's
19. Transitions plan	End of contract lead time
20. Summary of Variations	Weekly Reporting in communications system, captured and delivered through workflow
21. Summary of Issues	Weekly Reporting in communications system, captured in Contract Mgt Plan
22. Summary of Lessons Learnt	Weekly Reporting in communications system, captured in Contract Mgt Plan
23. Schedule of rates	Approved rates for use under the Contract

4.1 Contract Risk Assessments (City of Sydney)

The table below has been completed by the City and forms part of the contract management document. It highlights the City identified risks inherent in contract relationships and will require both parties be aware of these risks and to work cooperatively to manage and mitigate these identified risks. It is not an exhaustive list of risks and the Service Provider will need to complete this Risk Assessment with other identified risks and alternatives or suggested control to mitigate each risk.

Risk Assessment Worksheet (Contracts)

RISK Enter a description of the risk e.g.	IMPACTS Enter a description of the impacts of the risk e.g.	CAUSES Enter a description of the causes of the risk e.g.	EXISTING CONTROLS Enter a description of mitigation factors already in place e.g.	LIKELIHOOD Choose the relevant chance of the risk occurring referring to the likelihood matrix:	CONSEQUENCE Choose the relevant consequence if the risk occurs referring to the consequence matrix:	PRIORITY RATING Combine estimates of Likelihood and Consequence using the risk priority matrix	TREATMENT STRATEGY Enter a description of the further achievable actions to be put in place e.g.
1. Contract Variations 2. Contractor solvency 3. Safety of contractor	1. Budget overruns 2. Unable to deliver services 3. Injury to contractor or member of public	1. Inadequate specifications 2. Contractor bankrupt 3. Unsafe work practices	1. Contingency budget 2. Financial Checks 3. Safe Work Method Statement	- Rare - Unlikely - Possible - Likely - Almost Certain	- Insignificant - Minor - Moderate - Major - Extraordinary		1. Regular Monitoring 2. Relationship Management 3. Review & Monitor
Customer complaints	Reputation	Noise, parking issues	Preference to <u>work days</u> , resident letter drop process	Likely	insignificant	Moderate	Good customer service process
Installation errors	Reputation	Supplier error	Good communication	Likely	Insignificant	Moderate	Accurate reporting, regular communications
Not meeting timeframes	Reputation	Supplier resources	Panel tender, use next on list	Likely	Insignificant	Moderate	Relationship management
Contract variations	Budget	Supplier not understanding SOR	Regular meetings	Likely	Insignificant	Moderate	Relationship management
WHS Risks	Injuries to contractors or public	Unsafe work practices	SMS procedure for Contractor Management	Possible	Minor	Moderate	Review and monitor by on site auditing
Contractor insolvency or contractor underperformance	Time and budget	Unable to deliver services	Panel of contractors, use next on list	Possible	Minor	Moderate	Relationship management, review and monitor
Weather related delays	Time and reputation	Deadline delays	Planning and communication	Possible	Insignificant	Low	Monitoring and planning
Clarity of schedule of rates	Budget	Delay in invoicing, not reviewing invoices	Monitor and review, good reporting	Possible	Insignificant	Low	Monitor and review

5 POST TENDER REQUIREMENTS OF THE SUCCESSFUL TENDERER (PART 1)

5.1 On-Boarding Meeting

A contract on-boarding meeting will be held between parties on awarding of the contract, the expectation is that the successful tenderer will have a draft Implementation Plan ready to be tabled for development, discussion, review and refinement at the on-boarding meeting. This

meeting will also review the contract to ensure both parties are fully aware of their obligations under contract.

5.2 Implementation & Management Plan – by Successful Tenderer

The Implementation Plan is to include all documentation and actions required to implement the contract and establish systems and processes to effect delivery under contract.

The intent is to capture contract management requirements in a single document and treat these as a live document to be updated and amended at the regular contract meetings.

Inclusions:

1. Post Tender Documentation
 - a. WHS Management Plan
 - b. Safe Work Method Statement Management Plan
 - c. Environmental Management Plan
 - d. Traffic Management Plan including Traffic Control Plan
 - e. Contract WHS Risk Assessment
 - f. Emergency Management Plan
 - g. Quality Management Plan
 - h. Delivery Management Plan
 - i. Maintenance Management Plan
2. Support Services
 - a. Content Management Capability/Platform
 - b. Communications Management Platform
 - c. Media and Design File Management
 - d. Works Verification Process
 - e. Integration of City Systems – CAMS & Confirm Connect
 - f. Proposed File Management – completed installation work.
3. Programs
 - a. Delivery program – Gantt chart.
 - b. Samples and Prototypes Schedule
 - c. Control Samples Schedule
4. Audit and Condition Assessment Plans
5. Contract Monthly Reporting Plan
6. Annual Reporting Plan

6 POST TENDER REQUIREMENTS OF THE SUCCESSFUL TENDERER (PART 2)

6.1 Documentation for Submission and Approval

Documents below form part of the Implementation and Management Plan to be provided by the successful tenderer. Refer to the **Schedule of Submissions in Part B Administrative Specification**.

6.2 WHS Management Plan Submission & Approval

Submission of your Work Health and Safety Management Plan will be assessed against The City's **WHS Management Plan Review Form**.

This document requires some consideration by both parties and underpins The City's WHS commitment to safety in the workplace. The successful tenderer should ensure sufficient time is set aside to complete this documentation.

See attached guidelines within the RFT for the WHS Management Plan's requirements.

You are required as a condition of your contract to know, understand and abide by all safety rules. Any Contractor who disregards the City's safety procedures and endangers either their own safety, the safety of fellow workers or others may jeopardise their contract.

6.3 Safe Work Method Statements (SWMS)

Safe Work Method Statements for the supplier's business and all subcontracted services are to be reviewed against the City's **SWMS Review Form** prior to submission.

Importantly for High Risk work this form is used to evaluate a Contractor's Safe Work Method Statement before they commence high risk construction work.

The intent is to ensure that a contractor has assessed the risks and developed site-specific SWMS to safely perform the high risk works in line with legislation, codes of practices and standards.

This form needs to be completed prior to the Contractor undertaking known high-risk work or the construction work for which the SWMS applies.

The City will review the submitted forms and approve prior to any work being undertaken. All SWMS are to be applicable to the City's signage contract works requirements and not generic in nature.

6.4 Environmental Management Plan

An Environmental Management Plan (EMP) is required to show the suppliers ability to manage environmental performance, conditions, and impacts arising from any excavation works associated with new and replacement works. As an example, there are known hazardous materials (asbestos) within Sydney Park that will impact work involving new, removal, relocation and installation of posts. Waste disposal must be minimised and recycling and circular economy options for the disposal of all materials must be included in the EMP.

The requirements for EMPs, as outlined within the NSW Environmental Management Systems Guidelines, are considered best practice. The edition of the guidelines current at the time of construction must be used.

The Environmental Management Plan must include the following:

- a) comply with all relevant legislation.
- b) practical and achievable.
- c) assignment of responsibility for environmental controls.
- d) conditions of approvals, licences and permits to meet Legislative Requirements.
- e) details of environmental protection for each activity.

6.5 Traffic Management Plan (TMP) and Traffic Control Plans (TCP)

The sample TMP and TCP submitted returnable for Schedule G of PART C in the RFT is required to be completed and submitted.

The TMP & TCP must ensure pedestrian and traffic safety is managed for all works under contract. The TMP (including a Traffic Control Plan (TCP)) must be specific to the project scope, and be in accordance with the proposed methodology, construction/installation staging and program.

6.6 Project WHS Risk Assessments

The City has developed a WHS Risk Assessment Worksheet and included items deemed risks for works associated with delivery of the contract services.

The successful tenderer is to review & update the WHS Risk Assessment Worksheet with additional items that present risk to the contract service works. Identified risks are to be managed via alternatives and suggested controls to ensure risks are minimised or removed.

WHS Risk Assessment - Signage Services Contract													
Design Safety Assessment										Date: 1-Feb-20			
Project Name: Signage Asset Management Contract													
Project Location: Throughout City of Sydney's LGA													
Project Team: CoS: TBC Contractor: TBC													
Assigner or assignee: TBC (The awarded contractor at end of bidding process)													
										AWARDED CONTRACTOR TO COMPLETE			
Life Phase	Hazard Identified	Location and work activity of WHS Hazard	Potential impact of hazard	Persons Affected	INITIAL ASSESS			REVISED ASSESS			Residual Risk	Additional Requirements	
					Likelihood	Consequences	Risk Rating	Likelihood	Consequences	Risk Rating			
1.0 Construction													
1.01	Injury from vehicles, utilities, trees, or equipment or premises both located and not located	Overall Project	Accident of conflict with utility. Possible personal injury and/or equipment damage. Further potentially as a result of driver error or vehicle speed control.	Contractors, staff, public	3	2	6						
1.02	Damage to existing or proposed infrastructure for relocation of a utility or service	Overall Project	Potential damage to existing infrastructure from inefficient operation and installation, resulting in an impact on public supply and/or the construction staff	Contractors, staff, public	3	2	6						
1.03	Exposure to contaminated material for demolition or excavation under utility lines or substation	Overall Project	Potential exposure of contractors, staff and public to contaminated ground or potential mobilisation of contaminants	Contractors, staff, public	3	1	3						
1.04	Injury from overhead or underground utilities or equipment, or damage to property due to the project or utility safety from traffic control measures	Overall Project	Conflicts with traffic for vehicle within or adjacent to the construction site	Contractors, staff, public	3	2	6						
1.05	Injury from conflicts between vehicles, materials, or equipment, or injury and construction staff	Overall Project	Conflicts between contractors, staff and public to contaminated ground or potential mobilisation of contaminants	Contractors, staff, public	3	1	3						
1.06	Injury from the construction activity, including truck movement	Overall Project	Conflicts between construction activities and a source of public	Contractors, staff, public	3	2	6						
1.07	Injury to workers and public from noise, dust, debris and/or vibration or other factors during construction work	Overall Project	Use of working conditions for staff, contractors, public and/or the public	Contractors, staff, public	3	4	12						
1.08	Injury from the use of equipment	Overall Project	Construction activities and equipment	Contractors, staff	3	1	3						
WHS - Construction					WHS - Maintenance					The Risk Matrix			

6.7 Emergency Plan

The contractor is to provide an Emergency Plan covering the potential emergencies that could arise and the procedures and processes to be implemented to manage an emergency.

The Service Provider and the City must each provide the other with two contact numbers where they may be contacted in emergencies when their respective offices are unattended (**Emergency Contacts**). Each party must be available via its Emergency Contacts 24 hours a day, every day of the year.

6.8 Quality Management Plan

Of particular importance are the requirements to submit and have approved a Quality Management Plan (QMP) that starts with the design file through to installation and verification. The QMP forms an important component of the supply chain and logistics management for delivery of final product.

The project QMP is required to articulate the successful tenderer's processes ensuring items below meet the standards specified within the design documentation.

- Contract Review
- Design
- Documentation & Change Control
- Purchasing
- Customer Supplied Items
- Process Control
- Receiving Inspections
- Inspection & Testing
- Production & Measuring Equipment
- Recording and Inspection Status
- Non-conforming Items, Preventive & Corrective Action
- Handling, Storage, Packaging, Preservation & Delivery
- Records Management
- Data and Asset Management
- Training
- Servicing Maintenance

6.9 Delivery Management Plan

The contractor is to provide a delivery plan capturing services and resources required to implement an initial 2-year program. The program is required to show management of the asset condition assessments for all signage, resources and hardware, training and integration with the City's IT systems, design file management, proto-type provision and sign off, delivery of responsive maintenance requirements.

The contractor is to provide a delivery plan that demonstrates their understanding of methodologies and processes required to implement and meet contract deliverables.

6.10 Maintenance Management Plan

How is maintenance to be managed to meet delivery timelines, including inventory management. What resourcing will enable response times to be met whilst ensuring completed works meet standards and can be verified by the City of Sydney. Include methodologies for items identified below.

6.10.1 Performance/Verification

The complexity inherent in a manufactured product such as signage will require the use of a self-auditing process and verification of work completed. Show how this will be managed. Note, the City will undertake random auditing and verification of works during and after delivery.

a. Above Ground Services Verification

"Confirm Connect" is to be used for all above ground maintenance verifications.

b. In Ground Services Verification

For all in-ground works that require excavation, photographic evidence showing works conform to specification is required.

7 PROJECT SUPPORT SERVICES TO BE SUPPLIED BY SUCCESSFUL TENDERER

7.1 Content Management

Currently content is managed manually with Wayfinding maps presenting the more complex requirements due to their interdependences with other signage and development and orientation of information for the map updating.

Existing maps require on average 2 hours to update and modify Wayfinding changes – works of this nature will be undertaken on a Schedule of Rates for the appropriate resource. See attached example of the process for updating maps manually, "City of Sydney Wayfinding Pylon Map Artwork Process".

The City is seeking input from the supplier relating to online content management capabilities, the costs and the ability to manage content and approvals plus artwork and version control.

At this stage costs and proposed methodologies for management of Wayfinding Content is to be provided with the RFT returnable section.

7.2 Communications Management System

The City has several software systems which the contractor is required to work with specifically related to job creation, workflow, job completion, data capture and financial management. There will also be the requirement for the contractor to provide a communications management platform and train users on the proposed system.

The contractor is to source, supply, fund and make available full access to a suitable Communication Management System. Prior to implementation approval by the City's Representative is required.

7.3 Media and Design File Management

The supplier will be required to provide a suitable file management system to manage the transfer, storage and file versioning of media files.

7.4 Works Verification System

The supplier will be required to provide a suitable Audit/Job Verification capability using the City's CONFIRM Connect audit, verification and registration system. This will be important to capture signage requiring in ground construction i.e. Wayfinding Pylons, Park Posts and Street Poles.

The intent is to ensure Quality Assurance is maintained by capturing photographic evidence of in ground works and the completed work.

Note, CONFIRM Connect will be the majority verification tool for the supplier and the City, however some City business units may request the use of an alternate system, to be advised as required.

7.5 Integration of City Systems - CONFIRM Connect & CAMS

The successful tenderer is to integrate their work process with the City's CONFIRM Connect with all completed maintenance and capital works jobs captured by CONFIRM Connect.

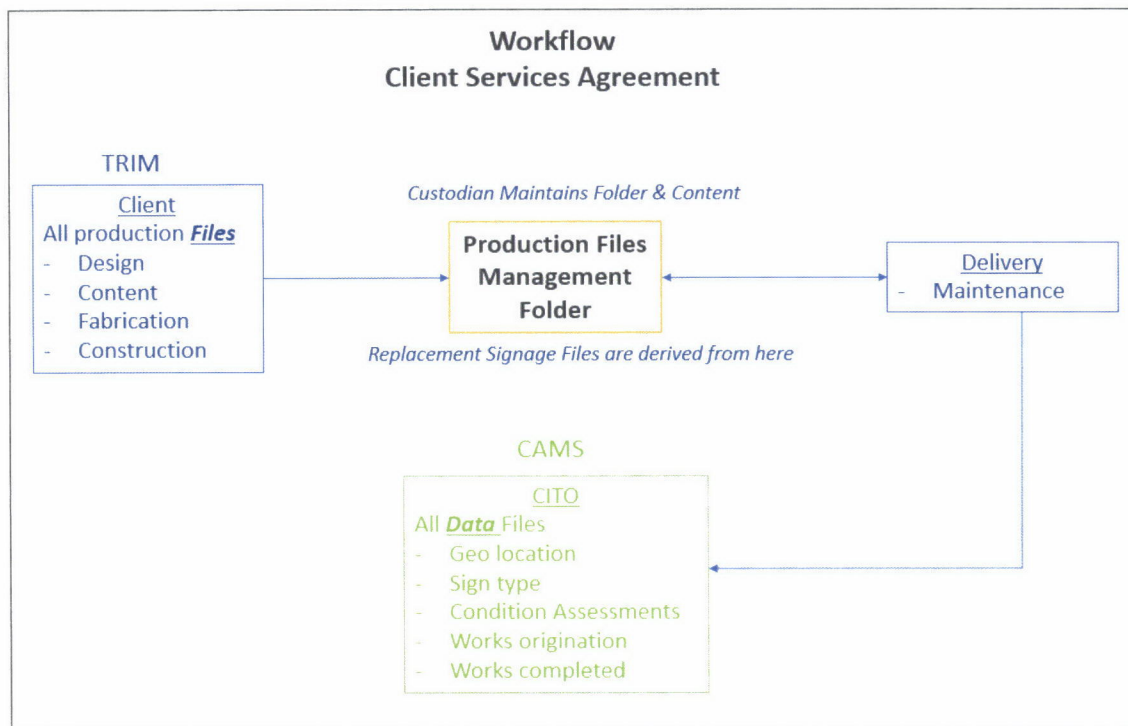
This will update CAMS with the changes and verify works are completed via photographic capture of the completed work.

Note, the City is currently considering the use of the City's GIS system. This decision should not impact the Contractor and will be present at the time of Contract award.

The contractor is to fund all costs associated with the communications, file management and verification platforms implemented on behalf of the City. The contractor is to ensure the City has full access during the contract and for a further five (2) years on completion of the contract.

7.1 Proposed File Management to be updated

For further development at the implementation stage with the successful tenderer.



8 PROGRAM

8.1 Delivery Program

Proposed Program of Delivery

	2022				2023				Condition Assessment Schedule
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Audit									
Cycleways		Q2							
Wayfinding									
Parks									
Road Signs					Q1	Q2	Q3	Q4	
Condition Assessments									
Cycleways		Q2							2 yearly from previous
Wayfinding				Q4					2 yearly from previous
Parks			Q3						2 yearly from previous
Road Signs					Q1	Q2	Q3	Q4	
Maintenance - Responsive									
Bicycle Network	Ongoing Responsive Works								
Wayfinding	Ongoing Responsive Works								
Parks	Ongoing Responsive Works								
Road Signs	Ongoing Responsive Works								
Maintenance - Programmed									
Bicycle Network					Programmed for Yr 2				
Wayfinding					Programmed for Yr 2				
Parks					Programmed for Yr 2				
Road Signs					Programmed Traffic Committee				

Future years condition assessments and audits timing is indicative only. Following the initial condition assessments and audits the City will agree with the Contractor all future requirements. Agreement will also cover the future application of current total costs (escalated by CPI), use of the Schedule of rates, or other agreed costing methodology.

At the completion of each calendar year the Contractor will undertake a desktop condition assessment to update prior condition assessment records to current.

9 CITY ASSET MANGEMENT SYSTEMS AND RELATED SOFTWARE

The City's Corporate Asset Management System (CAMS) records all assets under City management and control. The asset register and related maintenance data will be available to the Contractor at the commencement of the Contract through access to CAMS.

The successful tenderer will utilise The City systems and processes to deliver the signage maintenance services and data management under the contract.

Under the terms of this contract the City will provide support and access to its corporate applications using a virtual desktop environment.

9.1 Implementation of the Successful Bidders Asset Management System

Where agreed during the life of the contract, support may be provided to improve interoperability methods and facilitate the provider using their own GIS environment. Improvements may include support for Shapefiles, Well Known Text or other text formats (as applicable) if the provider uses their own tools.

9.2 IT Requirements to Manage utilising The City's Systems

CAMS – Access & Management The City uses Confirm software supplied by Assetic for its Corporate Asset Management System (CAMS). The City also uses ArcGIS as the Corporate Geographic Information System and Geocortex as its internal Web Mapping Service. Users can access CAMS and/or GIS via their respective desktop applications and Geocortex; or if using ConfirmConnect – Confirms' field mobility application if required. During contractor onboarding, agreement will be reached as to which access systems best meets the City's and contractor's needs.	
ArcGIS Desktop	ArcGIS Desktop is the City's geographic information system (GIS) and will be accessible for the purpose of collecting and updating spatial data correlating to assets stored in the asset register.
ConfirmConnect® (Field Mobility Application)	ConfirmConnect® is the solution that enables the workforce to update tasks in a live environment using phone or tablet devices in the field. Some aspects of this tender will be required to use this resource.
Desktop Hardware Specification	Minimum recommended specification for computers accessing City resources can be found at: https://www.vmware.com/support/viewclients/doc/viewclients_pubs.html The City's recommendation for minimum specification of desktop hardware is: Processor: Core i5, Storage: 500GB & Ram: 16GB
Mobile Hardware Specification	The City currently supports the use of Apple iOS on iPad devices. To maintain best performance results, it is recommended that no device be greater than two years old for high volume users (250+ records at any one time) and that an iPad Pro is used
Mobile Device Management	In order to manage security for mobile devices, the City requires that the provider be registered with Intune, the City's Mobile Device Management Service (MDM).
Applications and Licensing	All licencing costs for CAMS desktop, Arc GIS and ConfirmConnect field mobility are paid by the City.
Refer to City Assets Management Requirements and Related Software in Part B Administrative Specification for detailed information.	

9.3 Support and Contingencies

CAMS is supported by the City's dedicated administration team during office hours (8am to 5pm). Training in the use of the desktop and mobile applications will be provided by the City during contract transition.

A comprehensive CAMS User Guide will be provided to enable ongoing self-directed learning of the system specific to the requirements of this Specification.

9.4 On Boarding

The City will provide further documentation and training workshops at the beginning of the contract. Training is for 4 hours in total and is run regularly by The City.

Please note that:

- Cycling and Road Signs registers will be configured by the City and made available to the Contractor to populate.
- The asset registers for Wayfinding and Parks will be accessible at the commencement of the contract through the desktop and mobile applications.

10 CONTROL SAMPLES & PROTOTYPES

The successful tenderer is to supply the prototypes and samples as nominated below – the content will be provided by the City.

Samples of material to be used for this contract are to be delivered to The City's representative by the successful tenderer.

These materials will become the City's property and will serve as quality control. The City will conduct random audits on materials used by the Service Providers to ensure consistent and high-quality products are used throughout the contract.

10.1 Samples

Prior to sample & prototype manufacture provide 3 X A4 sized metal panel samples with each finished colour required for signage delivery. Following sign off of the colour system, control samples and prototype production can commence.

10.2 Control Signage Samples

Control Signage samples serve as quality control measures to ensure graphic consistency and continuity with existing signage. The City will provide files for production for Park Signage and City Wayfinding. These panels become the visual standard that must be met when producing any new signage.

10.3 Prototypes

Prototype to be the whole individual sign form/element, with all correct fabrication details and methods as intended for permanent installation. The prototype to be completed, reviewed in the workshop, amended if required and signed off prior to the production of remaining same/similar sign types.

Once signed off the prototype is to be installed in a location TBA, reviewed, amended if required and signed off prior to the installation of remaining same/similar sign types.

Prototypes of the following sign types are to be provided:

Sign Type	Sign Code	Number to be provided
Wayfinding		
<i>Pylon sign</i>	<i>W1</i>	<i>1 off</i>
<i>Flag sign</i>	<i>W4</i>	<i>1 off</i>
<i>Flag sign (public transport)</i>	<i>W13</i>	<i>1 off</i>
<i>Finger sign</i>	<i>W5</i>	<i>1 off</i>
Parks		
<i>Entry Sign (with history and APA panels)</i>	<i>S2</i>	<i>1 off</i>
<i>Regulation Sign</i>	<i>S4</i>	<i>1 off</i>
<i>Eco Sign</i>	<i>S14A</i>	<i>1 off</i>
<i>Unisex Toilet Entry</i>	<i>S5</i>	<i>1 off</i>
<i>Post</i>	<i>P1</i>	<i>1 off</i>
<i>Base Plate and Post</i>	<i>P1</i>	<i>1 off</i>
<i>Vinyl Wrap</i>	<i>S2</i>	<i>1 off</i>
Cycleways		
<i>Finger</i>	<i>FBR-02</i>	<i>1 off</i>
<i>Advanced Directional</i>	<i>AD-04</i>	<i>1 off</i>
<i>Route Markers</i>	<i>RM-02</i>	<i>1 off</i>
Road & Street Signs		
<i>No Samples or Prototypes Required</i>		

11 AUDITS & CONDITION ASSESSMENTS

Prior to commencing the audits and condition assessment work the successful tenderer is to meet with the City's representatives and confirm the items below, these are to be recorded in the Audit and Condition Assessment Plans.

- Data collection method
- Condition rating method
- Data input conventions
- Data reporting method
- Quality assurance method

The successful tenderer is to note that the condition data that they are collecting is required to be adequate and acceptable to prepare future years capital work programs and a prioritised maintenance program for identified defects along with developing a Summary of Public Domain Signage Asset Inventory.

The successful tenderer is required capture the audit and sign condition information by walking on foot, taking photos, recording defects and new signage data. The auditing and condition assessments rate within the schedule of rates is to include these requirements i.e. walking, data & photo capture requirements for the total number of asset identified.

The successful tenderer will incorporate changes identified in any asset during field inspection in CONFIRM

Bidders are required to clarify issues regarding the City's Confirm software & systems before submitting tender response.

11.1 Audit & Condition Assessment Schedule of Works

The following schedule is based on calendar year quarters e.g. Q2 – April to June.

	Cycleways	Parks	Wayfinding	Road Signs
Audit & Condition Assessment	Q2 2022			Q1-Q4 2023
Condition Assessment		Q3 2022	Q4 2022	

11.2 CAMS Data - Current Status:

1. Cycleways - No Data in CAMS
2. Road Signs – Partial Data in CAMS (10+ year Old)
3. Wayfinding & Parks - Existing Data (2yrs old)
4. All New Asset Data identified in the field will require Audit & Condition Assessment.
5. All New & Replacement Assets required an Audit &/or Condition Assessment data capture in CONFIRM Connect, these actions form part of the supply and installation service.

11.3 Audit & Condition Assessment Requirements

The Contractor is to undertake onsite condition assessment with the Confirm Connect app on contractor supplied iPads. All captured data and information automatically updates to CAMS.

11.3.1 Audit - Location and Assets Information Capture

1. Audit Data Capture
 - a. Geospatial location
 - b. Content of the Sign
 - c. Asset Type
2. Photo Verification
 - a. Take photos in 'standard' format provided by City.
 - b. Context (to show where asset is situated)
 - c. Content (legible to read specific component content)

11.3.2 Condition Assessment of Assets – Defects Capture

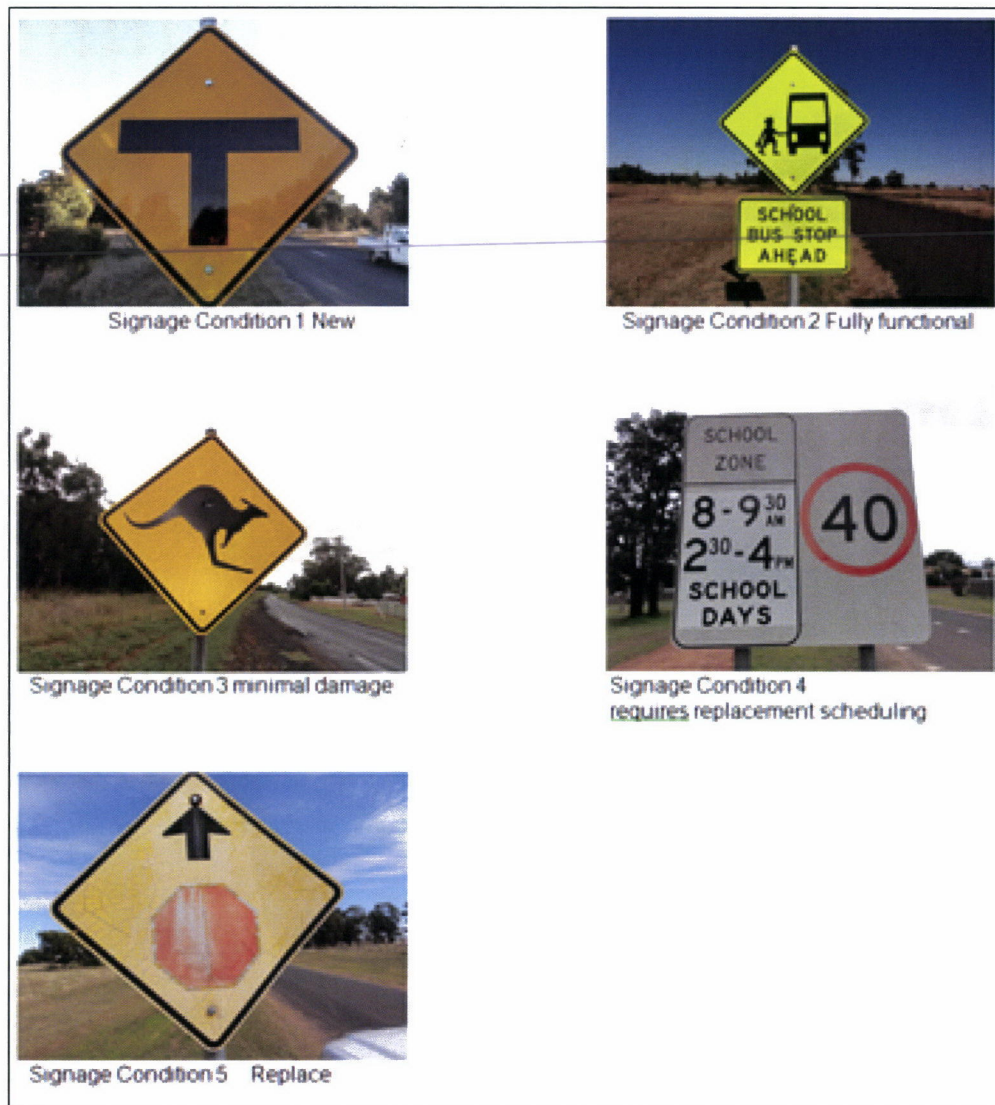
1. Condition Data Capture
 - a. Input a rating – as per rating criteria below.
2. Photo Verification
 - a. Take photos in 'standard' format provided by City.
 - b. Context (to show where asset is situated)
 - c. Condition (capture whole sign plate to show the condition)

Condition Rating	Maintenance Action
1 to 3	Retain
4 to 5	Replace

11.4 Condition Assessment Criteria

Condition assessment criteria outlined below relates to the industry standard 1 to 5 rating. The Contractor will undertake a condition rating focussed on either replacement or retention of the existing signage.

	1	2	3	4	5
Post	As new condition. Posts and foundations structurally sound.	Posts and foundations are structurally sound. Some scratching or chipping of poles. Posts and foundations structurally sound	Scratching and chipping of posts, loss of surface coating. signs of corrosion. Posts and foundations structurally sound	Surface treatment mostly lost, chipping and scratching, some corrosion evident, minor damage to posts. Posts and foundations are structurally sound. Some evidence of lean or settlement	Poor appearance, surface treatment abraded, pitting and corrosion evident, signs of damage. Serious defects with the posts including damage, foundation instability, pitting of surfaces, unstable foundations, corroded fixings or similar
Sign	As new condition	Signs clear and legible with no damage, some weathering or dirt. Sign message appropriate	Signs clear and legible with some minor damage, some weathering or dirt. Sign message appropriate	Signs faded and poorly legible with some minor damage, some weathering or dirt. Sign message appropriate but better options available.	Signs barely legible or obscured with dirt. Sign Message not appropriate.



12 ANNUAL PROGRAM REVIEW AND FORECASTING REPORT

Program development and forecasting will be determined by the mix of responsive and programmed works. An annual review and forecasting exercise will ensure delivery meets contract requirements and management of future budgets within the City.

An Annual Review and Forecasting Report is to provide a:

12.1 Prioritised Maintenance Program

The report in table form (excel) is sufficient. The report shall provide a breakdown of each asset category and type by condition, quantity and cost of maintenance for each of the category and asset types. The supplied spread sheet and underlying table is required to be amended and updated to balance budget against asset maintenance requirements.

12.2 Summary of Asset Inventory

The report is to identify total assets under contract annually, capturing the total number of signage categories and type information in table form (excel) is sufficient.

12.3 Summary Spreadsheet on Results

A final MS Excel file summarising all results is to be provided to the City. The first worksheet shall function as a user manual explaining all parameters, formulas and other important features so that the remainder of the spreadsheet is self-explanatory.

13 MONTHLY REPORTING AGAINST AGREED DELIVERABLES

13.1 Key performance indicators (KPI's)

The objective of the contract Key Performance Indicators is to record, monitor and evaluate performance against the Contract requirements. The assessment results will be compiled and used as part of the Contractor's performance reviews.

The Contractor will be assessed against the following KPIs:

1. Key Outcomes / Deliverables
2. Delivery against response times
3. Data Reporting – to be comprehensive with dashboard and drill down capability.
4. Administration and Document Management.
5. Data Management
6. Quality of work
7. Program
8. Time
9. Reporting
10. Communication
11. Work Health and Safety
12. Environmental Requirements

13.2 Contract Monthly Reporting

The contractor is to include in the monthly report deliverables and outcomes achieved against KPI's.

The information in the report will cover key contractual performance requirements associated with KPI's, WHS, Environmental, Quality Assurance, Communications, Operations, Financial and any Maintenance, Content or Design issues that arise. Other information may be required to be reported as part of a major Capital works Project

13.3 Reporting Format for Asset Categories

The contractor and the City will develop a weekly and/or monthly reporting format that conveys all the relevant information associated with **each asset category** and KPI requirements.

A concise format that presents a dashboard with associated underlying data is to be developed with The City's Contract Representative.

The Suppliers communication platform will also be used to status contract management issues and actions – including defects and items that arise.

Monthly Reporting

	Total This Month	Previous Month	Cumulative
Source			
Condition Assessment			
Pathway (City CRM System)			
Other			
Planned			
Client Request - New			
Design & Content Mgt			
Production			
Installed - New Asset			
Asset Created			
Handover			
Acquisition			
Operations			
Maintenance			
Renewal			
Disposal			
Priority Requests			
Reactive No. Requested			
Reactive No. Completed			
Percentage Completed KPI			
KPI Required			
Planned Delivery			
No. Scheduled			
No. Delivered			
Percentage Completed KPI			
KPI Required			
Defects			
No. of Defects Identified			
Defects for Rectification			
Percentage Completed KPI			
KPI Required			
Environmental			
See appendices table			
Content Management			

To be developed			
Data Management			
To be developed			
Financial			
To be developed			
WHS Statistics			
<i>Previous Month</i>			
Hours Worked			
FTE (Full time equivalent)			
LTI (No. of lost time incidents)			
HL (Hours lost to incidents)			
Incident rate			
Severity rate			
Item	Title		
SWMS			
Working at Heights Permit			
Quality Assurance			
Item	Details		
Defects Rectification Mgt	current rate above KPI		

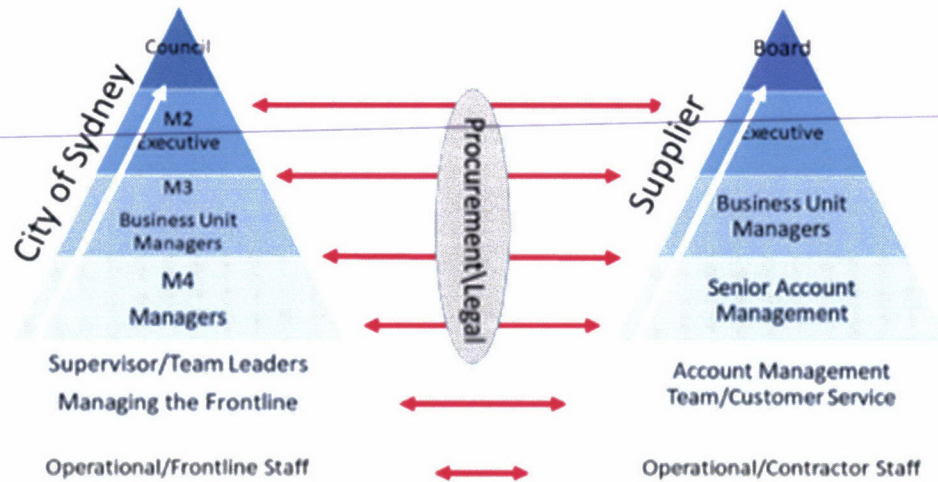
13.4 Waste Report

The City tracks waste data as part of The City's move to a sustainable environment. The contract is required to report Waste Management using the "SMART Waste Template Data Collection Waste Projects" supplied in the appendices.

14 COMMUNICATION AND ESCALATION

The purpose of the escalation process is to ensure continuity of the contract at an operational level whilst areas of concern or conflict are managed appropriately within the hierarchy.

Communication and Escalation Hierarchy



15 CONTRACT DEFINITIONS

15.1 Service Definitions

Item	Term	Details
1.0	Audits	An audit captures asset information – location, sign type and sign attributes.
2.0	Condition Assessments	Rating against a 1 to 5 assessment criteria.
3.0	Manufacture	Manufacture and Fabrication of approved signage to the required specifications complete and ready for QA and installation.
4.0	Supply	Delivery of local or overseas manufactured items to the site of installation.
5.0	Install	Mount or install the supplied signage components and undertake a QA review for construction items and update the Asset Management System (CAMS). Includes any excavation and pole embedment, footpath/road surface repair, new sign plates, new fixtures and fittings
6.0	Maintenance	<ol style="list-style-type: none"> 1. Replacement of parts or whole signage elements. 2. Re-alignment of signage

7.0	Design	How the information is presented
8.0	Content	The information contained within the sign

15.2 Deliverables

Item	Deliverables	Details
1.0	Project Management	<ul style="list-style-type: none"> Provision of complete project management package for the manufacture and installation of existing public domain signage assets. specified in this tender
2.0	Sampling and prototyping	<ul style="list-style-type: none"> Provision of samples and prototypes
3.0	Manufacture, Supply and Installation of signage	<ul style="list-style-type: none"> Artwork design and verification and provision of workshop drawings for approval. Manufacture, supply and install of identified signage throughout the whole of the LGA as per approved works schedules. Underground service scanning for relocated pylon, post and poles. Footing review and certification by structural engineer for new pylon, post and poles. Footing design as required for footings differing from any of the provided options Provision of all required permits and approvals from asset owners as required before commencing installation Footing installation and make good to footpath surface for pylon, post and poles. Photographic and GPS location verification of all installed signs
4.0	Removal of existing signage where nominated	<ul style="list-style-type: none"> Removal of existing pylon, post and pole signs as nominated. Photographic documentation of all removed signs Make good surface to match in locations of pylon, post and pole removals Disposal to a recycling facility and recording of quantities per month
5.0	Signage data capture	<ul style="list-style-type: none"> Capture of data for all installed signs and signage components. Data captured using CONFIRM for all the nominated signage attributes identified in the data capture template
6.0	Maintenance	<ul style="list-style-type: none"> Two (2) yearly condition assessments of identified signage is proposed as part of the services required in the contract Maintenance of any identified defects of installed signage/signage components Maintenance of any identified damage to installed signage/signage components
7.0	Content	<ul style="list-style-type: none"> Updating and management of signage content that is linked and/or has dependencies. Typically, Wayfinding is an example along with regulatory changes.
8.0	Design	<ul style="list-style-type: none"> Ensuring signage produced adheres to design documentation and baseline documentation is updated as required.

9.0	Condition Assessments	<ul style="list-style-type: none"> Potentially two (2) yearly condition assessment inspections. Signs will be given an asset rating with information and photos captured within the City's Asset management system.
10.0	Audits	<ul style="list-style-type: none"> All signage attributes captured in CAMS on an agreed time frame.
11.0	Other	<ul style="list-style-type: none"> Provision of design development, industrial and graphic design, prototyping and delivery of any additional signage types that might be required
		<ul style="list-style-type: none"> Innovation, standardisation, rationalisation, recycled product use opportunities.

16 GLOSSARY

The following glossary of terms will be used throughout the documentation:

Term	Definition
Approved	Approved or selected by the Council Representative irrespective of any trade usage of the word. The Council Representative will be the sole judge and will determine what is and what is not approved.
Assets	All civil infrastructure items owned, maintained or controlled by the City of Sydney that may be affected or dealt with by the Service Provider in undertaking the works.
CAMS	The City's Corporate Asset Management System (CAMS) is a desktop application located on the City's network that is remotely accessed by the Service Provider
Categories	Each signage type is a category i.e. Wayfinding, Parks, Bicycle Network and Road Signs represent the four (4) categories of signage.
CBD	Central Business District, Sydney.
City	City of Sydney Council.
City Supplied Items	Goods or services the City will procure and issue to the Service Provider.
City's Representative	City's authorised person under the Contract.
Completion Time	The period which a Service Provider shall complete certain tasks from receipt of a Works Order or report of an existing problem.
ConfirmConnect®	ConfirmConnect® is a mobile asset management program to be used for in field data capture of services undertaken under contract.
Contract	Public Domain Signage
Exclusions	When reading the Rates items, the Service Provider is to not make allowance for the items in the Exclusions portion. Items that the Service Provider must not price within the Schedule of Rates.
Contractor	Has the same meaning as Service Provider
Extra Over	A rate applied in addition to another rate.
Inclusions	Items that the Service Provider must include price within the Schedule of Rates.

Infrastructure	In the context of the contract refers all installed signs that make up the network of signage for the category.
KPIs	Key Performance Indicators – used in the Performance section of the General Conditions of Contract for scoring purposes.
LGA	Local Government Area
Pathways	The City of Sydney's Customer Services Management System.
Preliminaries	Items that are necessary to support the works, which and are required by the City. Items described in Part B1 Preliminaries/general of the Sydney Streets Technical Specification and site management requirements listed in the General Conditions of Contract.
Ranking	Fixed order of Service Providers for allocation of works.
Relocate	Move an existing sign to a different location
Renewal	Renewal and replace are equal terms
Replace	Replace and renewal are equal terms
RMS	Roads and Maritime Services, NSW. Formerly known as the Roads and Traffic Authority, RTA.
ROL	Road Opening Licence – issued by RMS.
ROP	Road Opening Permit – issued by City.
Shift	The duration of work between start and finish of a day and/or night work. Full Shift: More than 4 hours work Half Shift: Less than 4 hours work
Signage Types	Category: Park Signage & Sign Type: Regulatory
Service Provider	A contractor who conducts work under this contract on behalf of the City.
Standard Hours	See B2 Preliminaries section of The City's Sydney Streets Technical Specification for the City's standard hours of work.
Technical Advice	Refer to point 6 in Volume 3 General Conditions of Contract
TMP	Traffic Management Plan.
Traffic control	Safe and accessible pedestrian and vehicular control around and through the work site.
Works Order	A set of instructions issued for execution of work from time to time by CAMS, the Council Representative or his delegate.
Worksite	A location of works and other places to be made available to the Service Provider from time to time to cover works ordered in each "Works Order".
Written or in writing	Written communication in the form of a letter, memo, proforma document, electronic transmissions such as facsimile or electronic mail.
WUC	Works under contract



Request for Tender

SERVICES

T – 2021 - 555

City's Public Domain Signage Contract

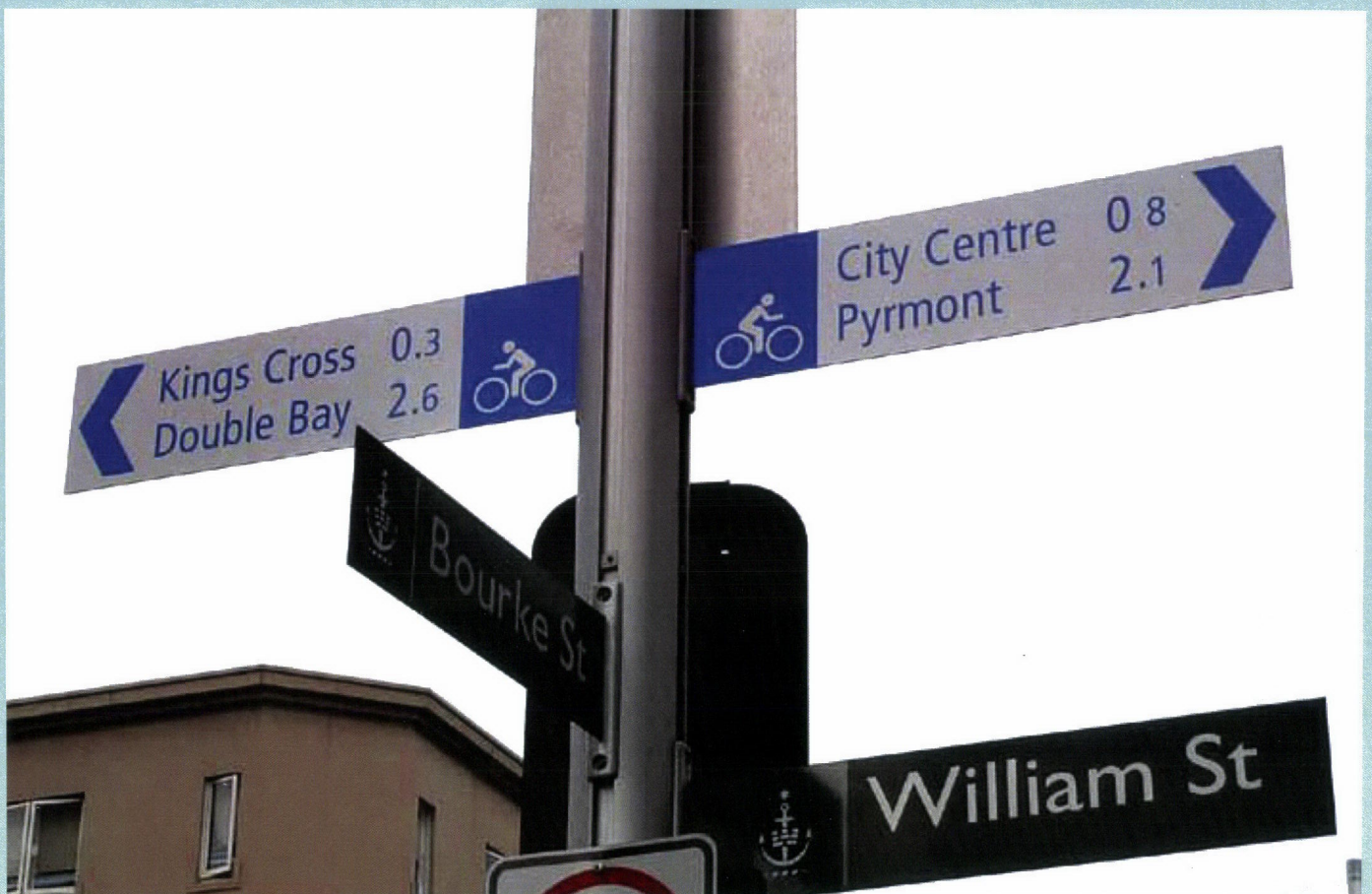
September 2021

CITY OF SYDNEY





Bicycle Network Directional Signage Masterplan



Tract
Landscape Architects
Urban Designers
Town Planners



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Amendment record

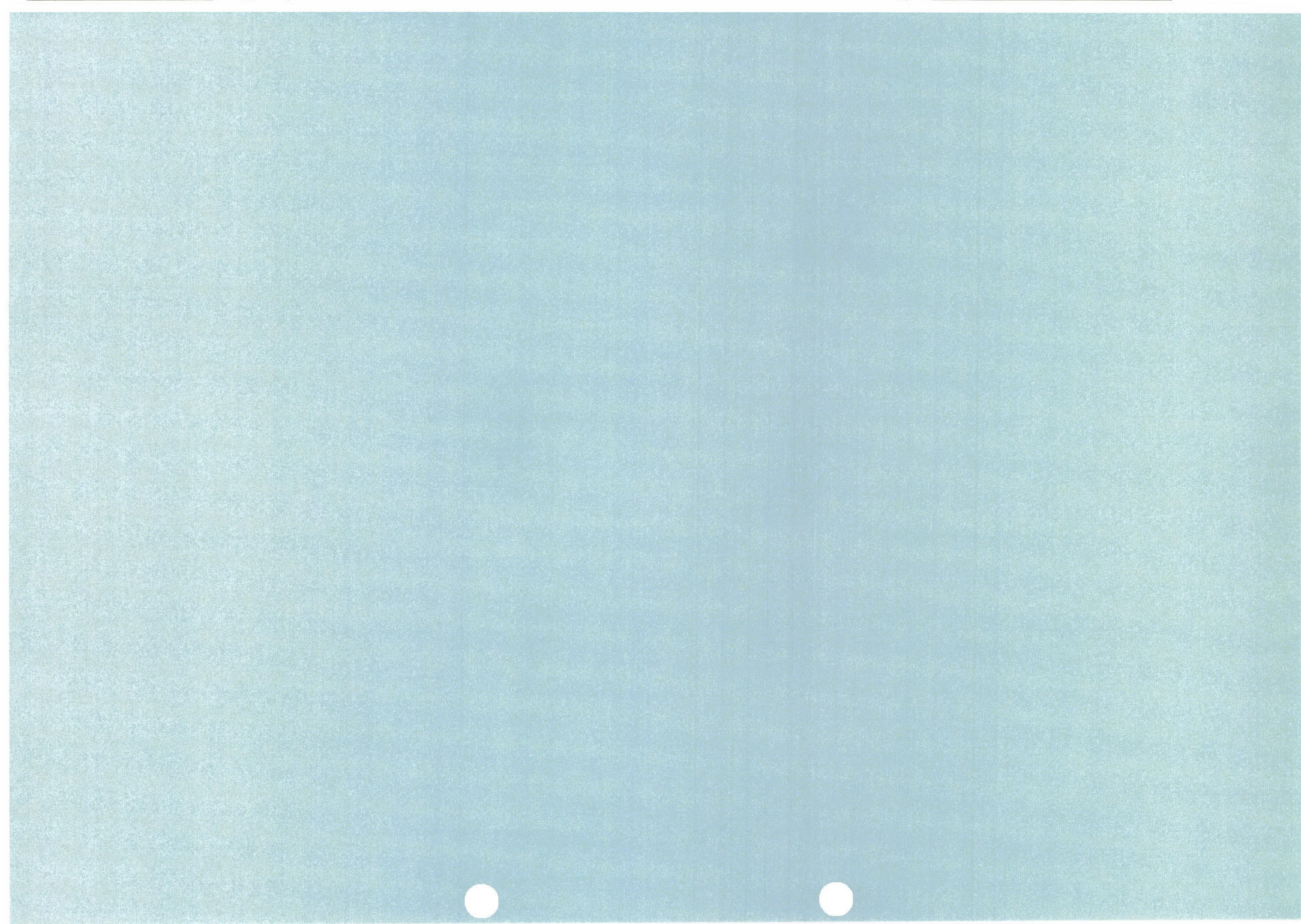
Version Number	Date	Description	Page No.
0.1	25/2/2013	Draft preliminary report for internal comment	-
0.2	28/2/2013	Draft preliminary report for internal comment	-
0.3	19/3/2013	Draft preliminary report for internal comment	-



Photo 1: Existing regional and local route fingerboards mounted on a 'SmartPole' near Taylor Square on the Bourke Street Cycleway

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CITY OF SYDNEY

Tactile/Braille Signage Construction Drawings

ISSUE: 9

DATE: 25.02.15

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APPENDIX 18

APPENDIX 20

