



Transport
for NSW

TRANSPORT FOR NSW
PROFESSIONAL SERVICES AGREEMENT

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

Transport for NSW
ABN 18 804 239 602

(the Principal)

AND

Driving Edge Marketing Pty Ltd
ABN 31 106 314 818

(the Service Provider)

7 Feb 2014.

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THIS AGREEMENT is made

BETWEEN **Transport for NSW** of 18 Lee Street, Chippendale, NSW 2008, ABN 18 804 239 602 (the **Principal**)

AND **Driving Edge Marketing Pty Ltd** of 60 Waters Road, Cremorne, NSW 2090 **ABN 31 106 314 818** (the **Service Provider**).

OPERATIVE CLAUSES

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

Agreement means this document and includes any annexures to it.

Authority means any federal, state, territorial or local government department, body, instrumentality, state owned corporation, or other organisation having the right to give or receive any consent, certificate, approval, permit or licence in relation to the services.

Business Day means any day other than:

- (a) a day that is a Saturday, Sunday or public holiday generally in New South Wales; or
- (b) 27, 28, 29, 30 and 31 December of each year.

Commencement Date means the date specified in Item 3A of the Contract Particulars.

Confidential Information means:

- (a) information disclosed by or on behalf of the Principal to the Service Provider or its representatives (or of which the Service Provider or its representatives become aware) in the course of discussions in relation to the Services;
- (b) information acquired by the Service Provider or its representatives in the course of discussions prior to the date of this Agreement in relation to the Services;
- (c) information designated as confidential by TfNSW from time to time; and
- (d) any other information which by its nature should reasonably be considered to be the confidential information of TfNSW,

whether or not marked as "Commercial in Confidence", "Proprietary" or "Confidential", and which may be provided in writing, electronically, verbally or

otherwise, but does not include any information which the Service Provider can demonstrate to be in the public domain or was known to the Service Provider at the time of disclosure other than through a breach of this Agreement.

Contract Material means any Material created, written or otherwise brought into existence by or on behalf of the Service Provider in the course of performing this Agreement in which subsists newly created Intellectual Property rights.

Contract Particulars means the document which is annexed as Annexure A to this Agreement.

Disbursements means the expenses properly incurred by the Service Provider and payable by the Principal in accordance with the Contract Particulars.

End Date means the date specified in Item 3B of the Contract Particulars.

Event of Insolvency means, in respect of the Service Provider, if:

- (a) the Service Provider informs the Principal in writing or creditors generally that the Service Provider is insolvent or is financially unable to proceed with the Agreement;
- (b) execution is levied against the Service Provider by a creditor;
- (c) if the Service Provider is an individual person or a partnership including an individual person, that person:
 - (i) commits an act or bankruptcy;
 - (ii) has a bankruptcy petition presented against him or her or presents his or her own petition;
 - (iii) is made bankrupt;
 - (iv) makes a proposal for a scheme of arrangement or a composition; or
 - (v) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under Part X of the Bankruptcy Act 1966 (Cth); or
- (d) if the Service Provider is a corporation:
 - (i) notice is given of a meeting of creditors with a view to the Service Provider entering into a deed of company arrangement;
 - (ii) the Service Provider enters into a deed of company arrangement with creditors;

- (iii) a controller or administrator is appointed to the Service Provider;
- (iv) an application is made to a court for the winding-up of the Service Provider and not stayed within 14 days;
- (v) a winding-up order is made in respect of the Service Provider;
- (vi) the Service Provider resolves by special resolution that the Service Provider be wound up voluntarily (other than for a members' voluntary winding-up); or
- (vii) a mortgagee of any property of the Service Provider takes possession of that property.

Existing Contract Material means any Material which exists at the date of this Agreement and which is incorporated in the Contract Material.

Fee or Fees means the fee or fees described in Item 2 of the Contract Particulars.

GST has the meaning given to this term in the GST Law.

GST Law means A New Tax System (Goods and Services Tax) Act 1999, related legislation and any delegated legislation made pursuant to such legislation.

ICAC means the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act 1988 (NSW)

Information Document means any information, data, document or material which:

- (a) at the time of issue (or being provided or made available) is expressly stated to be an "Information Document"; or
- (b) is referred to or incorporated by reference in an Information Document,

irrespective of the form of the information, data, document or material (including electronic and oral forms).

Intellectual Property includes any and all intellectual and industrial property rights throughout the world, whether subsisting now or in the future and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks, designs (whether or not registered or registrable), circuit layouts, trade names, trade secrets, business names, company names or internet domain names.

Key People means the persons specified in Item 9 of the Contract Particulars as replaced from time to time in accordance with clause 2.6.

Law means:

- (a) all Commonwealth, New South Wales or local government legislation including any regulations, ordinances, instruments, codes, requirements, by-laws, orders, proclamations and other subordinate legislation;
- (b) common law; and
- (c) Authority approvals and the lawful requirements of any person acting in the exercise of statutory powers enabling them to give directions affecting the Service Provider's Activities.

Material includes documents, information and data stored by any means.

Moral Rights means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the Copyright Act 1968 (Cth), and rights of a similar nature anywhere in the world whether existing at the Commencement Date or which may come into existence on or after the Commencement Date.

Payment Claim means a payment claim issued by the Service Provider under clause 12.1.

Payment Statement means a payment statement issued by the Principal under clause 12.2.

Personal Information means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form), about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.

Premises means the property or properties specified in Item 12 of the Contract Particulars.

Principal's Material means any Material supplied by the Principal to the Service Provider by whatever means in relation to this Agreement.

Principal's Representative has the meaning given in clause 10.2.

Project means the project described in section 1 of the Services Brief.

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

Safety Report means the report required to be prepared by a designer of a structure by regulation 295 of the Work Health and Safety Regulations 2011 (NSW).

Services means the services specified in Item 1 of the Contract Particulars and any incidental or related services requested in writing by the Principal.

Services Brief means the document which is amended from time to time in accordance with clause 11 or by agreement in writing between the parties.

Service Provider's Representative has the meaning given in clause 9.

SOP Act means the Building and Construction Industry Security of Payment Act 1999 (NSW)

Statement of Business Ethics means the document issued by the Principal that sets out the Principal's standards for doing business with the Principal.

Subcontractor means a person engaged in accordance with clause 6 by the Service Provider to provide part of the Services and includes a supplier of goods or services or both.

Supply has the meaning given to it in the GST Law.

Term means the period specified in clause 2.2.

Variation has the meaning given in clause 11.1.

WHS Legislation means:

- (a) the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Regulations 2011 (NSW); and
- (b) all other Laws relating to work health and safety which apply in the jurisdiction in which the Services are being executed.

1.2 Interpretation

In this Agreement:

- (a) headings are for convenience only and do not affect interpretation; and the following rules apply in interpreting this Agreement unless the context makes clear that a rule is not intended to apply:
- (b) an obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally;
- (c) "person" includes an individual, the estate of an individual, a corporation, an Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (e) a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "includes" in any form is not a word of limitation; and
- (k) a reference to "\$" or "dollar" is to Australian currency.
- (l) If the day on or by which anything is to be done under this Agreement is not a Business day, that thing must be done no later than the next Business Day.
- (m) no provision of this Agreement is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.
- (n) any provision of this Agreement which seeks to limit or exclude a liability of a party is to be construed as doing so only to the extent permitted by law.
- (o) where a reference is made to any Authority which ceases to exist (Former Body), that reference will be to that Authority which then serves substantially the same functions as the Former Body (Replacement Body). Any reference to any senior officer of the Former Body will be to the equivalent senior officer of the Replacement Body.

2 THE SERVICES

2.1 Engagement

The Principal engages the Service Provider to perform the Services in accordance with the terms and conditions of this Agreement

2.2 Term

This Agreement commences on the Commencement Date and, unless terminated earlier in accordance with this Agreement or at law, expires on the End Date.

2.3 Service Provider's Obligations

- (a) The Service Provider must provide the Services in accordance with this Agreement including the Services Brief.
- (b) Without limiting the generality of clause 2.3(a), the Service Provider must:

- (i) commence and progress the Services expeditiously, without delay and in accordance with any directions of the Principal and, if a date for completion is included in the Contract Particulars, complete the Services by that date provided that such date will be extended by a reasonable time for any delay to the Services caused by an event which is beyond the reasonable control of the Service Provider;
- (ii) perform the Services in a diligent manner and to the professional standard of skill and care expected of a service provider qualified, competent and experienced in the provision of services of the nature of those set out in the Services Brief;
- (iii) comply with all obligations and meet all requirements set out in this Agreement;
- (iv) comply with all applicable laws, standards, codes and all applicable requirements of any Authority; and
- (v) carry out the Services having regard to the requirements of the Project and any other circumstances affecting the carrying out of the Services;
- (vi) ensure that it is familiar with and complies with the Principal's Statement of Business Ethics;
- (vii) use all reasonable efforts to inform itself of the requirements of the Principal and regularly consult with the Principal during the performance of the Services; and
- (viii) make reasonable enquiries to ascertain the requirements of the Principal regarding the Services.

2.4 Coordination

In performing the Services, the Service Provider must coordinate and liaise with every other person performing any other work in connection with the Services to ensure that the Services and the other work are completed in such a way that no additional costs and no, or only minimal, delays are incurred with respect to the Services or any other work. For the avoidance of doubt, the Service Provider is not entitled to receive additional payment for complying with this clause.

2.5 Knowledge of requirements of the Principal

The Service Provider must use all reasonable efforts to inform itself of the detailed requirements of the Principal and must regularly consult with the Principal during the performance of the Services.

2.6 Personnel

- (a) The Service Provider must:

- (i) ensure that all personnel utilised by it in connection with the Services are appropriately qualified, competent, experienced and reliable in the provision of services of the nature of the Services;
 - (ii) subject to clauses 2.6(a)(iii) and 2.6(a)(iv), employ the person or persons specified in Item 9 of the Contract Particulars as "Key People" in the performance of the Services in the roles specified for them in Item 9 of the Contract Particulars;
 - (iii) to the extent possible, retain the Key People as the personnel performing the Services and not change any of them without the prior written consent of the Principal;
 - (iv) immediately take steps to replace any Key People who are unable to work or are requested by the Principal acting reasonably, to be removed from the Services with replacement personnel of equivalent expertise and experience;
 - (v) ensure that neither it, its agents or subcontractors at any level engage any person who has been identified by ICAC as having engaged in corrupt conduct;
 - (vi) without limiting clause 2.6(a)(iv), remove any personnel or subcontractor within the time directed by the Principal if the Principal directs the Service Provider to cease using that person in respect of any activity relating to the Services on the basis that the Principal considers that person's performance or conduct to be unsatisfactory; and
 - (vii) obtain the written approval of the Principal, which will not be unreasonably withheld, to the replacement of any Key People or the appointment of any new personnel to perform the Services prior to engaging them.
- (b) The Service Provider's responsibility for the performance of the Services and for the standard of performance by its personnel is not altered in any way by this clause 2.6 or by anything done in accordance with this clause 2.6.

The Service Provider will remain fully responsible for the provision of the Services despite the Principal, Principal's Representative or any of the Principal's personnel or contractors' comment on, review of, approval of, acceptance of, or certificate issued in connection with the Services (or their failure to do so).

2.7 Discrepancies in information

If the Service Provider considers that any information, documents and other particulars made available to it by any person on behalf of the Principal are inadequate or contain errors or ambiguities, the Service Provider must give written notice to the Principal detailing the inadequacy, errors or ambiguities as soon as practicable. Rectification of inadequacy, errors or ambiguities shall be the responsibility of the person supplying the information, or documents or

other particulars, but the Principal shall use reasonable endeavours to procure such rectification.

2.8 Program

- (a) The Service Provider must, if required by the Principal as set out in the Contract Particulars:
 - (i) within 5 Business Days of the commencement of the Services submit, for approval by the Principal, a program for the performance and completion of the Services that accords with the dates and deliverables specified in the Services Brief;
 - (ii) submit, for approval by the Principal, a revised program as soon as practicable after any reasonable request by the Principal to do so;
 - (iii) perform the Services expeditiously and in accordance with the most recent program approved by the Principal; and
 - (iv) report on progress against the program monthly or at such other interval as requested in writing by the Principal.
- (b) The Principal is not obliged to approve a revised program submitted by the Service Provider in accordance with clause 2.8(a) unless:
 - (i) the delivery of the Services has been delayed solely as a result of an action or omission of the Principal;
 - (ii) the Service Provider has submitted the revised program to provide for an extension of time for the Service Provider to deliver the Services as a result of that delay; and
 - (iii) the revised program represents a reasonable extension of time, having regard to the nature of the Services and the delay;
- (c) The Service Provider will have no claim for any delay or other costs in relation to the approval or non-approval of a revised program submitted in accordance with clause 2.8(a)(ii) unless otherwise agreed by the Principal in writing.

2.9 Suspension

The Principal may, for its sole convenience and at its absolute discretion, immediately suspend the provision of the Services and payments relating to those suspended Services, regardless of whether there has been any default on the Service Provider's part, at any time by written notice given in accordance with clause 18. The Principal may only suspend payment in relation to those Services which are yet to be performed. Clause 12 shall continue to apply in respect of previously performed Services.

2.10 Reports and deliverables

- (a) The Service Provider must provide such reports and deliverables:

- (i) containing the information;
- (ii) in the format;
- (iii) meeting the requirements and standards; and
- (iv) on the dates,

as may be specified in or required by the Services Brief or as may otherwise be required by the Principal.

- (b) Without limiting the foregoing, the Service Provider must, where reasonably required by the Principal during the Term, provide the Principal with monthly costs and status reports on the Services being provided under this Agreement.

2.11 Change in the scope or timing of the Services

As soon as practicable after becoming aware of any matter which is likely to change or which has changed the scope or timing of the Services (including any notice, direction or instruction of the Principal), the Service Provider must give notice (in writing if required by the Principal) to the Principal detailing the circumstances, extent or likely extent and implications of the change.

2.12 Service Provider's relationship with the Principal

- (a) The Service Provider must liaise, cooperate and confer with the Principal, others persons performing works relating to the Services and any other person nominated by the Principal.
- (b) Nothing in this Agreement will be construed or interpreted as constituting a relationship between the Principal and the Service Provider of partners, joint venturers, fiduciaries, employer and employee or principal and agent.
- (c) The Service Provider must not act outside the scope of the authority conferred on it by this Agreement and must not purport to bind the Principal in any way or hold itself out as having any authority to do so, except as specifically authorised pursuant to this Agreement or otherwise authorised by the Principal in writing.

2.13 Compliance

- (a) The Service Provider must perform the Services and meet the obligations and liabilities arising from or in connection with this Agreement in accordance with the requirements of applicable Laws (including the WHS Legislation) privacy principles, Australian standards, codes of practice and requirements of Authorities.
- (b) Without limiting clause 2.13(a) the Services Provider must prepare the Safety Report in accordance with the requirements of, and otherwise discharge its obligations under, the provisions of the WHS Legislation. The Services Provider must give a copy of the Safety Report to the Principal within the time specified in the Contract Particulars.

- (c) If the Service Provider is required to have a licence or other approval from any Authority in order to provide the Services, the Service Provider at its cost, will obtain and hold such licence or approval prior to commencement of the Services and will hold such licence or approval throughout the Services and provide the Principal with a copy of the same on request.
- (d) The Service Provider must comply with all of the Principal's policies relevant to the Service Provider carrying out the Services which are provided or notified to the Service Provider by the Principal, including the Statement of Business Ethics.

2.14 **Principal's Materials**

The Service Provider must protect and keep safe and secure all of the Principal's Materials provided to the Service Provider.

2.15 **Fitness for purpose and reliance by others**

The Service Provider acknowledges and agrees that the Principal relies upon the skill and knowledge of the Service Provider in providing the Services. The Service Provider must ensure that all work, documents and deliverables produced by or on behalf of it are fit and suitable in all respects for the purposes required by or implied from this Agreement.

2.16 **Access to Service Provider's Premises**

The Service Provider must, at all reasonable times and upon reasonable notice, permit the Principal access to the Service Provider's Premises in order for the Principal to inspect, discuss and assess the Contract Material, Existing Contract Material and any other material produced by or on behalf of the Service Provider or obtained by the Service Provider from any person in connection with the Services.

2.17 **Acknowledgement**

The Service Provider acknowledges that in entering into this Agreement, it has relied entirely on its own knowledge and enquires and has not relied on any warranties or representations made to it by the Principal and that the Principal will not be responsible for the omission of any relevant information.

2.18 **Licensing and authorisation**

The Services Provider must:

- (a) ensure that if any Laws (including the WHS Legislation) require that:
 - (i) a person:
 - (A) be authorised or licensed (in accordance with the WHS Legislation) to carry out any part of the Services at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; and/or

- (B) has prescribed qualifications or experience to carry out any part of the Services or, if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised; or
- (ii) a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;
- (b) not direct or allow a person to carry out work or use plant or substance at a workplace unless the requirements of paragraph 2.18(a) are met (including any requirement to be authorised, licensed, qualified or supervised); and
- (c) if requested by the Principal, the Principal's Representative or required by the WHS Legislation, produce evidence of any approvals, certificates, authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Principal before the Services Provider commences such work.

2.19 Duties under WHS Legislation

Without limiting the Service Provider's obligations under any other clause of this Agreement, insofar as the Service Provider, in carrying out the Services, is a person conducting a business or undertaking that designs plant, substances or structures to whom section 22 of the Work Health and Safety Act 2011 (NSW) applies, then to the extent that the obligations under that section apply to the Services the Service Provider must comply with the applicable obligations under the WHS Legislation.

2.20 Safety and the environment

- (a) The Services Provider must:
 - (i) prior to appointing any subcontractor, assess the work health and safety management capability of such subcontractor and institute systems to obtain regular written assurances from all subcontractors about their ongoing compliance with the WHS Legislation including the due diligence obligation contained therein;
 - (ii) prior to commencing to perform the Services on the site of the Project ensure that all Key People have undertaken any induction required by the Principal;
 - (iii) in the provision of the Services comply with and procure that any subcontractor and its employees comply with all the requirements of the WHS Legislation and any other requirements of this Agreement for work health, safety and rehabilitation management;

- (iv) comply with, and procure that any subcontractor complies with, any reasonable directions issued by the Principal's Representative in relation to work, health, safety or the environment including where the direction is given because Key People are not complying with their obligations under this clause 2.18;
 - (v) provide written assurances obtained pursuant to paragraph 2.20(a)(i), together with written assurances from the subcontractor about the subcontractor's ongoing compliance with the WHS Legislation, to the Principal;
 - (vi) comply with its obligation under the WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter including co-operate with the Principal's Representative and any contractor engaged by the Principal with respect to the Project and co-ordinate the Services with the work of the Principal's Representative and any contractor engaged by the Principal with respect to the Project;
 - (vii) exercise a duty of utmost good faith to the Principal in carrying out the Services to enable the Principal to discharge the Principal's duties under the WHS Legislation; and
 - (viii) ensure its subcontracts include provisions equivalent to the obligations of the Service Provider in this clause 2.20 and any other provisions of the Agreement concerning work health and safety matters.
- (b) To the extent that the Services include design, the Service Provider's design must:
- (i) take into account best work health and safety practice applicable to the construction, utilisation, operation, safety and/or maintenance of the Project; and
 - (ii) be subject to a health, safety and environment review by a suitably qualified person at appropriate stages of the design development process (if any) to verify the design's compliance with the WHS Legislation.

INFORMATION DOCUMENTS

- (a) The Service Provider acknowledges that the Principal does not warrant, guarantee, assume any duty of care or other responsibility for or make any representation about the accuracy, adequacy, suitability or completeness of the Information Documents and the Information Documents do not form part of this Agreement.
- (b) The Service Provider acknowledges and warrants that:

- (i) it did not place any reliance upon the completeness, accuracy, adequacy or suitability of any Information Documents;
- (ii) it entered into this Agreement based on its own investigations, interpretations, deductions, information and determinations; and
- (iii) it is aware that the Principal entered into this Agreement relying upon the acknowledgements, warranties and deemed matters in this clause 3 and that the Principal would not have entered into this Agreement but for those acknowledgements, warranties and matters.

4 CONFIDENTIALITY AND PRIVACY

4.1 Confidentiality

- (a) Subject to clause 4.1(c), the Service Provider must:
 - (i) not disclose any Confidential Information to any person without the prior written consent of the Principal;
 - (ii) take all reasonable steps to ensure that the Confidential Information in its possession or control is kept confidential and protected against unauthorised use and access; and
 - (iii) comply with any security measures required by the Principal in connection with the Confidential Information.
- (b) The Service Provider agrees to use the Confidential Information solely for the purposes of the Services and for no other purpose unless otherwise approved in writing by the Principal.
- (c) Subject to clauses 4.1(d) and 4.1(g), the Service Provider may disclose Confidential Information:
 - (i) to its officers, employees, agents and permitted subcontractors (**permitted recipient**) where such disclosure is essential to carrying out their duties in accordance with this Agreement; or
 - (ii) if required to be disclosed pursuant to law, regulation, legal process or regulatory authority.
- (d) Before disclosing the Confidential Information to a permitted recipient, the Service Provider must ensure that the permitted recipient is aware of the confidentiality requirements of this Agreement and is advised that he, she or it is strictly forbidden from disclosing the Confidential Information or from using the Confidential Information other than as permitted by this Agreement.
- (e) The Principal may, at its sole discretion and at any time, require the Service Provider to arrange for a permitted recipient to execute a confidentiality deed in the form set out in Annexure D1 or such other

form as is reasonably required by the Principal relating to the non-disclosure and use of Confidential Information and the Service Provider must promptly arrange for such deed to be executed and provided to the Principal.

- (f) The Confidential Information must not be copied or reproduced by the Service Provider and/or the permitted recipient without the express prior written permission of the Principal, except for such copies as may be reasonably required to accomplish the purpose for which the Confidential Information was provided pursuant to this Agreement.
- (g) If the Service Provider receives a subpoena or other demand for information relating to documents provided to it by the Principal, the Service Provider must:
 - (i) notify the Principal within 24 hours of receiving the subpoena or other demand for information;
 - (ii) provide the Principal with copies of all documents provided to it by the Principal which the Service Provider proposes to produce in response to the subpoena or other demand for information, as soon as possible and before any documents are produced; and
 - (iii) provide all reasonable assistance to the Principal in making any claim or application in relation to the production of the documents.
- (h) Without limiting any rights or remedies of the Principal, the Service Provider acknowledges that damages may not be a sufficient remedy for the Principal for any breach of this clause 4.1 and that the Principal may seek injunctive relief for any breach or threatened breach of this clause 4.1.

4.2 Privacy and disclosure of Personal Information

Without limiting any obligation that the Service Provider has under any applicable privacy laws, where the Service Provider has access to Personal Information in order to fulfil its obligations under this Agreement, it must:

- (a) where the Service Provider is responsible for holding the Personal Information, ensure that the Personal Information is protected against loss and against unauthorised access, use, modification or disclosure and against other misuse;
- (b) where collecting Personal Information on behalf of the Principal, comply with the Privacy and Personal Information Protection Act 1998 (NSW) as if it were the Principal;
- (c) not use, access or disclose Personal Information other than for the purposes of the Agreement except with the prior written approval of the Principal;

- (d) ensure that its officers, employees, agents and subcontractors comply with the Service Provider's obligations under this clause 4.2 including, when requested by the Principal, requiring those officers, employees, agents and subcontractors to promptly sign a suitable privacy deed relating to Personal Information. The Service Provider must promptly arrange for such deed to be executed and provided to the Principal;
- (e) comply with such other privacy and security measures or directions as the Principal reasonably advises the Service Provider in writing from time to time, including directions to return or destroy the Personal Information;
- (f) immediately notify the Principal upon becoming aware of any breach of this clause 4.2; and
- (g) ensure that its subcontracts contain the same or equivalent obligations as are set out in this clause 4.2.

5 CONFLICT OF INTEREST

- (a) The Service Provider warrants that at the date of this Agreement, no conflict of interest exists or is likely to arise in the performance of the Services in respect of the Service Provider or any of its employees, agents or subcontractors, except as has been disclosed in writing by the Service Provider to the Principal prior to the execution of this Agreement.
- (b) The Service Provider agrees that it will not act for any third party where so acting may give rise to a conflict of interest.
- (c) The Service Provider must use its best endeavours to ensure no conflicts of interest arise and must notify the Principal, in writing, immediately upon becoming aware of the existence, or possibility, of a conflict of interest.
- (d) On receipt of a notice under clause 5(c), the Principal may
 - (i) approve the Service Provider continuing to perform the Services, which approval may be subject to conditions specified by the Principal (including requirements relating to separation arrangements) to ensure appropriate management of the conflict; or
 - (ii) where in the Principal's view the conflict of interest cannot be appropriately managed, terminate this Agreement by notice in writing to the Service Provider effective from the date specified in the notice.
- (e) The Principal may, at its sole discretion and at any time, require the Service Provider to sign and procure that each of its officers, employees, subcontractors or agents involved in the performance of the Services signs and delivers, to the Principal a Statement of

Interests and Associations in the form attached in Annexure D2 or such other form as reasonably required by the Principal.

6 SUBCONTRACTING AND ASSIGNMENT

- (a) The Service Provider must not engage another person to provide any part of the Services without the prior written approval of the Principal, which may:
- (i) be given or withheld in the Principal's absolute discretion; and,
 - (ii) be given subject to any conditions the Principal sees fit to impose; and
- (b) The existence of any contract between the Service Provider and a Subcontractor or any approval given by the Principal permitting the Service Provider to engage a Subcontractor does not relieve the Service Provider from any of its obligations and liabilities pursuant to this Agreement and the Service Provider will be vicariously liable for all acts, omissions or defaults of its Subcontractors.
- (c) Prior to any Subcontractor or any employee or agent of the Subcontractor commencing work in respect of the Services, the Service Provider must obtain from that person, and provide to the Principal, a written assignment from the person to the Principal of the Intellectual Property created as a result of the person performing that work.
- (d) The Principal will have no contractual relationship with and undertakes no obligations to any Subcontractor.
- (e) The Service Provider will be reimbursed for any cost properly incurred by the Service Provider to a Subcontractor for the purpose of providing the Services in accordance with the terms of this Agreement:
- (i) at cost; or
 - (ii) if specified in the approval provided by the Principal in accordance with clause 6(a), at cost.
- (f) For the avoidance of doubt, this does not include any Subcontractors engaged by the Service Provider at the time of entering into this Agreement. Subcontracting of the Services by the Service Provider must be on terms which are identical with the Service Provider's obligations to the Principal under this Agreement.
- (g) The Service Provider must ensure that the services of all Subcontractors are coordinated to meet the Principal's requirements for the Services and that the Subcontractors comply with all relevant obligations imposed on the Service Provider in this Agreement.

- (h) The Service Provider must ensure that any Subcontractors engaged the Service Provider exercise the standard of care and skill to be expected of a Subcontractor who regularly acts in the capacity in which the Subcontractor is engaged and who possesses the knowledge, skill and experience of a Subcontractor qualified to act in that capacity.

7 INSURANCES

- (a) Prior to commencement of the Services, the Service Provider must, and must ensure that any subcontractors have and maintain with a reputable insurance company:
 - (i) a public liability policy of insurance to the value of at least the amount specified for public liability insurance in Item 10 of the Contract Particulars in respect of each claim for the duration of the Services and specifying that the Principal is a person to whom the insurance cover provided by the insurance contract extends;
 - (ii) workers' compensation insurance as required by all relevant laws of Australia relating to workers' compensation for the duration of the Services;
 - (iii) a professional indemnity policy of insurance to the value of at least the amount specified for professional indemnity insurance in Item 10 of the Contract Particulars in respect of each claim for the period stated in the Contract Particulars, and if no period is stated, for 7 years, following the expiration or earlier termination of this Agreement; and
 - (iv) such other insurances as may be required by law or by the requirements of any professional association of which the Service Provider is a member.
- (b) If the Principal at any time requires the Service Provider to arrange insurance against a risk not provided for or contemplated under clause 7(a) or increase the extent of an existing insurance in relation to a risk contemplated under clause 7(a), it may notify the Service Provider in writing and request that the Service Provider give effect to its requirements.
- (c) The Service Provider must promptly inform the Principal of the amount of any additional premium payable in giving effect to a notice of the Principal under clause 7(b) before it implements the requirement, and the Principal will advise the Service Provider whether it still requires the Service Provider to give effect to that requirement.
- (d) If the Principal directs the Service Provider to give effect to the requirement in accordance with clause 7(c), the Fee shall be increased by an amount equal to the cost of any additional premiums

paid on any additional, increased or varied insurances required by the Principal under clause 7(c).

- (e) The Service Provider must, in respect of the insurances required under this Agreement:
- (i) on request from time to time by the Principal, produce to the Principal satisfactory evidence of insurance, including certificates of currency of the policies required under this Agreement within 5 Business Days of being required to do so;
 - (ii) ensure that it:
 - (A) does not do anything which prejudices the insurance;
 - (B) if necessary, rectifies anything which might prejudice the insurance;
 - (C) does not cancel, vary or allow an insurance policy to lapse without providing prior notification to the Principal's Representative. Such notification will not constitute waiver of the Principal's rights under this Agreement;
 - (D) give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect such policy or the payment of all or any benefits under the insurance;
 - (iii) within 5 Business Days of the Service Provider becoming aware of an actual claim against any of its insurance policies effected and maintained pursuant to clause 7(a), howsoever arising, the Service Provider must notify the Principal in writing of the claim and give the Principal any further information regarding the claim which the Principal may reasonably require, if the claim;
 - (A) relates to services of a similar nature to those provided by the Service Provider as part of the Services; or
 - (B) may materially impact on the ability of the Service Provider to provide the Services.
- (f) If the Service Provider fails to effect any insurance that complies with clauses 7(a)(i), 7(a)(ii) and 7(a)(iii) (as the case may be), then the Principal may, without prejudice to other rights the Principal may have or the Service Provider's obligations or liability under or in connection with this Agreement, effect the relevant insurance and the cost will be a debt due from the Service Provider to the Principal.

8 RECORD KEEPING AND PERFORMANCE REPORTING

8.1 Keeping of records

The Service Provider must, during the Term:

- (a) keep proper accounts, records (including information stored by computer and other devices) and timesheets in accordance with accounting principles generally applied in commercial practice in respect of its time charge billing, its reimbursable expenditure and fees and reimbursements payable to others properly engaged pursuant to this Agreement and maintain the same for a period of 7 years;
- (b) whenever requested by the Principal's Representative provide the Principal's Representative with a written report containing details on all work health and safety matters arising out of the Services, including in respect of any matters concerning or arising out of clauses 2.13 and clauses 2.18 to 2.20.
- (c) manage all records relating to the provision of the Services in accordance with the Services Brief and the reasonable requirements of the Principal.

8.2 Access

The Service Provider must:

- (a) within a reasonable time of any request by the Principal, give the Principal access to, or verified copies of, any information, documents or materials (including its books and records) which may be reasonably required to enable any claim by the Service Provider for payment to be substantiated and verified by the Principal; and
- (b) do everything reasonably required by the Principal to allow the Principal to conduct an audit of the Service Provider's compliance with this Agreement, including allowing the Principal to verify any claim by the Service Provider for payment.

8.3 Government disclosure

- (a) The Service Provider authorises the Principal, its employees and agents to make information concerning the Service Provider available to NSW government Authorities. Such information may include, but need not be limited to, any information provided by the Service Provider to the Principal and any information relating to the Service Provider's performance under this Agreement.
- (b) The Service Provider acknowledges that any information about the Service Provider from any source, including but not limited to substantiated reports of unsatisfactory performance, may be taken into account by the Principal and the Authorities in considering whether to offer the Service Provider future opportunities for work.

- (c) The Service Provider acknowledges that:
- (i) the Principal may disclose certain information about this Agreement in accordance with the Principal's obligations under the Government Information (Public Access) Act 2009 (**GIPA Act**), including making certain information about this Agreement publicly available in any disclosure log of contracts the Principal is required to maintain;
 - (ii) if the Service Provider reasonably believes that any part of this Agreement contains information which is commercial-in-confidence or could reasonably be expected to affect public safety or security, the Service Provider must immediately advise the Principal in writing, identifying the provisions and providing reasons so that the Principal may consider seeking to exempt those provisions from publication; and
 - (iii) if the Service Provider provides services to the public on behalf of the Principal, the Service Provider must, within 7 Business Days of receiving a written request by the Principal, provide the Principal with immediate access to the following information contained in records held by the Service Provider (at its own expense):
 - (A) information that relates directly to the performance of the Services provided to the Principal by the Service Provider pursuant to this Agreement;
 - (B) information collected by the Service Provider from members of the public to whom it provides, or offers to provide, the Services pursuant to the Agreement; and
 - (C) information received by the Service Provider from the Principal to enable it to provide the Services pursuant to this Agreement,
 - (D) such information does not include:
 - (E) information that discloses or would tend to disclose the Service Provider's financing arrangements, financial modelling, cost structure or profit margin;
 - (F) information that the Service Provider is prohibited from disclosing to the Principal by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
 - (G) information that, if disclosed to the Principal, could reasonably be expected to place the Service Provider at a substantial commercial disadvantage in relation to the Principal, whether at present or in the future.
- (d) The Service Provider agrees that the Principal will be entitled to rely on the defence of qualified privilege for the purposes of section 30 of

the Defamation Act 2005 (NSW) in relation to the provision of information under clauses 8.3(a) and 8.3(b).

- (e) The Service Provider releases and indemnifies the Principal from and against any claim arising out of its provision of information under this clause 8.3.

8.4 Performance reporting

- (a) The Principal may provide performance reports of the Service Provider's performance at the intervals set out in the Services Brief (if any) or as otherwise notified by the Principal.
- (b) The Service Provider must provide the Principal with any assistance or documentation reasonably required by the Principal for the purposes of the Principal carrying out any performance reporting requirements.

9 SERVICE PROVIDER'S REPRESENTATIVE

The person named in Item 5 of the Contract Particulars as having conduct of this engagement on behalf of the Service Provider, or such other person as nominated in writing by the Service Provider and approved by the Principal from time to time, (**Service Provider's Representative**) will be responsible to the Principal for all aspects of the Services. The Service Provider represents and warrants that the Service Provider's Representative has full authority to act on behalf of the Service Provider and the legal power to bind the Service Provider in respect of any matters arising in connection with the Services.

10 PRINCIPAL'S REPRESENTATIVE

10.1 Provide information

The Principal will, as soon as reasonably practicable, make available to the Service Provider all relevant material and particulars within the Principal's possession or control, give all necessary instructions and answer any queries made by the Service Provider relating to the Principal's requirements in connection with this Agreement.

10.2 Principal's Representative

The person named in Item 6 of the Contract Particulars as the Principal's Representative, or any alternate person the Principal nominates in writing, will act as the Principal's Representative and will have authority to act on behalf of the Principal for all purposes in connection with this Agreement.

10.3 Directions

- (a) The Service Provider must comply with any direction of the Principal's Representative. Except where this Agreement states that a direction must be in writing, a direction may be given orally.

- (b) If the Service Provider requests the Principal's Representative to confirm an oral direction, the Principal must as soon as practicable confirm the oral direction in writing.

11 VARIATIONS

11.1 Proposal

- (a) Subject to clause 11.1(b), the Principal may direct in writing that the Service Provider vary the Services (including omitting or deleting a part of the Services), or the timing, including, but not limited to, the time for completion, of the Services or both (**Variation**).
- (b) If the Principal proposes a variation, the Principal will specify in the direction a reasonable time by which the Services provider must provide a written estimate of the time, cost and programming effects of the proposed variation. If no time is specified, the Services Provider must provide the estimate within 10 Business Days.

11.2 Variation instruction

Whether or not the Services Provider provides a written estimate under clause 11.1(b), the Principal may instruct in writing the Services Provider to carry out a variation and the Services Provider must comply with such instruction.

11.3 Valuation

The valuation of a variation instructed under clause 11.1 will be determined by the Principal's Representative as follows:

- (a) by agreement between the Principal's Representative and the Services Provider including, but not limited to, where the Services Provider has provided a written estimate pursuant to 11.1(b) which the Principal has accepted, the amount in that written estimate;
- (b) by using the hourly rates and other prices set out in the Contract Particulars where included; or
on the basis of reasonable prices and rates determined by the Principal Representative.

The Fee will be adjusted by the value of each variation as determined in accordance with this clause 11.3.

11.4 Variation due to a change in a statutory requirement

If a new Law or a change in a Law after the date of this Agreement necessitates:

- (a) a change to the Services;
- (b) has effect after the date of the Agreement; and

(c) could not reasonably have been anticipated at that date,

then the extent to which the Services are changed by the Law shall be deemed to be a variation and will be valued pursuant to clause 11.3.

11.5 Omissions

If a Variation the subject of a direction by the Principal's Representative omits or deletes any part of the Services, the Principal may thereafter carry out these Services itself or engage another service provider to do so.

12 PAYMENT

12.1 Payment Claim

- (a) Subject to clause 12.4 and the performance of the Services by the Service Provider in accordance with this Agreement, the Principal will pay the Service Provider the Fee and any Disbursements on the basis and at the times or in the circumstances specified in the Contract Particulars and in accordance with this clause 12.
- (b) The Service Provider must prepare and submit Payment Claims to the Principal:
 - (i) in the form agreed by the parties or, failing agreement, as required by the Principal;
 - (ii) for the amounts payable under clause 12.1(a);
 - (iii) within the period of time, or on the dates, set out in Item 10A of the Contract Particulars;
 - (iv) itemising the Fee and any Disbursements payable; and
 - (v) containing such further details and documentation as are required by the Principal from time to time.
- (c) Where Disbursements include costs attributable to a Subcontractor, then the Payment Claim must clearly identify the cost payable to the Service Provider in accordance with clause 6(e).
- (d) Unless otherwise specified in Item 2 of the Contract Particulars:
 - (i) the Fees and Disbursements are payable by the Principal on a calendar monthly basis in arrears;
 - (ii) where any of the Fees are calculated on a time basis, the Payment Claim must be for the period up to the last calendar day of the month prior to the issue of the Payment Claim and accompanied by timesheets and a summary of the applicable Services performed in the time period of the claim to which such Fees relate; and

- (iii) all Disbursements (if any are specified in Item 11 of the Contract Particulars) will be reimbursed at cost.
- (e) All Payment Claims must be addressed to the Principal and must refer to the contract number on the cover page of this Agreement.
- (f) It is a condition precedent to the Service Provider's right to submit a Payment Claim under this clause 12.1 that the Service Provider must, if requested by the Principal provide to the Principal:
 - (i) a certificate of currency in respect of its workers' compensation insurance;
 - (ii) proof of insurance in accordance with clause 7; and;
 - (iii) a duly completed and signed statement in the form contained in Annexure E (or in any other form requested or approved by the Principal) from each subcontractor (if any).

12.2 Payment Statement

- (a) If the Principal intends to make a payment that is less than the amount claimed by the Service Provider, within the time period stated in Item 10B of the Contract Particulars of receiving a Payment Claim under clause 12.1, the Principal must give the Service Provider a Payment Statement which sets out:
 - (i) the value of the Services completed in accordance with this Agreement;
 - (ii) the amount already paid to the Service Provider;
 - (iii) the amount that the Principal is entitled to retain, deduct, withhold or set-off under this Agreement;
 - (iv) the amount (if any) which the Principal proposes to pay to the Service Provider;
 - (v) the reason why an amount in clause 12.2(a)(iv) is less than the amount claimed in the Payment Claim; and
 - (vi) if the reason for the difference is that the Principal is retaining, deducting, withholding or setting-off payment for any reason, the reason for the Principal retaining, deducting, withholding or setting-off payment.
- (b) The failure of the Principal to set out in a Payment Statement an amount which it is entitled to retain, deduct, withhold or set off under this Agreement will not prejudice its right to subsequently exercise such right.
- (c) If the Service Provider disagrees with a Payment Statement of the Principal, the Service Provider may dispute the Payment Statement under clause 19.

12.3 Payments

- (a) The Principal must pay the amount stated in a Payment Statement or the amount claimed by the Service Provider in its Payment Claim (as the case may be):
 - (i) where a Payment Statement is issued pursuant to clause 12.2, within the later of:
 - (A) 15 Business Days of the issue of the Payment Statement; or
 - (B) 25 Business Days following receipt of the Payment Claim;
 - (ii) otherwise, within 14 Business Days following receipt of the Payment Claim.
- (b) The making of a payment by the Principal under this clause 12.3:
 - (i) is not evidence of or an indication of the value of the Services performed;
 - (ii) does not constitute an admission by the Principal that any Services provided by the Service Provider conform with the requirements of this Agreement;
 - (iii) is a payment on account only; and
 - (iv) does not amount to a waiver of any right or action that the Principal may have against the Service Provider at any time.
- (c) The Service Provider agrees that all claims for payment for any Services must be made in accordance with this Agreement. If this Agreement is terminated, the Service Provider will not be entitled to any payment other than as calculated in accordance with this Agreement.

12.4 Set Off

The Principal may at any time deduct from amounts otherwise payable to the Service Provider any debt or amount due from the Service Provider to the Principal or any claim to money which the Principal may have against the Service Provider whether for damages or otherwise. The Principal may recover any shortfall from the Service Provider as a debt immediately due and payable.

12.5 Security of Payment Act

- (a) This clause applies if the SOP Act applies.
- (b) The Service Provider agrees with the Principal that the date prescribed in clause 12.1 as the date on which the Service Provider

must make a payment claim is, for the purposes of section 8 of the SOP Act, the "reference date".

- (c) For the purposes of section 17(3)(b) of the SOP Act, the Service Provider irrevocably chooses the Institute of Arbitrators & Mediators Australia as the authorised nominating authority (as that term is defined in the SOP Act) for any adjudication application it may make under the SOP Act in respect of the subject matter of the Agreement.
- (d) When an adjudication occurs under the SOP Act and the Principal has paid an adjudicated amount to the Service Provider:
 - (i) the amount will be taken into account by the Principal's Representative in issuing a Payment Statement; and
 - (ii) if it is subsequently determined pursuant to this Agreement that the Service Provider was not entitled under this Agreement to payment of some or all of the adjudicated amount that was paid by the Principal (**Overpayment**), the Overpayment will be a debt due and payable by the Service Provider to the Principal which the Service Provider must pay to the Principal upon demand and in respect of which the Service Provider is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence.
- (e) Without limiting clause 12.4, the Principal may withhold any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act.
- (f) If the Principal withholds from money otherwise due to the Services Provider any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act, then:
 - (i) the Principal may plead and rely upon Division 2A of the SOP Act as a defence to any claim for money by the Services Provider from the Principal; and
 - (ii) the period during which the Principal retains money due to the Service Provider pursuant to an obligation under Division 2A of the SOP Act will not be taken into account for the purpose of determining
 - (A) any period for which money owed by the Principal to the Service Provider has been unpaid; and
 - (B) the date by which payment of money owed by the Principal to the Service Provider must be made.
- (g) The Service Provider agrees not to commence proceedings to recover any amount withheld by the Principal pursuant to a payment withholding request served on the Principal in accordance with Division 2A of the SOP Act.

- (h) Any amount paid by the Principal pursuant to section 26C of the SOP Act will be a debt due from the Services Provider to the Principal.
- (i) If the Principal withhold money pursuant to a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act and the Services Provider:
 - (i) pays the amount claimed to be due under the adjudication application to which the payment withholding claim relates; or
 - (ii) becomes aware that the adjudication application to which the payment claim relates has been withdrawn,

then the Services Provider must so notify the Principal within 5 days of the occurrence of the event in 12.5(i)(i) or 12.5(i)(ii) above (as applicable) by providing to the Principal a statement in writing in the form of a statutory declaration together with such other evidence as the Principal may require evidencing that the amount has been paid or the adjudication application has been withdrawn.

13 TAXES INCLUDING GOODS AND SERVICES TAX

- 13.1 To the extent that a party to this Agreement (GST Supplier) is or becomes liable to pay GST in connection with any Supply made under this Agreement and the amount of any such GST is not included in the amount payable under this Agreement:
 - (a) the GST Supplier may add to the price of the Supply an amount equal to the GST payable on the Supply (**GST Amount**); and
 - (b) the other party will pay the GST Supplier the price for the Supply in accordance with this Agreement plus the GST Amount.
- 13.2 If, for any reason, the GST Supplier's GST liability in respect of a particular Supply is different from the amount of GST paid by the other party:
 - (a) the GST Supplier must immediately repay to the other party the amount of any excess paid by the other party above the GST Supplier's GST liability; or
 - (b) the other party must pay the deficiency in the amount previously paid by that party to the GST Supplier for that Supply.
- 13.3 Each party warrants that at the time that party makes any Supply under this Agreement on which GST is imposed, that party is or will be registered under the GST Law.
- 13.4 Any invoice rendered by a party to this Agreement in connection with a Supply under this Agreement which seeks to recover an amount of GST payable by that party must conform to the requirements for a tax invoice (as that term is defined in the GST Law).

- 13.5 Other than GST, the Service Provider must pay all taxes and charges payable in connection with the provision of the Services or this Agreement.
- 13.6 The Service Provider acknowledges that, despite any other provision of this Agreement, the Principal will be entitled to withhold any payment otherwise due to the Service Provider until it has satisfied any conditions which the law requires be satisfied prior to the Principal making a payment or to ensure the Principal does not become liable for any taxes or charges for which the Service Provider is primarily liable.

14 INTELLECTUAL PROPERTY

14.1 Contract Material

- (a) Copyright (including future copyright) in all Contract Material vests in the Principal or is otherwise hereby assigned by the Service Provider to the Principal. Title to, and Intellectual Property in, all Contract Material shall, on being created, written or otherwise brought into existence, vest or otherwise be assigned or transferred to the Principal, without the need for further assurance.
- (b) The Principal grants to the Service Provider a non-exclusive licence during the Term to exercise Intellectual Property in the Contract Material solely for the purpose of performing the Service Provider's obligations under this Agreement.

14.2 Existing Contract Material

This Agreement does not affect ownership of the Intellectual Property in Existing Contract Material. The Service Provider hereby grants, and must ensure that relevant third parties grant, to the Principal, at no additional cost to the Principal, a perpetual, non-exclusive, royalty-free, irrevocable, transferable licence (which includes the right to sub-license to third parties) to exercise the Intellectual Property in the Existing Contract Material for the purposes of the Project or any other activities of the Principal.

14.3 Perfection of rights

The Service Provider must execute all documents and do all acts and things required, at its cost (unless otherwise agreed), for the purposes of giving effect to the provisions of this Agreement dealing with Intellectual Property.

14.4 Moral Rights

The Service Provider must hold, or obtain, consents from all authors of Contract Material for the use of and adaptation of the Contract Material by the Service Provider or the Principal, without restriction and without any requirement to attribute the Contract Material to its authors.

14.5 Limitations on the use by the Service Provider of the Contract Material

The Service Provider must ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Agreement unless it has

obtained the prior written approval of the Principal to do otherwise. Any such approval may be given on any terms or conditions the Principal considers appropriate.

14.6 **Warranty**

The Service Provider represents and warrants that:

- (a) it has all appropriate licences of, or title to, all Intellectual Property that is required by it for the purpose of its obligations under this Agreement; and
- (b) it has authority to assign or license (as the case may be) all Intellectual Property rights granted to the Principal under this Agreement.

15 **INDEMNITY**

- (a) The Service Provider agrees to indemnify and keep indemnified the Principal and its officers, employees and agents (**those indemnified**) against any loss, damages, liability or costs (including reasonable legal costs and expenses) incurred or suffered by any of those indemnified where such liability or loss is incurred by reason of or in connection with:
 - (i) any infringement or alleged infringement of any Intellectual Property rights (including Moral Rights) arising out of the supply or use of the Services or any Contract Material provided under this Agreement; and/or
 - (ii) any breach of this Agreement; and/or
 - (iii) any unlawful, wrongful, wilful or negligent act or omission in connection with this Agreement,

by, or on behalf of the Service Provider, its subcontractors, officers, employees and agents.

- (b) The Service Provider's liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any negligent act or omission or default of those indemnified caused or contributed to the liability or loss.
- (c) The indemnity contained in this clause 15 is a continuing obligation of the Service Provider separate and independent of any other responsibility or obligation of the Service Provider and will continue beyond the Term. It is not necessary for the Principal to incur expense or make any payment before enforcing its right of indemnity under this clause 15. The Service Provider must pay on demand any amount it must pay under the indemnity in this clause 15.

16 LIMITATION OF LIABILITY

- (a) The Service Provider will not be liable to the Principal for any damages in the form of consequential damages, including for loss of profit or related economic loss.
- (b) The Service Provider's aggregate liability to the Principal in contract, tort (including negligence) or otherwise under this Agreement is limited to the amount stated in the Contract Particulars, or if no amount is stated, \$5 million.
- (c) The limitation of liability in clause 16(b) will not apply to any liability arising out of or in any way in connection with:
 - (i) liability which cannot be limited at law;
 - (ii) fraud, wilful misconduct or criminal conduct by the Services Provider or any of its employees, servants or agents; or
 - (iii) infringement of third party intellectual property rights by the Service Provider or its subcontractors;
 - (iv) a liability, event, risk or other matter for which the Services Provider is required to insure against under this Agreement, in which case the Service Provider's liability will be limited to the greater of:
 - (A) the amount of insurance that the Service Provider is required to effect in relation to that event or those events; and
 - (B) the amount contemplated by clause 16(b).

17 TERMINATION

17.1 Termination for convenience

- (a) The Principal may terminate this Agreement at any time for any reason, by written notice to the Services Provider.
- (b) If the Principal terminates this Agreement pursuant to this clause 17.1, the Principal:
 - (i) may, in its absolute discretion, complete the uncompleted part of the Services itself or by engaging any third party; and
 - (ii) must reimburse the Services Provider for the cost of Services performed to the date of termination plus the direct costs reasonably incurred by the Services Provider as a result of the termination. Such payment will be a limitation upon the Principal's liability to the Services Provider in connection with the termination of this Agreement.

- (c) This clause 17.1 survives the termination of this Agreement by the Principal under this clause 17.1.

17.2 Termination by the Principal for insolvency or default by the Service Provider

If the Service Provider:

- (a) is subject to an Event of Insolvency;
- (b) breaches the Principal's Statement of Business Ethics;
- (c) fails to carry out the Services with due diligence and competence;
- (d) without reasonable cause suspends the carrying out of the Services;
- (e) commits a breach of this Agreement;
- (f) in the opinion of the Principal has a conflict of interest in performing the Services,
- (g) is the subject of proceedings or investigations commenced or threatened by ICAC, the police force or similar investigative body.

then the Principal may, without prejudice to its right to terminate this Agreement under clause 17.1:

- (h) in the case of the circumstance specified in clause 17.2(a), 17.2(b), 17.2(f) and 17.2(g) or where the breach is not capable of remedy, immediately terminate this Agreement by written notice to the Service Provider; or
- (i) in the case of any other circumstance specified in this clause 17.2:
 - (i) give written notice to the Service Provider specifying the circumstance and requiring the Service Provider to remedy it; and
 - (ii) if the Service Provider fails to remedy the circumstance within 5 Business Days or such longer period as may be specified by the Principal in its notice under 17.2(i)(i):
 - (A) suspend the Service Provider's obligations to perform this Agreement; or
 - (B) terminate this Agreement by a further written notice to the Service Provider.

17.3 Termination for breach by the Principal

The Service Provider may terminate this Agreement if:

- (a) the Principal has failed to pay an amount due to the Service Provider under this Agreement and the amount is not the subject of a bona fide dispute;

- (b) the Service Provider serves a notice on the Principal;
 - (i) stating that the amount referred to in clause 17.3(a) is overdue;
 - (ii) stating that if the amount referred to in clause 17.3(a) is not paid within 30 days of receipt of the notice, the Service Provider proposes to exercise its rights under this clause 17.3; and
 - (iii) attaching a copy of the relevant Payment Claim; and
- (c) the Principal has not made payment of the amount referred to this clause 17.3(a) within 30 days of receipt of the notice referred to in 17.3(b).

17.4 Effect of termination

Termination of this Agreement by either party is without prejudice to any accrued rights or remedies of either party. The Principal may following termination enter into a contract with any person to carry out or complete provision of the Services.

17.5 Payment on termination

- (a) Upon termination of this Agreement, subject to clause 17.5(c), the Principal will pay the Service Provider for the Services performed by the Service Provider in accordance with this Agreement up to the date of termination. The Service Provider will have no claim against the Principal for any consequential or indirect expenses or losses (including loss of profit) arising from the termination.
- (b) To the maximum extent permitted by law, the Principal's total liability to the Service Provider arising out of or in any way in connection with the termination of this Agreement will be limited to the amount payable by the Principal to the Service Provider under clause 17.5(a).
- (c) In the case of termination under clause 17.2, the payment under this clause 17.5 shall take into account any adjustments and deductions for loss or damage suffered, or reasonably likely to be suffered, by the Principal as a consequence of breach of this Agreement by the Service Provider or other circumstance specified in clause 17.2. The Principal may offset any money due to the Service Provider against any money payable by the Service Provider to the Principal and recover any shortfall from the Service Provider as a debt immediately due and payable.

17.6 Consequences of termination

- (a) Without limiting the Principal's rights in relation to this Agreement, if the Principal prepaid any amounts to the Service Provider for Services to be performed which at the date of termination have not been performed and this Agreement is terminated for any reason:

- (i) the Service Provider must refund to the Principal such prepaid amounts, within 5 Business Days of termination of this Agreement; and
 - (ii) the Principal may recover in an appropriate court the balance of any prepaid amount not refunded as a debt due and payable by the Service Provider to the Principal.
- (b) The Service Provider must, except to the extent approved by the Principal in writing and subject to clause 17.6(c), deliver to the Principal, within 5 Business Days of termination or expiry of this Agreement:
 - (i) all Confidential Information of the Principal;
 - (ii) all Existing Contract Material, Contract Material and the Principal's Material; and
 - (iii) all copies of (i) and (ii) above.
- (c) The Service Provider may retain one copy of the Contract Material for record keeping purposes, subject to the confidentiality and privacy requirements contained in this Agreement.
- (d) The Service Provider must, for a minimum period of seven (7) years following the termination or expiry of this Agreement, keep any operational records and project data relating to the provision of the Services securely and in a form and manner as to facilitate access and inspection under this Agreement.
- (e) Clauses in this Agreement dealing with access to records, licences, consents, confidentiality, intellectual property, fitness for purpose, insurances, effect of termination, consequences of termination, payment, indemnities, dispute resolution, and any other provision of this Agreement which by its nature should survive termination or which is capable of continuing to apply after the Services are completed or terminated for any reason shall survive termination, expiry or repudiation of this Agreement.

18 NOTICES

- (a) Any notice or other communication given under this Agreement:
 - (i) must be in writing addressed to the intended recipient at the address shown for the recipient in Item 8 of the Contract Particulars or the address last notified by the intended recipient to the sender;
 - (ii) must be signed by an authorised officer of the sender;
 - (iii) will be taken to have been delivered:

- (A) in the case of delivery in person - when delivered to the recipient's address for service;
 - (B) in the case of delivery by post - within 3 Business Days of posting;
 - (C) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient;
 - (D) if sent by email, the date for receipt of an "electronic communication" that would be determined if section 13A of the Electronic Transactions Act 2000 (NSW) were to apply in respect of the email.
- (b) If delivery or receipt of a notice occurs on a day that is not a Business Day, or occurs later than 5.00 pm (local time) on any day, it will be taken to have occurred at the commencement of business on the next Business Day.
- (c) The parties acknowledge and agree that any notice, approval, consent or other communication in connection with this Agreement given by email must, if it relates to or is in connection with:
- (i) the Fee, novation or any Variation;
 - (ii) termination of this Agreement; or
 - (iii) any dispute under this Agreement,
- in addition to being given an email, also be sent either by post or facsimile or given by hand.

19 DISPUTE RESOLUTION

19.1 Notice of Dispute

- (a) This clause applies to any dispute which arises between the parties in connection with this Agreement (**Dispute**). The parties must follow the dispute resolution process in this clause before either commences court proceedings or takes similar action, except to seek an urgent injunction or declaration.
- (b) If a party considers that a Dispute has arisen, it may give notice to the other party of the Dispute, setting out reasonable particulars of the matters in dispute (**Dispute Notice**). The Dispute Notice must be given within 14 days of the party becoming aware of the issue.

19.2 Discussions

- (a) The parties must promptly hold good faith discussions after issue of a Dispute Notice to attempt to resolve the Dispute (**First Level Discussions**) and must (subject to privilege) furnish to the other party all information with respect to the Dispute which is appropriate in connection with its resolution.
- (b) If the Dispute has not been resolved within 5 Business Days after commencement of First Level Discussions, the parties must attempt to resolve the Dispute by holding good faith discussions between a senior executive to be nominated by each Party (**Second Level Discussions**).

19.3 Expert Determination

- (a) If the Dispute has not been resolved within 10 Business Days after commencement of Second Level Discussions, then, subject to the parties' right to seek injunctive or urgent declaratory relief, before either party has recourse to litigation, the dispute must be referred to expert determination.
- (b) If the Services Provider and the Principal do not agree upon an independent expert, either party may request the President of the Institute of Arbitrators & Mediators Australia to nominate an expert.
- (c) The expert determination will be conducted in accordance with the rules in the Contract Particulars and the parties must sign such form of engagement as the expert may reasonably require.
- (d) Except where the parties otherwise agree in writing or the rules in the Contract Particulars otherwise provide:
 - (i) each party must bear its own costs and pay one half of the expert's fees and expenses;
 - (ii) the expert must not act as an arbitrator; and
 - (iii) the determination of the expert will be final and binding on the parties unless a party gives notice of appeal to the other party within 15 Business Days of the determination.

19.4 Continuing performance

Each party must continue to perform its obligations under this Agreement, notwithstanding the existence of any Dispute, unless the nature of the Dispute renders it impossible to do so or unless and until such obligations are terminated or expire in accordance with this Agreement.

20 PROPORTIONATE LIABILITY

- (a) To the extent permitted by law, Part 4 of the Civil Liability Act 2002 (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or liabilities of either party under this Agreement whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.
- (b) Without limiting the clause 20(a), the rights, obligations and liabilities of the Service Provider and the Principal under this Agreement with respect to proportionate liability are as specified in this Agreement and not otherwise, whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, in tort or otherwise.
- (c) To the extent permitted by law:
 - (i) the Service Provider must not seek to apply the provisions of Part 4 of the Civil Liability Act 2002 (NSW) in relation to any claim by the Principal against the Service Provider (whether in contract, tort or otherwise); and
 - (ii) if any of the provisions of Part 4 of the Civil Liability Act 2002 (NSW) are applied to any claim by the Principal against the Service Provider (whether in contract, tort or otherwise), the Service Provider will indemnify the Principal against any loss, damage, cost or expense which the Principal is not able to recover from the Service Provider because of the operation of Part 4 of the Civil Liability Act 2002 (NSW).

21 GENERAL

21.1 Governing Law

This Agreement is governed by and must be construed according to the law applying in New South Wales.

21.2 Amendments

This Agreement may only be varied by a document signed by or on behalf of each party.

21.3 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing; or the partial exercise or enforcement of, a right or remedy by a party, does not preclude, or operate as a waiver of, the exercise or enforcement of that right or remedy.
- (b) A waiver or consent given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party.

- (c) No waiver of a breach of a term of this Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

21.4 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to the other party) required by law or reasonably requested by the other party to give effect to this Agreement.

21.5 Consents

A consent or approval required under this Agreement from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this Agreement expressly provides otherwise.

21.6 Assignment

- (a) The Service Provider cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the Principal.
- (b) The Principal may, for its sole convenience and at its absolute discretion, assign, novate or otherwise deal with its rights and obligations without the Service Provider's consent to any other Authority. The Service Provider must execute any document reasonably required to give effect to the assignment, novation or other dealing.

21.7 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this Agreement, except for representations or inducements expressly set out in this Agreement.
- (b) Each party acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this Agreement.

21.8 Entire agreement

To the extent permitted by law, in relation to its subject matter, this Agreement:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

21.9 Severance

If at any time a provision of this Agreement is or becomes illegal, void, invalid or unenforceable in any respect under the law of any jurisdiction that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

21.10 Exclusivity

- (a) The Service Provider must not and must procure that:
 - (i) any Related Body Corporate of the Service Provider; and
 - (ii) any employees, agents, subcontractors and consultants who are involved in the provision of the Services,prior to the date of completion of the Project:
 - (iii) have any direct or indirect involvement in the Project other than for the Principal or the New South Wales Government; or
 - (iv) provide services to or advise any other person in relation to the Project,except with the prior written consent of the Principal which may be withheld or granted in its sole discretion.
- (b) The Service Provider agrees that:
 - (i) having regard to the Project and the Services, clause 21.10(a) is reasonable as regards the nature of the involvement restrained and the duration and scope of the restraint and that the restraints are reasonably necessary for the probity of the Project and to ensure the best value for money for the Project; and
 - (ii) damages may not be a sufficient remedy for the breach of clause 21.10(a) and the Principal may be entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach by the Service Provider, in addition to any other remedies available at law or in equity.

21.11 Publicity

The Service Provider must obtain the written approval of the Principal before publishing or publicising any information associated with the Project, the Principal or the Services or seeking to use the Principal's name as a reference.

TRANSPORT FOR NSW
PROFESSIONAL SERVICES AGREEMENT

EXECUTED as an agreement

Signed for and on behalf of
Transport for NSW ABN 18 804 239
602 by its authorised delegate in the
presence of:

Fraser Lyle
Signature of Witness

FRASER LYLE
Full Name of Witness

[Signature]
Signature of Authorised Signatory

GREG ELLIS
Full Name of Authorised Signatory

2009

Signed by Driving Edge Marketing Pty Ltd
ABN 31 106 314 818 in accordance with
section 127 of the Corporations Act 2001

Withheld
Signature of Director

Withheld
Full Name of Director

DATED:

Withheld
Signature of Company Secretary/Director

Withheld
Full Name of Company Secretary/Director

DATED:

ANNEXURE "A" – Contract Particulars

Item 1: Services (clause 1.1 & 2)	The Services are as described in the Services Brief (Service Provider Proposal) titled " Opal Card Acquisition - Supply and Management of Activation Teams " dated 13 December 2013.
Item 2: Fees (clauses 1.1 & 12.1)	<p>Service Provider to provide The Principal with a quote within 14 Business Days prior to commencement of each wave.</p> <p>The calculated cost of each wave will be based on the example of Withheld excluding GST as provided in the Supplier's Proposal.</p> <p>The Principal will not be liable for any amount incurred in excess of the quoted cost for each wave without its prior written consent.</p>
Item 3A: Commencement Date (clause 1.1 & 2.2)	February 2014
Item 3B: End Date (clause 1.1 & 2.2)	June 2014
Item 4: Program (clause 2.8)	Program for performance and completion of the Services is not required.
Item 4A: Safety Report (clause 2.13)	As required by section 295 of the Work Health and Safety Regulations 2011 (NSW) or when requested by the Principal.
Item 5: Service Provider's Representative (clause 9)	Withheld
Item 6: Principal's Representative (clause 10)	Greg Ellis General Manager, ETS
Item 7: Limitation of Liability (clause 16)	\$ 5 million

Item 8:
Notices
(clause 18)

Principal

Transport for NSW,
ABN 18 804 239 602
Address: 18 Lee Street, Chippendale, NSW 2008
Facsimile No: +61 2 8208 3318
Tel: +61 2 8202 2988
Attention: Greg Ellis

Service Provider

Driving Edge Marketing Pty Ltd
ABN 31 106 314 818
Address: 60 Waters Road,
Cremorne, NSW 2090
Tel: +61 2 9968 5332
Attention: **Withheld**

Item 9:
Key People
(clauses 1.1 & 2.6)

Not Applicable

Item 10:
Insurances
(clause 7)

Public Liability Insurance: \$ 10 million

Professional Indemnity Insurance: \$ 5 million

Time for maintaining Professional Indemnity Insurance:
7 years following the expiration or earlier termination of
this Agreement

Item 10A:
Payment Claim
(clause 12.1)
(clause 12.1(ii))

Payment Claim: Within 14 Business Days of Payment
Milestones.

Service Provider will be paid the total fee on completion
of each wave.

Item 10B:
Payment Statement
(clause 12.2)

Within 25 Business Days of receipt of a Payment Claim.

Item 11:
Disbursements
(clause 12.1)

The Service Provider may not claim any expenses in
relation to the Services and the Deliverables to be
provided under this agreement, unless it has obtained
TfNSW's prior written consent to incur those expenses.

Item 12:
Premises
(clause 2.16)

60 Waters Road, Cremorne, NSW 2090

Item 13:
**Expert Determination -
Rules**
(clause 19.3(c))

Refer to clause 19.3

TRANSPORT FOR NSW

REQUEST FOR QUOTATION PROPOSAL RESPONSE COVER SHEET

FOR SERVICES

Opal Card Acquisition

Supply and Management of Activation Teams February 2014-June 2014

ISSUE DATE	16 th December, 2013
CLOSING TIME AND DATE	Monday 13 th January, 2014
LODGEMENT PLACE	Via Electronic Mail ETSTenderBox@transport.nsw.gov.au
CONTACT MANAGER	Claire Courtemanche Corporate Governance Officer
RFQ VENDOR	Driving Edge Marketing
SUBMISSION COMPLETION DATE	Monday 13 th January, 2014
DRIVING EDGE MARKETING SUBMISSION CONTACT	Withheld

CONTENT PAGE

- a) A written proposal outlining how this project will be approached, resourced, reported and managed.
- b) Demonstrate an understanding of target market segmentation and the level of skill and engagement required by street team members.
- c) Details of your experience in recruiting and retaining appropriately skilled activation teams.
- d) Provide details on the experience of the Principal Project Manager and proposed project team relevant to this project.
- e) Provide examples of previous work similar in size and scope to this project, plus any previous experience with Government. The results of each example must also be provided.
- f) Itemised costing for your proposal.

Released under NSW GIPA Act 2009

- a) A written proposal outlining how this project will be approached, resourced, reported and managed.

2009

Released under NSW GIPA Act

a) A written proposal outlining how this project will be approached, resourced, reported and managed.

Driving Edge has over 10 years experience in Australia delivering brand ambassador and street team campaigns for our partners and utilise our national office and management structure to ensure best in class delivery across the country.

At our core is our ability to represent our clients through project management, field team management as well as innovative and creative ideas that deliver high engagement outcomes that inspire purchase and drive sales.

In managing this project we would combine our wealth of industry experience as well as our experience in supplying and management of Opal Activation teams since the initial Opal street team rollout in November 2012.

Specifically **our approach** can be categorised into the following:

1. Structure and Resources
2. Systems and Procedures
3. Communication Channels
4. Reporting
5. Experience and learning's from past campaigns
 - Knowledge of all environments (trains, bus, ferry)
 - Use experience team Core team

1. Structure and Resources

To maintain the highest levels of campaign management a joint client service and infield operations team would be responsible for the overall delivery of the campaign (refer section d. for team member details). This structure ensures that specialist team members are involved in all areas of campaign delivery including resource planning, team scheduling, training, and very importantly infield street team management.

Driving Edge has a national field team of over 400 team members and the profiling and utilisation of this team ensures the right team member resources are identified and scheduled for Opal activity.

Since the first Opal street time trial Driving Edge has clearly demonstrated the ability of our structure and resource levels are able to deliver the appropriate number and profile of activation team members required for the numerous Opal campaigns completed.

Further to this, our structure and resources have also provided Opal with the ability to deliver campaigns at both short notice and in many instances with changing start dates which is an inevitable situation with such a rollout initiative.

2. Systems and Procedures

Underpinning our structure and resources is a disciplined set of systems and procedures.

It is critical that the status of any project is clearly stated and most importantly documented. Having robust processes from budgeting, client WIP documents, internal campaign briefing documents, rostering protocols, scheduling, reporting, timesheets and payroll are all critical as they are designed to allow all team members to gain a clear understanding of the status of the project, items to be actioned and key timeframes. The outcome is that the correct resources are in place and team members have the equipment and necessary information to deliver the right outcomes for our client partners.

3. Communication Channels

The first step is to ensure frequent and open communication between TfNSW management and Driving Edge. Ensuring there is a process to create and receive timely placement schedules as well as pre program briefing sessions to discuss rollout details and the unique aspects of each phase.

Driving Edge's joint client service and operations management structure ensures timely and accurate information is not only shared within the business but also fully understood. This is critical with a campaign such as Opal where there are significant nuisances when activating across the transport modes and from station to station.

Further to the important client and internal communication channels a critical communication channel is infield communication. In many instances over 20 locations may have Opal Activation staff on site simultaneously. Clear and documented communication channels are critical for managing such teams, an example of a such an infield communication channel on Opal is the protocol for Late / Unable to Work communication.

The Driving Edge Infield Manager will work each morning throughout the duration of the campaign and be on call as the first point of contact for the Street Teams from 5.45am.

- Scenario 1: Late To Shift
 - Team member contacts Infield Manager with situation and approximate arrival time.
 - Infield Manager to advise agreed Opal contact and in the case of Tranche One Train activity in January 2014 also the nominated Sydney Trains Representative
- Scenario 2: Unable to attend Shift
 - Last minute notice with insufficient time to organise replacement team member
 - Infield Team leader communicates with Opal contact and determine agreed action.
 - Critical that each situation is dealt with on a case by case basis as the agreed action will be dependent on which station or venue the team member was scheduled for work.
 - E.g. Move a street team member from another station or reschedule activity to another day etc.
- On confirmation of agreed action, Infield Team Manager to update Sydney Trains Representative.

4. Reporting

Driving Edge utilises the following disciplines to ensure accurate data collection:

- Culture and Team induction. Our philosophy in business is to 'Inspire Purchase', meaning we create and activate campaigns that inspire purchase for our clients. Our team members working in field for our clients are a critical element in achieving this philosophy. As such it is critical that all members of the Driving Edge team share the same ethics in regards to accurate reporting and transparency of results to our clients.
- Compliance audits, during field visits by management random audits of reporting are made.

Driving Edge utilises a best of class IT Platform. **Withheld**

On the Opal February to June 2014 campaign an agreed report form would be completed daily by staff or teams working at each location. The report could include information such as:

- Number of flyers distributed
- Commuter reaction to Opal
- Key reasons for applying for and not applying for an Opal card
- Recommendations to improve the street team activity
- Photos from the day

5. Expertise and Learning's from Past Opal Activity

Over the past year or so, Driving Edge has activated hundreds of Opal Team shifts across numerous rollouts and this has provided Driving Edge with a significant amount of learning's, insights and expertise in regards to executing Opal street team activity. Including;

- i. Importance of a Core Team & Venue Knowledge
 - Driving Edge's ability to retain a core team has been a major benefit to the campaign. The Opal knowledge of the team and ability to understand the various transport channels is a key campaign success factor.
- ii. Preparation and Ability to Manage Changes

The nature of such a rollout ensures that campaign timings, start dates, locations and staffing resource requirements by day, change on a frequent basis. A management structure and resource planning tools that can cope with such changes are critical.

b) Demonstrate an understanding of the target market segmentation and the level of skill and engagement required by street team members.

2009

Released under NSW GIPA Act

b) Demonstrate an understanding of the target customer segmentation and the level of skill and engagement required by street team members.

An important requirement is to not only understand the different segmentation by card usage but also the differences by venue.

For example, the rail environment is very fast moving and as mentioned in the RFQ commuters are often in a 'bubble'. Given this just holding out a flyer often will not work, the street team need to be proactive and make the first approach, to initiate a conversation, e.g. Do you want to avoid the queues? Have you heard of Opal? Etc

On engaging a commuter and starting the conversation team members need to ask questions to determine the commuters public transport profile, e.g. how often, which lines or areas travelled most frequently. From gaining this information they will then be in a position to best communicate the most relevant Opal facts whether this is ease of use, price comparison, Trip versus Journey conversations or Opal card transfers etc. Understanding commuters individual travel needs is critical if the optimal information in regards to Opal is to be communicated by the street team.

Driving Edge engaged a training organisation in 2011 to develop a proprietary training platform specifically for Brand Ambassadors. The training platform was developed to underpin our philosophy of 'Inspiring Purchase' for our clients. The investment covered not only the development of the material but a supported "train the trainer" roadshow and documentation.

This proprietary training platform is called the 'GREAT' process and all team members working with Driving Edge participate in various induction sessions including GREAT training modules. The GREAT process covers all areas of customer engagement from best ways to greet and engage (G), build rapport (R), asking questions to determine an individuals needs and educate with relevant information (E), direct consumer with required action (A), instruction or if appropriate close the sale. And finally ensure that is a positive experience thank them for their time (T).

Understanding the GREAT process is a key skill required of street team members as through this process they will have the skill to engage commuters, ask questions to profile the commuter to determine segmentation type (Frequent, Infrequent or Occasional) and in doing so be able to provide the commuter with the most relevant Opal information for their personal situation.

Specific skills and performance profiles required of the street team include:

- Well presented and always in full uniform as per the program guidelines.
- Good communication skills with ability to clearly deliver Opal information to commuters and ask questions to understand commuters travel patterns.
- Polite and follow required procedures for the activity, which could include signing in at venues, introducing themselves to Station Officers, advising when leaving venue etc.
- Be able to reflect the brand personality of Opal – Positive, Modern, Approachable, Open, Energetic, Engaging.
- Friendly personality with ability to engage a diverse demographic range.
- Actively approach commuters
- Be prepared for each venue, knowing the placement principals for the venue they are working at e.g Ungated Station Pre Go Live Date will be different to Ungated Station Post Go Live Date.

c) Details of your experience in recruiting and retaining appropriately skilled activation teams.

2009

Released under NSW GIPA Act

c) Details of your experience in recruiting and retaining appropriately skilled activation teams.

Driving Edge has been managing activation teams for the past 10 years including managing Opal Street teams since November 2012. Driving Edge's prides itself in being a market leader in the recruitment, retention, training and execution of the field teams we activate on behalf of our client partners.

Driving Edge's focus and commitment to infield execution quality is supported at its core by the way we build, motivate and train our field team members. Our field team members are the face of both Driving Edge and our clients and as such are integral in delivering successful campaigns.

To ensure the right staff is hired for each campaign we have the following process:

- Position descriptions and profiles: clearly identifying key requirements and based on competency framework.
- National recruitment team with consistent approach and understanding of requirements. Including visiting campaigns in field to understand first hand profile requirements.
- Multiple sourcing mediums, referrals, social media, database and targeted advertising
- Screening phone calls, following agreed process to understand competency.
- Group Interview, allowing for individual one on one and group participation activities.
- Induction. An introduction to the Inspiring Purchase culture, and training on our proprietary consumer engagement training platform GREAT as well as Food Handling and HACCP.

A fundamental capability in 'Inspiring Purchase' is the ability to locate, attract, recruit, train, motivate, lead and manage people that are able to intuitively deliver the richest brand experience, and thus inspire purchase. The hiring process above ensures we locate, hire and recruit the right pool of candidates.

To match staff to the specific requirements of each campaign Driving Edge utilises **ME** Environment. **Withheld**

Step 1: DNA Mapping

What are the staff profile success criteria for this campaign? Understanding specific skills, demographics and interest or hobbies for each brand or target audience.

Step 2: Profiling

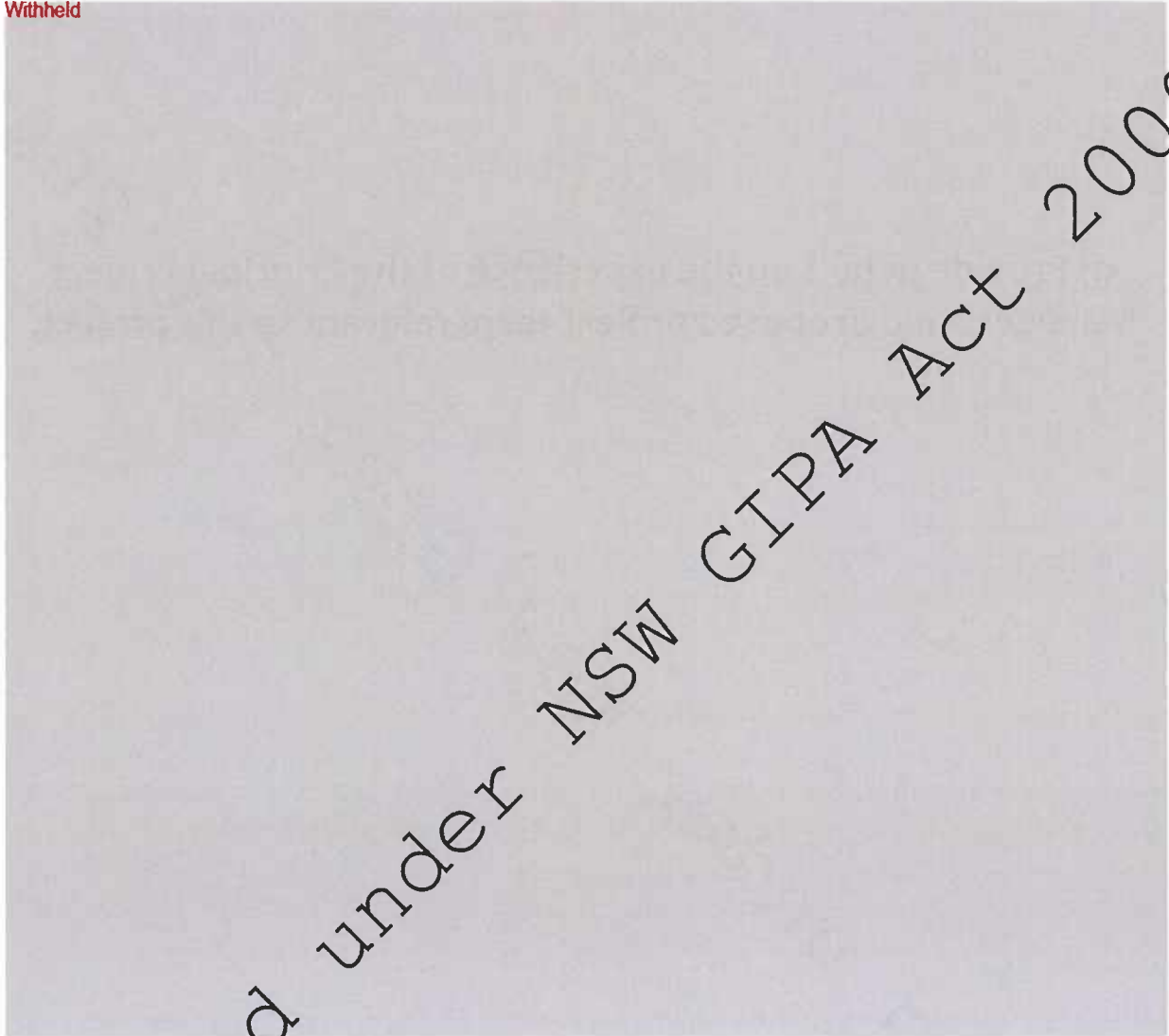
Along with information collected from past program performance, team members complete profile documents outlining areas of study, hobbies, interests, talents etc.

By cross matching the requirements of step 1 with the data in step 2 we are able to identify team members who have the optimal mindset for each campaigns.

Steps 3 and 4: Culture & Induction

As mentioned it is critical that all team members share the fundamental beliefs that support 'Inspiring Purchase'. It is therefore extremely important that through the recruitment and induction process team members are educated on Inspiring Purchase and provided with supporting training in particular the GREAT consumer engagement model.

Withheld



d) Provide details on the experience of the Principal Project Manager / and proposed project team relevant to this project.

Released under NSW GIPA Act 2009

d) Provide details on the experience of the Principal Project Manager / and proposed project team relevant to this project.

Driving Edge has been working in partnership with TfNSW since November 2012 and has an extremely solid understanding of the project management requirements for this project. Further to this Driving Edge has a number of key individuals from both office project management to field team members who have been actively involved in previous Opal Street Team executions who would be involved in the February to June 2014 activations. Specifically;

Project Lead – Withheld

- Over 20 years experience in managing experiential and field marketing campaigns.
- Project lead working with TfNSW since first Opal street team trial in 2012.
- Has successfully developed and managed field and activation teams for numerous blue chip organisations including; Telstra, Sony, P&G, National Australia Bank, ACP Magazines, Foxtel, World Vision, Canon, Fairfax, Goodman Fielder.

Campaign Executive and Administration – Withheld

- Campaign Executive who has been managing the staff rostering and scheduling for recent Opal street team campaigns. Including activations on both Bus and Train networks. Most recently Withheld has been rostering and scheduling the Opal street teams for the Tranche One Train rollout which commences in January 2014 involving a team of approximately 30 team members.
- Withheld has a wealth of experience in field team project management being responsible for field team administration and rostering for clients such as Canon, TfNSW Opal, TfNSW Summer Cricket Sponsorship, Oral B, Braun and Western Digital.

Infield Manager – Withheld

- Withheld is an experienced street team member with a very strong background in direct sales. Withheld has street team and brand ambassador experience working on numerous campaigns such as Western Digital, Braun, Oral B, Fred Hollows Foundation and Starlight Childrens Foundation.
- Withheld has a Certificate III in Business Sales and would take an active infield lead in any Opal Card acquisition and sales campaign.
- For the upcoming Opal Tranche One Train Rollout Withheld will be the on-call field manager each morning. In this roll Withheld will be available from 5.45am each morning Withheld would work closely with the nominated Opal and Sydney Trains representatives to determine agreed actions and ensure clear and update to communication to all key stakeholders.

Field Team Leaders – Withheld and Withheld

- Withheld and Withheld are two of the most experienced field team members having worked as part of the Opal Street team activity since November 2012
- Having worked on Ferries, Trains and Bus rollouts both have a thorough knowledge of Opal, customer segmentation as well as the noticeably different commuter behaviours between the modes.
- They will be key team members working infield each day and their knowledge and experience will be used at priority locations as well as supporting new Opal street team members on their first shifts.

- e) Provide examples of previous work similar in size and scope to this project, plus any experience with Government. The results of each example must also be provided.

e) Provide examples of previous work similar in size and scope to this project, plus any previous experience with Government. The results of each example must also be provided.

For the past 10 years Driving Edge has been managing field and street teams for numerous blue chip organisations ranging from Procter & Gamble and Sony to National Australia Bank and Nestle.

To illustrate our experience please below for examples of campaigns developed and managed by Driving Edge Marketing.

Example 1: Transport for NSW – Opal

Since the initial roll-out of Opal in November 2012 Driving Edge has been recruiting and managing the Opal Street teams.

Throughout this period Driving Edge has gained significant experience and insights in managing Opal street teams at all transportation modes. Including;

- Opal Street teams for all Ferry wharves since the initial roll-out including locations such as Circular Quay, Mosman, Neutral Bay, Manly etc.
- Opal Street teams for all Train lines Opal has progressively rolled out to, including stations such as the Bondi, Chatswood, St Leonards, North Sydney, Kings Cross etc
- Opal Street teams for Bus lines has progressively rolled out to, including the 333 Bondi to city bus route.

As evidence of our ability to recruit and retain team members, many of the core street team members who were part of the initial trial back in November 2012 are still actively working on Opal street team activity today and will be part of the upcoming Tranche One train rollout in January 2014.

Withheld



Driving Edge's knowledge of the of the Opal brand, the requirements of the field team and the various mode segments (Bus, Train, Ferry) is second to none and with the current core team of street team members delivers the optimal platform for managing the Opal Activation Team requirements for February to June 2014.

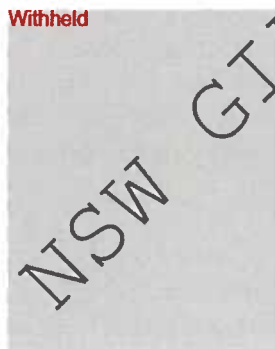
Example 2: Braun Brand Ambassadors

Driving Edge has managed the brand ambassador sales teams for the Braun brand for the past 2 years. Driving Edge's key responsibilities are:

- Recruit and manage a national brand ambassador team of over 45 team members.
- Train the team on latest product information, shopper engagement strategies, sales skills and retailer specific requirements.
- Provide daily reporting per venue (up to 30 venues on a day), detailing shopper feedback, venue feedback and sales.
- Analyse individual venue performance and provide and implement productivity improvement strategies.

Campaign Results:

- **Withheld** sales target achieved.
- Over 500 shifts completed in the 4 week lead up to Christmas 2013.



Example 3: Oral B Brand Ambassadors (including a direct sales channel)

Driving Edge has activated 7 phases of Oral B shopping centre activations over the past few years. Driving Edge's key responsibilities are:

- Recruit and manage a national brand ambassador team of over 80 team members
- Train the team on latest product information, shopper engagement strategies, sales skills and venue specific requirements
- Manage stand design, build and logistics for all events
- Manage sales for required locations (EFTPOS, stock management, sales reports)
- Venue management and securing of permits for activity within leading shopping centres
- Analyse individual venue performance and provide and implement productivity improvement strategies

Campaign Results:

- Sales data confidential (success of campaign has resulted in 6 additional phases since initial trial campaign)
- Over 15,000 brand ambassador staff hours activated in 2013

Withheld



Example 4: ACP Magazines (Direct Sales Kiosks)

Driving Edge has significant experience in managing direct sales campaigns, including a ACP Magazines direct sales channel. Where ACP kiosks were set up in major shopping centres across Sydney, Melbourne and Brisbane in order to drive sales of subscriptions as Christmas gifts.

Driving Edge's key responsibilities are:

- Recruit and manage a national brand ambassador team of 50 team members.
- Train the team on latest product information, shopper engagement strategies, sales skills and retailer specific requirements.
- Sell magazine subscriptions direct to shoppers, facilitating the sales transaction at the direct sales kiosk.
- Provide daily sales transaction reporting to ACP.
- Analyse individual venue performance and provide and implement productivity improvement strategies.

Campaign Results:

- Over 100 direct sales activity days completed.
- Over 146,000 shopper engagements.
- Sales data confidential.

Withheld



Example 5: SK-II Pop Up Store (Direct Stores)

Driving Edge was asked by the prestige brand SK-II to trial and establish a new Pop-Up retail channel for the brand. Driving Edge's key responsibilities are:

- Set up banking facilities allowing Driving Edge to become a new retail channel for the brand.
- Design, build and manage the logistics and stock requirements of the pop up stores.
- Activate the pop up store at premium shopping centres such as Bondi Junction and Westfield Sydney.
- Train the team on latest product information, shopper engagement strategies, sales skills and retailer specific requirements.
- Provide daily sales transaction reporting.
- Analyse individual venue performance and provide and implement productivity improvement strategies.

Campaign Results:

- 30 day trial campaign activated.
- Results presented to regional office for evaluation.
- Pop up store became one of the top sales 'doors' nationally.
- Sales data confidential.

Withheld



Example 6: Bankwest Brand Ambassador and Street Teams

Driving Edge partnered with Bankwest to manage brand ambassador and street teams to support the Eastern Seaboard expansion of the brand. Driving Edge's key responsibilities are:

- Creating unique local area street team plans for each store opening (over 60).
- Segmentation of stores ranged from CBD venues, within major shopping centres, and suburban strip malls.
- Recruit and manage the street teams across NSW, QLD and VIC (over 75 team members).
- Profile customers to understand financial status and communicate relevant product information.
- Engage the public with key product information, answer questions and motivate required outcome, ranging from completion of forms, visiting Bankwest branches and product purchases.

Campaign Results:

- The Driving Edge Bankwest brand ambassadors delivered over 125,000 one on one brand and product conversations.

Withheld



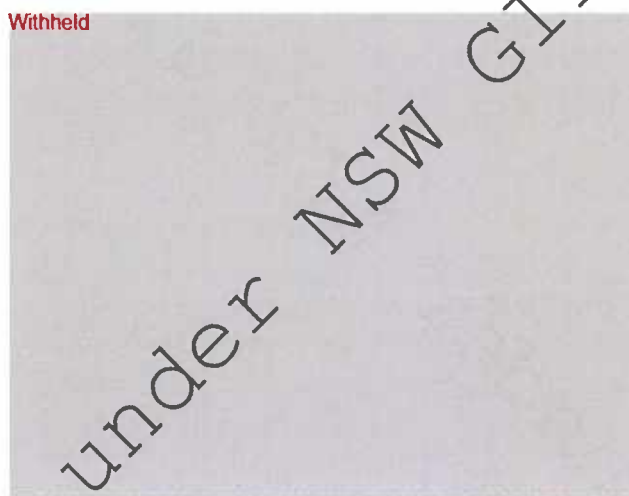
Example 7: Rebel Sports Street Teams

Driving Edge partnered with Rebel to launch the new Pitt Street branch by managing a street team to provide full coverage and of the Sydney CBD for the opening two weeks of the store. Driving Edge's key responsibilities are:

- Recruit, develop and manage a street team of over 25 for the Sydney CBD activation
- Train team members on the key product messages, and unique daily sales offers
- Engage the public with key product information, understand shoppers interests and hobbies in order to match to daily offers
- Develop high impact branding to maximise cut through within very busy and cluttered environments
- Roster and schedule teams at over 12 separate CBD locations each day including; Pitt St Mall, Wynyard Train Station, Town Hall Train Station, Central Train Station, St James Train Station, Circular Quay, QVB Building etc

Campaign Results:

- Over 170,000 conversations and brand offer flyers distributed



f) Itemised costing for your proposal.

Released under NSW GIPA Act 2009

f) Itemised costing for your proposal.

The table below provides an example of the scope of the resourcing required for one of the first activity bursts in the first half of 2014. **Please provide an example quote for this activity based on the information in the table.**

Activity	Total no. of locations in roll-out	No. of locations with street teams	Total number of shifts*	Total number of staff hours
First activity Burst 1 - 10 days Burst 2 - 10 days	48	37	92	368

* Shifts are in 4 hour blocks and are approximately 6am to 10am or 4pm to 8pm (this may vary slightly depending on station hours of business)

Important: Please also provide a detailed breakdown of your costing formula. Subsequent street team activity for the first half of 2014 has not yet been scoped to the level of detail outlined in the table above and TfNSW requires a thorough understanding of your pricing model for each project/activity burst.

Driving Edge Cost Model

Assumptions:

- Activity split across 2 bursts with each having 10 days
- A total of 37 locations to have street teams
 - 28 locations to have one team member only
 - 9 locations to have two team members
- A total of 92 shifts across the two bursts ~ 4 hours per shift
- Based on number of days and shifts, Driving Edge has assumed a team size of 15 staff is required to activate this burst (this would be finalised on receipt of final placement schedule)
- Training session attendance is compulsory (2 hour session)

Campaign Costs:

- Staff Training: Withheld
- Burst One Hours: Withheld
- Burst One Hours: Withheld
- Burst One Travel Allowance: Withheld
- Burst Two Hours: Withheld
- Burst Two Hours: Withheld
- Burst Two Travel Allowance: Withheld
- Campaign Management: Withheld
- Total Costs excl GST

CONTACT DETAILS

Name

of Contact Manager:

Withheld

Title

of Contact Manager:

Withheld

Telephone Number

of Contact Manager

Withheld

Internet Address

of RFQ Tenderer:

www.drivingedge.net.au

Business Address

Level 1, 120 Pacific Highway
St. Leonards NSW 2065

Released under NSW GIPA Act 2009

Driving Edge Marketing

Level 1, 120 Pacific Highway St. Leonards NSW 2065

Contact: Withheld

Withheld

16 May 2014

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Opal acquisition Ramp Up Campaign – Phase one

Reference is made to:

- the agreement between Transport for NSW (Principal) and oOh! Edge Pty Limited (Service Provider) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (Service Agreement); and
- the attached estimate from the Service Provider dated 7 May 2014 (Variation Proposal) issued pursuant to clause 11.1 (b) of the Service Agreement under which the Service Provider has provided a written estimate of the time and cost effects of a variation in the scope of the Services for Phase one as specified in the Variation Proposal.

The Principal and the Service Provider hereby confirm that revised scope of works for the Opal Mobile Kiosk Program and new additional scope of works for Opal acquisition ramp up campaign (TuTu Project) have led to an increase of the required activities to be undertaken. The amount payable under the Service Agreement in respect of the variation referred to in the Variation Proposal is capped at Withheld including GST for a period of Withheld

Please confirm the Service Provider's agreement to the above matters, by signing and returning this letter at Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Electronic Ticketing System

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Signature of authorised representative of
oOh! Edge Pty Limited

Print Name

19/5/2014

Date



19 June 2014

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Opal acquisition Ramp Up Campaign - Phase Two

Reference is made to:

- the agreement between Transport for NSW (Principal) and oOh! Edge Pty Limited (Service Provider) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (Service Agreement); and
- the attached estimate from the Service Provider dated 7 May 2014 (Variation Proposal) issued pursuant to clause 11.1 (b) of the Service Agreement under which the Service Provider has provided a written estimate of the time and cost effects of a variation in the scope of the Services for Phase one as specified in the Variation Proposal.

The Principal and the Service Provider hereby confirm that revised scope of works for the Opal Mobile Kiosk Program and new additional scope of works for Opal acquisition ramp up campaign (TuTu Project) have led to an increase of the required activities to be undertaken. The amount payable under the Service Agreement in respect of the variation referred to in the Variation Proposal is capped at to Withheld including GST for a period of Withheld

Please confirm the Service Provider's agreement to the above matters, by signing and returning this letter at Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Electronic Ticketing System

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Signature of authorised representative of
oOh! Edge Pty Limited

Print name

Date

20/6/2014

22 October 2014

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Gold Senior/Pensioner Opal card Campaign - Phase Three

Reference is made to:

- the agreement between Transport for NSW (Principal) and oOh! Edge Pty Limited (Service Provider) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (Service Agreement); and
- the attached estimates from the Service Provider dated 7 October 2014 and 15 October 2014, respectively, (Variation Proposal) issued pursuant to clause 11.1 (b) of the Service Agreement under which the Service Provider has provided written estimates of the time and cost effects of a variation in the scope of the Services for Phase Three as specified in the Variation Proposal.

The Principal and the Service Provider hereby confirm that additional scope of works for the Gold Senior / Pensioner Opal card campaign Phase Three for Sydney and Newcastle, as part of the Opal acquisition ramp up campaign (TuTu Project), has led to an increase of the required activities to be undertaken. The activities are community engagement presentations and shopping centre kiosks. The amount payable under this Service Agreement in respect of the variation referred to in the Variation Proposal is capped at Withheld excluding GST for the period Withheld

Please note that the commitment to Newcastle activities under this Variation Proposal, are yet to be confirmed. All bookings for shopping centre space are not to be made until the Service Provider receives confirmation to make those bookings from the Principal.

Please confirm the Service Provider's agreement to the above matters, by signing and returning this letter at Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Electronic Ticketing System

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Signature of authorised representative of
oOh! Edge Pty Limited

Print Name

Date



12 February 2015

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Opal card Campaign Phase Four – Extension of Activity Dates

Reference is made to:

- the agreement between Transport for NSW (Principal) and oOh! Edge Pty Limited (Service Provider) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (Service Agreement); and
- Variation of Service Agreement Letter related to the Supply and Management of Activation Teams to Support the Gold Senior/Pensioner Opal card Campaign - Phase Three, dated 22 October 2014

The Principal and the Service Provider hereby confirm that the date for the additional scope of works for the Gold Senior / Pensioner Opal card campaign Phase Three, is extended from its original conclusion on 23 December 2014 into Phase Four from 12 January to 31 March 2015 and will include Sydney, Newcastle and the Illawarra regions. Additionally, this Phase Four will also include nominated activities for the Concession Opal card and the Adult and Child / Youth Opal cards. The amount payable under this Service Agreement in respect of the variation referred to in the Variation Proposal is capped at Withheld excluding GST.

Please confirm the Service Provider's agreement to the above matters by signing and returning this letter to Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Ticketing and Concessions Branch

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Withheld
Signature or authorised representative of
oOh! Edge Pty Limited

Withheld

Print Name

17/2/2015
Date



23 April 2015

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Opal card Campaign Phase Five – Extension of Activity Dates

Reference is made to:

- the agreement between Transport for NSW (**Principal**) and oOh! Edge Pty Limited (**Service Provider**) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (**Service Agreement**); and
- Variation of Service Agreement Letter related to the Supply and Management of Activation Teams to various Opal card Campaigns - Phase Four, dated 12 February 2015

The Principal and the Service Provider hereby confirm that the date for the additional scope of works for the Opal card campaign Phase Four, is extended from its original conclusion on 31 March 2015 into Phase Five from 1 May to 20 June 2015 and will include Sydney, Newcastle and the Illawarra regions. Additionally, this Phase Five will also include nominated activities for the Concession Opal card and the Adult and Child / Youth Opal cards. The amount payable under this Service Agreement in respect of the variation referred to in the Variation Proposal is capped at Withheld excluding GST.

Please confirm the Service Provider's agreement to the above matters by signing and returning this letter to Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Ticketing and Concessions

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Signature of authorised representative of
oOh! Edge Pty Limited

Print Name

Date



26 May 2015

Withheld

oOh! Edge Pty Limited
Level 2, 76 Berry Street,
North Sydney, NSW 2060

Dear Withheld

Re: Variation of Service Agreement for Opal Card Acquisition - Supply and Management of Activation Teams to Support the Opal card Campaign June to September 2015 – Extension of Activity Dates

Reference is made to:

- the agreement between Transport for NSW (Principal) and oOh! Edge Pty Limited (Service Provider) dated 7 February 2014 in relation to the provision of services in relation to the Opal Card Acquisition - Supply and Management of Activation Teams (Service Agreement); and
- Variation of Service Agreement Letter related to the Supply and Management of Activation Teams to various Opal card Campaigns - Phase Five, dated 23 April 2015

The Principal and the Service Provider hereby confirm that the dates for the additional scope of works for the Opal card campaign – Phase 5 is extended from its original conclusion on 20 June 2015 into a new phase from 8 June to 30 September 2015 and will include Sydney, Newcastle and the Illawarra regions. Additionally, this phase will include nominated activities for the Senior/Pensioner Opal card, Concession Opal card and the Adult and Child / Youth Opal cards. The amount payable under this Service Agreement in respect of the variation referred to in the Variation Proposal is capped at Withheld excluding GST.

Please confirm the Service Provider's agreement to the above matters by signing and returning this letter to Level 1, 18 Lee Street, Chippendale, NSW, 2008.

Yours sincerely,

Greg Ellis
General Manager
Ticketing and Concessions

Acknowledgement of agreement

The matters set out in this letter agreement are agreed for and on behalf of BAE Systems Detica by its duly authorised representative:

Signature of authorised representative of
oOh! Edge Pty Limited
Withheld

Print name

9.06.2015
Date