

Freedom of Information Request – FOI Act, s41

Documents – Schedule 9

File 2013/15095 Procurement Provision of Marquees and Change Rooms - 2013.22416.221

Folio no	Date	Document	Status	Reason for Exemption
1-File request form				
2-35	31/10/2013	Email – unsigned Final Services Agreement, Certificate of Currency – Marquees and Change rooms	Partial release	FOI Act 1989, s43
36	14/11/2013	Email – contract question	Full release	
37-66	Undated	Draft Services Agreement – Marquees and Change rooms	Full release	
67-68	3/12/2013	Email - FW: Quotes – NMCF	Full release	
69-99	25/11/2013	Email – Draft Service Agreement – Festival Hire and attachment - Marquees and Change rooms	Full release	
100-101	5/12/2013	Email - RE: Quotes – NMCF and Attachment - Marquees and Change rooms	Partial release	FOI Act 1989, s43
102-131	18/12/2013	Email - Final Service Agreement and Attachment- Marquees and Change rooms	Full release	
132	18/12/2013	Email - Final Service Agreement (no attachment on file)	Full release	
133-163	7/1/2014	Signed Services Agreement – Marquees and Change rooms	Full release	
164-165	13/1/2014	Email – FW: Invoices for Deposits and attachment	Not released	Copy: Refer to folios 166-167
166-170	13/1/2014	Email – FW: Invoices for Deposits and attachment	Full release	
171-175	13/1/2014	Email – FW: Invoices for Deposits and attachment	Full release	
176-177	28/8/2013	Addendum 2 to request for quotation No.22416.110	Partial release	FOI Act 1989, s43

Folio no	Date	Document	Status	Reason for Exemption
178-180	Undated	Quote to supply Marquees and Change rooms	Exempt in full	FOI Act 1989, s43
181	14/1/2014	ABN Look up website extract	Full release	
182-185	7/1/2014	Services Agreement – Marquees and Change Rooms, cover page, page 16, 17 and 29 of 30	Full release	
186	13/2/2014	Email – Fwd: NMF	Full release	
187-190		Invoice coversheet, plus Payment Overviews - 19/2, 31/1, and 14/3/14	Full release	
File cover page				

Owner Department **COMMUNITY SERVICES DIRECTORATE**
Branch Name **POLICY & ORGANISATIONAL SERVICES**
Section Name **CONTRACTS & GRANTS UNIT**

[illegible]

contains information concerning the private affairs of individuals, companies, organisations or other entities. Information obtained under assurance of confidentiality. When not in use, this file is to be stored in a locked cabinet or locked room. As there may be documents on this file referring to personal information, you should also check with the relevant manager before disclosing it to anyone outside the ACT Government. These protective measures are required to meet the requirements of the *Privacy Act 1988 (Cwlth)* and the *Territory Records Act 2002*.

Commercial In Confidence

[illegible]

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Payment Overview / CRD Reports & Enquiries

Operating Unit	ACTGOV Operating Unit	Payee	
Number	1652373	Paid To Name	MYKIKI PTY LIMITED
Currency	AUD	Taxpayer ID	
Amount	63,483.40	Supplier Number	54184
Date	14-MAR-2014	Site	E-301371
Payment Process Request	500E140314	Address	PO BOX 38 STRATHFIELD SOUTH, NSW 2136 Australia
Voucher			
Status	Reconciled	Bank	
Cleared Amount	63,483.40	Name	WBC
Cleared Date	14-MAR-2014	Account	Community Services Directorate Operati
Void Date		Payment Document	
Maturity Date		Payment Method	Electronic
		Payment Process Profile	

Invoices

Number	Amount Paid	GL Date	Description
1890	63,483.40	14-MAR-2014	2014 NMF FINAL INVOICE FOR EXTRAS

[Invoice Overview](#)
[Bank](#)
[Supplier](#)
[Payments](#)

FAB made the payment

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Payment Overview (CSD Reports & Enquiries)

Operating Unit <u>ACTGV Operating Unit</u>		Payee	
Number	1650491	Paid To Name	MYKIKI PTY LIMITED
Currency	AUD	Taxpayer ID	
Amount	62,570.00	Supplier Number	54184 Site E-301371
Date	31-JAN-2014	Address	PO BOX 38 STRATHFIELD SOUTH, NSW 2136 Australia
Payment Process Request	500E310114		
Voucher			
Status	Reconciled	Bank	
Cleared Amount	62,570.00	Name	WBC
Cleared Date	31-JAN-2014	Account	Community Services Directorate Operati
Void Date		Payment Document	
Maturity Date		Payment Method	Electronic
		Payment Process Profile	

Invoices

Number	Amount Paid	GL Date	Description
1885	43,257.50	31-JAN-2014	SCHEDULE A2 -MARQUEES(50% DEPOSIT)
1886	19,312.50	31-JAN-2014	SCHEDULE 2B-STAGING(50% DEPOSIT)

CGU made

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Payment Overview (Reports & Enquiries)			
Operating Unit		Payee	
Number	1651153	Paid To Name	MYKIKI PTY LIMITED
Currency	AUD	Taxpayer ID	
Amount	62,570.00	Supplier Number	54184
Date	19-FEB-2014	Site	E-301371
Payment Process Request	500E190214	Address	PO BOX 38 STRATHFIELD SOUTH, NSW 2136 Australia
Voucher			
Status	Reconciled	Bank	
Cleared Amount	62,570.00	Name	WBC
Cleared Date	19-FEB-2014	Account	Community Services Directorate Operati
Void Date		Payment Document	
Maturity Date		Payment Method	Electronic
		Payment Process Profile	
Invoices			
Number	Amount Paid	GL Date	Description
INV1885&1886	62,570.00	19-FEB-2014	SCHEDULE A2-MARQUEES (2ND 50% DEPOSIT)
Invoice Overview Bank Supplier Payments			

CGU made.



Staple supporting documents here

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Staff Reimbursement:	
Staff requesting reimbursement must complete this section	
Bank Account Name:	
BSB:	
Account Number:	
Staff Address:	

Applicable GST Codes: 10%AP (10%), Free (F), Input Taxed (IT), Exempt (Ex), Capital 10% (Cap10%), Capital Free (CapF), Input Taxed Capital (ITCap), Outside Scope (OS), No ABN Withhold (NABN)

Remittance Advice Description:

Date: 13/2/14

Perrin, Kristie

From: Manikis, Nic
Sent: Thursday, 13 February 2014 8:07 AM
To: Perrin, Kristie
Cc: Winter, Jancye
Subject: Fwd: NMF

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Kristie
Pls proceed with payments.
Nic

Sent from my iPad

Begin forwarded message:

From: "Winter, Jancye" <Jancye.Winter@act.gov.au>
Date: 13 February 2014 7:58:59 am AEDT
To: "Manikis, Nic" <NIC.MANIKIS@act.gov.au>
Subject: FW: NMF

From: Perrin, Kristie
Sent: Wednesday, 12 February 2014 2:30 PM
To: Winter, Jancye; Ayoubi, Salar
Subject: RE: NMF

Good Afternoon,

Seek approve to process the second 50% deposit of the NMF contracts

If you have any queries, please let me know

Regards
Kristie

Kristie Perrin | Manager
Phone 02 6205 0508 | Fax 02 6207 2047
Contracts and Grants Unit | Community Services Directorate | **ACT Government**
Level 1 Nature Conservation House, 153 Emu Bank, Belconnen | GPO Box 158 Canberra ACT 2601
www.act.gov.au

From: Perrin, Kristie
Sent: Wednesday, 29 January 2014 11:36 AM
To: Winter, Jancye; Ayoubi, Salar
Subject: NMF

Good Morning,

Just to keep you in the loop, all contracts for NMF have been signed and payment coversheets have been sent to shared services finance for payment (just waiting for payment). The next step is after the festival I will email you asking for the approval to pay the second 50% deposit.



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SERVICES AGREEMENT

Date

7th Jan 2014^{MM}

Parties

AUSTRALIAN CAPITAL TERRITORY

MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768

PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
Nature Conservation House
Level 1, 153 Emu Bank
BELCONNEN ACT 2616

Ref: 10102013: MM

Version

Final October 2013

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

- (1) Contract Price: for Schedule 2A is \$173,030 (GST Inclusive) over two (2) years.
- (2) Contract Price: for Schedule 2B is \$77,250 (GST Inclusive) over two (2) years.
- (3) The Contract Price is payable by instalments. Invoices may only be rendered in accordance with the following:

Instalment	When Invoice may be rendered
Year One	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

Year Two	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

(4) Except if otherwise stated in this Agreement, the Contract Price is:

- (a) payable within 30 days of receipt by the Territory of an Invoice;
- (b) inclusive of GST and all other taxes, duties and charges; and
- (c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel
See clause 6

Item 4, not used.

Item 5. Other amounts and insurance
See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information
See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text
See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text
See clause 8

Item 8 not used.

DATE OF THIS AGREEMENT

7th

Jan

2014
2013

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SIGNED for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY
in the presence of:

Signature of witness

Kirstie Penn

Print name

SIGNED by or for and on behalf of
MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY
LIMITED

ABN 44 099 748 768

in the presence of:

Justin Ward

Signature of director/ secretary/ witness

Justin Ward

Print name

Signature of Territory delegate

NIE MANIKUS

Print name

Signature of director/ authorised officer/ individual

David Allan

Print name

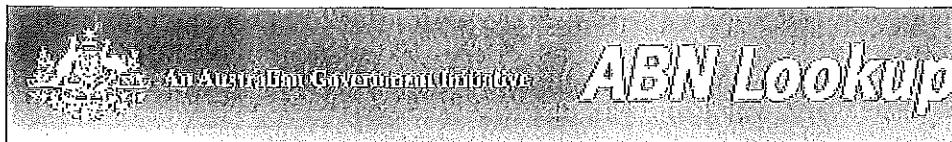
Signature of second authorised officer

Print name

Affix common seal
if required under
constitution

Note:

- Date:** Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
- Company:** Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
- Individual:** Must be signed by the individual Contractor and witnessed.
- Incorporated Association:** Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.



Current details for ABN: 44 099 748 768

ABN details

Entity name: MYKIKI PTY LIMITED
ABN status: Active from 01 Jul 2000
Entity type: Australian Private Company
Goods & Services Tax (GST): Registered from 01 Jul 2000
Main business location: NSW 2144

Trading name(s)

Trading name	From
FESTIVAL HIRE (N.S.W.) PTY LIMITED	01 Oct 2002

ASIC registration - ACN or ARBN

099 748 768 View record on the ASIC website

Deductible gift recipient status

Not entitled to receive tax deductible gifts

Disclaimer

This extract is based on information supplied by businesses to the Registrar of the Australian Business Register. Neither the Registrar nor the Australian Government guarantee this information is accurate, up to date or complete. You should consider verifying this information from other sources.

ABN last updated: 15 Jul 2013

Record extracted: 14 Jan 2014



ACT
Government

Commerce and Works

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IMPORTANT NOTICE

ADDENDUM 2 TO REQUEST FOR QUOTATION NO.22416.110 PROVISION OF GOOD AND SERVICES FOR THE 2014-2016 NATIONAL MULTICULTURAL FESTIVAL

Please note the following additional information for the above Request for Quotation (RFQ):

1. The Territory is currently considering your quotation.
2. The specifications have been amended to include a Performance Area for Garema Place, Performance Areas for Petrie Plaza, London Circuit Stage and Roving Services across the footprint for Security.
3. The amended specifications have been outlined in **RED**.
4. The Territory seek an amended Pricing Schedule to include the change of specifications.
5. Please return a completed scanned Pricing Schedule to the below email address by 4.00pm Monday, 2 September 2013 to the attention of myself.

Emma Mirenda
Procurement Officer
Shared Services Procurement
Emma.mirenda@act.gov.au
Ph: (02) 6205 4969

28 August 2013

ADDENDUM 2 TO REQUEST FOR QUOTATION NO.22416.110

PROVISION OF GOOD AND SERVICES FOR THE 2014-2016 NATIONAL MULTICULTURAL FESTIVAL

STAGE AND PLATFORM

STAGE AND PLATFORM

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie Plaza & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South (Akuna)	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday – From Festival Shutdown
Civic Square Stage	10 x 8 meter	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
London Circuit Stage	10 x 8 meters	Friday - Day 1- 6.00 am	Sunday - Day 3 – 5.00 pm

Pricing Schedule

Stage and Platforms	
Respondents are to provide an all inclusive price for the supply, construction and removal of stage and platforms in accordance with Annexure H – 1.6 Specifications and 1.10 List of Equipment of the Request for Quotation RFQ 22416.110. If required please provide a breakdown in cost. Prices are to be GST inclusive	
Supply, Construction and Removal of Stage and Platforms	Total cost 43
Hourly rate	43



Staple supporting documents here

© Shared Services Red Team (CSD/ACT Health)

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Supplier Name:

MYKIKI PTY LIMITED T/A FESTIVAL HIRE (N.S.W.) PTY LIMITED

Special Requests/Reference Number:

INV1885&1886

Collect Cheque*	☐ Yes	☒ No
Staff Reimbursement: EFT only - bank account details must be provided below	☐ Yes	☒ No
RCTI (Recipient Created Tax Invoice)	☐ Yes	☒ No
GST Registered	☒ Yes	☐ No
Withholding Tax	☐ Yes	☒ No

* Please note all collect cheques are to be collected from Shared Services Centre, Eclipse House, Civic.

Staff Reimbursement:

Staff requesting reimbursement must complete this section

Bank Account Name:

BSB:

Account Number:

Staff Address:

Invoice Detail: (All fields are mandatory - grey cells calculate automatically - DO NOT ENTER DETAILS HERE) Please attach ORIGINAL invoices - copies are not accepted.

Apph: JST Codes: 10%AP (10%), Free (F), Input Taxed (IT), Exempt (Ex), Capital 10% (Cap10%), Capital Free (CapF), Input Taxed Capital (ITCap), Outside Scope (OS), No ABN Withhold (NABN)

Entity	Cost Centre	Account Code	Int. Trad.	Project	Agency Use	GST Tax Type	Amount \$ (excl GST)	GST \$	Amount \$ (incl GST)	Description
500	52502	712705	99	10404	9999	10%AP	39,325.00	3,932.50	43,257.50	Schedule A2-Marquees(50% deposit)
500	52502	712705	99	10404	9999	10%AP	17,556.82	1,755.68	19,312.50	Schedule 2B-Staging(50% deposit)
					9999		-	-		
					9999		-	-		
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Total Amount \$							\$56,881.82	\$5,688.18	\$62,570.00	

Remittance Advice Description:

By signing this form the signatories warrant the Directorate has received the above mentioned goods and/or services (excluding prepayments and deposits)

Prepared By:

Name: Rona Lazo

Signature:

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Phone: rona.lazocsd@act.gov.au

Date: 14/01/2014

Kristie Perrin

KP, 14/1/14

Authorising Officer (Financial Delegate)

Name: Nic Manikls

Signature:

Nic Manikis

Position Number: E0055

Date:

16/1/14

FESTIVAL HIRE (NSW) PTY LTD

PROFESSIONALISM AND SATISFACTION GUARANTEED

ABN: 44 099 748 768

PO BOX 38 STRATHFIELD SOUTH NSW 2136

12-14 HIGHGATE STREET AUBURN NSW 2144

PH: 1300 761 799

FAX: (02) 9647 1091

TAX INVOICE

Invoice No

1885

Quote No

2792

Date

9/01/2014

Customer

Community Services Directorate

2014 National Multicultural Festival

ABN/ACN

Contact Name

Jancye Winter

Mobile

Customer PO

Phone

02 6205 3153

Fax

Email

jancye.winter@act.gov.au

Event Description

2014 NMCF - Marquees

Bump-In Date/ Time

1/02/2014

Bump-Out Date/ Time

10/02/2014

Comments or Special Instructions

Quantity	Description	Unit Price	Amount
1	Schedule 2A - Marquees (50% deposit - due 24th Jan14)	\$39,325.00	\$39,325.00

SUBTOTAL

\$39,325.00

Your Salesperson

Mark

Delivery, Installation and Pick-up

Liability Insurance Levy

GST

\$3,932.50

TOTAL

\$43,257.50

Remittance Advice

Please make all payments to Festival Hire (NSW) P/C

Account Name Festival Hire (NSW) Pty Ltd

Bank Westpac

BSB 032 082

Account Number 301371

Invoice Date

9/01/2014

Tax Invoice #

1885

GST

\$3,932.50

Total

\$43,257.50

ENSURE INV# INCLUDED AS PAYER REF - WE THANK YOU FOR YOUR BUSINESS

FESTIVAL HIRE (NSW) PTY LTD

PROFESSIONALISM AND SATISFACTION GUARANTEED

ABN: 44 099 748 768

PO BOX 38 STRATHFIELD SOUTH NSW 2136

12-14 HIGHGATE STREET AUBURN NSW 2144

PH: 1300 761 799

FAX: (02) 9647 1091

TAX INVOICE

Invoice No 1886

Quote No 2793

Date 9/01/2014

Customer	ABN/ACN	Customer PO
Community Services Directorate		
2014 National Multicultural Festival	Contact Name	Phone
	Jancye Winter	02 6205 3153
	Mobile	Fax

Email
jancye.winter@act.gov.au

Event Description
2014 NMCF - Staging

Bump-In Date/ Time
1/02/2014

Bump-Out Date/ Time
10/02/2014

Comments or Special Instructions

Quantity	Description	Unit Price	Amount
1	Schedule 2B - Staging (%50 deposit - due 24th Jan14)	\$17,556.82	\$17,556.82

SUBTOTAL \$17,556.82

Your Salesperson

Delivery, Installation and Pick-up

Liability Insurance Levy

Terms
14 days prior event start date

GST \$1,755.68

TOTAL \$19,312.50

Remittance Advice

Please make all payments to Festival Hire (NSW) P/C

Account Name Festival Hire (NSW) Pty Ltd

Bank Westpac

BSB 032 082

Account Number 301371

1 Invoice Date 9/01/2014

Tax Invoice # 1886

GST \$1,755.68

Total \$19,312.50

ENSURE INV# INCLUDED AS PAYER REF - WE THANK YOU FOR YOUR BUSINESS

Perrin, Kristie

From: Winter, Jancye
Sent: Monday, 13 January 2014 3:23 PM
To: Perrin, Kristie
Subject: FW: Invoices for Deposits
Attachments: Jancye Winter 1885 - Marquees_1.pdf; Jancye Winter 1886 - Staging_1.pdf

Approved for payment by Nic.

Regards

Jancye Winter | Senior Manager | Operational Manager National Multicultural Festival
Phone 02 62053153 |
Community Participation Group | Office of Multicultural Affairs | Community Services Directorate | ACT
Government
Theo Notaras Multicultural Centre, Level 2, North Building, 180 London Circuit, Canberra ACT 2601 |
J Box 158, Canberra ACT 2601 | www.act.gov.au

From: mark [<mailto:mark@festival.net.au>]
Sent: Thursday, 9 January 2014 10:47 AM
To: Winter, Jancye
Subject: Invoices for Deposits

Morning Jancye,

Please find attached 2x invoices reflecting the %50 contract value of schedules 2A & 2B. Let me know if there are any issues with these.

Mark

From: Winter, Jancye [<mailto:Jancye.Winter@act.gov.au>]
Sent: Wednesday, 8 January 2014 6:30 PM
To: mark
Subject: RE: STAGING INVOICE - Staging Questions etc

Hi Mark

Can you reissue any invoices to :

Community Services Directorate
2014 National Multicultural Festival.

Thanks

Jancye

From: mark [<mailto:mark@festival.net.au>]
Sent: Wednesday, 8 January 2014 5:33 PM
To: Winter, Jancye
Subject: STAGING INVOICE - Staging Questions etc

Hey Jancye,

Attached is the staging invoice as it stands. Please review etc

- 1) I have added the extra performance platform and cover as requested

QUESTIONS:

Please advise the number of steps per stage Rqd

Cheers

Mark

0406 539 500

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

Date:

FESTIVAL HIRE (NSW) PTY LTD

PROFESSIONALISM AND SATISFACTION GUARANTEED

PN: 44 099 748 768

PO BOX 38 STRATHFIELD SOUTH NSW 2136

14 HIGHGATE STREET AUBURN NSW 2144

H: 1300 761 799

FAX: (02) 9647 1091

TAX INVOICE

Invoice No

1885

Quote No

2792

Date

9/01/2014

Customer

Community Services Directorate

014 National Multicultural Festival

ABN/ACN

Contact Name

Jancye Winter

Mobile

Customer PO

Phone

02 6205 3153

Fax

mail

jancye.winter@act.gov.au

Event Description

014 NMCF - Marquees

Bump-In Date/Time

1/02/2014

Bump-Out Date/Time

10/02/2014

Comments or Special Instructions

Quantity	Description	Unit Price	Amount
1	Schedule 2A - Marquees (50% deposit - due 24th Jan'14)	\$39,325.00	\$39,325.00

SUBTOTAL \$39,325.00

Delivery, Installation and Pick-up

Liability Insurance Levy

GST \$3,932.50

TOTAL \$43,257.50

Your Salesperson

Mark

Terms

14 days prior event start date

Remittance Advice

Please make all payments to Festival Hire (NSW) P/C

Account Name Festival Hire (NSW) Pty Ltd

Bank Westpac

BSB 032 082

Account Number 301371

1

Invoice Date 9/01/2014

Tax Invoice # 1885

GST \$3,932.50

Total \$43,257.50

ENSURE INV# INCLUDED AS PAYER REF - WE THANK YOU FOR YOUR BUSINESS

FESTIVAL HIRE (NSW) PTY LTD

PROFESSIONALISM AND SATISFACTION GUARANTEED

IBN: 44 099 748 768

PO BOX 38 STRATHFIELD SOUTH NSW 2136

2-14 HIGHGATE STREET AUBURN NSW 2144

PH: 1300 761 799

FAX: (02) 9647 1091

TAX INVOICE

Invoice No

1886

Quote No

2793

Date

9/01/2014

Customer

Community Services Directorate

2014 National Multicultural Festival

ABN/ACN

Customer PO

Contact Name

Jancye Winter

Phone

02 6205 3153

Mobile

Fax

Email

jancye.winter@act.gov.au

Event Description

2014 NMCF - Staging

Bump-In Date/ Time

1/02/2014

Bump-Out Date/ Time

10/02/2014

Comments or Special Instructions

Quantity	Description	Unit Price	Amount
1	Schedule 2B - Staging (%50 deposit - due 24th Jan14)	\$17,556.82	\$17,556.82

SUBTOTAL

\$17,556.82

Your Salesperson

Delivery, Installation and Pick-up

Liability Insurance Levy

Terms

14 days prior event start date

GST

\$1,755.68

TOTAL

\$19,312.50

Remittance Advice

Please make all payments to Festival Hire (NSW) P/C

Account Name Festival Hire (NSW) Pty Ltd

Bank Westpac

BSB 032 082

Account Number 301371

1

Invoice Date

9/01/2014

Tax Invoice #

1886

GST

\$1,755.68

Total

\$19,312.50

ENSURE INV# INCLUDED AS PAYER REF - WE THANK YOU FOR YOUR BUSINESS

Perrin, Kristie

From: Winter, Jancye
Sent: Monday, 13 January 2014 3:23 PM
To: Perrin, Kristie
Subject: FW: Invoices for Deposits
Attachments: Jancye Winter 1885 - Marquees_1.pdf; Jancye Winter 1886 - Staging_1.pdf

Approved for payment by Nic.

Regards

Jancye Winter | Senior Manager | Operational Manager National Multicultural Festival
Phone 02 62053153 |
Community Participation Group | Office of Multicultural Affairs | Community Services Directorate | ACT
Government
Theo Notaras Multicultural Centre, Level 2, North Building, 180 London Circuit, Canberra ACT 2601 |
Box 158, Canberra ACT 2601 | www.act.gov.au

From: mark [<mailto:mark@festival.net.au>]
Sent: Thursday, 9 January 2014 10:47 AM
To: Winter, Jancye
Subject: Invoices for Deposits

Morning Jancye,

Please find attached 2x invoices reflecting the %50 contract value of schedules 2A & 2B. Let me know if there are any issues with these.
Mark

From: Winter, Jancye [<mailto:Jancye.Winter@act.gov.au>]
Sent: Wednesday, 8 January 2014 6:30 PM
To: mark
Subject: RE: STAGING INVOICE - Staging Questions etc

Hi Mark

Can you reissue any invoices to :

Community Services Directorate
2014 National Multicultural Festival.

Thanks

Jancye

From: mark [<mailto:mark@festival.net.au>]
Sent: Wednesday, 8 January 2014 5:33 PM
To: Winter, Jancye
Subject: STAGING INVOICE - Staging Questions etc

Hey Jancye,

Attached is the staging invoice as it stands. Please review etc

- 1) I have added the extra performance platform and cover as requested

QUESTIONS:

Please advise the number of steps per stage Rqd

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Cheers
Mark
0406 539 500

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.



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SERVICES AGREEMENT

Date

7th Jan 2013¹⁴ ^{MM}

Parties

AUSTRALIAN CAPITAL TERRITORY

MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768

PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
Nature Conservation House
Level 1, 153 Emu Bank
BELCONNEN ACT 2616

Ref: 10102013: MM

Version

Final October 2013

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the **Community Services Directorate**.

MYKIKI PTY LIMITED TRADING AS FESTIVAL HIRE (N.S.W.) PTY LIMITED ABN 44 099 748 768 of 12 Highgate Street Auburn in the State of New South Wales 2144 (**Contractor**).

BACKGROUND

- A. The Territory has undertaken a procurement process Tender Number 22416.110 and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

Contractor Material means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means. 160

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insurance Determination means any relevant statutory instrument relating to public liability insurance made under the *Financial Management Act 1996* (ACT).

Invoice means an invoice that:

- (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement;
- (3) is accompanied by any other details or reports required under this Agreement; and
- (4) is rendered at the times specified in **Item 3 Schedule 1** (if any) and addressed to the Territory's Contract Officer.

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

Prescribed Insurer means, in relation to:

- (1) public liability insurance, an insurer that is:
 - (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination,
 - (b) authorised by the Australian Prudential Regulation Authority (APRA) to

conduct new and renewal insurance business in Australia, or

- (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;

(3) is specified in **Item 6 Schedule 1**; or

(4) is Personal Information,

but does not include information that:

(5) is or becomes public knowledge other than by breach of this Agreement;

(6) has been independently developed or acquired by the Contractor; or

(7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

4. Contract Price

4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, "use" includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;

- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

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- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
 - (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

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8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor; in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

10. Termination

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10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2) and 10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

10.3 No prejudice

Nothing in this **clause 10** prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this **clause 11** will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches **clause 12.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

(1) Contract Price: for **Schedule 2A** is \$173,030 (GST Inclusive) over two (2) years.

(2) Contract Price: for **Schedule 2B** is \$77,250 (GST Inclusive) over two (2) years.

(3) The Contract Price is payable by instalments. Invoices may only be rendered in accordance with the following:

Instalment	When Invoice may be rendered
Year One	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

Year Two		
50%	or	14 days prior to the event date.
\$62,570		
50%	or	7 days post event date.
\$62,570		

(4) Except if otherwise stated in this Agreement, the Contract Price is:

- (a) payable within 30 days of receipt by the Territory of an Invoice;
- (b) inclusive of GST and all other taxes, duties and charges; and
- (c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel
See clause 6

Item 4, not used.

Item 5. Other amounts and insurance
See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information
See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text
See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text
See clause 8

Item 8 not used.

SCHEDULE 2A

MARQUEES AND CHANGE ROOMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Marquees and Change Rooms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.4 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.5 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.
- 2.6 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (a) an afterhours contact number;
 - (b) be contactable afterhours; and
 - (c) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

4.1 The Contractor is to deliver the following Services:

- (1) supply up to 350 Marquees during the event including sound booths, with a preference for marquees to be colourful to reflect the nature of the Festival;

- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) from time to time consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) implement strategies to ensure all the residences and businesses in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period;
- (8) supply all lifting and moving equipment;
- (9) remove all unnecessary equipment and vehicles from the footprints;
- (10) use appropriate signage which meets the Work, Health and Safety requirements during the Bump In and Bump Out period;
- (11) establish and maintain fenced zones around groups of marquees as they are being constructed as this is a high volume public area of Canberra City;
- (12) ensure the construction, erection method for the marquees pose minimum disruption to city traders and take into account the safety of the public;
- (13) repair or restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to the original condition;
- (14) provide one (1) 3m x 6m marquee to be used as a sound booth in Garema Place;
- (15) provide three (3) 3m x 3m marquees to be used as sound booths for other three stages namely:
 - (a) Petrie Plaza Stage;
 - (b) Ainslie Place Stage; and
 - (c) Petrie Plaza Platform.
- (16) ensure all forklift operators hold current appropriate licenses;
- (17) all staff employed in the footprint during the Bump In and Bump Out must be aware of pedestrians in the area;
- (18) ensure the final Bump Out day must be on or before 6:00am on the date to be advised by the Territory;
- (19) work closely with all stakeholders in particular on site electricians and sound and lighting providers;

- (20) provide a 6m x 3m change room (portioned for male and female) for each five (5) stages in the agreed location with the Festival Event Manager or their nominate delegate;
 - (21) provide a 6m x 3m marquee for emergency services in the agreed location with the Festival Event Manager or their nominated delegate;
 - (22) ensure a safe and healthy site for the Festival, by complying with the Hiring and Rental Industry Association's Weighting Guide; and
- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 1**.

5. TIMEFRAME

- 4.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendation for improvement to the Territory by 28 February each year;
 - (2) attend planning meeting and the final event debrief session as required by the Festival Event Manager;
 - (3) provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events;
 - (4) meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate;
 - (5) provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage;
 - (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;

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- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
 - (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 2B

STAGING AND PLATFORMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Staging and Platforms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Bump In is the period prior to the commencement for installation of goods/equipment, to establish the footprint.
- 2.4 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.6 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.

- 2.7 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (d) an afterhours contact number;
 - (e) be contactable afterhours; and
 - (f) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

3.1 The Contractor is to deliver the following Services:

- (1) supply five (5) stages and two (2) platforms with appropriate stage covers;
- (2) supply one (1) 10m x 20m Reinforced ply dance floor;
- (3) supply one (1) 6m x 6m stage cover and weighted for 6m x 4m platform;
- (4) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (5) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (6) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (7) provide a Project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the Services and act as a point of contact with the Festival Event Manager or their delegate;
- (8) consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (9) act in good faith to maintain standards of customer service and comply with all relevant Work, Health and Safety practices and legislation;
- (10) resolve conflicts as soon as possible and to the satisfaction of both parties;
- (11) implement strategies to ensure all the residences and business in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period and throughout the Festival;
- (12) supply all lifting and moving equipment;
- (13) remove all the unnecessary equipment and vehicles from the footprints;
- (14) use appropriate signage that meets Work, Health and Safety requirements during the Bump Out period;
- (15) establish and maintain fenced zones around the stages as they are being constructed as this is a high volume public area of the Canberra City;
- (16) ensure the construction erection method of the stages should pose minimum disruption to city traders and take into account the safety of the public;
- (17) provide and implement an effective communication strategy with all the stakeholders including businesses and residences in the footprint;
- (18) repair and restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to original condition; and

- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 2**.

5. TIMEFRAME

- 5.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:

- (1) The Contractor will submit a report on the Festival including recommendation for improvement to the Territory by 28 February each year.
- (2) Attend planning meeting and the final event debrief session as required by the Festival Event Manager.
- (3) Provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events.
- (4) Meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate.
- (5) Provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage.
- (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;
- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in **clause 7**, and do not limit those set out in **clause 6(4)**.

1.2 Employee awareness

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that

person's consent; and

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- (3) after the Territory has given or been given notice in accordance with **paragraphs (1) or (2)** above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

1.6 No Assignment or Subcontracting

The Contractor must not subcontract the performance of the Services without the prior written consent of the Festival Event Manager or their nominated delegate. If the Territory gives its consent, the Territory may impose any conditions.

1.7 Security

The Contractor will be required to take full responsibility of the equipment overnight throughout the Festival including the Bump In and Bump Out period.

Item 2. Changes in control of Contractor

In addition to the circumstances set out in **clause 12.4(2)**, for the purposes of **clause 12.4**, "control" includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation;

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

DATE OF THIS AGREEMENT

7th Jan

2014
2013

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SIGNED for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY
in the presence of:



Signature of witness

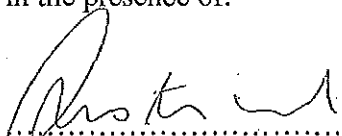
Kristie Penn

Print name

SIGNED by or for and on behalf of
MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY
LIMITED

ABN 44 099 748 768

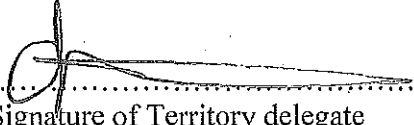
in the presence of:



Signature of director/ secretary/ witness

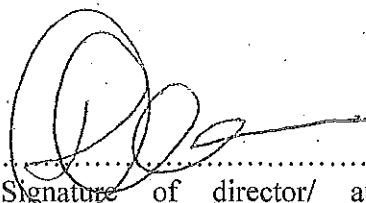
Justin Ward

Print name


Signature of Territory delegate

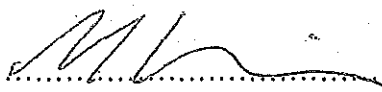
NIC MANIKIS

Print name


Signature of director/ authorised
officer/ individual

David KLAN

Print name


Signature of second authorised officer

Mark Harris

Print name

Affix common seal
if required under
constitution

Note:

- Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
- Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
- Individual: Must be signed by the individual Contractor and witnessed.
- Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

ATTACHMENT 1

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STAGES AND PLATFORMS

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday - From Festival Shutdown
Petrie & London Platform	6 x 4 meters with a 6m x 6 meter stage cover and weighted for 6m x 4 meter platform	Friday Morning - Day of Festival from 8am. Festival Opens 4.00pm	Sunday - From Festival Shutdown - no earlier than 6pm
Civic Square Stage	10 x 6 meters	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
Bailey's Corner Car park	12 x 12 meters	Friday Morning - Day of Festival from 8am.	Sunday - From Festival Shutdown - no earlier than 5pm
London Circuit	10 x 8 meters	Friday Morning - Day of Festival from 8am.	Sunday - From Festival Shutdown - no earlier than 5pm
Petrie Plaze	10 m x 20 meter reinforced ply dance floor	Friday Morning - Day of Festival from 8am.	Sunday - From Festival Shutdown - no earlier than 6pm

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Perrin, Kristie

From: Perrin, Kristie
Sent: Wednesday, 18 December 2013 11:57 AM
To: 'mark@festival.net.au'
Subject: Final Service Agreement - Festival Hire
Attachments: Final Service Agreement - Festival Hire.pdf

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Hi Mark,

Please find attached the Service Agreement for the 2014-2016 National Multicultural Festival for your review.

If you have any queries, please do not hesitate to contact me.

Regards

Kristie Perrin | Manager

Phone 02 6205 0508 | Fax 02 6207 2047

Contracts and Grants Unit | Community Services Directorate | **ACT Government**

Level 1 Nature Conservation House, 153 Emu Bank, Belconnen | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

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Perrin, Kristie

From: Ayoubi, Salar
Sent: Wednesday, 18 December 2013 11:06 AM
To: Perrin, Kristie
Cc: Winter, Jancye
Subject: Final Service Agreement - Festival Hire
Attachments: Final Service Agreement - Festival Hire.doc

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Hi Kristie;

Please see the final changes I have made. All the others look good.

Regards,

Salar Ayoubi

National Multicultural Festival

Phone: +61 2 6207 1380

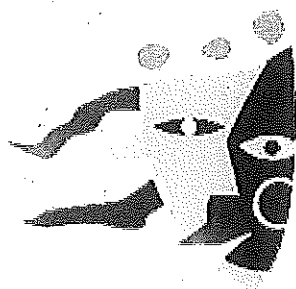
Email: CSDMulticulturalfestival@act.gov.au

Community Participation Group | Office of Multicultural Affairs

Community Services Directorate | **ACT Government**

Theo Notaras Multicultural Centre, Level 2, North Building, 180 London Circuit,
Canberra ACT 2601 |

GPO Box 158, Canberra ACT 2601 | www.act.gov.au



National
Multicultural
Festival
Canberra



SERVICES AGREEMENT

Date

_____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768**

**PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
Nature Conservation House
Level 1, 153 Emu Bank
BELCONNEN ACT 2616

Ref: 10102013: MM

Version

Final October 2013

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (Territory) represented by the **Community Services Directorate**.

MYKIKI PTY LIMITED TRADING AS FESTIVAL HIRE (N.S.W.) PTY LIMITED ABN 44 099 748 768 of 12 Highgate Street Auburn in the State of New South Wales 2144 (Contractor).

BACKGROUND

- A. The Territory has undertaken a procurement process Tender Number 22416.110 and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

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Contractor Material	means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.
GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	means an invoice that: (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement; (3) is accompanied by any other details or reports required under this Agreement; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and addressed to the Territory's Contract Officer.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Prescribed Insurer	means, in relation to: (1) public liability insurance, an insurer that is: (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, (b) authorised by the Australian Prudential Regulation Authority (APRA) to

conduct new and renewal insurance business in Australia, or

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- (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;

(3) is specified in Item 6 Schedule 1; or

(4) is Personal Information,

but does not include information that:

(5) is or becomes public knowledge other than by breach of this Agreement;

(6) has been independently developed or acquired by the Contractor; or

(7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

(1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and

(2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

4. Contract Price

4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, "use" includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;

- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

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- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
 - (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

10. Termination

10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2) and 10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

10.3 No prejudice

Nothing in this clause 10 prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this clause 11 will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

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- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
 - (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
 - (3) If the Contractor breaches clause 12.4(1), the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

- (1) Contract Price: for **Schedule 2A** is \$173,030 (GST Inclusive) over two (2) years.
- (2) Contract Price: for **Schedule 2B** is \$77,2500 (GST Inclusive) over two (2) years.
- (3) The Contract Price is payable by instalments. Invoices may only be rendered in accordance with the following:

Instalment	When Invoice may be rendered
Year One	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

Year Two	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

(4) Except if otherwise stated in this Agreement, the Contract Price is:

- (a) payable within 30 days of receipt by the Territory of an Invoice;
- (b) inclusive of GST and all other taxes, duties and charges; and
- (c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel

See clause 6

Item 4, not used.

Item 5. Other amounts and insurance

See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information

See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text

See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text

See clause 8

Item 8 not used.

SCHEDULE 2A

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MARQUEES AND CHANGE ROOMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Marquees and Change Rooms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.4 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.5 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.
- 2.6 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

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3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (a) an afterhours contact number;
 - (b) be contactable afterhours; and
 - (c) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

4.1 The Contractor is to deliver the following Services:

- (1) supply up to 350 Marquees during the event including sound booths, with a preference for marquees to be colourful to reflect the nature of the Festival;

- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) from time to time consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) implement strategies to ensure all the residences and businesses in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period;
- (8) supply all lifting and moving equipment;
- (9) remove all unnecessary equipment and vehicles from the footprints;
- (10) use appropriate signage which meets the Work, Health and Safety requirements during the Bump In and Bump Out period;
- (11) establish and maintain fenced zones around groups of marquees as they are being constructed as this is a high volume public area of Canberra City;
- (12) ensure the construction, erection method for the marquees pose minimum disruption to city traders and take into account the safety of the public;
- (13) repair or restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to the original condition;
- (14) provide one (1) 3m x 6m marquee to be used as a sound booth in Garema Place;
- (15) provide three (3) 3m x 3m marquees to be used as sound booths for other three stages namely:
 - (a) Petrie Plaza Stage;
 - (b) Ainslie Place Stage; and
 - (c) Petrie Plaza Platform.
- (16) ensure all forklift operators hold current appropriate licenses;
- (17) all staff employed in the footprint during the Bump In and Bump Out must be aware of pedestrians in the area;
- (18) ensure the final Bump Out day must be on or before 6:00am on the date to be advised by the Territory;
- (19) work closely with all stakeholders in particular on site electricians and sound and lighting providers;

- (20) provide a 6m x 3m change room (portioned for male and female) for each five (5) stages in the agreed location with the Festival Event Manager or their nominate delegate;
 - (21) provide a 6m x 3m marquee for emergency services in the agreed location with the Festival Event Manager or their nominated delegate;
 - (22) ensure a safe and healthy site for the Festival, by complying with the Hiring and Rental Industry Association's Weighting Guide; and
- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 1**.

5. TIMEFRAME

- 4.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendation for improvement to the Territory by 28 February each year;
 - (2) attend planning meeting and the final event debrief session as required by the Festival Event Manager;
 - (3) provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events;
 - (4) meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate;
 - (5) provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage;
 - (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;

- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

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SCHEDULE 2B

STAGING AND PLATFORMS

For the purposes of the Insurance Determination, this Schedule 2 constitutes the Activity Schedule (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Staging and Platforms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Bump In is the period prior to the commencement for installation of goods/equipment, to establish the footprint.
- 2.4 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.6 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.

- 2.7 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

- 3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (d) an afterhours contact number;
 - (e) be contactable afterhours; and
 - (f) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

3.1 The Contractor is to deliver the following Services:

- (1) supply five (5) stages and two (2) platforms with appropriate stage covers;
- (2) supply one (1) 10m x 20m Reinforced ply dance floor;
- (3) supply one (1) 6m x 6m stage cover and weighted for 6m x 4m platform;
- (4) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (5) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (6) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (7) provide a Project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the Services and act as a point of contact with the Festival Event Manager or their delegate;
- (8) consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (9) act in good faith to maintain standards of customer service and comply with all relevant Work, Health and Safety practices and legislation;
- (10) resolve conflicts as soon as possible and to the satisfaction of both parties;
- (11) implement strategies to ensure all the residences and business in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period and throughout the Festival;
- (12) supply all lifting and moving equipment;
- (13) remove all the unnecessary equipment and vehicles from the footprints;
- (14) use appropriate signage that meets Work, Health and Safety requirements during the Bump Out period;
- (15) establish and maintain fenced zones around the stages as they are being constructed as this is a high volume public area of the Canberra City;
- (16) ensure the construction erection method of the stages should pose minimum disruption to city traders and take into account the safety of the public;
- (17) provide and implement an effective communication strategy with all the stakeholders including businesses and residences in the footprint;
- (18) repair and restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to original condition; and

- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 2**.

5. TIMEFRAME

- 5.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:

- (1) The Contractor will submit a report on the Festival including recommendation for improvement to the Territory by 28 February each year.
- (2) Attend planning meeting and the final event debrief session as required by the Festival Event Manager.
- (3) Provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events.
- (4) Meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate.
- (5) Provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage.
- (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;
- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in clause 7, and do not limit those set out in clause 6(4).

1.2 Employee awareness

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that

person's consent; and

- (3) after the Territory has given or been given notice in accordance with **paragraphs (1) or (2)** above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

1.6 No Assignment or Subcontracting

The Contractor must not subcontract the performance of the Services without the prior written consent of the Festival Event Manager or their nominated delegate. If the Territory gives its consent, the Territory may impose any conditions.

1.7 Security

The Contractor will be required to take full responsibility of the equipment overnight throughout the Festival including the Bump In and Bump Out period.

Item 2. Changes in control of Contractor

In addition to the circumstances set out in **clause 12.4(2)**, for the purposes of **clause 12.4**, "control" includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

DATE OF THIS AGREEMENT 2013

SIGNED for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY
 in the presence of:)
)
) Signature of Territory delegate

.....
 Signature of witness

.....
 Print name

.....
 Print name

SIGNED by or for and on behalf of)
MYKIKI PTY LIMITED TRADING AS)
FESTIVAL HIRE (N.S.W.) PTY)
LIMITED) Signature of director/ authorised
ABN 44 099 748 768 officer/ individual
 in the presence of:

.....
 Print name

.....
 Signature of director/ secretary/ witness

.....
 Signature of second authorised officer

.....
 Print name

.....
 Print name

Affix common seal
 if required under
 constitution.

Note:

- Date:** Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
- Company:** Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
- Individual:** Must be signed by the individual Contractor and witnessed.
- Incorporated Association:** Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

ATTACHMENT 1

STAGES AND PLATFORMS

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday – From Festival Shutdown
Petrie & London Platform	6 x 4 meters with a 6m x 6 meter stage cover and weighted for 6m x 4 meter platform	Friday Morning – Day of Festival from 8am. Festival Opens 4.00pm	Sunday – From Festival Shutdown – no earlier than 6pm
Civic Square Stage	10 x 6 meters	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
Bailey's Corner Car park	12 x 12 meters	Friday Morning – Day of Festival from 8am.	Sunday – From Festival Shutdown – no earlier than 5pm
London Circuit	10 x 8 meters	Friday Morning – Day of Festival from 8am.	Sunday – From Festival Shutdown – no earlier than 5pm
Petrie Plaze	10 m x 20 meter reinforced ply dance floor	Friday Morning – Day of Festival from 8am.	Sunday – From Festival Shutdown – no earlier than 6pm

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Perrin, Kristie

From: Perrin, Kristie
Sent: Thursday, 5 December 2013 3:32 PM
To: Winter, Jancye
Cc: Ayoubi, Salar
Subject: RE: Quotes - NMCF
Attachments: Final Service Agreement - Festival Hire.doc

101

Hi Jancye,

Please find attached the amend service agreement for festival hire highlighted in yellow for your review.

If you have any queries, please let me know.

Regards
Kristie

From: Winter, Jancye
Sent: Tuesday, 3 December 2013 4:07 PM
To: Perrin, Kristie
Subject: FW: Quotes - NMCF

Hi Kristie

Can this go in the main contract fro festival Hire.

Thanks

Jancye

From: mark [<mailto:mark@festival.net.au>]
Sent: Tuesday, 3 December 2013 3:57 PM
To: Manikis, Nic
Cc: Winter, Jancye
Subject: RE: Quotes - NMCF

ase confirm that these items are going on the main invoice?

From: Manikis, Nic [<mailto:NIC.MANIKIS@act.gov.au>]
Sent: Tuesday, 3 December 2013 3:41 PM
To: mark
Cc: Winter, Jancye
Subject: RE: Quotes - NMCF

Mark

Thank you. Please organise.

Cheers

nic

From: mark [<mailto:mark@festival.net.au>]
Sent: Tuesday, 3 December 2013 3:28 PM

To: Manikis, Nic
Subject: Quotes - NMCF

100

Mark Harris
Festival Hire
Mob: 0406 539 500
Ph: 1300 761 799
FX: 02 9647 1091
www.festival.net.au
 **FESTIVAL HIRE**

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SERVICES AGREEMENT

Date

_____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768**

**PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
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Ref: 10102013: MM

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (Territory) represented by the **Community Services Directorate**.

MYKIKI PTY LIMITED TRADING AS FESTIVAL HIRE (N.S.W.) PTY LIMITED ABN 44 099 748 768 of 12 Highgate Street Auburn in the State of New South Wales 2144 (Contractor).

BACKGROUND

- A. The Territory has undertaken a procurement process Tender Number 22416.110 and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

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Contractor Material means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insurance Determination means any relevant statutory instrument relating to public liability insurance made under the *Financial Management Act 1996* (ACT).

Invoice means an invoice that:

- (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement;
- (3) is accompanied by any other details or reports required under this Agreement; and
- (4) is rendered at the times specified in **Item 3 Schedule 1** (if any) and addressed to the Territory's Contract Officer.

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

Prescribed Insurer means, in relation to:

- (1) public liability insurance, an insurer that is:
 - (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination,
 - (b) authorised by the Australian Prudential Regulation Authority (APRA) to

conduct new and renewal insurance business in Australia, or

- (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;

(3) is specified in **Item 6 Schedule 1**; or

(4) is Personal Information,

but does not include information that:

(5) is or becomes public knowledge other than by breach of this Agreement;

(6) has been independently developed or acquired by the Contractor; or

(7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

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4. Contract Price

4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, "use" includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

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5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;

- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

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8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

10. Termination

10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2) and 10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

10.3 No prejudice

Nothing in this clause 10 prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this clause 11 will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

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- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
 - (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
 - (3) If the Contractor breaches **clause 12.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

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SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

- (1) Contract Price: for **Schedule 2A** is \$173,030 (GST Inclusive) total price over two (2) years plus Consumer Price Index.
- (2) Contract Price: for **Schedule 2B** is \$77,2500 (GST Inclusive) total price over two (2) years Plus Consumer Price Index.
- (3) The Contract Price is payable by instalments. Invoices may only be rendered in accordance with the following:

Instalment	When Invoice may be rendered
Year One	
50% or \$62,570	14 days prior to the event date.

50% or \$62,570	7 days post event date.
Year Two	
50% or \$62,570	14 days prior to the event date.
50% or \$62,570	7 days post event date.

(4) Except if otherwise stated in this Agreement, the Contract Price is:

- (a) payable within 30 days of receipt by the Territory of an Invoice;
- (b) inclusive of GST and all other taxes, duties and charges; and
- (c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel
See clause 6.

Item 4, not used.

Item 5. Other amounts and insurance
See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information
See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text
See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text
See clause 8

Item 8 not used.

SCHEDULE 2A

MARQUEES AND CHANGE ROOMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Marquees and Change Rooms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.4 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.5 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.
- 2.6 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (a) an afterhours contact number;
 - (b) be contactable afterhours; and
 - (c) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

4.1 The Contractor is to deliver the following Services:

- (1) supply up to 350 Marquees during the event including sound booths, with a preference for marquees to be colourful to reflect the nature of the Festival;

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- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) from time to time consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) implement strategies to ensure all the residences and businesses in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period;
- (8) supply all lifting and moving equipment;
- (9) remove all unnecessary equipment and vehicles from the footprints;
- (10) use appropriate signage which meets the Work, Health and Safety requirements during the Bump In and Bump Out period;
- (11) establish and maintain fenced zones around groups of marquees as they are being constructed as this is a high volume public area of Canberra City;
- (12) ensure the construction, erection method for the marquees pose minimum disruption to city traders and take into account the safety of the public;
- (13) repair or restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to the original condition;
- (14) provide one (1) 3m x 6m marquee to be used as a sound booth in Garema Place;
- (15) provide three (3) 3m x 3m marquees to be used as sound booths for other three stages namely:
 - (a) Petrie Plaza Stage;
 - (b) Ainslie Place Stage; and
 - (c) Petrie Plaza Platform.
- (16) ensure all forklift operators hold current appropriate licenses;
- (17) all staff employed in the footprint during the Bump In and Bump Out must be aware of pedestrians in the area;
- (18) ensure the final Bump Out day must be on or before 6:00am on the date to be advised by the Territory;
- (19) work closely with all stakeholders in particular on site electricians and sound and lighting providers;

- (20) provide a 6m x 3m change room (portioned for male and female) for each five (5) stages in the agreed location with the Festival Event Manager or their nominate delegate;
 - (21) provide a 6m x 3m marquee for emergency services in the agreed location with the Festival Event Manager or their nominated delegate;
 - (22) ensure a safe and healthy site for the Festival, by complying with the Hiring and Rental Industry Association's Weighting Guide; and
- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 1**.

5. TIMEFRAME

- 4.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendation for improvement to the Territory by 28 February each year;
 - (2) attend planning meeting and the final event debrief session as required by the Festival Event Manager;
 - (3) provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events;
 - (4) meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate;
 - (5) provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage;
 - (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;

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- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 2B

STAGING AND PLATFORMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Staging and Platforms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Bump In is the period prior to the commencement for installation of goods/equipment, to establish the footprint.
- 2.4 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.6 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.

2.7 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (d) an afterhours contact number;
 - (e) be contactable afterhours; and
 - (f) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

3.1 The Contractor is to deliver the following Services:

- (1) supply five (5) stages and two (2) platforms with appropriate stage covers;
- (2) supply one (1) 10m x 20m Reinforced ply dance floor;
- (3) supply one (1) 6m x 6m stage cover and weighted for 6m x 4m platform;
- (4) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (5) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (6) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (7) provide a Project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the Services and act as a point of contact with the Festival Event Manager or their delegate;
- (8) consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (9) act in good faith to maintain standards of customer service and comply with all relevant Work, Health and Safety practices and legislation;
- (10) resolve conflicts as soon as possible and to the satisfaction of both parties;
- (11) implement strategies to ensure all the residences and business in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period and throughout the Festival;
- (12) supply all lifting and moving equipment;
- (13) remove all the unnecessary equipment and vehicles from the footprints;
- (14) use appropriate signage that meets Work, Health and Safety requirements during the Bump Out period;
- (15) establish and maintain fenced zones around the stages as they are being constructed as this is a high volume public area of the Canberra City;
- (16) ensure the construction erection method of the stages should pose minimum disruption to city traders and take into account the safety of the public;
- (17) provide and implement an effective communication strategy with all the stakeholders including businesses and residences in the footprint;
- (18) repair and restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to original condition; and

- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 2**.

5. TIMEFRAME

- 5.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:

- (1) The Contractor will submit a report on the Festival including recommendation for improvement to the Territory by 28 February each year.
- (2) Attend planning meeting and the final event debrief session as required by the Festival Event Manager.
- (3) Provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events.
- (4) Meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate.
- (5) Provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage.
- (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;
- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

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SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in **clause 7**, and do not limit those set out in **clause 6(4)**.

1.2 Employee awareness

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that

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person's consent; and

- (3) after the Territory has given or been given notice in accordance with paragraphs (1) or (2) above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

1.6 No Assignment or Subcontracting

The Contractor must not subcontract the performance of the Services without the prior written consent of the Festival Event Manager or their nominated delegate. If the Territory gives its consent, the Territory may impose any conditions.

1.7 Security

The Contractor will be required to take full responsibility of the equipment overnight throughout the Festival including the Bump In and Bump Out period.

Item 2. Changes in control of Contractor

In addition to the circumstances set out in **clause 12.4(2)**, for the purposes of **clause 12.4**, "control" includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

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DATE OF THIS AGREEMENT 2013

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness

.....
Print name

.....
Print name

SIGNED by or for and on behalf of)
MYKIKI PTY LIMITED TRADING AS)
FESTIVAL HIRE (N.S.W.) PTY)
LIMITED) Signature of director/ authorised
ABN 44 099 748 768 officer/ individual
in the presence of:

.....
Print name

.....
Signature of director/ secretary/ witness

.....
Signature of second authorised officer

.....
Print name

.....
Print name

Affix common seal
if required under
constitution

Note:

Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.

Individual: Must be signed by the individual Contractor and witnessed.

Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

ATTACHMENT 1

STAGES AND PLATFORMS

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday – From Festival Shutdown
Petrie & London Platform	6 x 4 meters	Friday Morning – Day of Festival from 8am. Festival Opens 4.00pm	Sunday – From Festival Shutdown – no earlier than 6pm
Civic Square Stage	10 x 6 meters	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
Bailey's Corner Car park	12 x 12 meters	Friday Morning – Day of Festival from 8am.	
London Circuit	10 x 8 meters	Friday Morning – Day of Festival from 8am.	
	10m x 30 meter reinforced ply dance floor		
	6m x 6 meter stage cover and weighted for 6m x 4 meter platform		

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Perrin, Kristie

From: Perrin, Kristie
Sent: Monday, 25 November 2013 12:19 PM
To: Winter, Jancye; Ayoubi, Salar
Subject: Final Service Agreement - Festival Hire
Attachments: Final Service Agreement - Festival Hire.doc

Tracking:

Recipient

Winter, Jancye

Ayoubi, Salar

Delivery

Delivered: 25/11/2013 12:20 PM

Good Afternoon,

Please find attached the final service agreement for festival hire for your review, please note I have amended the following:

1. Contract price to option A – highlighted in yellow
2. Payment terms – highlighted in yellow
3. Attachment A – stages and platforms – highlighted in yellow

.. you have any queries, please let me know.

Regards
Kristie

Perrin, Kristie

From: Winter, Jancye
Sent: Tuesday, 3 December 2013 4:07 PM
To: Perrin, Kristie
Subject: FW: Quotes - NMCF

Hi Kristie

Can this go in the main contract fro festival Hire.

Thanks

Jancye

From: mark [<mailto:mark@festival.net.au>]
Sent: Tuesday, 3 December 2013 3:57 PM
To: Manikis, Nic
Cc: Winter, Jancye
Subject: RE: Quotes - NMCF

Please confirm that these items are going on the main invoice?

From: Manikis, Nic [<mailto:NIC.MANIKIS@act.gov.au>]
Sent: Tuesday, 3 December 2013 3:41 PM
To: mark
Cc: Winter, Jancye
Subject: RE: Quotes - NMCF

Mark

Thank you. Please organise.

Cheers

nic

om: mark [<mailto:mark@festival.net.au>]
Sent: Tuesday, 3 December 2013 3:28 PM
To: Manikis, Nic
Subject: Quotes - NMCF

10m x 20m REINFORCED PLY Dance floor = \$2400+gst

6m x 6m Stage Cover, weighted for 6m x 4m Platform = \$750+gst (option of clear walls/roof)

Mark Harris
Festival Hire
Mob: 0406 539 500
Ph: 1300 761 799
FX: 02 9647 1091

www.festival.net.au

 **FESTIVAL HIRE**

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person. 67



SERVICES AGREEMENT

Date

_____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768**

**PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
Nature Conservation House
Level 1, 153 Emu Bank
BELCONNEN ACT 2616

Ref: 10102013: MM

Version

Final October 2013

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (Territory) represented by the **Community Services Directorate**.

MYKIKI PTY LIMITED TRADING AS FESTIVAL HIRE (N.S.W.) PTY LIMITED ABN 44 099 748 768 of 12 Highgate Street Auburn in the State of New South Wales 2144 (Contractor).

BACKGROUND

- A. The Territory has undertaken a procurement process Tender Number 22416.110 and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

Contractor Material	means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.
GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	means an invoice that: (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement; (3) is accompanied by any other details or reports required under this Agreement; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and addressed to the Territory's Contract Officer.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Prescribed Insurer	means, in relation to: (1) public liability insurance, an insurer that is: (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, (b) authorised by the Australian Prudential Regulation Authority (APRA) to

conduct new and renewal insurance business in Australia, or

- (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential;

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- (3) is specified in **Item 6 Schedule 1**; or
 - (4) is Personal Information,
- but does not include information that:
- (5) is or becomes public knowledge other than by breach of this Agreement;
 - (6) has been independently developed or acquired by the Contractor; or
 - (7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

4. Contract Price

4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, "use" includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;
- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;

- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

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- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

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8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

10. Termination

10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2) and 10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

10.3 No prejudice

Nothing in this **clause 10** prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this **clause 11** will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches clause 12.4(1), the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

- (1) Contract Price: for **Schedule 2A** is \$173,030.00 (GST Inclusive) total price over two (2) years plus Consumer Price Index.
- (2) Contract Price: for **Schedule 2B** is \$70,950.00 (GST Inclusive) total price over two (2) years Plus Consumer Price Index.
- (3) The Contract Price is payable by instalments. Invoices may only be rendered in accordance with the following:

Instalment	When Invoice may be rendered
Year One	
50% or \$60,995.00	14 days prior to the event date

50% or \$60,995.00	7 days post event date
Year Two	
50% or \$60,995.00	14 days prior to the event date
50% or \$60,995.00	7 days post event date

(4) Except if otherwise stated in this Agreement, the Contract Price is:

- (a) payable within 30 days of receipt by the Territory of an Invoice;
- (b) inclusive of GST and all other taxes, duties and charges; and
- (c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel

See clause 6

Item 4, not used.

Item 5. Other amounts and insurance

See clause 9.1

- (1) Public liability insurance: \$20 million in respect of each claim.
- (2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information

See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text

See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text

See clause 8

Item 8 not used.

SCHEDULE 2A

MARQUEES AND CHANGE ROOMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Marquees and Change Rooms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.4 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.5 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.
- 2.6 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

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3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (a) an afterhours contact number;
 - (b) be contactable afterhours; and
 - (c) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

4.1 The Contractor is to deliver the following Services:

- (1) supply up to 350 Marquees during the event including sound booths, with a preference for marquees to be colourful to reflect the nature of the Festival;

- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) from time to time consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) implement strategies to ensure all the residences and businesses in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period;
- (8) supply all lifting and moving equipment;
- (9) remove all unnecessary equipment and vehicles from the footprints;
- (10) use appropriate signage which meets the Work, Health and Safety requirements during the Bump In and Bump Out period;
- (11) establish and maintain fenced zones around groups of marquees as they are being constructed as this is a high volume public area of Canberra City;
- (12) ensure the construction, erection method for the marquees pose minimum disruption to city traders and take into account the safety of the public;
- (13) repair or restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to the original condition;
- (14) provide one (1) 3m x 6m marquee to be used as a sound booth in Garema Place;
- (15) provide three (3) 3m x 3m marquees to be used as sound booths for other three stages namely:
 - (a) Petrie Plaza Stage;
 - (b) Ainslie Place Stage; and
 - (c) Petrie Plaza Platform.
- (16) ensure all forklift operators hold current appropriate licenses;
- (17) all staff employed in the footprint during the Bump In and Bump Out must be aware of pedestrians in the area;
- (18) ensure the final Bump Out day must be on or before 6:00am on the date to be advised by the Territory;
- (19) work closely with all stakeholders in particular on site electricians and sound and lighting providers;

- (20) provide a 6m x 3m change room (portioned for male and female) for each five (5) stages in the agreed location with the Festival Event Manager or their nominate delegate;
- (21) provide a 6m x 3m marquee for emergency services in the agreed location with the Festival Event Manager or their nominated delegate;
- (22) ensure a safe and healthy site for the Festival, by complying with the Hiring and Rental Industry Association's Weighting Guide; and
- 3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 1**.

5. TIMEFRAME

- 4.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendation for improvement to the Territory by 28 February each year;
 - (2) attend planning meeting and the final event debrief session as required by the Festival Event Manager;
 - (3) provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events;
 - (4) meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate;
 - (5) provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage;
 - (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;

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- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
 - (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 2B

STAGING AND PLATFORMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Staging and Platforms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Bump In is the period prior to the commencement for installation of goods/equipment, to establish the footprint.
- 2.4 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.6 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.

2.7 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (d) an afterhours contact number;
 - (e) be contactable afterhours; and
 - (f) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

3.1 The Contractor is to deliver the following Services:

- (1) supply five (5) stages and two (2) platforms with appropriate stage covers;
- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a Project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the Services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) act in good faith to maintain standards of customer service and comply with all relevant Work, Health and Safety practices and legislation;
- (8) resolve conflicts as soon as possible and to the satisfaction of both parties;
- (9) implement strategies to ensure all the residences and business in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period and throughout the Festival;
- (10) supply all lifting and moving equipment;
- (11) remove all the unnecessary equipment and vehicles from the footprints;
- (12) use appropriate signage that meets Work, Health and Safety requirements during the Bump Out period;
- (13) establish and maintain fenced zones around the stages as they are being constructed as this is a high volume public area of the Canberra City;
- (14) ensure the construction erection method of the stages should pose minimum disruption to city traders and take into account the safety of the public;
- (15) provide and implement an effective communication strategy with all the stakeholders including businesses and residences in the footprint;
- (16) repair and restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to original condition; and

3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 2**.

5. TIMEFRAME

- 5.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:
- (1) The Contractor will submit a report on the Festival including recommendation for improvement to the Territory by 28 February each year.
 - (2) Attend planning meeting and the final event debrief session as required by the Festival Event Manager.
 - (3) Provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events.
 - (4) Meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate.
 - (5) Provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage.
 - (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;
 - (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
 - (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in clause 7, and do not limit those set out in clause 6(4).

1.2 Employee awareness

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal Information to the Territory concerning the complainant with that

person's consent; and

- (3) after the Territory has given or been given notice in accordance with paragraphs (1) or (2) above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

1.6 No Assignment or Subcontracting

The Contractor must not subcontract the performance of the Services without the prior written consent of the Festival Event Manager or their nominated delegate. If the Territory gives its consent, the Territory may impose any conditions.

1.7 Security

The Contractor will be required to take full responsibility of the equipment overnight throughout the Festival including the Bump In and Bump Out period.

Item 2. Changes in control of Contractor

In addition to the circumstances set out in clause 12.4(2), for the purposes of clause 12.4, "control" includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

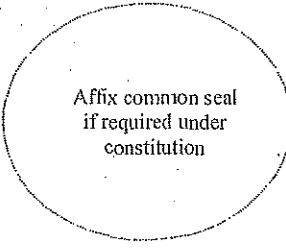
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DATE OF THIS AGREEMENT 2013

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
 in the presence of:) Signature of Territory delegate

.....
Signature of witness.....
Print name.....
Print name

SIGNED by or for and on behalf of)
MYKIKI PTY LIMITED TRADING AS)
FESTIVAL HIRE (N.S.W.) PTY) Signature of director/ authorised
LIMITED officer/ individual
ABN 44 099 748 768
 in the presence of:

.....
Print name.....
Signature of director/ secretary/ witness.....
Signature of second authorised officer.....
Print name.....
Print name


Affix common seal
if required under
constitution

Note:

Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.

Individual: Must be signed by the individual Contractor and witnessed.

Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

ATTACHMENT 1

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STAGES AND PLATFORMS

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday – From Festival Shutdown
Petrie & London Platform	6 x 4 meters	Friday Morning – Day of Festival from 8am. Festival Opens 4.00pm	Sunday – From Festival Shutdown – no earlier than 6pm
Civic Square Stage	10 x 6 meters	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
Bailey's Corner Car park	12 x 12 meters	Friday Morning – Day of Festival from 8am.	
London Circuit	10 x 8 meters	Friday Morning – Day of Festival from 8am.	

Perrin, Kristie

From: Winter, Jancye
Sent: Thursday, 14 November 2013 5:00 PM
To: Perrin, Kristie
Subject: contract question

7
11/14/13
15/11/13 3.6
amended

Hi Kristie

Festival Hire have requested the following. Can you please advise?

Payment Terms: We request that %50 of the finalised tender invoices and any extras (at that point in time) are paid 14 days prior to event date. Significant lead up costs will need to be covered. Remaining balances are payable 7 days post event date ie due Friday 14th Feb

Regards

Jancye Winter | Senior Manager | Operational Manager National Multicultural Festival
Phone 02 62053153 |
Community Participation Group | Office of Multicultural Affairs | Community Services Directorate | ACT
Government
Theo Notaras Multicultural Centre, Level 2, North Building, 180 London Circuit, Canberra ACT 2601 |
GPO Box 158, Canberra ACT 2601 | www.act.gov.au

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Perrin, Kristie

From: Perrin, Kristie
Sent: Thursday, 31 October 2013 4:28 PM
To: 'mark@festival.net.au'
Subject: Final Service Agreement - Festival Hire
Attachments: Final Service Agreement - Festival Hire.pdf

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Hi Mark,

Please find attached the Service Agreement for the 2014-2016 National Multicultural Festival for your review.

If you have any queries, please do not hesitate to contact me.

Regards

Kristie Perrin | Manager

Phone 02 6205 0508 | Fax 02 6207 2047

Contracts and Grants Unit | Community Services Directorate | **ACT Government**

Level 1 Nature Conservation House, 153 Emu Bank, Belconnen | GPO Box 158 Canberra ACT 2601 | www.act.gov.au



SERVICES AGREEMENT

Date

_____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**MYKIKI PTY LIMITED TRADING AS
FESTIVAL HIRE (N.S.W.) PTY LIMITED
ABN 44 099 748 768**

**PROVISION OF MARQUEES AND
CHANGE ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.221

Prepared by

Contracts and Grants Unit
Community Services Directorate
Nature Conservation House
Level 1, 153 Emu Bank
BELCONNEN ACT 2616

Ref: 10102013: MM

Version

Final October 2013

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth) (Territory)* represented by the **Community Services Directorate**.

MYKIKI PTY LIMITED TRADING AS FESTIVAL HIRE (N.S.W.) PTY LIMITED ABN 44 099 748 768 of 12 Highgate Street Auburn in the State of New South Wales 2144 (**Contractor**).

BACKGROUND

- A. The Territory has undertaken a procurement process Tender Number 22416.110 and has selected the Contractor to provide the Services.
- B. The Territory has agreed to purchase and the Contractor has agreed to provide the Services in accordance with the provisions of this Agreement.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context otherwise requires.

Confidential Text means any text of this Agreement that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in **Item 7 Schedule 1**.

Contract Material means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means.

Contract Officers means, in relation to each party, the representatives whose names and contact details are specified in **Item 1 Schedule 1**, or as notified from time to time by one party to the other.

Contract Price means the amounts specified in, or calculated in accordance with, **Item 3 Schedule 1**.

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Contractor Material	means all material owned by the Contractor and used for the purpose of providing the Services, including documents information and data stored by any means.
GST	has the same meaning as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Insurance Determination	means any relevant statutory instrument relating to public liability insurance made under the <i>Financial Management Act 1996</i> (ACT).
Invoice	means an invoice that: (1) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); (2) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Agreement; (3) is accompanied by any other details or reports required under this Agreement; and (4) is rendered at the times specified in Item 3 Schedule 1 (if any) and addressed to the Territory's Contract Officer.
Personal Information	means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
Prescribed Insurer	means, in relation to: (1) public liability insurance, an insurer that is: (a) accepted by the Australian Capital Territory Insurance Authority (ACTIA) for the purposes of the Insurance Determination, (b) authorised by the Australian Prudential

Regulation Authority (APRA) to conduct new and renewal insurance business in Australia, or

- (c) if not authorised by APRA to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA,

or any other insurer prescribed under the Insurance Determination from time to time; and

- (2) other insurance, an insurer having a Standard and Poor's or Best's Rating A- or better.

Procurement Act means the *Government Procurement Act 2001* (ACT).

Services means the services described in **Schedule 2**.

Special Condition means any provision set out in **Schedule 3**.

Specified Personnel means any person named in **Item 4 Schedule 1**, or any other employee or agent of the Contractor, who is approved by the Territory from time to time for the purpose of **clause 6**.

Term means the term specified in **Item 2 Schedule 1**, and if extended, the initial term and the extended term.

Territory means:

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Territory Information means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) by the Territory to the Contractor as being

confidential;

- (3) is specified in **Item 6 Schedule 1**; or
- (4) is Personal Information,

but does not include information that:

- (5) is or becomes public knowledge other than by breach of this Agreement;
- (6) has been independently developed or acquired by the Contractor; or
- (7) has been notified by the Territory to the Contractor as not being confidential.

Territory Material means any material provided by the Territory to the Contractor for the purposes of this Agreement including documents, equipment, information and data stored by any means.

1.2 General

In this Agreement, unless a contrary intention is expressed:

- (1) references to "Contractor" include any employees, agents or subcontractors of the Contractor; and
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Agreement and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

This Agreement is for the Term unless terminated under the provisions of this Agreement.

4. Contract Price

4.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with **Item 3 Schedule 1**.

4.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Agreement.

5. Ownership and use of material

5.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

5.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, "use" includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material, and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,

and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

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5.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or its agents') use of any Contract Material.

5.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent,
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public), and
 - (c) materially alter the work in any way.

5.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Agreement (other than copies of material that the Territory has authorised the Contractor to retain).

6. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;

- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
- (3) ensure the services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services; and
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory, and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies.

7. Non-disclosure of Territory Information

7.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Agreement only for the purposes of fulfilling its obligations under this Agreement;
- (2) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cth) as if they were provisions of this Agreement and the Contractor was a collector and/or record-keeper of the Personal Information as defined in the Act;
- (3) not transfer Territory Information held in connection with this Agreement outside the Territory, or allow any person (other than its authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and
- (4) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred.

7.2 Contractor to protect Territory Information

- (1) Except as provided in this Agreement, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,

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- (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.
- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Agreement is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Agreement is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

7.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Agreement (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT), the maximum penalty for which is 2 years imprisonment.

8. Confidential Text under Procurement Act

8.1 Territory may make Agreement publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Agreement may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Agreement available to the public, including by publication on a public contracts register.

8.2 Confidential Text

If **Item 7 Schedule 1** states that this Agreement is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 8 Schedule 1**, and **clause 8.3** applies.

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8.3 Territory must not disclose Confidential Text

Except as provided in this Agreement, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

9. Insurance and indemnity

9.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 5 Schedule 1**, and any other insurance specified in **Item 5 Schedule 1** with a Prescribed Insurer.

9.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

9.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 9.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Agreement.

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10. Termination

10.1 Default

The Territory may terminate this Agreement, at any time by notice to the Contractor, if the Contractor:

- (1) is or becomes bankrupt or insolvent, enters into voluntary administration or makes any arrangement with its creditors or takes advantage of any statute for the relief of insolvent debtors;
- (2) fails to commence timely provision of the Services or to meet any timeframes specified in this Agreement; or
- (3) is in breach of a provision of this Agreement, where that breach:
 - (a) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (b) is not capable of being remedied.

10.2 Termination for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate this Agreement or reduce the Services for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments under this Agreement for Services rendered before the date of termination, and
 - (b) subject to **clauses 10.2(2) and 10.2(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
 - (a) stop work as specified in the notice,
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services, and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary,

abate proportionately to the reduction in the Services.

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10.3 No prejudice

Nothing in this clause 10 prejudices any other rights or remedies of the Territory in respect of any breach of this Agreement.

11. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Agreement either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, undertake mediation with an independent mediator, the cost to be shared by the parties unless otherwise agreed.
- (2) Nothing in this clause 11 will prejudice the rights of either party to institute proceedings to enforce the Agreement or to seek injunctive or urgent declaratory relief in respect of any Dispute.

12. General

12.1 General responsibilities of parties

Each party will:

- (1) fully cooperate with each other to ensure timely progress and fulfilment of the Agreement; and
- (2) act reasonably and in good faith with respect to matters that relate to the Agreement.

12.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Agreement and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

12.3 No employment, partnership or agency relationship

Nothing in this Agreement constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

12.4 No assignment or subcontracting

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Agreement without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches **clause 12.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Agreement or to provide security to ensure the proper performance of this Agreement.

12.5 Entire agreement

This Agreement comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

12.6 Severability

Any provision of this Agreement that is illegal, void or unenforceable will not form part of this Agreement to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Agreement will not be invalidated by an illegal, void or unenforceable provision.

12.7 Variation

This Agreement may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Agreement.

12.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

12.9 Governing law and compliance with the law

This Agreement is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must

comply with the laws from time to time in force in the Territory in performing the Services.

12.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Agreement must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on the other party's acknowledgment of receipt by any means.

12.11 Special Conditions

In the event of any inconsistency between any Special Condition and any other provision of this Agreement then, to the extent of any inconsistency, the Special Condition will prevail.

12.12 Survival of clauses

Clauses 7, 9.2 and 9.3 will survive the expiration or earlier termination of this Agreement.

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SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 12.10

For the Territory:

Senior Manager
The Office of Multicultural Affairs
Community Participation Group
Theo Notaras Multicultural Centre
Level 2, 180 London Circuit
CANBERRA ACT 2601

Telephone: (02) 6205 3153

Email: Jancye.Winter@act.gov.au

For the Contractor:

Mr Mark Harris
Sales Manager
Mykiki Pty Limited
Trading as Festival Hire (N.S.W.) Pty Limited
12 Highgate Street
AUBURN NSW 2144

Mobile: 0406 539 500

Email: mark@festival.net.au

Item 2. Term

See clause 3

From 1 November 2013 until 30 June 2015 with an option to extend for a further 12 months.

Item 3. Contract Price

See clause 4

- (1) Contract Price: for **Schedule 2A** is \$119,130.00 (GST Inclusive) total price over two (2) years plus Consumer Price Index.
- (2) Contract Price: for **Schedule 2B** is \$70,950.00 (GST Inclusive) total price over two (2) years Plus Consumer Price Index.
- (3) The Contract Price is payable as a lump sum. An Invoice may only be rendered following completion of the Services.
- (4) Except if otherwise stated in this Agreement, the Contract Price is:
 - (a) payable within 30 days of receipt by the Territory of an Invoice;

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(b) inclusive of GST and all other taxes, duties and charges; and

(c) inclusive of all disbursements, including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel
See clause 6

Item 4, not used.

Item 5. Other amounts and insurance
See clause 9.1

(1) Public liability insurance: \$20 million in respect of each claim.

(2) Workers Compensation Insurance to the extent required by any law of the Commonwealth or of the State or Territory in which the Services under the Agreement are being performed.

Item 6. Territory Information
See clauses 1.1 and 7

Item 6 not used.

Item 7. Confidential Text
See clauses 1.1 and 8

Item 7 not used.

Item 8. Grounds for confidentiality of Confidential Text
See clause 8

Item 8 not used.

SCHEDULE 2A

MARQUEES AND CHANGE ROOMS

For the purposes of the Insurance Determination, this **Schedule 2** constitutes the **Activity Schedule** (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Marquees and Change Rooms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.4 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.5 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.
- 2.6 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (a) an afterhours contact number;
 - (b) be contactable afterhours; and
 - (c) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

4.1 The Contractor is to deliver the following Services:

- (1) supply up to 350 Marquees during the event including sound booths, with a preference for marquees to be colourful to reflect the nature of the

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Festival;

- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) from time to time consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) implement strategies to ensure all the residences and businesses in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period;
- (8) supply all lifting and moving equipment;
- (9) remove all unnecessary equipment and vehicles from the footprints;
- (10) use appropriate signage which meets the Work, Health and Safety requirements during the Bump In and Bump Out period;
- (11) establish and maintain fenced zones around groups of marquees as they are being constructed as this is a high volume public area of Canberra City;
- (12) ensure the construction, erection method for the marquees pose minimum disruption to city traders and take into account the safety of the public;
- (13) repair or restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to the original condition;
- (14) provide one (1) 3m x 6m marquee to be used as a sound booth in Garema Place;
- (15) provide three (3) 3m x 3m marquees to be used as sound booths for other three stages namely:
 - (a) Petrie Plaza Stage;
 - (b) Ainslie Place Stage; and
 - (c) Petrie Plaza Platform.
- (16) ensure all forklift operators hold current appropriate licenses;
- (17) all staff employed in the footprint during the Bump In and Bump Out must be aware of pedestrians in the area;
- (18) ensure the final Bump Out day must be on or before 6:00am on the date to be advised by the Territory;

- (19) work closely with all stakeholders in particular on site electricians and sound and lighting providers;
- (20) provide a 6m x 3m change room (portioned for male and female) for each five (5) stages in the agreed location with the Festival Event Manager or their nominate delegate;
- (21) provide a 6m x 3m marquee for emergency services in the agreed location with the Festival Event Manager or their nominated delegate;
- (22) ensure a safe and healthy site for the Festival, by complying with the Hiring and Rental Industry Association's Weighting Guide; and

3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 1**.

5. TIMEFRAME

4.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.

5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

6.1 The Contractor will submit the following to the Territory:

- (1) a report on the Festival including recommendation for improvement to the Territory by 28 February each year;
- (2) attend planning meeting and the final event debrief session as required by the Festival Event Manager;
- (3) provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events;
- (4) meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate;
- (5) provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage;
- (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;

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- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

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SCHEDULE 2B

STAGING AND PLATFORMS

For the purposes of the Insurance Determination, this Schedule 2 constitutes the Activity Schedule (as defined in the Insurance Determination).

The Contractor must provide the Services as follows within any specified timeframes.

1. OBJECTIVE

The Contractor will be engaged to undertake the supply, delivery and installation of high quality Staging and Platforms to the 2014-2016 National Multicultural Festival (Festival).

2. BACKGROUND

- 2.1 The National Multicultural Festival (Festival) has been staged in Canberra for the past 16 years and is managed by the Office of Multicultural Affairs, Community Services Directorate. The Festival will run for a period of three (3) days during February and consists of a number of different events at a variety of different locations throughout Canberra. Events include interstate and local parades, performances, exhibitions and food concessions. The Festival showcases the ACT's cultural diversity.
- 2.2 The Festival event sites will incorporate Garema Place, Petrie Plaza, City Walk, Ainslie Place, Civic Square and London Circuit.
- 2.3 Bump In is the period prior to the commencement for installation of goods/equipment, to establish the footprint.
- 2.4 Prior to conducting any installation at the National Multicultural Festival site, the Contractor must read and understand the specific National Multicultural Festival site instructions and provide all staff with a copy of the instructions for each year. These instructions will be supplied to the successful Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump In for each year of the Festival will be discussed and agreed by the Festival Event Manager or their nominate delegate prior to the commencement of the Festival.
- 2.6 To ensure installation does not adversely impact on or disrupt the public access and civic businesses, installation activity prior to the event is only permissible with approval from the Festival Event Management or their nominated delegate.

- 2.7 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

3.1 The Contractor is to undertake the following Services:

- (1) meet with the Festival Event Manager or their nominated delegate at the Community Services Directorate no later than 30 days prior to the commencement of event Bump In (or date to be agreed) to discuss the agreed plans and schedules;
- (2) provide a Project Manager and appropriate level of qualified staff to oversee all works associated with the services and act as a point of contact with the Festival Event Manager or their nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) be required to provide:
 - (d) an afterhours contact number;
 - (e) be contactable afterhours; and
 - (f) Respond within one (1) hour from the time of contact.
- (5) be required to join the Festivals UHF radio system, carry hand held radios and be in radio contact at all times throughout the Festival;
- (6) attend mandatory radio training at the Bump In and ensure all staff are familiar with the radio operations at each change of shift;
- (7) be required to have their own radio system separate to the Festivals radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) agree to mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) have on site meeting with the Festival Event Manager or their nominated delegate as frequently as required and requested;
- (11) hold the current Australian Industrial Relations Certificate;
- (12) carry applicable licence/s for the service and have available for daily viewing; and
- (13) provide ongoing associated support through the Festival as needed.

4. METHODOLOGY

3.1 The Contractor is to deliver the following Services:

- (1) supply five (5) stages and two (2) platforms with appropriate stage covers;
- (2) supply sufficient, suitable personnel with strong customer service skills during the Festival;
- (3) supply personnel to all areas in designated locations, in accordance with the agreed program schedule for each Festival site;
- (4) allow the Festival Event Manager or their delegate to request additional human resources to assist where necessary;
- (5) provide a Project Supervisor/Manager and appropriate levels of qualified staff to oversee all works associated with the Services and act as a point of contact with the Festival Event Manager or their delegate;
- (6) consult with the Festival Event Manager or their delegate with regard to issues or operational matters that might arise;
- (7) act in good faith to maintain standards of customer service and comply with all relevant Work, Health and Safety practices and legislation;
- (8) resolve conflicts as soon as possible and to the satisfaction of both parties;
- (9) implement strategies to ensure all the residences and business in the area can access their premises and allowing adequate access to emergency services during Bump In and Bump Out period and throughout the Festival;
- (10) supply all lifting and moving equipment;
- (11) remove all the unnecessary equipment and vehicles from the footprints;
- (12) use appropriate signage that meets Work, Health and Safety requirements during the Bump Out period;
- (13) establish and maintain fenced zones around the stages as they are being constructed as this is a high volume public area of the Canberra City;
- (14) ensure the construction erection method of the stages should pose minimum disruption to city traders and take into account the safety of the public;
- (15) provide and implement an effective communication strategy with all the stakeholders including businesses and residences in the footprint;
- (16) repair and restore any damage/impact to surfaces or infrastructure (inclusive of underground services) that occur during the erection of the contracted structure to original condition; and

3.2 The Contractor will deliver the Services in **Item 3 (3.1)** in accordance with the Contractor's service model at **Attachment 2**.

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5. TIMEFRAME

- 5.1 The Contractor will undertake the Services outlined in **Item 3, Schedule 2** Services during February each year of the Festival.
- 5.2 The Contractor will ensure that the goods/equipment are installed and removed during the Bump In and Bump Out periods.

6. REPORTING

- 6.1 The Contractor will submit the following to the Territory:

- (1) The Contractor will submit a report on the Festival including recommendation for improvement to the Territory by 28 February each year.
- (2) Attend planning meeting and the final event debrief session as required by the Festival Event Manager.
- (3) Provide a comprehensive Bump In and Bump Out plan to the Territory no later than 60 days before the events.
- (4) Meet with the Festival Manager or their delegate prior to the commencement of the Festival to discuss and agree on the time plan and communicate all issues and relevant information to the Festival Event Manager and/or their delegate.
- (5) Provide an independent engineers report certified that the various structures are correctly erected safe upon completion of the installation and prior to usage.
- (6) provide a comprehensive training register to the Festival Event Manager or their nominate delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival;
- (7) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (8) provide a safe work method statement for high-risk tasks to the Festival Event Manager or their nominated delegate for review no later than 10 working days prior to the Bump In date for each year of the Festival.

SCHEDULE 3

SPECIAL CONDITIONS

See clause 12.11

Item 1. Privacy of Personal Information

1.1 Additional privacy obligations

The following obligations are in addition to those set out in **clause 7**, and do not limit those set out in **clause 6(4)**.

1.2 Employee awareness

The Contractor must ensure that each person engaged in performance of the Services by the Contractor requiring access to any Personal Information held in connection with this Agreement:

- (1) executes a deed of confidentiality in a form prescribed by the Territory to not access, use, disclose or retain Personal Information except in performing their duties of employment or contractual obligations; and
- (2) is informed that failure to comply with this undertaking may be a criminal offence and may also lead the Contractor to take disciplinary action against the person.

1.3 Reasonable requests, directions and guidelines

The Contractor must, in respect of any Personal Information held in connection with this Agreement, co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* (Cth) or otherwise, including the issuing of any guidelines concerning the handling of Personal Information.

1.4 Handling of complaints

A complaint alleging an interference with the privacy of an individual in respect of any Services performed by the Contractor (**Complaint**) will be handled by the Territory and in accordance with the following procedures:

- (1) if the Territory receives a Complaint it will immediately notify the Contractor of only those details of the Complaint necessary to minimise any breach or prevent further breaches of this Agreement;
- (2) if the Contractor receives a Complaint it must immediately notify the Territory of the nature of the Complaint but will only release Personal

Information to the Territory concerning the complainant with that person's consent; and

- (3) after the Territory has given or been given notice in accordance with paragraphs (1) or (2) above, it will keep the Contractor informed of all progress with the Complaint concerning the actions of the Contractor.

1.5 Survival of Item

This Item survives the expiry or earlier termination of this Agreement.

1.6 No Assignment or Subcontracting

The Contractor must not subcontract the performance of the Services without the prior written consent of the Festival Event Manager or their nominated delegate. If the Territory gives its consent, the Territory may impose any conditions.

1.7 Security

The Contractor will be required to take full responsibility of the equipment overnight throughout the Festival including the Bump In and Bump Out period.

Item 2. Changes in control of Contractor

In addition to the circumstances set out in **clause 12.4(2)**, for the purposes of **clause 12.4**, "control" includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (1) directly or indirectly control the membership of the board of directors of the corporation; or
- (2) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

DATE OF THIS AGREEMENT 2013

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
 in the presence of:) Signature of Territory delegate

.....
 Signature of witness

.....
 Print name

.....
 Print name

SIGNED by or for and on behalf of)
MYKIKI PTY LIMITED TRADING AS)
FESTIVAL HIRE (N.S.W.) PTY) Signature of director/ authorised
LIMITED officer/ individual
ABN 44 099 748 768
 in the presence of:

.....
 Print name

.....
 Signature of director/ secretary/ witness

.....
 Signature of second authorised officer

.....
 Print name

.....
 Print name

Affix common seal
 if required under
 constitution

Note:

Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.

Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.

Individual: Must be signed by the individual Contractor and witnessed.

Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

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ATTACHMENT 1

STAGES AND PLATFORMS

Location	Stage Size	Bump In Date	Bump Out
Garema Place Stage	12 x 12 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
Petrie & Bunda Stage	10 x 8 meter	Wednesday - 2 days before Festival commences	Monday - 1 day after Festival closes
City Walk South	10 x 8 meters	Thursday - 1 day before Festival commences	Monday - 1 day after Festival closes
Ainslie Place	10 x 8 meters	Thursday - 1 day before Festival commences	Sunday - From Festival Shutdown
Petrie & London Platform	6 x 4 meters	Friday Morning - Day of Festival from 8am. Festival Opens 4.00pm	Sunday - From Festival Shutdown - no earlier than 6pm
Civic Square Stage	10 x 6 meters	Tuesday - 3 days before Festival commences	Monday - 1 day after Festival closes
Bailey's Corner Car park	12 x 12 meters	Friday Morning - Day of Festival from 8am.	
London Circuit	10 x 8 meters	Friday Morning - Day of Festival from 8am.	

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Bailey's Corner Carpark	12 x 12 mtr	Friday morning	
London Circuit	10 x 8 mtr	Friday morning	

Ottewill, Matthew

2013/15095

From: malcome.mitchell@act.gov.au
Sent: Tuesday, 29 October 2013 9:00 AM
To: Shared Services, ACT Record Services
Cc: Mitchell, Malcome
Subject: Request for new file

Mail from: <http://intact/apps/RecordServices/request/>

fileType: new

closePart:

AmendTitle:

origDept: **COMMUNITY SERVICES DIRECTORATE - CSD**

origBranch: **POLICY AND ORGANISATIONAL SERVICES**

origSection: **FINANCE AND BUDGET**

origGroup: **CONTRACTS AND GRANTS UNIT**

mdb: **TVKAAA**

tvkFunction: **PROCUREMENT**

tvkActivity: **Contract Services**

sentence:

tvkSubject: **none**

freeText: **COMMUNITY PARTICIPATION GROUP - MYKIKI PTY Limited Trading As Festival Hire (N.S.W) Pty Limited - Provision of Marquees and Change Rooms for the 2014-16 National Multicultural Festival - Contract Number 2013.22416.221**

crossRef:

class: **In-Confidence**

inConfidenceType: **Commercial**

National:

authName:

authTitle:

authDesignation:

limitedAccessOfficer:

createdBy: **M Mitchell**

createdByPhone: **53529**

createDate: **29/10/2013**

physicalLocation: **Level 1, 153 Emu Bank, Belconnen ACT 2617**

actionOfficer:

notes:

submitted on: **29/10/2013** by: **ACTGOV\Malcome Mitchell**

[Open in MSWord] to <http://intact:80/apps/RecordServices/request/Default.asp>

Len(request.Form) = 797