

Freedom of Information Request – FOI Act, s41

Documents – Schedule 6

File 2013/15091 Procurement Provision of Portable Toilets 2013.22416.210

Folio no	Date	Document	Status	Reason for Exemption
File request form				
1-3	20/06/2013	Letter – re: Employers' Indemnity Insurance Certificate of Currency	Exempt in full	FOI Act, s43
4-28	24/10/2013	Draft Services Agreement – Portable toilets	Full release	
29	31/10/2013	Email – re: Final Service Agreement – Canberra Hire	Full release	
30-31	06/11/2013	Email chain – re: Toilet placement for 2014 festival	Full release	
32-57	24/10/2013	Draft Services Agreement – Portable toilets	Full release	
58-83	24/10/2013	Draft Services Agreements – Portable toilets	Full release	
84	22/11/2013	Email – re: Final Service Agreement – Canberra Hire (2)	Full release	
85-86	28/11/2013	Email chain – re: Final Service Agreement – Canberra Hire (2)	Full release	
87-88	28/11/2013	Email chain – re: Final Service Agreement – Canberra Hire (2)	Full release	
89	06/12/2013	Letter – re: Service Agreement	Full release	
90	11/12/2013	Email – re: Final Service Agreement – Canberra Hire (2)	Full release	
91	18/12/2013	Email chain – re: Final Service Agreement – Canberra Hire 111213	Full release	
92	18/12/2013	Letter – re: Service Agreement	Full release	
93	10/01/2014	Letter – re: Service Agreement	Full release	

Folio no	Date	Document	Status	Reason for Exemption
94-120	17/01/2014	Signed Services Agreement – Portable toilets	Full release	
121	20/01/2014	Accounts Payable Invoice Cover Sheet	Full release	
122-126	17/01/2014	Services Agreement – Portable toilets (pages 16-18 and 25 of 27)	Full release	
127	13/02/2014	Email chain – re: NMF	Full release	
128	13/02/2014	Accounts Payable Invoice Cover Sheet	Full release	
File cover page				

ACT Public Service
Accounts Payable Invoice Cover Sheet
Community Services Directorate

Staple supporting documents here

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© Shared Services Red Team (CSD/ACT Health)

Supplier Name: CANBERRA HIRE PTY LTD Special Requests/Reference Number: C/N 2013.22416.210	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Collect Cheque*</td> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> <tr> <td>Staff Reimbursement: <small>EFT only - bank account details must be provided below</small></td> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> <tr> <td>RCTI (Recipient Created Tax Invoice)</td> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> <tr> <td>GST Registered</td> <td><input checked="" type="radio"/> Yes</td> <td><input type="radio"/> No</td> </tr> <tr> <td>Withholding Tax</td> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> </table> <p><small>* Please note all collect cheques are to be collected from Shared Services Centre, Eclipse House, Civic.</small></p>	Collect Cheque*	<input type="radio"/> Yes	<input checked="" type="radio"/> No	Staff Reimbursement: <small>EFT only - bank account details must be provided below</small>	<input type="radio"/> Yes	<input checked="" type="radio"/> No	RCTI (Recipient Created Tax Invoice)	<input type="radio"/> Yes	<input checked="" type="radio"/> No	GST Registered	<input checked="" type="radio"/> Yes	<input type="radio"/> No	Withholding Tax	<input type="radio"/> Yes	<input checked="" type="radio"/> No
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GST Registered	<input checked="" type="radio"/> Yes	<input type="radio"/> No														
Withholding Tax	<input type="radio"/> Yes	<input checked="" type="radio"/> No														

Staff Reimbursement:
Staff requesting reimbursement must complete this section

Bank Account Name:	
BSB:	
Account Number:	
Staff Address:	

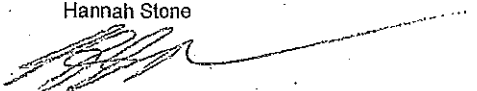

Invoice Detail: (All fields are mandatory - grey cells calculate automatically - DO NOT ENTER DETAILS HERE) Please attach ORIGINAL invoices - copies are not accepted.
Applicable GST Codes: 10%AP (10%), Free (F), Input Taxed (IT), Exempt (Ex), Capital 10% (Cap10%), Capital Free (CapF), Input Taxed Capital (ITCap), Outside Scope (OS), No ABN Withhold (NABN)

Entity	Cost Centre	Account Code	Int. Trad.	Project	Agency Use	GST Tax Type	Amount \$ (excl GST)	GST \$	Amount \$ (incl GST)	Description
J0	52502	712705	99	10404	9999	10%AP	15,530.50	1,553.05	17,083.55	Provision of portable toilets for the parent and operation rooms for the 2014-2016 National Multicultural Festival (second 50% deposit)
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
					9999					
Total Amount \$							\$15,530.50	\$1,553.05	\$17,083.55	

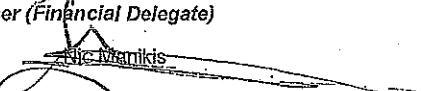
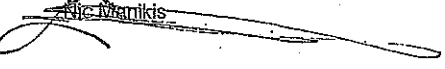
Remittance Advice Description:

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: Hannah Stone	Phone: 51382	Kristle Perrin
Signature: 	Date: 13/02/2014	

Authorising Officer (Financial Delegate)

Name: 	Position Number: E0055
Signature: 	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.



SERVICES AGREEMENT

Date

17 January 2013/4

Parties

AUSTRALIAN CAPITAL TERRITORY

**CANBERRA HIRE PTY LTD
ABN 53 075 534 566**

**PROVISION OF PORTABLE TOILETS,
FOR THE PARENT AND OPERATION
ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.210

Prepared by

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

Ref: 24102013:MM

Version

Final October 2013

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125**SCHEDULE 1****CONTRACT DETAILS****Item 1. Contract Officers***See clauses 1.1 and 12.10*

For the Territory:

Senior Manager
 ACT 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:

Ms Cherrie Climas
 Manager
 Canberra Hire Pty Ltd
 34 Vicars Street
 MITCHELL ACT 2911

Telephone: (02) 6213 3755

Email: admin@fawhire.com.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: is \$68,334.20 (GST Inclusive) over two (2) years.
- (2) As outlined under **Item 4(18), Schedule 2** additional labour which is required during the Festival will be costed at \$55.00 per hour.
- (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 \$17,083.55	14 days prior to the event date.
50% or	7 days post event date.

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\$17,083.55	
Year Two	
50% or \$17,083.55	14 days prior to the event date.
50% or \$17,083.55	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

Personnel	Position
Michael Agnew	Owner
James Mair	Accountant
Cherrie Climas	Manager
Emily Montesin	Administration Officer

Sub Contractors	Services
Blue Water Treatment	Waste Disposal Management
FAW Industries	Deliveries, Maintenance and Repairs including on site repairs

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.

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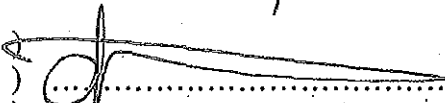
Item 7. Confidential Text Item 7 not used
See clauses 1.1 and 8


Item 8. Grounds for confidentiality of Confidential Text Item 8 not used
See clause 8

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DATE OF THIS AGREEMENT 17 January 2013/4

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

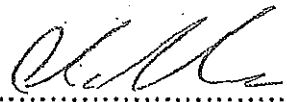
) 
) Signature of Territory delegate

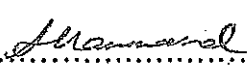

Signature of witness

..... Nic MANIKIS
Print name


Print name

SIGNED by or for and on behalf of
CANBERRA HIRE PTY LTD
ABN 53 075 534 566
in the presence of:

) 
) Signature of director/ authorised officer/ individual


Signature of director/ secretary/ witness

..... Cherie Klimas
Print name

..... Lara Hammond
Print name

.....
Signature of second authorised officer
.....
Print name



- 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



ACT Public Service

Accounts Payable Invoice Cover Sheet

Community Services Directorate

Staple supporting documents here

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© Shared Services Red Team (CSD/ACT Health)

Supplier Name: CANBERRA HIRE PTY LTD	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%;">Collect Cheque*</td> <td style="width:20%; text-align: center;"><input type="radio"/> Yes <input checked="" type="radio"/> No</td> </tr> <tr> <td>Staff Reimbursement: <small>EFT only - bank account details must be provided below</small></td> <td style="text-align: center;"><input type="radio"/> Yes <input checked="" type="radio"/> No</td> </tr> <tr> <td>RCTI (Recipient Created Tax Invoice)</td> <td style="text-align: center;"><input type="radio"/> Yes <input checked="" type="radio"/> No</td> </tr> <tr> <td>GST Registered</td> <td style="text-align: center;"><input checked="" type="radio"/> Yes <input type="radio"/> No</td> </tr> <tr> <td>Withholding Tax</td> <td style="text-align: center;"><input type="radio"/> Yes <input checked="" type="radio"/> No</td> </tr> </table>	Collect Cheque*	<input type="radio"/> Yes <input checked="" type="radio"/> No	Staff Reimbursement: <small>EFT only - bank account details must be provided below</small>	<input type="radio"/> Yes <input checked="" type="radio"/> No	RCTI (Recipient Created Tax Invoice)	<input type="radio"/> Yes <input checked="" type="radio"/> No	GST Registered	<input checked="" type="radio"/> Yes <input type="radio"/> No	Withholding Tax	<input type="radio"/> Yes <input checked="" type="radio"/> No
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Special Requests/Reference Number: C/N 2013.22416.210	*Please note all collect cheques are to be collected from Shared Services Centre, Eclipse House, Civic.										

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

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

Applica: J 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)

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					9999		-	-	-	
					9999		-	-	-	
					9999		-	-	-	
					9999		-	-	-	
					9999		-	-	-	
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					9999		-	-	-	
					9999		-	-	-	
					9999		-	-	-	
					9999		-	-	-	
Total Amount \$							\$15,530.50	\$1,553.05	\$17,083.55	

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: Hannah Stone	Phone: 51382	
Signature:	Date: 20/01/2014	Kristie Perrin 20/1/14

Authorising Officer (Financial Delegate)

Name: Nic Manikis	Position Number: E0055	
Signature:	Date: 20/1/14	



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SERVICES AGREEMENT

Date

17 January 2013¹⁴

Parties

AUSTRALIAN CAPITAL TERRITORY

**CANBERRA HIRE PTY LTD
ABN 53 075 534 566**

**PROVISION OF PORTABLE TOILETS,
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Ref: 24102013:MM

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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**.

CANBERRA HIRE PTY LTD ABN 53 075 534 566 of 34 Vicars Street Mitchell in the Australian Capital Territory 2911 (**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 *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.
- (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.

(1) 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.

(2) 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.

(3) 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.

(4) 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

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- (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
ACT 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:

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Telephone: (02) 6213 3755
Email: admin@fawhire.com.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: is \$68,334.20 (GST Inclusive) over two (2) years.
- (2) As outlined under **Item 4(18), Schedule 2** additional labour which is required during the Festival will be costed at \$55.00 per hour.
- (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 \$17,083.55	14 days prior to the event date.
50% or	7 days post event date.

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\$17,083.55	
Year Two	
50% or \$17,083.55	14 days prior to the event date.
50% or \$17,083.55	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

Personnel	Position
Michael Agnew	Owner
James Mair	Accountant
Cherrie Climas	Manager
Emily Montesin	Administration Officer

Sub Contractors	Services
Blue Water Treatment	Waste Disposal Management
FAW Industries	Deliveries, Maintenance and Repairs including on site repairs

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.

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Item 7. Confidential Text Item 7 not used
See clauses 1.1 and 8

Item 8. Grounds for confidentiality of Confidential Text Item 8 not used
See clause 8

SCHEDULE 2

PROVISION OF PORTABLE TOILETS, PARENT AND OPERATION 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 is engaged to undertake the supply and delivery of high quality Portable Toilets, an Operations Room and a Parent Room to the 2014 - 2016 National Multicultural 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 each year 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 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 Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

The Contractor is engaged 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 a date to be agreed) to discuss the

- agreed plans and schedules;
- (2) appoint a Project 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 nominated delegate;
 - (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
 - (4) provide an afterhours contact number and be contactable afterhours and response within one (1) hour from time of contact;
 - (5) 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) have their own radio system separate to the Festival's radio network;
 - (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
 - (9) mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
 - (10) attend 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 throughout the Festival as required.

4. METHODOLOGY

The Contractor will be required to deliver the following:

- (1) supply, install and remove 10 Female, 10 Male and 2 Disabled toilets for the Festival which includes all fixtures, accessories and consumables;
- (2) supply appropriately trained personnel to install, maintain and operate toilets and wash rooms during the Festival (according to the agreed schedule);
- (3) supply 20 suitable Kros Urinals with appropriate 2.1 metre privacy fencing around them;
- (4) supply 20 portable female and five (5) portable Male Fresh Flash Toilets which are individual stand free units;
- (5) supply of all safety equipment required to complete the task or more frequently as required;

- (6) supply personnel during the Festival opening hours, to check and suitably maintain and if necessary, empty toilets, receptacles and bins and clean toilets, hand basins and floors throughout the Festival sites;
- (7) review on a regular basis and supply toilet paper and paper hand towels as required throughout the Festival;
- (8) remove and appropriately dispose of all waste in accordance with the agreed program schedule, the *Waste Minimisation Act 2001* and *Hazardous Waste Regulations Act 1989*;
- (9) cover all transport costs associated with equipment and crew to and from the Festival venues;
- (10) provide ongoing support for the duration of the Festival;
- (11) remove daily both general and sanitary collected waste;
- (12) empty and clean all toilet and wash basins and receptacles daily;
- (13) provide one (1) air-conditioned 6m x 3m parent room throughout the Festival with 20 chairs and 2 tables to be located in a central area of the footprint;
- (14) provide one (1) air-conditioned 6m x 3m Operational Room throughout the Festival with 20 chairs and 2 tables;
- (15) provide two (2) change tables for the Parent Room with a Microwave Oven;
- (16) provide four (4) disabled fresh flush toilet units;
- (17) provide appropriate signage across the footprint for Male, Female, Kros Urinal and Disabled toilets;
- (18) provide additional services outside of agreed schedule if required; and
- (19) remove all toilet and wash basin bins and receptacles during the Bump Out period.

5. DELIVERY

- 5.1 The Contractor must deliver and install Portable Toilets an Operations Room and a Parent Room at the following locations in accordance with **Attachment 1**:

LOCATIONS	DESCRIPTION
Gareema Place	10 single Toilets and 1 Disabled Unit
Ainslie Place	10 dingle Toilets, 1 Disabled and 1 Wash and Sink Stand
Baileys Corner/ Carpark	10 single Toilets, 1 Disabled and 1 Wash and Sink Stand

Kros Urinal	20 single units across the footprint
To be installed in a centralised location within the National Multicultural Festival	One (1) 6m x 3m Air Conditioned Operational Room including required chairs and tables
Koura Street	One (1) 6m x 3m Air Conditioned Parent Room including specifications.

6. TIMEFRAME

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

7. REPORTING

- 7.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendations for improvement to the Territory by 28 February each year.
 - (2) 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;
 - (3) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate to review no later than 10 working days prior to the Bump In date for each year of the Festival; and
 - (4) provide a report on the Festival following completion of the Services, to the Festival Event Manager or their nominated delegate, which incorporated recommended improvements for upcoming years.

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 Licences

- (1) The Contractor must hold the current Australian Industrial Relations Certificate;
- (2) Carry applicable licence/s for the service and have available for daily viewing.

1.7 Security

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

1.8 No Assignment and 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.

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 17 January 2013/4

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

) [Signature]
) Signature of Territory delegate

[Signature]

Signature of witness

Nic MANIKIS

Print name

[Signature]

Print name

SIGNED by or for and on behalf of CANBERRA HIRE PTY LTD ABN 53 075 534 566 in the presence of:

) [Signature]
) Signature of director/ authorised officer/ individual

[Signature]

Signature of director/ secretary/ witness

Cherrie Klimas

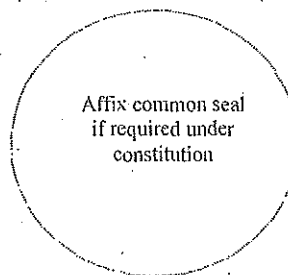
Print name

[Signature]

Print name

Signature of second authorised officer

Print name



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

LIST OF EQUIPMENT AND EVENT SITES

Location 1: Back of Fringe Stage
2 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm
Location 2: Gravel Areas on Theatre Lane (Baileys Corner car park entrance)
8 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 10 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm
London CCT
4 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 4 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm
Location 5: Akuna Street
4 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 6: Ainslie Avenue
8 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 5: Garema Place – Baily's loading dock
8 Portable Toilets and 1 Disabled Toilet
<i>Services to be completed on site at the following times:</i>
1st Day of Festival - approx 9pm
2nd Day of Festival - approx. 8am, 11am, 2pm, 5pm, 8pm and 10 pm
3rd Day of Festival – approx. 8am, 11am & 2pm
Centre Point Building (out front of 140-180 City Walk) One 3X6 Air Conditioned Operational Room including required chairs and tables.
London Circuit (Out From of CBA) One 3X6 Air Conditioned Parent Room including specifications.



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Community Services

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Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
PO Box 631
MITCHELL ACT 2911

Dear Ms Climas

Re: Service Agreement

Please find enclosed two (2) Service Agreements Contract Number 2013.22416.210 between Canberra Hire Pty Ltd and the Community Services Directorate.

Please sign the two (2) Service Agreements where indicated and return both Agreements for execution to:

Manager
Contracts and Grants Unit
Community Services Directorate
GPO Box 158
CANBERRA ACT 2601

Please do not date the Service Agreements.

Once executed by the Community Services Directorate, a signed Service Agreement will be returned for your records.

If you require further information, please contact Jancye Winter on telephone 6205 3153 or email: jancye.winter@act.gov.au.

Yours Sincerely

Kristie Perrin
Manager
Contracts and Grants Unit
Community Services Directorate
10 January 2014



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Government
Community Services

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92
COPY

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Dear Ms Climas

Re: Service Agreement

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If you require further information, please contact Jancye Winter on telephone 6205 3153 or email: jancye.winter@act.gov.au.

Yours Sincerely

Kristie Perrin
Manager
Contracts and Grants Unit
Community Services Directorate
18 December 2013

14.
911

Perrin, Kristie

From: Cherrie Climas [cherrie.climas@fawhire.com.au]
Sent: Wednesday, 18 December 2013 2:35 PM
To: Perrin, Kristie
Subject: RE: Final Service Agreement - Canberra Hire 111213

Kristie.

Sorry about the delay I have been snowed under.

This change is fine. If you would like to send out the new agreement for signing.

Regards
Cherrie

Cherrie Climas
Manager
FAW Hire
34 Vicars St Mitchell ACT 2911

Ph: (02) 6213 3755
Fax: (02) 6213 3766
Email: cherrie.climas@fawhire.com.au

From: Perrin, Kristie [<mailto:Kristie.Perrin@act.gov.au>]
Sent: Wednesday, 11 December 2013 1:31 PM
To: Cherrie Climas
Subject: Final Service Agreement - Canberra Hire 111213

Hi Cherrie,

Please find attached the final service agreement for Canberra Hire for your review. please note schedule 1, item 3 has been amended. If happy with the amendment, please let me know and I'll send out hard copies for signatures.

I do apologise for the last minute change.

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

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.

Perrin, Kristie

From: Ayoubi, Salar
Sent: Wednesday, 11 December 2013 11:53 AM
To: Perrin, Kristie
Subject: Final Service Agreement - Canberra Hire (2) (3)
Attachments: Final Service Agreement - Canberra Hire (2) (3).doc

Just formatting



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Government

Community Services

12
89
COPY

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Dear Ms Climas

Re: Service Agreement

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GPO Box 158
CANBERRA ACT 2601

Please do not date the Service Agreements.

Once executed by the Community Services Directorate, a signed Service Agreement will be returned for your records.

If you require further information, please contact Jancye Winter on telephone 6205 3153 or email: jancye.winter@act.gov.au.

Yours Sincerely

Kristie Perrin
Manager
Contracts and Grants Unit
Community Services Directorate
6 December 2013

Perrin, Kristie

From: Cherrie Climas [cherrie.climas@fawhire.com.au]
Sent: Thursday, 28 November 2013 4:25 PM
To: Perrin, Kristie
Subject: RE: Final Service Agreement - Canberra Hire (2)

Thanks Kristie

I assume then the disabled from Akuna street will be taken off the listing, if so that's all fine then if you would like to send the agreement out.

Regards
Cherrie

Cherrie Climas
Manager
FAW Hire
34 Vicars St Mitchell ACT 2911

Phone: (02) 6213 3755
Fax: (02) 6213 3766
Email: cherrie.climas@fawhire.com.au

From: Perrin, Kristie [<mailto:Kristie.Perrin@act.gov.au>]
Sent: Thursday, 28 November 2013 8:59 AM
To: Cherrie Climas
Subject: RE: Final Service Agreement - Canberra Hire (2)

Hi Cherrie,

Please find below the answers to your questions:

- Location 5: Akuna Street - I had 6 portables & 1 disabled but in the table you have 4 portables- Yes , however we thought if they are not going to be used as much its best to put them elsewhere.
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If you have any queries, please do not hesitate to contact me.

Regards
Kristie

From: Cherrie Climas [<mailto:cherrie.climas@fawhire.com.au>]
Sent: Wednesday, 27 November 2013 9:51 AM
To: Perrin, Kristie
Subject: RE: Final Service Agreement - Canberra Hire (2)

Hi Kirstie

Na
87

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 FAW Hire
 34 Vicars St Mitchell ACT 2911

Ph: (02) 6213 3755
 Fax: (02) 6213 3766
 Email: cherrie.climas@fawhire.com.au

From: Perrin, Kristie [<mailto:Kristie.Perrin@act.gov.au>]
Sent: Friday, 22 November 2013 2:29 PM
To: Cherrie Climas
Subject: Final Service Agreement - Canberra Hire (2)

Hi Cherrie,

Sorry for the delay, please find attached the final service agreement for the 2014-2016 National Multicultural Festival for your review. If happy with the Agreement please let me know and I'll prepare hard copies for signature.

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

 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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FAW Hire
34 Vicars St Mitchell ACT 2911

Ph: (02) 6213 3755
Fax: (02) 6213 3766
Email: cherrie.climas@fawhire.com.au

10a

85

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Perrin, Kristie

From: Perrin, Kristie
Sent: Friday, 22 November 2013 2:28 PM
To: 'Cherrie Climas'
Subject: Final Service Agreement - Canberra Hire (2)
Attachments: Final Service Agreement - Canberra Hire (2).pdf

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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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SERVICES AGREEMENT



Date _____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**CANBERRA HIRE PTY LTD
ABN 53 075 534 566**

**PROVISION OF PORTABLE TOILETS,
FOR THE PARENT AND OPERATION
ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.210

Prepared by

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

Ref: 24102013: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**.

CANBERRA HIRE PTY LTD ABN 53 075 534 566 of 34 Vicars Street Mitchell in the Australian Capital Territory 2911 (**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: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (1) public liability insurance, an insurer that is: <ul style="list-style-type: none"> (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.
- (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.

(1) 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.

(2) 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.

(3) 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.

(4) 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**

For the Territory:

See clauses 1.1 and 12.10

Senior Manager
ACT 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:

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Telephone: (02) 6213 3755
Email: admin@fawhire.com.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: is \$68,334.20 (GST Inclusive) total for the two (2) years plus Consumer Price Index.
- (2) As outlined under **Item 4(18), Schedule 2** additional labour which is required during the Festival will be costed at \$55.00 per hour
- (3) 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,

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including out-of-pocket expenses incurred by the Contractor.

Item 4. Specified Personnel
See clause 6

Personnel	Position
Michael Agnew	Owner
James Mair	Accountant
Cherrie Climas	Manager
Emily Montesin	Administration Officer

Sub Contractors	Services
Blue Water Treatment	Waste Disposal Management
FAW Industries	Deliveries, Maintenance and Repairs including on site repairs

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 2

PROVISION OF PORTABLE TOILETS, PARENT AND OPERATION 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 is engaged to undertake the supply and delivery of high quality Portable Toilets, an Operations Room and a Parent Room to the 2014 - 2016 National Multicultural 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 each year 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 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 Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

The Contractor is engaged 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 a date to be agreed) to discuss the

- agreed plans and schedules;
- (2) appoint a Project 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 nominated delegate;
 - (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
 - (4) provide an afterhours contact number and be contactable afterhours and response within one (1) hour from time of contact;
 - (5) 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) have their own radio system separate to the Festival's radio network;
 - (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
 - (9) mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
 - (10) attend 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 throughout the Festival as required.

4. METHODOLOGY

The Contractor will be required to deliver the following:

- (1) supply, install and remove 10 Female, 10 Male and 2 Disabled toilets for the Festival which includes all fixtures, accessories and consumables;
- (2) supply appropriately trained personnel to install, maintain and operate toilets and wash rooms during the Festival (according to the agreed schedule);
- (3) supply 20 suitable Kros Urinals with appropriate 2.1 metre privacy fencing around them;
- (4) supply 20 portable female and five (5) portable Male Fresh Flash Toilets which are individual stand free units;
- (5) supply of all safety equipment required to complete the task or more frequently as required;

- (6) supply personnel during the Festival opening hours, to check and suitably maintain and if necessary, empty toilets, receptacles and bins and clean toilets, hand basins and floors throughout the Festival sites;
- (7) review on a regular basis and supply toilet paper and paper hand towels as required throughout the Festival;
- (8) remove and appropriately dispose of all waste in accordance with the agreed program schedule, the *Waste Minimisation Act 2001* and *Hazardous Waste Regulations Act 1989*;
- (9) cover all transport costs associated with equipment and crew to and from the Festival venues;
- (10) provide ongoing support for the duration of the Festival;
- (11) remove daily both general and sanitary collected waste;
- (12) empty and clean all toilet and wash basins and receptacles daily;
- (13) provide one (1) air-conditioned 6m x 3m parent room throughout the Festival with 20 chairs and 2 tables to be located in a central area of the footprint;
- (14) provide one (1) air-conditioned 6m x 3m Operational Room throughout the Festival with 20 chairs and 2 tables;
- (15) provide two (2) change tables for the Parent Room with a Microwave Oven;
- (16) provide four (4) disabled fresh flush toilet units;
- (17) provide appropriate signage across the footprint for Male, Female, Kros Urinal and Disabled toilets;
- (18) provide additional services outside of agreed schedule if required; and
- (19) remove all toilet and wash basin bins and receptacles during the Bump Out period.

5. DELIVERY

- 5.1 The Contractor must deliver and install Portable Toilets an Operations Room and a Parent Room at the following locations in accordance with **Attachment 1**:

LOCATIONS	DESCRIPTION
Gareema Place	10 single Toilets and 1 Disabled Unit
Ainslie Place	10 dingle Toilets, 1 Disabled and 1 Wash and Sink Stand
Baileys Corner/ Carpark	10 single Toilets, 1 Disabled and 1 Wash and Sink Stand

Kros Urinal	20 single units across the footprint
To be installed in a centralised location within the National Multicultural Festival	One (1) 6m x 3m Air Conditioned Operational Room including required chairs and tables
Koura Street	One (1) 6m x 3m Air Conditioned Parent Room including specifications.

6. TIMEFRAME

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

7. REPORTING

- 7.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendations for improvement to the Territory by 28 February each year.
 - (2) 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;
 - (3) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate to review no later than 10 working days prior to the Bump In date for each year of the Festival; and
 - (4) provide a report on the Festival following completion of the Services, to the Festival Event Manager or their nominated delegate, which incorporated recommended improvements for upcoming years.

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 Licences

- (1) The Contractor must hold the current Australian Industrial Relations Certificate;
- (2) Carry applicable licence/s for the service and have available for daily viewing.

1.7 Security

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

1.8 No Assignment and 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.

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 AGREEMENT2013

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

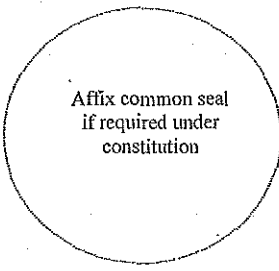
SIGNED by or for and on behalf of CANBERRA HIRE PTY LTD ABN 53 075 534 566 in the presence of:) Signature of director/ authorised officer/ individual

Signature of director/ secretary/ witness Print name

Signature of second authorised officer

Print name

Print name



- 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

LIST OF EQUIPMENT AND EVENT SITES

Location 1: Back of Fringe Stage
2 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 2: Gravel Areas on Theatre Lane (Baileys Corner car park entrance)
8 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 10 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

London CCT
4 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 4 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 5: Akuna Street
4 Portable Toilets and 1 Disabled Toilet
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

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Location 6: Ainslie Avenue
8 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1st Day of Festival - approx 9pm
2nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3rd Day of Festival - approx. 8am, 11am & 2pm

Location 5: Garema Place – Baily's loading dock
8 Portable Toilets and 1 Disabled Toilet
<i>Services to be completed on site at the following times:</i>
1st Day of Festival - approx 9pm
2nd Day of Festival - approx. 8am, 11am, 2pm, 5pm, 8pm and 10 pm
3rd Day of Festival – approx. 8am, 11am & 2pm
Centre Point Building (out front of 140-180 City Walk) One 3X6 Air Conditioned Operational Room including required chairs and tables.
London Circuit (Out From of CBA) One 3X6 Air Conditioned Parent Room including specifications.



BY changes 7
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SERVICES AGREEMENT

Date

_____ 2013

Parties

AUSTRALIAN CAPITAL TERRITORY

**CANBERRA HIRE PTY LTD
ABN 53 075 534 566**

**PROVISION OF PORTABLE TOILETS,
FOR THE PARENT AND OPERATION
ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.210

Prepared by

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

Ref: 24102013: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**.

CANBERRA HIRE PTY LTD ABN 53 075 534 566 of 34 Vicars Street Mitchell in the Australian Capital Territory 2911 (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.

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

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- (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.

(1) 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.

(2) 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.

(3) 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.

(4) 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
ACT 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:

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Telephone: (02) 6213 3755
Email: admin@fawhire.com.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: is \$68,334.20 (GST Inclusive) total for the two (2) years plus Consumer Price Index.
- (2) As outlined under **Item 4(18), Schedule 2** additional labour which is required during the Festival will be costed at \$55.00 per hour
- (3) 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

Personnel	Position
Michael Agnew	Owner
James Mair	Accountant
Cherrie Climas	Manager
Emily Montesin	Administration Officer

Sub Contractors	Services
Blue Water Treatment	Waste Disposal Management
FAW Industries	Deliveries, Maintenance and Repairs including on site repairs

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 2

PROVISION OF PORTABLE TOILETS, PARENT AND OPERATION 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 is engaged to undertake the supply and delivery of high quality Portable Toilets, an Operations Room and a Parent Room to the 2014 - 2016 National Multicultural 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 each year 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 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 Contractor no later than seven (7) days prior to the commencement of the official Bump In date.
- 2.5 Bump Out is the period after the close of the Festival for removal of goods/equipment and services to evacuate the footprint.

3. SERVICES

The Contractor is engaged 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 a date to be agreed) to discuss the

agreed plans and schedules;

- (2) appoint a Project 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 nominated delegate;
- (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
- (4) provide an afterhours contact number and be contactable afterhours and response within one (1) hour from time of contact;
- (5) 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) have their own radio system separate to the Festival's radio network;
- (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
- (9) mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
- (10) attend 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 throughout the Festival as required.

4. METHODOLOGY

The Contractor will be required to deliver the following:

- (1) supply, install and remove 10 Female, 10 Male and 2 Disabled toilets for the Festival which includes all fixtures, accessories and consumables;
- (2) supply appropriately trained personnel to install, maintain and operate toilets and wash rooms during the Festival (according to the agreed schedule);
- (3) supply 20 suitable Kros Urinals with appropriate 2.1 metre privacy fencing around them;
- (4) supply 20 portable female and five (5) portable Male Fresh Flash Toilets which are individual stand free units;
- (5) supply of all safety equipment required to complete the task or more frequently as required;

- (6) supply personnel during the Festival opening hours, to check and suitably maintain and if necessary, empty toilets, receptacles and bins and clean toilets, hand basins and floors throughout the Festival sites;
- (7) review on a regular basis and supply toilet paper and paper hand towels as required throughout the Festival;
- (8) remove and appropriately dispose of all waste in accordance with the agreed program schedule, the *Waste Minimisation Act 2001* and *Hazardous Waste Regulations Act 1989*;
- (9) cover all transport costs associated with equipment and crew to and from the Festival venues;
- (10) provide ongoing support for the duration of the Festival;
- (11) remove daily both general and sanitary collected waste;
- (12) empty and clean all toilet and wash basins and receptacles daily;
- (13) provide one (1) air-conditioned 6m x 3m parent room throughout the Festival with 20 chairs and 2 tables to be located in a central area of the footprint;
- (14) provide one (1) air-conditioned 6m x 3m Operational Room throughout the Festival with 20 chairs and 2 tables;
- (15) provide two (2) change tables for the Parent Room with a Microwave Oven;
- (16) provide four (4) disabled fresh flush toilet units;
- (17) provide appropriate signage across the footprint for Male, Female, Kros Urinal and Disabled toilets;
- (18) provide additional services outside of agreed schedule if required; and
- (19) remove all toilet and wash basin bins and receptacles during the Bump Out period.

5. DELIVERY

- 5.1 The Contractor must deliver and install Portable Toilets an Operations Room and a Parent Room at the following locations in accordance with **Attachment 1**:

LOCATIONS	DESCRIPTION
Gareema Place	10 single Toilets and 1 Disabled Unit
Ainslie Place	10 dingle Toilets, 1 Disabled and 1 Wash and Sink Stand
Baileys Corner/ Carpark	10 single Toilets, 1 Disabled and 1 Wash and Sink Stand

Kros Urinal	20 single units across the footprint
To be installed in a centralised location within the National Multicultural Festival	One (1) 6m x 3m Air Conditioned Operational Room including required chairs and tables
Koura Street	One (1) 6m x 3m Air Conditioned Parent Room including specifications.

6. TIMEFRAME

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

7. REPORTING

7.1 The Contractor will submit the following to the Territory:

- (1) a report on the Festival including recommendations for improvement to the Territory by 28 February each year.
- (2) 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;
- (3) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate to review no later than 10 working days prior to the Bump In date for each year of the Festival; and
- (4) provide a report on the Festival following completion of the Services, to the Festival Event Manager or their nominated delegate, which incorporated recommended improvements for upcoming years.

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 Licences

- (1) The Contractor must hold the current Australian Industrial Relations Certificate;
- (2) Carry applicable licence/s for the service and have available for daily viewing.

1.7 Security

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

1.8 No Assignment and 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.

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 CANBERRA HIRE PTY LTD ABN 53 075 534 566 in the presence of:) Signature of director/ authorised officer/ individual

Signature of director/ secretary/ witness Print name

Print name Signature of second authorised officer

Print name



- 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

LIST OF EQUIPMENT AND EVENT SITES

Location 1: Back of Fringe Stage
2 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 2: Gravel Areas on Theatre Lane (Baileys Corner car park entrance)
8 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 10 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 3: Baileys Corner car park entrance
8 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival – approx 9pm
2 nd Day of Festival – approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 4: Bunda Street near bags to go London CCT
4 Portable Toilets, 1 Disabled Toilet, 1 Sink Unit and 4 Kros Urinals and Screening
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Comment [sa1]: We had to move them to London CCT

Location 5: Akuna Street
46 Portable Toilets and 1 Disabled Toilet
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 6: Ainslie Avenue
8 Portable Toilets
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 5: Garema Place – Baily's loading dock
8 Portable Toilets and 1 Disabled Toilet
<i>Services to be completed on site at the following times:</i>
1st Day of Festival - approx 9pm
2nd Day of Festival - approx. 8am, 11am, 2pm, 5pm, 8pm and 10 pm
3rd Day of Festival – approx. 8am, 11am & 2pm
Centre Point Building (out front of 140-180 City Walk) One 3X6 Air Conditioned Operational Room including required chairs and tables.
London Circuit (Out From of CBA) One 3X6 Air Conditioned Parent Room including specifications.

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Perrin, Kristie

From: Cherrie Climas [cherrie.climas@fawhire.com.au]
Sent: Wednesday, 6 November 2013 3:48 PM
To: Perrin, Kristie
Subject: FW: Toilet placement for 2014 festival

Kristie

As discussed below is the email that I sent to Carlos after the site meeting with both Salar & Carlos on the 8th October.

Regards
Cherrie

Cherrie Climas
Manager
FAW Hire
34 Vicars St Mitchell ACT 2911

Ph: (02) 6213 3755
Fax: (02) 6213 3766
Email: cherrie.climas@fawhire.com.au

From: Cherrie Climas [<mailto:cherrie.climas@fawhire.com.au>]
Sent: Wednesday, 9 October 2013 8:33 AM
To: 'carlos.tobes@act.gov.au'
Subject: Toilet placement for 2014 festival

Morning Carlos,

Sorry for not getting you this list yesterday but my afternoon meeting went longer than expected.

As discussed yesterday please find below placements locations:

Back of Fringe Stage

- 2 Portable toilets

Gravel area on Theatre Lane

- 8 Portable toilets
- 1 Disabled toilet
- 1 sink unit
- 10 Kros urinals & screening

Baileys Corner Carpark Entrance

- 8 portable toilets

Bunda Street near Bags to Go

- 4 Portable toilets
- 1 Disabled toilet
- 1 sink unit
- 4 Kros urinals & screening

Akuna Street

- 6 Portable toilets
- 1 Disabled toilet

6A
3C

Ainslie Avenue

- 8 Portable toilets

Centrepont Building (Out front of 140-180 City Walk)

- 1 Operational room

London Circuit (out front of CBA)

- 1 Operational room

Cherrie Climas

Manager

FAW Hire

34 Vicars St Mitchell ACT 2911

Phone: (02) 6213 3755

Fax: (02) 6213 3766

Email: cherrie.climas@fawhire.com.au

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Perrin, Kristie

From: Perrin, Kristie
Sent: Thursday, 31 October 2013 4:14 PM
To: 'admin@fawhire.com.au'
Subject: Final Service Agreement - Canberra Hire
Attachments: Final Service Agreement - Canberra Hire.pdf

Hi Cherrie,

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**

CANBERRA HIRE PTY LTD
ABN 53 075 534 566

**PROVISION OF PORTABLE TOILETS,
FOR THE PARENT AND OPERATION
ROOMS FOR THE 2014-2016
NATIONAL MULTICULTURAL
FESTIVAL**

CONTRACT NUMBER 2013.22416.210

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

Ref: 24102013: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**.

CANBERRA HIRE PTY LTD ABN 53 075 534 566 of 34 Vicars Street Mitchell in the Australian Capital Territory 2911 (**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: <ol style="list-style-type: none"> (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: <ol style="list-style-type: none"> (1) public liability insurance, an insurer that is: <ol style="list-style-type: none"> (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.
- (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.

(1) 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.

(2) 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.

(3) 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.

(4) 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
ACT 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:

Ms Cherrie Climas
Manager
Canberra Hire Pty Ltd
34 Vicars Street
MITCHELL ACT 2911

Telephone: (02) 6213 3755
Email: admin@fawhire.com.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: is \$68,334.20 (GST Inclusive) total for the two (2) years plus Consumer Price Index.
- (2) As outlined under **Item 4(18), Schedule 2** additional labour which is required during the Festival will be costed at \$55.00 per hour
- (3) 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

Personnel	Position
Michael Agnew	Owner
James Mair	Accountant
Cherrie Climas	Manager
Emily Montesin	Administration Officer

Sub Contractors	Services
Blue Water Treatment	Waste Disposal Management
FAW Industries	Deliveries, Maintenance and Repairs including on site repairs

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 2

PROVISION OF PORTABLE TOILETS, PARENT AND OPERATION 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 is engaged to undertake the supply and delivery of high quality Portable Toilets, an Operations Room and a Parent Room to the 2014 - 2016 National Multicultural 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 each year 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 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 Contractor no later than seven (7) days prior to the commencement of the official Bump In date.

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

3. SERVICES

The Contractor is engaged 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 a date to be agreed) to discuss the

- agreed plans and schedules;
- (2) appoint a Project 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 nominated delegate;
 - (3) communicate all issues and relevant information to the Festival Event Manager or their nominated delegate;
 - (4) provide an afterhours contact number and be contactable afterhours and response within one (1) hour from time of contact;
 - (5) 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) have their own radio system separate to the Festival's radio network;
 - (8) act in good faith to maintain standards of customer service and comply with all relevant legislation;
 - (9) mutually resolve conflicts as soon as practicable and to the satisfaction of both parties in accordance with the Emergency Management Plan;
 - (10) attend 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 throughout the Festival as required.

4. **METHODOLOGY**

The Contractor will be required to deliver the following:

- (1) supply, install and remove 10 Female, 10 Male and 2 Disabled toilets for the Festival which includes all fixtures, accessories and consumables;
- (2) supply appropriately trained personnel to install, maintain and operate toilets and wash rooms during the Festival (according to the agreed schedule);
- (3) supply 20 suitable Kros Urinals with appropriate 2.1 metre privacy fencing around them;
- (4) supply 20 portable female and five (5) portable Male Fresh Flash Toilets which are individual stand free units;
- (5) supply of all safety equipment required to complete the task or more frequently as required;

- (6) supply personnel during the Festival opening hours, to check and suitably maintain and if necessary, empty toilets, receptacles and bins and clean toilets, hand basins and floors throughout the Festival sites;
- (7) review on a regular basis and supply toilet paper and paper hand towels as required throughout the Festival;
- (8) remove and appropriately dispose of all waste in accordance with the agreed program schedule, the *Waste Minimisation Act 2001* and *Hazardous Waste Regulations Act 1989*;
- (9) cover all transport costs associated with equipment and crew to and from the Festival venues;
- (10) provide ongoing support for the duration of the Festival;
- (11) remove daily both general and sanitary collected waste;
- (12) empty and clean all toilet and wash basins and receptacles daily;
- (13) provide one (1) air-conditioned 6m x 3m parent room throughout the Festival with 20 chairs and 2 tables to be located in a central area of the footprint;
- (14) provide one (1) air-conditioned 6m x 3m Operational Room throughout the Festival with 20 chairs and 2 tables;
- (15) provide two (2) change tables for the Parent Room with a Microwave Oven;
- (16) provide four (4) disabled fresh flush toilet units;
- (17) provide appropriate signage across the footprint for Male, Female, Kros Urinal and Disabled toilets;
- (18) provide additional services outside of agreed schedule if required; and
- (19) remove all toilet and wash basin bins and receptacles during the Bump Out period.

5. DELIVERY

- 5.1 The Contractor must deliver and install Portable Toilets an Operations Room and a Parent Room at the following locations in accordance with **Attachment 1**:

LOCATIONS	DESCRIPTION
Gareema Place	10 single Toilets and 1 Disabled Unit
Ainslie Place	10 dingle Toilets, 1 Disabled and 1 Wash and Sink Stand
Baileys Corner/ Carpark	10 single Toilets, 1 Disabled and 1 Wash and Sink Stand

Kros Urinal	20 single units across the footprint
To be installed in a centralised location within the National Multicultural Festival	One (1) 6m x 3m Air Conditioned Operational Room including required chairs and tables
Koura Street	One (1) 6m x 3m Air Conditioned Parent Room including specifications.

6. TIMEFRAME

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

7. REPORTING

- 7.1 The Contractor will submit the following to the Territory:
- (1) a report on the Festival including recommendations for improvement to the Territory by 28 February each year.
 - (2) 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;
 - (3) provide a completed risk register specific to the Festival and submit to the Festival Event Manager or their nominated delegate to review no later than 10 working days prior to the Bump In date for each year of the Festival;
 - (4) provide a report on the Festival following completion of the Services, to the Festival Event Manager or their nominated delegate, which incorporated recommended improvements for upcoming years;

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 Licences

- (1) The Contractor must hold the current Australian Industrial Relations Certificate;
- (2) Carry applicable licence/s for the service and have available for daily viewing.

1.7 Security

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

1.8 No Assignment and 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.

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

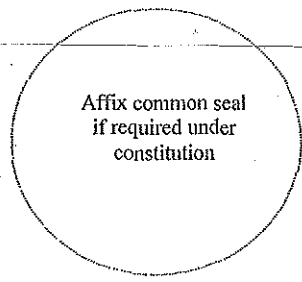
Print name

SIGNED by or for and on behalf of CANBERRA HIRE PTY LTD ABN 53 075 534 566 in the presence of:) Signature of director/ authorised officer/ individual

Signature of director/ secretary/ witness Print name

Signature of second authorised officer Print name

Print name



- 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

LIST OF EQUIPMENT AND EVENT SITES

Location 1:
Ten Single Toilets & One Disabled unit
<i>Services to be completed on site at the following times:</i>
1 st Day of Festival - approx 9pm
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 2
Ten Single Toilets, One Disabled & One Wash / Sink Stand
<i>Services to be completed on site at the following times:</i>
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Location 3
Ten Single Toilets, One Disabled & and One Wash / Sink Stand
<i>Services to be completed on site at the following times:</i>
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

Kros Urinal: (Locations will be discussed no later than 10 working days prior to the Festival)
20 Single units across the footprint
<i>Services to be completed on site at the following times:</i>
2 nd Day of Festival - approx. 8am, 11am, 2pm, 5pm & 8pm
3 rd Day of Festival – approx. 8am, 11am & 2pm

One 3X6 Air Conditioned Operational Room including required chairs and tables.
One 3X6 Air Conditioned Parent Room including specifications.

Ottewill, Matthew

2013/15091

From: malcome.mitchell@act.gov.au
Sent: Tuesday, 29 October 2013 8:58 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 - Canberra Hire Pty Ltd - Provision of Portable Toilets for the Parent and Operation Rooms for the 2014-16 National Multicultural Festival - Contract Number 2013.22416.210**

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) = 777