



**Transport
for NSW**

Transport for NSW

PROFESSIONAL SERVICES CONTRACT

Contract No. ISD-17-6378

Advanced train control Migration System (AMS)

Trackside Areas 4 and 5 Data Design

Between

Transport for NSW

[PRINCIPAL]

ABN 18 804 239 602

and

Alstom Transport Australia Pty Ltd

[PROFESSIONAL SERVICES CONTRACTOR]

ABN 68 165 157 451

Level 5, Zenith Centre, Tower A
821 Pacific Highway
Chatswood NSW 2067

CONTENTS

PROFESSIONAL SERVICES CONTRACT – GENERAL CONDITIONS	5
1 DEFINITIONS AND INTERPRETATION.....	5
1.1 Definitions	5
1.2 Interpretation	11
1.3 Authorities	12
1.4 Order of precedence	13
2 TERMS OF ENGAGEMENT	13
3 PROFESSIONAL SERVICES CONTRACTOR'S OBLIGATIONS	13
3.1 General	13
3.1A Design	14
3.1B Signalling Design	15
3.2 Complying with Statutory Requirements.....	16
3.3 Non-Complying Services	16
3.4 Re-performance of the Non-complying Services	17
3.5 Safety and Environment.....	17
3.6 Licensing and Authorisation.....	18
3.7 Duties under WHS Legislation	18
3.8 Engineering Authorisation.....	19
3.9 ASA Compliance	19
3.10 Coordination with Other Contractors.....	19
4 JOINT AND SEVERAL LIABILITY	20
5 SUBCONTRACTING.....	20
6 CONTRACTOR PERFORMANCE REPORTING	20
6.1 Exchange of Information between Government Departments and Agencies.....	20
7 INTELLECTUAL PROPERTY	21
7.1 Ownership	21
7.2 Warranty and Indemnity	21
7.3 Moral Rights	21
8 CONFLICT OF INTEREST	22
9 INDEMNITY BY PROFESSIONAL SERVICES CONTRACTOR.....	22
10 INSURANCE.....	22
10.1 Professional Indemnity Insurance.....	22
10.2 Public Liability Insurance	23
10.3 Insurance of Employees	23
10.4 Professional Services Contractor's Insurance Obligations	23
11 REPRESENTATIVES	24
11.1 Professional Services Contractor's Representative.....	24
11.2 Key People.....	24
11.3 Principal's Representative	24
12 DIRECTIONS.....	25
12.1 Directions	25
12.2 Programming.....	25
13 RECORD KEEPING AND PROGRAM REPORTING.....	25
14 COLLABORATIVE AUDITING PROCESS.....	26
15 ACCESS TO PROFESSIONAL SERVICE CONTRACTOR'S PREMISES.....	26
16 VARIATIONS.....	26
16.1 Proposal.....	26

16.2	Variation Direction.....	27
16.3	Valuation	27
16.4	Variation due to a Change in a Statutory Requirement	27
16.5	Option.....	27
17	PAYMENT OF FEE	28
17.1	Payment Claim issued by Professional Services Contractor.....	28
17.2	Payment Schedule of Fee issued by Principal	29
17.3	Payments	29
17.4	Not Used	30
17.5	Set Off.....	30
17.6	Security of Payment Act.....	30
18	TIME.....	31
18.1	Time for Commencement and programming.....	31
18.2	Date for Completion	32
18.3	Extension of Time for Completion.....	32
18.4	Claim for Extension of Time.....	32
18.5	Conditions precedent to Extension of Time	33
18.6	Completion	33
18.7	Unilateral Issue of Notice of Completion.....	34
18.8	Suspension	35
18.9	Portions.....	35
18.10	Liquidated damages for delay in achieving Completion	35
19	DISPUTE RESOLUTION.....	36
19.1	Dispute Notice	36
19.2	Negotiation	36
19.3	Expert Determination	36
19.4	Litigation.....	37
19.5	Continuation.....	37
19.6	Common Disputes.....	37
20	NOTICE OF BREACH	37
21	TERMINATION	37
21.1	Termination for Breach or Financial Difficulty.....	37
21.2	Termination for Any Reason	38
22	CONFIDENTIALITY.....	38
22.1	Acknowledgement.....	38
22.2	Warranty and Covenant.....	38
22.3	Personal Information.....	39
22.4	Authorised Disclosure	39
22.5	Return of Confidential Information	39
22.6	Confidentiality Deed Poll.....	39
22.7	Obligations To Continue	39
22.8	Injunctive Relief.....	39
22.9	Further Assurances.....	40
23	DISCLOSURE OF CONTRACT INFORMATION	40
24	GOVERNING LAW.....	40
25	GST.....	40
26	LIMITATION OF LIABILITY	41
27	NO WAIVER	42
28	RETURN OF DOCUMENTS.....	42
29	ENTIRE AGREEMENT.....	42
30	PROPORTIONATE LIABILITY	42

31	SEVERABILITY	43
32	ASSIGNMENT AND NOVATION	43
	SCHEDULE 1 – CONTRACT PARTICULARS	44
	SCHEDULE 2 – CONFIDENTIALITY DEED POLL	50
	SCHEDULE 3 – FORM OF STATUTORY DECLARATION AND SUBCONTRACTOR’S STATEMENT	53
	SCHEDULE 4 – FORM OF STATEMENT OF INTERESTS AND ASSOCIATIONS	61
	SCHEDULE 5	63
	SCHEDULE 5.1– FIXED PRICE LUMP SUM FEE	63
	SCHEDULE 5.2 COST REIMBURSEABLE ITEMS	67
	SCHEDULE 6 – RATES FOR VALUATION OF VARIATIONS	68
	SCHEDULE 7 – OPTIONS	69
	SCHEDULE 8 – PROFESSIONAL SERVICES CONTRACTOR’S CERTIFICATE OF COMPLETION	70
	SCHEDULE 9 – DEED OF NOVATION	71
	SCHEDULE 10 – EXPERT DETERMINATION AGREEMENT	80
	SCHEDULE 11- NOT USED	91
	SCHEDULE 12 – COMMON DISPUTES DEED	92
	AGREEMENT EXECUTION PAGE	124
	EXHIBIT A - SERVICES BRIEF	
	EXHIBIT B - CONCEPT DESIGN	
	EXHIBIT C - TfNSW STANDARD REQUIREMENTS	

PROFESSIONAL SERVICES CONTRACT – GENERAL CONDITIONS

This Agreement is between the Principal and the Professional Services Contractor set out in the Contract Particulars.

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Accession Deed" means the deed of accession executed by the Professional Services Contractor on or about the date of this deed, providing for the Professional Services Contractor to accede to the Common Disputes Deed, in the form attached at Schedule 2 of Schedule 12.

"Agreement" means the contractual relationship between the Principal and the Professional Services Contractor constituted by:

- (a) these General Conditions, all Schedules including the Contract Particulars attached to these General Conditions and any Exhibits; and
- (b) the other documents (if any), referred to in the Contract Particulars.

"ASA Authorisation" means an authorisation issued by the ASA to a legal entity which verifies that it has the relevant systems in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any conditions of the authorisation.

"ASA Charter" means the document which identifies the ASA's objectives, functions, powers and governance and the duties of Rail Transport Agencies and AEOs in relation to the ASA (as amended from time to time), a copy of which could be found on www.asa.transport.nsw.gov.au.

"ASA Requirements" has the meaning assigned to it in the ASA Charter.

"Asset Lifecycle" has the meaning assigned to it in the ASA Charter.

"Asset Services" means the aspects of the Services which relate to the Asset Lifecycle of NSW Rail Assets.

"Asset Standards Authority" or **"ASA"** means the unit within Transport for NSW which sets, controls, maintains, owns and publishes the network and asset standards for NSW Rail Assets. Information about the ASA and the network and asset standards can be found on www.asa.transport.nsw.gov.au.

"Authorised Engineering Organisation" or **"AEO"** means a legal entity to whom the ASA has issued an ASA Authorisation.

"Authority" means any Federal, State or local government, semi-government, or other body, authority or person, statutory or otherwise (including the ASA), including any court or tribunal, having jurisdiction over the Project, the Services or the performance by the Professional Services Contractor of its obligations under this Agreement or with whose utility services the Services are or will be connected.

"Business Day" means any day other than:

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

"CCB Gate 4" has the meaning given in the Services Brief.

"CCB Gate 5" has the meaning given in the Services Brief.

"Co-Location Premises" has the meaning given in item L2 in Schedule 5.2.

"Common Disputes Deed" means the deed so titled between the Principal and the Construction Contractor, to which the Professional Services Contractor has acceded, or will, under the Accession Deed dated on or about the date of this deed, in the form attached at Schedule 12.

"Commencement Date" means the date stated in the Contract Particulars.

"Competence Records" means, with respect to any Rail Safety Worker engaged in connection with the Services (including those engaged by subcontractors), the following information:

- (a) the rail safety training undertaken by the Rail Safety Worker, including when, and for how long, the training was undertaken;
- (b) the qualifications of the Rail Safety Worker, including (if applicable):
 - (i) the units of competence undertaken to achieve the qualification;
 - (ii) the level of qualification attained;
 - (iii) if, and when, a re-assessment of competence is to be conducted;
 - (iv) if, and when, any re-training is due and was undertaken; and
 - (v) the name of any organisation conducting training or re-training;
- (c) the name and qualifications of any person who assessed the competence of the worker; and
- (d) any further information requested by the Principal with respect to the competence of the Rail Safety Worker.

"Competency Certificate" means a certificate of competency issued by the Professional Services Contractor in accordance with section 2.1 of the Services Brief.

"Completion" is the stage when the Services are, or a Portion is, complete in accordance with this Agreement, including those things referred to in the Contract Particulars.

"Concept Design" means the concept design for the Services which appears in Exhibit B and the final Signalling Design provided under clause 3.1B(a).

"Confidential Information" includes, but is not limited to, the following:

- (a) the documents specified in the Contract Particulars;
- (b) any material produced by the Professional Services Contractor under this Agreement; and
- (c) any other information or data that the Professional Services Contractor is given or which comes to the Professional Services Contractor's knowledge during the course of the consultancy that:
 - (i) the Professional Services Contractor is told is confidential; or
 - (ii) a reasonable person would expect to be confidential from its nature and content,

but does not include:

- (d) information which, at the time of disclosure, was already in the public domain;
- (e) information which, subsequent to disclosure, enters the public domain except through breach of this Agreement, through breach of the Confidentiality Deed Poll in Schedule 2 by a recipient of disclosed information, or through breach of any other obligation of confidence; or
- (f) information which the Professional Services Contractor or a recipient of disclosed information (who has signed a Confidentiality Deed Poll in Schedule 2) is required to disclose by law or the listing rules of the Australian Securities Exchange.

"Consequential Loss or Damage" means loss of revenue, loss of profit or anticipated profit, loss of patronage, loss of sales, loss of turnover, loss of reputation (or damage to it), loss of production, loss of anticipated savings, loss of goodwill or loss arising from business interruption and any other loss or damage of a similar nature arising under, out of or in any way in connection with this Agreement, whether arising in contract, under an indemnity, in tort (including negligence), in equity, by operation of law or otherwise.

"Construction Contractor" means the contractor who will undertake the design, installation, testing, commissioning and handover of the ETCS trackside works under the D&C Contract.

"Contract Area" means the geographical location between Wollri Creek (inclusive) and Kiama (inclusive), including between North Wollongong and Port Kembla (inclusive) and between Kirrawee (inclusive) and Cronulla (inclusive).

"Contract Material" means those documents (including, but not limited to, information stored by electronic and other means) and materials created or required to be created under this Agreement by the Professional Services Contractor.

"Contract Particulars" means the particulars in Schedule 1.

"D&C Contract" means the contract for the design and construction of ATP Area 4 and 5 Trackside (which include design, construction, installation and commissioning of automatic train protection trackside equipment in the Contract Area) and which contract is anticipated to be awarded by the Principal to the Construction Contractor after the date of this Agreement.

"Date for Completion" means, in respect of the Services or a Portion, the date, or the last day in the period of time, shown in the Contract Particulars as adjusted in accordance with this Agreement.

"Date of Completion" means, in respect of a Portion or the Services:

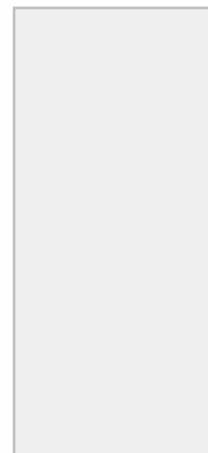
- (a) the date notified in a Notice of Completion as the date Completion was achieved; or
- (b) where another date is determined in any determination of the expert, or arbitration or litigation proceedings, as the date upon which Completion was achieved, that date.

"Defect" means any:

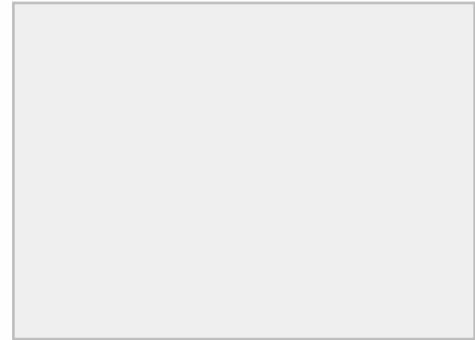
- (a) defect, deficiency, fault, error or omission in the Services; or
- (b) other aspect of the Services that are not in accordance with the requirements of this Agreement, including non-compliances, non-conformances and non-conformities.

"Design Due Date" means:

- (a) Signalling Plan Package 1
- (b) Signalling Package 1
- (c) Signalling Plan Package 2
- (d) Signalling Package 2
- (e) Signalling Plan Package 3
- (f) Signalling Package 3
- (g) Signalling Plan Package 4
- (h) Signalling Package 4
- (i) Signalling Plan Package 5
- (j) Signalling Package 5



- (k) Signalling Plan Package 6
- (l) Signalling Package 6
- (m) Signalling Plan Package 7
- (n) Signalling Package 7
- (o) Signalling Plan Package 8
- (p) Signalling Package 8
- (q) red line mark ups on all Design Packages



and as any of these dates may be extended in accordance with clause 3.1B.

"Design Package" means any one or more as the context may require of the design packages included in the Signalling Design.

"Event of Insolvency" means if:

- (a) a party informs the other party in writing or creditors generally that the party is insolvent or is financially unable to proceed with this Agreement;
- (b) execution is levied against a party by a creditor;
- (c) a party is an individual person or a partnership including an individual person, and if that person:
 - (i) commits an act of bankruptcy;
 - (ii) has a bankruptcy petition presented against him or her or presents his or her own petition;
 - (iii) is made bankrupt;
 - (iv) makes a proposal for a scheme of arrangement or a composition; or
 - (v) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under part X of the *Bankruptcy Act 1966* (Cth); or
- (d) in relation to a party being a corporation:
 - (i) notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement;
 - (ii) the party enters a deed of company arrangement with creditors;
 - (iii) a controller or administrator is appointed;
 - (iv) an application is made to a court for the winding-up of the party and not stayed within 14 days;
 - (v) a winding-up order is made in respect of the party;
 - (vi) resolves by special resolution that the party be wound up voluntarily (other than for a members' voluntary winding-up); or
 - (vii) a mortgagee of any property of the party takes possession of that property.

"Fee" means the fee set out in the Contract Particulars.

"Final Authorisation" means a final authorisation issued by the ASA to a legal entity which authorises that entity to carry out the class of Asset Lifecycle work specified in the final authorisation, subject to any conditions of the authorisation, for the purposes of entering into a contract with a Rail Transport Agency.

"Intellectual Property Rights" means any patent, registered design, trademark or name, copyright or other protected right.

"Key People" means the person(s) nominated in the Contract Particulars who are engaged by the Professional Services Contractor under clause 11.2.

"Mobilisation Payment" means the sum of \$ [redacted] (excl GST).

"Notice of Completion" means a notice issued under clause 18.6(d)(i) by the Principal's Representative.

"NSW Rail Assets" has the meaning assigned to it in the ASA Charter.

"NSW Trains" means the corporation by that name constituted by Part 2B of the Transport Administration (General) Regulation 2005 (NSW).

"Option" means an option referred to in Schedule 7.

"Other Contractor" means any consultant, contractor, supplier or other person engaged by the Principal in relation to the Project other than the Professional Services Contractor and its subcontractors, the Key People and the Professional Services Contractor's Representative.

"Payment Milestone" means a milestone set out in the Contract Particulars.

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

"Portion" means a portion of the Services as described in the Contract Particulars or as directed under clause 18.9.

"Principal's Representative" means the person nominated in the Contract Particulars or any other person appointed from time to time by the Principal under clause 11.3.

"Professional Services Contractor's Certificate of Completion" means the certificate in the form set out in Schedule 8.

"Professional Services Contractor's Representative" means the person nominated in the Contract Particulars under clause 11.1.

"Project" means the project or projects stated in the Contract Particulars in respect of which the Services are provided.

"RailCorp" means Rail Corporation New South Wales (ABN 59 325 778 353), a corporation constituted by section 4(1) of the Transport Administration Act 1988 (NSW).

"Rail Safety National Law" means the Rail Safety National Law (NSW), as defined in the *Rail Safety (Adoption of National Law) Act 2012*, and any associated regulations.

"Rail Safety Work" has the meaning given in section 8 of Rail Safety National Law.

"Rail Safety Worker" has the meaning given in section 4 of the Rail Safety National Law.

"Rail Transport Agency" means Transport for NSW (and each of its divisions), Rail Corporation NSW, Sydney Trains and NSW Trains.

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

"Services" means the whole of the services to be carried out and completed in accordance with this Agreement, including any changes required as a result of the exercise of an Option by the Principal's Representative under clause 16.5 or due to variations provided for by this Agreement, as generally described in the Contract Particulars.

"Services Brief" means the document which appears in Exhibit A.

"Signalling Design" means the following design elements:

- (a) Signalling Package 1 which includes the balise group control tables and site certification form for the geographical location between Kirrawee (inclusive) and Cronulla (inclusive);
- (b) Signalling Plan Package 1 which includes the signalling plans for the geographical location between Kirrawee (inclusive) and Cronulla (inclusive);
- (c) Signalling Package 2 which includes the balise group control tables and site certification form for the geographical location between Allawah (inclusive) and Oatley (inclusive);
- (d) Signalling Plan Package 2 which includes the signalling plans for the geographical location between Allawah (inclusive) and Oatley (inclusive);
- (e) Signalling Package 3 which includes the balise group control tables and site certification form for the geographical location between Como (inclusive) and Waterfall (inclusive);
- (f) Signalling Plan Package 3 which includes the signalling plans for the geographical location between Como (inclusive) and Waterfall (inclusive);
- (g) Signalling Package 4 which includes the balise group control tables and site certification form for the geographical location between Wolli Creek (inclusive) and Carlton (inclusive);
- (h) Signalling Plan Package 4 which includes the signalling plans for the geographical location between Wolli Creek (inclusive) and Carlton (inclusive);
- (i) Signalling Package 5 which includes the balise group control tables and site certification form for the geographical location between Unanderra (inclusive) and Kiama (inclusive);
- (j) Signalling Plan Package 5 which includes the signalling plans for the geographical location between Unanderra (inclusive) and Kiama (inclusive);
- (k) Signalling Package 6 which includes the balise group control tables and site certification form for the geographical location between North Wollongong (inclusive) and Port Kembla (inclusive);
- (l) Signalling Plan Package 6 which includes the signalling plans for the geographical location between North Wollongong (inclusive) and Port Kembla (inclusive);
- (m) Signalling Package 7 which includes the balise group control tables and site certification form for the geographical location between Wombarra (inclusive) and Fairy Meadow (inclusive);
- (n) Signalling Plan Package 7 which includes the signalling plans for the geographical location between Wombarra (inclusive) and Fairy Meadow (inclusive);
- (o) Signalling Package 8 which includes the balise group control tables and site certification form for the geographical location between Helensburgh (inclusive) and Scarborough (inclusive);
- (p) Signalling Plan Package 8 which includes the signalling plans for the geographical location between Helensburgh (inclusive) and Scarborough (inclusive);
- (q) red line mark ups on all Design Packages.

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

"Statutory Requirements" include:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State of New South Wales;
- (b) the TSRs and any other certificates, licences, consent, permits, approvals and requirements of organisations having jurisdiction applicable to the Services; and

(c) relevant Australian Standards applicable to the Services.

"Sydney Trains" means the corporation by that name constituted by Part 2A of the *Transport Administration (General) Regulation 2005* (NSW).

"TfNSW" means Transport for NSW (ABN 18 804 239 602), a NSW Government agency, a corporation constituted by section 3C of the *Transport Administration Act 1988* (NSW).

"TfNSW Standard Requirements" or "TSRs" means the documents which appear as Exhibit C.

"TfNSW Statement of Business Ethics" means the document titled "Transport for NSW Statement of Business Ethics" which can be found on the TfNSW website.

"WHS Legislation" means the following as it may apply from time to time:

- (a) the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulations 2017* (NSW); and
- (b) all other acts, regulations and codes of practice relating to work health and safety which apply in the State in which the Services are being executed.

1.2 Interpretation

In this Agreement unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an Authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any party to this Agreement includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to any Authority, institute, association or body is:
 - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
 - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;
- (e) a reference to this Agreement or to any other deed, agreement, document or instrument is deemed to include a reference to this Agreement or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes:
 - (i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
 - (ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;
- (g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (h) headings are for convenience only and do not affect the interpretation of this Agreement;

- (i) a reference to:
 - (i) a party, clause, Schedule or Exhibit is a reference to a party, clause, Schedule or Exhibit of or to this Agreement; and
 - (ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) for all purposes (other than where otherwise designated as a Business Day), "day" means calendar day and "week" means a period of 7 calendar days;
- (l) a reference to \$ is to Australian currency;
- (m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Agreement or any part;
- (n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated; and
- (o) any reference in this Agreement to "the Contract" or "this Contract" will be taken to be a reference to this Agreement.

1.3 Authorities

- (a) This Agreement will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Principal, Sydney Trains, NSW Trains or RailCorp to exercise any of their respective functions and powers pursuant to any Statutory Requirements.
- (b) Without limiting clause 1.3(a), anything the Principal, Sydney Trains, NSW Trains or RailCorp do, or fail to do or purport to do, pursuant to their respective functions and powers under any Statutory Requirements will be deemed not to be an act or omission by the Principal under this Agreement.
- (c) The Professional Services Contractor:
 - (i) waives any claims that it may have against the Principal as a result of the exercise by the Principal, Sydney Trains, NSW Trains or RailCorp of their respective functions and powers under any Statutory Requirements; and
 - (ii) acknowledges and agrees that:
 - A. there are many Authorities with jurisdiction over aspects of the Services;
 - B. such Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the Services (including, the exercise by persons (including individuals) acting on behalf of such Authorities of powers and functions including as necessary for such Authorities to comply with their statutory functions and powers); and
 - C. it bears the full risk of all occurrences of the kind referred to in clause 1.3(c)(ii)B and will not be entitled to make, and the Principal will not be liable upon, any claim arising out of or in any way in connection with such occurrences.

1.4 Order of precedence

- (a) In the event of any other inconsistency, ambiguity or discrepancy between the various documents comprising this Agreement then:
 - (i) the conditions set out in clauses 1 to 32 of this Agreement apply; then
 - (ii) the higher, or more onerous, or more rigorous, requirement will apply; then
 - (iii) figured dimensions will take precedence over scaled dimensions; then
 - (iv) drawings made to larger scales will take precedence over drawings made to smaller scales; then
 - (v) the order of precedence set out in section 4.4 of the Services Brief will apply.
- (b) Where any inconsistency, ambiguity or discrepancy cannot be resolved by applying the order or precedence in clause 1.4(a), the Principal's Representative will direct the interpretation to be followed in resolving the inconsistency, ambiguity or discrepancy.
- (c) The Services Brief and the Concept Design are to be regarded as mutually explanatory and anything contained in one but not in the other will be equally binding as if contained in all, so as to ensure that the Services comply with this Agreement and are fit for their intended purposes.
- (d) The Professional Services Contractor is not entitled to make, and the Principal will not be liable upon, any Claim arising from or in connection with any inconsistency, ambiguity or discrepancy, including any direction given by the Principal's Representative under clause 1.4(b).

2 TERMS OF ENGAGEMENT

The Principal engages the Professional Services Contractor to perform the Services in accordance with this Agreement.

3 PROFESSIONAL SERVICES CONTRACTOR'S OBLIGATIONS

3.1 General

The Professional Services Contractor must:

- (a) perform the Services in accordance with this Agreement in consideration of the payments to be made by the Principal under clause 17;
- (b) perform the Services in compliance with the TfNSW Statement of Business Ethics;
- (c) perform the Services to that standard of skill, care and diligence to be expected of a professional services contractor who regularly acts in the capacity in which the Professional Services Contractor is engaged and who possesses the knowledge, skill and experience of a professional services contractor qualified to act in that capacity;
- (d) use all reasonable efforts to inform itself of the requirements of the Principal and regularly consult with the Principal during the performance of the Services;
- (e) liaise, co-operate and confer with others as directed by the Principal;
- (f) promptly give written notice to the Principal if and to the extent the Professional Services Contractor becomes aware that any document or other information provided by the Principal is ambiguous or inaccurate or is otherwise insufficient to enable the Professional Services Contractor to carry out the Services;

- (g) make reasonable enquiries to ascertain the requirements of the Principal regarding the Services, including in respect of any hazards and risks at the site upon which the Project is to be constructed of which the Principal is aware;
- (h) regularly consult the Principal regarding the carrying out of the Services;
- (i) as soon as practicable after becoming aware of any matter or circumstances which may adversely affect or has adversely affected the scope, timing or carrying out of the Services, give written notice to the Principal detailing the matter or circumstances and its anticipated effect on the Services;
- (j) ensure that any person employed or engaged by the Professional Services Contractor and its subcontractors who undertakes any work in connection with the Services complies with all Statutory Requirements, including the WHS Legislation;
- (k) without limiting any other provision of this Agreement, consult with the Principal as required to enable the Principal to discharge its obligations under clause 294 of the *Work Health and Safety Regulations 2017* (NSW);
- (l) whilst performing the Services, require all persons to:
 - (i) report for work and whilst working be free from the influence of alcohol and otherwise comply with section 128 of the Rail Safety National Law and be free from the influence of any other drugs (below the cut off level stipulated by the Australian Standard AS/NZS 4308:2008); and
 - (ii) undergo random and targeted alcohol and drug testing in accordance with the Rail Safety National Law, the TfNSW 60-ST-010 - Alcohol and Other Drugs and TfNSW 60-PR-085 Testing for Alcohol and Other Drugs;
- (m) ensure that any person employed or engaged by the Professional Services Contractor and its subcontractors who undertakes any Rail Safety Work in connection with the Services complies with any Statutory Requirements, including:
 - (i) the provisions of the Rail Safety National Law;
 - (ii) holding and maintaining Rail Safety Worker ("RSW") certification; and
 - (iii) the WHS Legislation;
- (n) prior to any Rail Safety Worker carrying out any Rail Safety Work in connection with the Services, provide the Principal with the Competence Records in the form directed by the Principal (which may be electronic);
- (o) ensure that any Rail Safety Worker who carries out Rail Safety Work in connection with the Principal's railway operations has the competence to carry out that work; and
- (p) ensure that each Rail Safety Worker used in connection with the Services has a form of identification that is sufficient to enable the type of competence and training undertaken by that Rail Safety Worker to be checked by a rail safety officer.

The Professional Services Contractor warrants that it has done everything that would be expected of a skilled, prudent, experienced and professional consultant in assessing the risks which it is assuming under this Agreement and ensuring that the Fee contains allowances to protect it against any of these risks eventuating.

3.1A Design

- (a) Without limiting clause 3.1A(c):
 - (i) the parties acknowledge that the Concept Design has been designed by or on behalf of the Principal;
 - (ii) the Concept Design depicts some of the Principal's requirements for the Services;

- (iii) the Professional Services Contractor must further develop the Concept Design into the Contract Material; and
 - (iv) notwithstanding any other provision of this Agreement, the Professional Services Contractor is not responsible for the suitability of the Concept Design.
- (b) If the Professional Services Contractor discovers any fault in the Concept Design, the Professional Services Contractor must, as soon as reasonably practicable, notify the Principal's Representative of:
 - (i) the fault in the Concept Design, including all relevant details to allow the Principal to review the fault;
 - (ii) the Professional Services Contractor's suggested design solution outlining how it proposes to deal with the fault; and
 - (iii) if the Professional Services Contractor considers that the fault requires a variation, provide detailed particulars of the reason why the fault necessitates a variation.
- (c) If the Professional Services Contractor gives the Principal's Representative a notice under clause 3.1A(b) and the fault in the Concept Design does necessitate a variation, the Principal's Representative will direct a variation under clause 16.2 after which relevant adjustments will be made under clause 16.3.
- (d) The Professional Services Contractor must prepare any Contract Material so that it complies with this Contract, including any design necessary to deal with any fault in the Concept Design which it discovers.
- (e) The Professional Services Contractor warrants that any Contract Material it prepares will comply with the requirements of the Contract and will be fit for its intended purpose.

3.1B Signalling Design

- (a) The Principal will use reasonable endeavours to provide the Professional Services Contractor with each Design Package for the Signalling Design before the relevant Design Due Date.
- (b) Subject to clause 3.1B(e), if a final Design Package is not provided to the Professional Services Contractor before the relevant Design Due Date and the Professional Services Contractor suffers delay in the manner contemplated by clause 18.3 as a result, the Professional Services Contractor will be entitled to make claim for an extension of time under clause 18.4.
- (c) The Professional Services Contractor acknowledges and agrees that the preliminary Signalling Design will be provided progressively to the Professional Services Contractor in Design Packages.
- (d) The Professional Services Contractor must, after it has received a Design Package for the preliminary Signalling Design from the Principal, undertake a review of and perform interdisciplinary checks on the designs and provide feedback, including confirming the compatibility or suitability of the design, or any other aspect of the designs as specified in the Services Brief or in respect of any matter upon which the Principal's design consultant has requested feedback, to the Principal's Representative within 10 Business Days of receiving the preliminary Design Package to facilitate the Principal's finalisation of the relevant Design Package for the Signalling Design and so as to allow the Principal to provide the final Signalling Design for that Design Package to the Professional Services Contractor by the relevant Design Due Date.

- (e) If the Professional Services Contractor fails to:
 - (i) respond, or responds but fails to provide the information required by paragraph (d) within the time required by paragraph (d) ,or
 - (ii) comply with clauses 3.1(d) and (e),any delay in the issue of a Design Package for the finalised Signalling Design caused by the failure to comply with clauses 3.1(d) and (e) or 3.1B(d), will extend any Design Due Date that is affected by this delay or failure to comply, by the Professional Services Contractor.
- (f) Notwithstanding any notice or direction given under clause 3.1B, the Professional Services Contractor must in providing the Services comply with the relevant final Design Package.

3.2 Complying with Statutory Requirements

- (a) The Professional Services Contractor must comply with:
 - (i) all Statutory Requirements including the WHS Legislation;
 - (ii) the requirements of the Building Code of Australia; and
 - (iii) the requirements of any other standards or codes,which apply to the Services.
- (b) Without limiting the above the Professional Services Contractor must prepare the Safety Report in accordance with the requirements of, and otherwise discharge its obligations under, the provisions of the WHS Legislation. The Professional Services Contractor must give a copy of the Safety Report to the Principal within the time specified in the Contract Particulars.

3.3 Non-Complying Services

If the Principal discovers or believes that the Services, or any part thereof, have not been performed in accordance with this Agreement (including any Contract Material not complying with the requirements of this Agreement), the Principal may give the Professional Services Contractor a direction specifying the non-complying Services and do one of the following:

- (a) require the Professional Services Contractor to:
 - (i) re-perform the non-complying Services (including by amending the Contract Material) within a specified time period; and
 - (ii) take all such steps as are reasonably necessary to:
 - A. mitigate the effect on the Principal of the failure to perform the Services in accordance with this Agreement; and
 - B. put the Principal (as closely as possible) in the position in which it would have been if the Professional Services Contractor had performed the Services in accordance with this Agreement; or
- (b) if the Principal gives a direction under clause 3.3(a)(i) and the Professional Services Contractor fails to rectify the non-complying Services within the time specified in the direction under clause 3.3(a)(i), advise the Professional Services Contractor that the Principal will accept the non-complying Services despite the non-compliance, in which event the Principal will be entitled to recover from the Professional Services Contractor any additional costs which will be incurred by the Principal as a result of the non-compliance, including any costs incurred by the Principal in having the non-complying Services re-performed by an Other Contractor; or

- (c) advise the Professional Services Contractor that the Principal will accept the non-complying Services despite the non-compliance, in which event:
 - (i) the value of the non-complying Services, as determined by the Principal's Representative or in accordance with clauses 16.3(b) or 16.3(c), will be a debt due and payable by the Professional Services Contractor to the Principal which may be deducted from the Fee; and
 - (ii) the Professional Services Contractor will have no entitlement to make any payment claim against the Principal arising out of or in connection with the non-complying Services.

3.4 Re-performance of the Non-complying Services

If a direction is given under clause 3.3(a), the Professional Services Contractor must, at its own cost, re-perform the non-complying Services:

- (a) within the time specified in the Principal's instruction; and
- (b) so as to minimise the delay and disruption to the performance of the Services.

If the Professional Services Contractor fails to comply with a direction under clause 3.3(a), the Principal may give the Professional Services Contractor a direction under clauses 3.3(b) or 3.3(c).

3.5 Safety and Environment

- (a) The Professional Services Contractor must:
 - (i) prior to appointing any subcontractor, assess the work health and safety management capability of such subcontractor and institute systems to obtain regular written assurances from all subcontractors about their ongoing compliance with the WHS Legislation including the due diligence obligation contained therein;
 - (ii) prior to commencing to perform the Services on the site of the Project ensure that all Key People have undertaken any induction required by the Principal;
 - (iii) in the provision of the Services comply with and procure that any subcontractor and its employees comply with all the requirements of the WHS Legislation and any other requirements of this Agreement for work health, safety and rehabilitation management;
 - (iv) comply with, and procure that any subcontractor complies with, any reasonable directions issued by the Principal's Representative in relation to work, health, safety or the environment including where the direction is given because Key People are not complying with their obligations under this clause 3.5;
 - (v) immediately inform the Principal's Representative verbally of all work health, safety and environment matters arising out of, or in any way connected with the Services or the Project;
 - (vi) provide written assurances obtained pursuant to clause 3.5(a)(i), together with written assurances from the subcontractor and its employees about the subcontractor's and its employees' ongoing compliance with the WHS Legislation, to the Principal;
 - (vii) comply with its obligation under the WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter including co-operate with the Principal's Representative and any contractor engaged by the Principal with respect to the Project and co-ordinate the Services with the work of

the Principal's Representative and any contractor engaged by the Principal with respect to the Project;

- (viii) exercise a duty of utmost good faith to the Principal in carrying out the Services to enable the Principal to discharge the Principal's duties under the WHS Legislation; and
 - (ix) ensure its subcontracts include provisions equivalent to the obligations of the Professional Services Contractor in this clause 3.5 and any other provisions of this Agreement concerning work health and safety matters.
- (b) The Professional Services Contractor's design (if any) must:
- (i) take into account best work health and safety practice applicable to the construction, utilisation, operation, safety and/or maintenance of the Project; and
 - (ii) be subject to a health, safety and environment review by a suitably qualified person at appropriate stages of the design development process (if any) to verify the design's compliance with the WHS Legislation.

3.6 Licensing and Authorisation

The Professional Services Contractor must:

- (a) ensure that if any Statutory Requirement (including the WHS Legislation) requires that:
 - (i) a person:
 - A. be authorised or licensed (in accordance with the WHS Legislation) to carry out any part of the Services at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; and/or
 - B. has prescribed qualifications or experience to carry out any part of the Services or, if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised; or
 - (ii) a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;
- (b) not direct or allow a person to carry out work or use plant or substance at a workplace unless the requirements under clause 3.6(a) are met (including any requirement to be authorised, licensed, qualified or supervised); and
- (c) if requested by the Principal, the Principal's Representative or required by the WHS Legislation, produce evidence of any approvals, certificates, authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Principal before the Professional Services Contractor commences such work.

3.7 Duties under WHS Legislation

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

3.8 Engineering Authorisation

Based on the procedures of, and undertakings given by, the Professional Services Contractor and its subcontractors as set out in the Professional Services Contractor's tender, the Professional Services Contractor has been granted a Final Authorisation and the Principal authorises:

- (a) the Professional Services Contractor; and
- (b) the subcontractors engaged to undertake the Services,
to undertake the Services.

3.9 ASA Compliance

- (a) The Professional Services Contractor must, without limiting or otherwise restricting clause 3.9(b):
 - (i) hold and maintain its Final Authorisation for so long as the Services are carried out; and
 - (ii) comply with the conditions of the applicable Final Authorisation.
- (b) The Professional Services Contractor must (and must ensure that all personnel for which it is responsible):
 - (i) comply with the conditions of the Final Authorisation;
 - (ii) implement and comply with the requirements of any ASA Requirements applicable to the Asset Services;
 - (iii) cooperate fully with the ASA in the performance of the ASA's functions;
 - (iv) provide access to premises and resources as reasonably required by the ASA, including so that it can effectively carry out its review, surveillance and audit functions;
 - (v) comply with the directions, instructions and requirements issued by the ASA;
 - (vi) notify the ASA of any matter that could reasonably be expected to affect the exercise of the ASA's functions;
 - (vii) provide the ASA with any information relating to its activities or any documents or other things reasonably required by the ASA in the exercise of its functions; and
 - (viii) provide the Principal with such reasonable assistance as may be reasonably required by the Principal to enable the Principal to cooperate fully with the ASA and to implement and comply with ASA Requirements.
- (c) The Professional Services Contractor acknowledges and agrees that it is not entitled to make (and neither the Principal nor the ASA will be liable upon) any claim arising out of or in connection with the requirement to obtain, or any delays or failure by the ASA in granting the Professional Services Contractor, Final Authorisation or the obligation to comply with the requirements of ASA and the Final Authorisation.

3.10 Coordination with Other Contractors

The Professional Services Contractor must:

- (a) fully cooperate with each Other Contractor;
- (b) without limiting or otherwise restricting any part of the Services Brief, carefully coordinate the performance of the Services with Other Contractors' services, works or activities;

- (c) perform the Services so as to avoid interfering with, disrupting or delaying, Other Contractors' services, works or activities;
- (d) provide to the Principal the advice, support and cooperation necessary to facilitate the timely completion the Project; and
- (e) without limiting or otherwise restricting any part of the Services Brief, also provide to the Other Contractors reasonable advice, support and cooperation to facilitate the timely completion of Other Contractors' services, works or activities.

4 JOINT AND SEVERAL LIABILITY

If the Professional Services Contractor comprises more than one person, those persons are jointly and severally liable for the performance and obligations of the Professional Services Contractor.

5 SUBCONTRACTING

- (a) The Professional Services Contractor must not subcontract any part of the Services without the prior written approval of the Principal.
- (b) An approval given by the Principal permitting the Professional Services Contractor to subcontract any portion of the Services does not relieve the Professional Services Contractor from its obligations and liabilities pursuant to this Agreement and the Professional Services Contractor will be vicariously liable for the acts and omissions of its subcontractors and consultants.

6 CONTRACTOR PERFORMANCE REPORTING

The Professional Services Contractor acknowledges that the Principal has in place processes for assessing the performance of its Professional Services Contractors and that these processes will apply to this Agreement. The Professional Services Contractor agrees to participate in the Principal's Contractor Performance Reporting process.

6.1 Exchange of Information between Government Departments and Agencies

The Professional Services Contractor authorises the Principal, its employees and agents to make information concerning the Professional Services Contractor available to NSW government departments or agencies. Such information may include, but need not be limited to, any information provided by the Professional Services Contractor to the Principal and any information relating to the Professional Services Contractor's performance under this Agreement.

The Professional Services Contractor acknowledges that:

- (a) any information about the Professional Services Contractor from any source, including but not limited to substantiated reports of unsatisfactory performance, may be taken into account by the Principal and NSW government departments and agencies in considering whether to offer the Professional Services Contractor future opportunities for NSW government work; and
- (b) the Principal may be required to publish information concerning this Agreement in accordance with sections 27 to 35 of the *Government Information (Public Access) Act 2009* (NSW). If the Professional Services Contractor reasonably believes that any part of this Agreement contains information which is commercial-in-confidence or could reasonably be expected to affect public safety or security, the Professional Services Contractor must immediately advise the Principal in writing, identifying the provisions and providing reasons so that the Principal may consider exempting those provisions from publication.

7 INTELLECTUAL PROPERTY

7.1 Ownership

The Intellectual Property Rights in the Contract Material will vest in the Principal. The Principal grants to the Professional Services Contractor an irrevocable licence to use those Intellectual Property Rights for the purpose of carrying out the Services.

Subject to the first paragraph of this clause 7.1, the Professional Services Contractor will retain the Intellectual Property Rights in any original ideas, equipment processes or systems created outside the terms of this Agreement and used in carrying out the Services.

The Professional Services Contractor must grant or cause to be granted to the Principal an irrevocable royalty-free licence (which includes the right to sublicense third parties) to use such Intellectual Property Rights for any purpose the Services are provided for including, but limited to, any subsequent repairs to, maintenance or servicing of (including the supply of replacement parts) or additions or alterations to, the Project and the copying of any document for such purposes.

7.2 Warranty and Indemnity

The Professional Services Contractor warrants that in providing the Services the Professional Services Contractor owns or is licensed to use the Intellectual Property Rights in the Contract Material and the Professional Services Contractor must indemnify the Principal against any action, claim, demand, liability, loss or damage suffered or incurred by the Principal arising out of or in connection with any alleged or actual infringement of the Intellectual Property Rights of a third party in the performance of the Services or the use by the Principal of the Contract Material.

The Principal warrants that documents and materials provided by the Principal to the Professional Services Contractor for the Services will not infringe the Intellectual Property Rights of a third party.

7.3 Moral Rights

If the Professional Services Contractor in performing the Services includes or makes use of any work or other subject matter in which copyright subsists, the Professional Services Contractor must procure from every person (whether a subcontractor or an officer, employee or consultant of the Professional Services Contractor or of a subcontractor, and including the Professional Services Contractor's Representative and the Key People) who is an author of that work or subject matter a written consent signed by that person for the benefit of the Principal and the Professional Services Contractor, under which (to the maximum extent permitted by law) that person irrevocably and unconditionally:

- (a) consents to the Principal and the Professional Services Contractor:
 - (i) using, disclosing, reproducing, transmitting, exhibiting, communicating, adapting, publishing or otherwise exercising its rights in relation to that work or subject matter anywhere in the world in whatever form the Principal and the Professional Services Contractor thinks fit (including, but not limited to, the making of any distortions, additions, or alterations to that work or subject matter or any adaptation thereof, or to any part of that work or subject matter or of any such adaptation in a manner which but for the consent, infringes or may infringe that person's moral rights in the work or other subject matter) as so used, disclosed, reproduced, transmitted, exhibited, communicated, adapted or published; and
 - (ii) using, disclosing, reproducing, transmitting, exhibiting, communicating, adapting, publishing or otherwise exercising its rights in relation to that work or subject matter or any adaptation thereof (or any part of that work or subject matter or of any such adaptation) anywhere in the world including

pursuant to the Copyright Act 1968 without making any identification of that person in relation thereto; and

- (b) waives, to the extent permitted by law, all and any moral rights to which that person may be entitled anywhere in the world in relation to any Contract Material.

8 CONFLICT OF INTEREST

- (a) The Professional Services Contractor warrants that no conflict of interest exists in relation to the Services at the date of this Agreement.
- (b) The Professional Services Contractor must immediately provide the Principal written notice upon becoming aware of the existence, or possibility, of an actual or perceived conflict of interest in the performance of the Services.
- (c) On receipt of a notice under clause 8(b), the Principal may:
 - (i) approve the Professional Services Contractor continuing to perform the Services, which approval may be subject to conditions specified by the Principal (including requirements relating to separation arrangements) to ensure appropriate management of the conflict; or
 - (ii) where in the Principal's view the conflict of interest cannot be appropriately managed, and without limiting clause 21, terminate this Agreement by notice in writing to the Professional Services Contractor effective from the date specified in the notice.
- (d) The Principal may, at its sole discretion and at any time, require the Professional Services Contractor to sign and procure that each of its officers, employees, subcontractors or agents involved in the performance of the Services signs and delivers to the Principal a Statement of Interests and Associations in the form attached in Schedule 4.

9 INDEMNITY BY PROFESSIONAL SERVICES CONTRACTOR

The Professional Services Contractor must indemnify the Principal against:

- (a) loss of or damage to property of the Principal including, but not limited to, the Contract Material; and
- (b) claims by any person against the Principal in respect of personal injury or death or loss of or damage to any other property,

arising out of or in consequence of carrying out the Services but the Professional Services Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that the act or omission of the Principal or the employees, agents or other contractors of the Principal contributed to the loss, damage, injury or death.

10 INSURANCE

10.1 Professional Indemnity Insurance

Before the Professional Services Contractor commences carrying out the Services, the Professional Services Contractor must effect a professional indemnity insurance policy for the Services with a total aggregate cover of not less than the sum stated in the Contract Particulars.

The policy must include provisions for one automatic reinstatement of the sum insured and for loss of documents. The policy and such level of cover must be maintained until the Professional Services Contractor completes carrying out the Services and thereafter for a period as stated in the Contract Particulars.

The Professional Services Contractor must ensure that its subcontractors and consultants have professional indemnity insurance to a level approved by the Principal.

10.2 Public Liability Insurance

The Professional Services Contractor must maintain a public liability policy for an amount in respect of any one claim or series of claims arising from one original cause of not less than the sum stated in the Contract Particulars. The policy must be maintained until the Professional Services Contractor completes carrying out the Services.

The policy must cover the Professional Services Contractor in respect of liability to the Principal and third parties in respect of any claim arising from the acts or omissions of the Professional Services Contractor, its employees, subcontractors and consultants in the course of carrying out the Services and must extend to indemnify the Principal as one of the class of persons constituting the insured or note the Principal as an interested party but not in respect of liability to the extent that the liability is due to or results from the negligence of the Principal.

10.3 Insurance of Employees

Before the Professional Services Contractor commences carrying out the Services, the Professional Services Contractor must insure against liability for death or injury to persons employed by the Professional Services Contractor including, but not limited to, liabilities, under statute including relevant workers compensation legislation and at common law. The insurance cover must be maintained until the Professional Services Contractor completes carrying out the Services.

Where permitted by law, the insurance cover must be extended to indemnify the Principal for the Principal's statutory liability for persons employed by the Professional Services Contractor. The Professional Services Contractor must ensure that employees of the Professional Services Contractor's subcontractors and consultants are similarly insured.

10.4 Professional Services Contractor's Insurance Obligations

The Professional Services Contractor must:

- (a) provide the Principal's Representative with a copy of, or certificate of currency for, any insurance policies required by this clause 10 prior to commencement of the Services and evidence satisfactory to the Principal's Representative that the policy is current as required by the Principal's Representative from time to time; and
- (b) ensure that it:
 - (i) does not do anything which prejudices the insurance;
 - (ii) if necessary, rectifies anything which might prejudice any insurance;
 - (iii) reinstates any insurance policy if it lapses;
 - (iv) does not cancel, vary or allow an insurance policy to lapse without providing prior written notification to the Principal's Representative. Such notification will not constitute a waiver of the Principal's rights under this Agreement;
 - (v) immediately notifies the Principal's Representative of any event which may result in an insurance policy lapsing or being cancelled; and
 - (vi) gives full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

11 REPRESENTATIVES

11.1 Professional Services Contractor's Representative

The person nominated in the Contract Particulars is the Professional Services Contractor's Representative for this Agreement, and:

- (a) has the legal power to bind the Professional Services Contractor in respect of any matter arising in connection with the Services;
- (b) has the authority to receive directions on behalf of the Professional Services Contractor from the Principal and the Principal's Representative;
- (c) is competent to be the Professional Services Contractor's Representative; and
- (d) is not discharged or replaced as the Professional Services Contractor's Representative without the written consent of the Principal, which cannot be unreasonably withheld. Any substitute representative must be notified promptly in writing to the Principal.

11.2 Key People

The Professional Services Contractor must:

- (a) engage the Key People specified in the Contract Particulars in the performance of the Services and in the positions (if any) specified in the Contract Particulars;
- (b) ensure the Key People (including any replacement) will devote sufficient time to the services they are retained to do such that the Services are performed promptly, efficiently, skilfully, in a timely fashion and in accordance with this Agreement;
- (c) subject to clause 11.2(d), not replace the Key People without the Principal's Representative's prior written approval which will not be unreasonably withheld;
- (d) if any of the Key People:
 - (i) dies;
 - (ii) becomes unable to continue in their positions due to illness; or
 - (iii) resigns from the employment of the Professional Services Contractor (other than to accept other employment with the Professional Services Contractor or any "related body corporate" of the Professional Services Contractor (as that term is defined in section 9 of the Corporations Act 2001 (Cth)),

promptly notify the Principal's Representative and replace those Key People with personnel of at least equivalent experience, ability, knowledge and expertise approved by the Principal's Representative; and

- (e) immediately take steps to replace any Key People specified in the Contract Particulars who are requested by the Principal, acting reasonably, to be removed from the Services with a replacement of equivalent expertise and experience, and obtain the written approval of the Principal, which will not be unreasonably withheld, to the replacement prior to engaging the replacement.

11.3 Principal's Representative

The person nominated in the Contract Particulars is the Principal's Representative for this Agreement and has the legal power to bind the Principal in respect of any matter arising in connection with the Services. Any substitute representative must be notified promptly in writing to the Professional Services Contractor.

The Principal's Representative may by notice in writing to the Professional Services Contractor delegate any or all of its functions to another person.

The Professional Services Contractor acknowledges and agrees that the Principal's Representative will give directions and carry out all its other functions under this Contract as the agent of the Principal (and not as an independent certifier, assessor or valuer) and is subject to the directions of the Principal.

12 DIRECTIONS

12.1 Directions

The Professional Services Contractor must comply with the directions of the Principal or the Principal's Representative. Except where this Agreement otherwise provides, a direction may be given orally.

If the Professional Services Contractor in writing requests the Principal to confirm an oral direction in writing, the Principal must do so as soon as practicable.

12.2 Programming

The Professional Services Contractor must give the Principal reasonable advance notice of when the Professional Services Contractor needs information, materials, documents or instructions from the Principal.

The Principal shall not be obliged to give any information, materials, documents or instructions earlier than the Principal should reasonably have anticipated at the date of this Agreement and in any event no earlier than 10 Business Days after the request for the information, materials, document or instruction was made by the Professional Services Contractor.

The Principal may direct in what order and at what time the various stages or Portions of the Services must be carried out and the Professional Services Contractor must comply with any such direction.

13 RECORD KEEPING AND PROGRAM REPORTING

The Professional Services Contractor must:

- (a) keep, and ensure its subcontractors keep, accurate records of the performance of the Services;
- (b) ensure that all persons engaged in the performance of the Services produce and maintain:
 - (i) a daily diary record of tasks performed; and
 - (ii) where a part of the Fee is time based (where there is no fixed price lump sum for that component of the Services), a daily timesheet accurately recording the time spent in the performance of the Services;
- (c) at the Principal's request, provide, and ensure that its subcontractors provide, the records referred to in this clause 13 for their inspection and copying by the Principal;
- (d) if required, provide the Principal's Representative with periodic program reports on the engagement as required by this Agreement;
- (e) ensure that all records required to be kept by this Agreement, including the Competence Records, are current and accurate; and
- (f) whenever requested by the Principal's Representative provide the Principal's Representative with a written report containing details on all work health and safety matters arising out of the Services, including in respect of any matters concerning or arising out of clause 3.2 and clauses 3.5 to 3.7.

The records referred to in this clause 13 must be retained for seven (7) years after completion of the Services.

14 COLLABORATIVE AUDITING PROCESS

The Professional Services Contractor and the Principal will, on a collaborative basis, develop, agree and implement, a scope and program for the Principal's Representative to undertake audits of the Professional Services Contractor's compliance with the requirements of the Professional Services Contractor's quality management system (if applicable) as these may apply to the Services and obligations under this Agreement and:

- (a) the Professional Services Contractor agrees to participate and assist in the development and completion of these audits; and
- (b) the Professional Services Contractor and the Principal's Representative shall when requested share the results of any self verification by the Professional Services Contractor and/or the outcome of any audits completed.

15 ACCESS TO PROFESSIONAL SERVICE CONTRACTOR'S PREMISES

The Professional Services Contractor must, at all reasonable times and upon reasonable notice, permit the Principal access to the Professional Services Contractor premises in order for the Principal to inspect, discuss and assess the Contract Material and any other material obtained by the Professional Services Contractor from any person in connection with this Agreement.

16 VARIATIONS

16.1 Proposal

- (a) The Principal may direct in writing that the Professional Services Contractor vary the Services, including:
 - (i) any addition to, omission from or deletion of any part of the Services; or
 - (ii) any adjustment to the timing for the provision of the Services, including the Date for Completion, of the Services or any Portion,or both ("variation").
- (b) If a variation the subject of a direction by the Principal omits or deletes any part of the Services, the Principal may thereafter carry out the omitted or deleted Services either itself or engage an Other Contractor to carry out the omitted or deleted Services or part of the Services and the Professional Services Contractor will have no entitlement to make any payment claim against the Principal arising out of or in connection with the omitted or deleted Services or any part thereof that are not performed by the Professional Services Contractor.
- (c) If the Principal gives such a direction where the need for the variation is in order to overcome any Defect in or from the Services, any costs or losses suffered or incurred by the Principal in having the Services which have been deleted or omitted carried out by an Other Contractor will be a debt due and payable by the Professional Services Contractor to the Principal which may be deducted from the Fee.
- (d) Nothing in clause 16.1(c) limits the Principal's rights under clauses 3.3(b) and (c).
- (e) If the Principal proposes a variation, the Principal will specify in the direction a reasonable time by which the Professional Services Contractor must provide a written estimate of the time, cost and programming effects of the proposed variation. If no time is specified, the Professional Services Contractor must provide the estimate within 14 days.

16.2 Variation Direction

Whether or not the Professional Services Contractor provides a written estimate under clause 16.1(e), the Principal may direct in writing the Professional Services Contractor to carry out a variation, and the Professional Services Contractor must comply with such direction.

A variation excludes any changes to the Services that are required due to the exercise of an Option by the Principal's Representative under clause 16.5.

16.3 Valuation

The value of a variation directed under clause 16.1 or 16.2 will be determined by the Principal's Representative as follows:

- (a) by agreement between the Principal's Representative and the Professional Services Contractor including, but not limited to, where the Professional Services Contractor has provided a written estimate pursuant to clause 16.1(e), which the Principal has accepted, the amount in that written estimate;
- (b) by using the hourly rates and other prices set out in the Contract Particulars where included and where these are reasonable to use; or
- (c) on the basis of reasonable prices and rates determined by the Principal's Representative.

The Fee will be adjusted by the value of each variation as determined in accordance with this clause 16.3.

16.4 Variation due to a Change in a Statutory Requirement

If a new Statutory Requirement or a change in a Statutory Requirement after the date of this Agreement:

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

then the extent to which the Services are changed by the Statutory Requirement shall be deemed to be a variation and will be valued pursuant to clause 16.3.

16.5 Option

The Principal's Representative may, by written notice given to the Professional Services Contractor at any time within the period stated in Schedule 7, exercise any Option. Commencing upon the issue of such a notice by the Principal's Representative, the Principal and the Professional Services Contractor must perform their obligations under this Agreement on the basis that the Fee and the provisions of this Agreement will be adjusted as set out in Schedule 7 for the relevant Option.

For the avoidance of doubt:

- (a) the Principal is not under any obligation whatsoever to exercise; and
- (b) the Professional Services Contractor is not entitled to make, nor will the Principal be liable upon, any claim in respect of the Principal not exercising,

any Option.

Where the Principal does not exercise its discretion to exercise an Option, the Principal may, either by itself or by third parties, undertake the work contemplated by the relevant Option.

The exercise of an Option by the Principal's Representative under this clause 16.5 will not:

- (c) relieve the Professional Services Contractor from its liabilities or obligations (including those arising out of any warranties given under this Agreement); or
- (d) limit or otherwise affect the Principal's rights against the Professional Services Contractor or the Professional Services Contractor's rights against the Principal (including those arising out of any warranties given under this Agreement);

whether under this Agreement or otherwise according to any law.

Without limiting or otherwise restricting clause 18.9, the Professional Service Contractor acknowledges and agrees that the work completed by an Option may be directed as a separable Portion under clause 18.9.

17 PAYMENT OF FEE

17.1 Payment Claim issued by Professional Services Contractor

Subject to the Professional Services Contractor performing the Services, the Principal must pay the Professional Services Contractor the Fee and any disbursements referred to in the Contract Particulars for which it is entitled to payment, in accordance with this clause 17.

The Professional Services Contractor may prepare and submit to the Principal's Representative a payment claim for the amount representing the value of the Services completed in accordance with this Agreement upon the latter of:

- (a) satisfaction of each of the following which is a condition precedent to the Professional Services Contractor's right to submit a payment claim under this clause 17.1:
 - (i) providing the Principal with a duly completed and signed statutory declaration and subcontractor's statement in the form contained in Schedule 3 (or in any other form requested and/or approved by the Principal's Representative);
 - (ii) where clause 17.6(i) applies, providing the Principal with the statement and the evidence (if any) required to be provided by the Professional Services Contractor pursuant to that clause; and
 - (iii) providing the Principal with certificates of currency in respect of its workers compensation, public liability, professional indemnity and any other insurances, which must be effected by the Professional Services Contractor under this Agreement; and
- (b) the times set out in the Contract Particulars.

Each payment claim must contain the details required by the Principal. All payment claims must be addressed to the Principal and must refer to the Professional Services Contract No. on the cover page of this Agreement.

The Professional Services Contractor is entitled to claim payment for the Mobilisation Payment within 10 Business Days of the Commencement Date.

In each subsequent payment claim the Professional Services Contractor is entitled to claim payment for:

- (c) in respect of the Services identified in items A1 to A10 in Schedule 5.1, \$ [] per month, up to a maximum aggregate amount of \$ [];
- (d) in respect of the Services identified in items B3, C3, D3, E3, F3, G3, H3, I3, J1, K1 and L1 in Schedule 5.1, the amount specified in Schedule 5.1 in respect of those items once the Professional Services Contractor has satisfied the Payment Milestone applicable to the relevant item;

- (e) in respect of the Services identified in items B1, B2, C1, C2, D1, D2, E1, E2, F1, F2, G1, G2, H1, H2, I1 and I2 in Schedule 5.1, the amount in any month which represents the percentage of the Services for that item which have been completed in accordance with this Agreement;
- (f) in respect of the Services identified in items L2 and L3 in Schedule 5.2, the amounts referred to in those items in Schedule 5.2; and
- (g) in respect of the Services identified in item L4 in Schedule 5.2:
 - (i) 50% of the amount specified in Schedule 5.2 in respect of item L4 once the Professional Services Contractor has completed the mobilisation of its personnel to the Co-Location Premises; and
 - (ii) 50% of the amount specified in Schedule 5.2 in respect of item L4 once the Professional Services Contractor has completed the de-mobilisation of its personnel from the Co-Location Premises.

17.2 Payment Schedule of Fee issued by Principal

If the Principal intends making a payment that is less than the amount claimed by the Professional Services Contractor, the Principal must, within 10 Business Days following receipt of a payment claim give the Professional Services Contractor a payment schedule which sets out:

- (a) the amount which the Professional Services Contractor is entitled to in accordance with this Agreement;
- (b) the amount already paid to the Professional Services Contractor;
- (c) the amount that the Principal is entitled to retain, deduct, withhold or set-off under this Agreement;
- (d) the amount (if any) which the Principal proposes to pay to the Professional Services Contractor;
- (e) the reason why the amount under clause 17.2(d) is less than the amount claimed in the payment claim; and
- (f) if the reason for the difference is that the Principal is retaining, deducting, withholding or setting-off payment for any reason, the reason for the Principal retaining, deducting, withholding or setting-off payment.

The failure of the Principal to set out in a payment schedule an amount which it is entitled to retain, deduct, withhold or set off under this Agreement will not prejudice its right to subsequently exercise such right.

17.3 Payments

The Principal must within 15 Business Days following receipt of a payment claim, pay the amount stated in the payment schedule or, if there is no payment schedule, the amount claimed by the Professional Services Contractor in its payment claim (as the case may be).

Where the Principal has notified the Professional Services Contractor in accordance with clause 25(f)(iv) that it no longer proposes to issue a recipient created tax invoice for a taxable supply made by the Professional Services Contractor for the Principal, the Professional Services Contractor must, within 2 Business Days after receipt of the payment schedule issued by the Principal's Representative under clause 17.2 give the Principal's Representative a tax invoice (which complies with the GST Law) for the amount of the payment schedule.

The making of a payment by the Principal under this clause 17.3 is not evidence of the value of the Services performed, does not constitute an admission by the Principal that any Services provided by the Professional Services Contractor conform with the requirements of this Agreement and is a payment on account only.

17.4 Not Used**17.5 Set Off**

The Principal may, at any time withhold, set-off or deduct from amounts otherwise payable to the Professional Services Contractor:

- (a) any debt or other moneys due from the Professional Services Contractor to the Principal including any due debt from the Professional Services Contractor to the Principal pursuant to section 26C of the SOP Act;
- (b) any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to division 2A of the SOP Act; or
- (c) any claim to money which the Principal may have against the Professional Services Contractor whether for damages (including liquidated damages) or otherwise,

under this Agreement or in respect of the Services.

17.6 Security of Payment Act

- (a) This clause applies if the SOP Act applies to the Services.
- (b) The Professional Services Contractor agrees with the Principal that a date prescribed in clause 17.1 as the date on which the Professional Services Contractor may make a payment claim is, for the purposes of section 8 of the SOP Act, a "reference date".
- (c) For the purposes of section 17(3)(b) of the SOP Act the Professional Services Contractor irrevocably chooses the Institute of Arbitrators and Mediators Australia as the authorised nominating authority (as that term is defined in the SOP Act) for any adjudication application it may make under the SOP Act in respect of the subject matter of this Agreement.
- (d) When an adjudication occurs under the SOP Act, and the Principal has paid an adjudicated amount to the Professional Services Contractor:
 - (i) the amount will be taken into account by the Principal in issuing a payment schedule under clause 17.2;
 - (ii) if it is subsequently determined pursuant to the Contract that the Professional Services Contractor was not entitled under the Contract to payment of some or all of the adjudicated amount that was paid by the Principal ("overpayment"), the overpayment will be a debt due and payable by the Professional Services Contractor to the Principal which the Professional Services Contractor must pay to the Principal upon demand and in respect of which the Professional Services Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence;
 - (iii) if the adjudicator's determination is quashed, overturned or declared to be void, the adjudicated amount then becomes a debt due and payable by the Professional Services Contractor to the Principal upon demand and in respect of which the Professional Services Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence;
 - (iv) the Principal:
 - A. is not bound by the adjudication determination;
 - B. may reassess the value of the work that was valued by the adjudicator; and

- C. may, if it disagrees with the adjudication determination, express its own valuation in any payment statement; and
- (v) the payment statement referred to in clause 17.6(d)(iv) will be treated as a final determination of the value of the relevant work, subject to the provisions of clause 19.
- (e) Without limiting clause 17.5, the Principal may withhold any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to division 2A of the SOP Act.
- (f) If the Principal withholds from money otherwise due to the Professional Services Contractor any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to division 2A of the SOP Act, then:
 - (i) the Principal may plead and rely upon division 2A of the SOP Act as a defence to any claim for the money by the Professional Services Contractor from the Principal; and
 - (ii) the period during which the Principal retains money due to the Professional Services Contractor pursuant to an obligation under division 2A of the SOP Act will not be taken into account for the purpose of determining:
 - A. any period for which money owed by the Principal to the Professional Services Contractor has been unpaid; and
 - B. the date by which payment of money owed by the Principal to the Professional Services Contractor must be made.
- (g) The Professional Services Contractor agrees not to commence proceedings to recover any amount withheld by the Principal pursuant to a payment withholding request served on the Principal in accordance with division 2A of the SOP Act.
- (h) Any amount paid by the Principal pursuant to section 26C of the SOP Act will be a debt due from the Professional Services Contractor to the Principal.
- (i) If the Principal withholds money pursuant to a payment withholding request served on the Principal pursuant to division 2A of the SOP Act and the Professional Services Contractor:
 - (i) pays the amount claimed to be due under the adjudication application to which the payment withholding claim relates; or
 - (ii) becomes aware that the adjudication application to which the payment withholding claim relates has been withdrawn,then the Professional Services Contractor must so notify the Principal within 5 days of the occurrence of the event under clauses 17.6(i)(i) and 17.6(i)(ii) (as applicable) by providing to the Principal a statement in writing in the form of a statutory declaration together with such other evidence as the Principal may require evidencing that the amount has been paid or the adjudication application has been withdrawn (as the case may be).

18 TIME

18.1 Time for Commencement and programming

The Professional Services Contractor must immediately commence the performance of the Services.

Within 5 Business Days of the Commencement Date, the Professional Services Contractor must, without limiting or otherwise restricting clauses 12.2, 13 and 14, provide the

Principal's Representative with a program acceptable to the Principal's Representative which contains such details as may be required by this Agreement. Thereafter the Professional Services Contractor must regularly revise the program at intervals acceptable to the Principal's Representative.

18.2 Date for Completion

The Professional Services Contractor must achieve Completion of the Services and each Portion by the relevant Date for Completion.

18.3 Extension of Time for Completion

If the Professional Services Contractor is or will be delayed in reaching Completion of the Services or a Portion by the relevant Date for Completion by:

- (a) an act or omission of the Principal or Principal's Representative that is not authorised under this Agreement;
- (b) a breach of this Agreement by the Principal; or
- (c) a variation directed under clause 16.2, a suspension directed under clause 18.8 where the variation or suspension is not due to an act or omission of the Professional Services Contractor (or its employees, agents or subcontractors),

the Professional Services Contractor may claim an extension of time to the relevant Date for Completion.

18.4 Claim for Extension of Time

To claim an extension of time, the Professional Services Contractor must submit a written claim to the Principal's Representative within 10 Business Days of the first occurrence of the event or circumstance causing the delay. This claim should include:

- (a) details of the delay and the event or circumstance causing the delay;
- (b) details of the activities that are critical to the maintenance of progress in the execution of the Services;
- (c) a statement of the number of days extension of time claimed together with the basis of calculating that period; and
- (d) any other information reasonably requested by the Principal's Representative.

If the effects of the delay continue beyond the period of 10 Business Days after the first occurrence of the event or circumstance causing the delay and the Professional Services Contractor wishes to claim extensions of time in respect of the further delays, the Professional Services Contractor must submit further written claims to the Principal's Representative at intervals not greater than 10 Business Days.

The Principal's Representative may, within 10 Business Days of receiving the Professional Services Contractor's claim or further claim for an extension of time to the relevant Date for Completion, by written notice to the Professional Services Contractor, request additional information in relation to the claim or further claim. The Professional Services Contractor must, within 10 Business Days of receiving such request, provide the Principal's Representative with the information requested.

Notwithstanding that the Professional Services Contractor is not entitled to an extension of time or has not made a claim for an extension of time, the Principal's Representative may at any time by notice in writing to the Professional Services Contractor extend the time for Completion for any reason.

The Principal's Representative is not required to exercise its discretion under the previous paragraph for the benefit of the Professional Services Contractor.

18.5 Conditions precedent to Extension of Time

It is a condition precedent to the Professional Services Contractor's entitlement to an extension of time to any relevant Date for Completion that:

- (a) the Professional Services Contractor gives the claim required by clause 18.4 and as required by clause 18.4,
- (b) the Professional Services Contractor complies with any request for additional information under clause 18.4 within the time required;
- (c) the cause of the delay is beyond the reasonable control of the Professional Services Contractor; and
- (d) the Professional Services Contractor is actually, or will be, delayed in achieving Completion by the Date for Completion of the Services or the Portion, by reason of one or more of the causes set out in clause 18.3.

If the Professional Services Contractor fails to comply with the conditions precedent in this clause 18.5:

- (e) the Principal will not be liable upon any claim by the Professional Services Contractor; and
- (f) the Professional Services Contractor will be absolutely barred from making any claim against the Principal,

arising out of or in any way in connection with the event giving rise to the delay and the delay involved.

Subject to the Professional Services Contractor's compliance with the conditions precedent in this clause 18.5, the Principal's Representative is required to act reasonably in determining the Professional Services Contractor's entitlement to an extension of time claimed under clause 18.4.

18.6 Completion

- (a) The Professional Services Contractor must notify the Principal's Representative in writing 5 Business Days prior to the date upon which the Professional Services Contractor anticipates that Completion of the Services or a Portion will be reached.
- (b) The Principal's Representative will, within 5 Business Days after receipt of the notice referred to in clause 18.6(a), review the relevant Services the subject of that notice and thereafter issue a notice to the Principal and the Professional Services Contractor either:
 - (i) containing a list of the items that are apparent and it believes must be completed (including the correction of any Defects) before Completion of the Services or the Portion is achieved; or
 - (ii) stating that it believes the Professional Services Contractor is so far from achieving Completion of the Services or the Portion that it is not practicable to issue a list as contemplated in clause 18.6(b)(i).
- (c) When the Principal's Representative issues a notice under either clause 18.6(b)(i) or clause 18.6(b)(ii), the Professional Services Contractor must continue to proceed to bring the Services or the Portion to Completion and thereafter when the Professional Services Contractor considers it has achieved Completion of the Services or the Portion, the Professional Services Contractor must notify the Principal's Representative. This notice must contain a Professional Services Contractor's Certificate of Completion.
- (d) The Principal's Representative will, within 15 Business Days of receipt of a notice in writing under clause 18.6(c) or of receipt of a notice under clause 18.6(e), issue a notice to the Principal and the Professional Services Contractor:

- (i) if satisfied that Completion of the Services or the Portion has been achieved, stating the date on which the Principal's Representative determines Completion of the Services or the Portion was achieved; or
- (ii) if not satisfied that Completion of the Services or the Portion has been achieved:
 - A. containing a list of the items that are apparent and it believes must be completed (including the correction of any Defects) before Completion of the Services or the Portion is achieved; or
 - B. stating that it believes the Professional Services Contractor is so far from achieving Completion of the Services or the Portion that it is not practicable to issue a list as contemplated by clause 18.6(d)(ii)A.
- (e) If the Principal's Representative issues a notice under either clause 18.6(d)(ii)A or clause 18.6(d)(ii)B, the Professional Services Contractor must continue to proceed to bring the Services or the Portion to Completion and thereafter when it considers it has achieved Completion of the Services or the Portion, the Professional Services Contractor must notify the Principal's Representative by notice in writing (by means of a Professional Services Contractor's Certificate of Completion), after which clause 18.6(d) and this clause 18.6(e) will reapply.
- (f) Where there are Portions, for the purposes of this Agreement and without affecting the Professional Services Contractor's obligation to achieve Completion of each Portion by the relevant Date for Completion of each Portion:
 - (i) no separate Date for Completion of the Services is specified in this Agreement;
 - (ii) Completion of the Services is achieved by achieving Completion of all Portions;
 - (iii) Completion of the Services will be taken to have occurred once Completion of all Portions has occurred; and
 - (iv) the Date of Completion of the Services will be taken to be the Date of Completion of the last Portion to reach Completion.

18.7 Unilateral Issue of Notice of Completion

If at any time a notice required to be given by the Professional Services Contractor to the Principal's Representative under either of clause 18.6(c) or 18.6(e) is not given by the Professional Services Contractor yet the Principal's Representative is of the opinion that Completion of the Services or a Portion has been achieved, the Principal's Representative may at any time and for any reason in its absolute discretion issue a Notice of Completion under clause 18.6(d)(i) for the Services or the Portion.

The issue of a Notice of Completion will not:

- (a) constitute approval of any work or other matter nor will it prejudice any claim by the Principal;
- (b) constitute approval by the Principal or the Principal's Representative of the Professional Services Contractor's performance of its obligations under this Agreement;
- (c) be taken as an admission or evidence that the Services complies with the requirements of this Agreement; or
- (d) prejudice any rights or powers of the Principal or the Principal's Representative.

18.8 Suspension

- (a) The Principal may, at any time by prior written notice to the Professional Services Contractor, suspend the carrying out of the Services or any part thereof. Subject to clause 18.8(b), the Principal must, unless the suspension arose due to an act or omission of the Professional Services Contractor (or its employees, agents or subcontractors), pay the Professional Services Contractor any costs and expenses reasonably incurred by the Professional Services Contractor by reason of the suspension.
- (b) The Principal may, at any time after giving a notice in accordance with clause 18.8(a), give the Professional Services Contractor reasonable notice to recommence carrying out those Services so suspended.
- (c) Without limiting or otherwise restricting clause 18.8(a), if the suspension under clause 18.8(a) arises as a result of the Professional Services Contractor's failure to carry out its obligations under clauses 3.8 to 3.9 or to otherwise fail to comply with its obligations in relation to engineering authorisation or ASA compliance in accordance with this Agreement, the Professional Services Contractor will not be entitled to make, and the Principal will not be liable upon, any claim arising out of, or in any way in connection with, the suspension.

18.9 Portions

Separable Portions may be directed by the Principal's Representative, who shall clearly identify for each, the:

- (a) portion of the Services; and
- (b) Date for Completion.

18.10 Liquidated damages for delay in achieving Completion

- (a) Subject to clause 18.10(d), if Completion of a Portion has not occurred by the Date for Completion for that Portion the Professional Services Contractor must pay the Principal liquidated damages at the rates stated in Schedule 1 for every day after the Date for Completion up to and including:
 - (i) the Date of Completion of the Portion; or
 - (ii) the date that this Contract is terminated under clause 21,whichever is first.
- (b) The parties:
 - (i) agree that the amount of liquidated damages provided for in Schedule 1 constitutes a reasonable and good faith pre-estimate of the anticipated or actual loss or damage that will be incurred by the Principal as a result of Completion of a Portion not occurring on or before the relevant Date for Completion (except for amounts referred to in clause 18.10(c);
 - (ii) desire to avoid the difficulties of proving damages in connection with such failure and agree that the liquidated damages payable by the Professional Services Contractor in accordance with clause 18.10(a) are reasonable and do not constitute nor are they intended to be a penalty; and
 - (iii) agree that the amount of liquidated damages payable by the Professional Services Contractor under clause 18.10(a) will be recoverable from the Professional Services Contractor as a debt immediately due and payable to the Principal.

- (c) If clause 18.10(a) is found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Principal from recovering liquidated damages, the Principal will be entitled to recover general damages as a result of the Professional Services Contractor failing to achieve Completion of a Portion by the relevant Date for Completion, but the Professional Services Contractor's liability for such damages (whether per day or in aggregate) will not be any greater than the liability which the Professional Services Contractor would have had if clause 18.10(a) had not been void, invalid or otherwise inoperative.
- (d) The Professional Services Contractor's aggregate liability under clauses 18.10(a) and 18.10(c) is limited to the amount set out in Schedule 1.

19 DISPUTE RESOLUTION

19.1 Dispute Notice

If a difference or dispute (together called a "dispute") between the parties arises in connection with the subject matter of this Agreement then either party will give the other party written notice of a dispute by hand or by registered post which adequately identifies the details of the dispute ("Dispute Notice").

19.2 Negotiation

The Professional Services Contractor and the Principal must endeavour to resolve any dispute expeditiously by negotiation within 20 Business Days (or any other time period agreed by the parties in writing) after receipt of the Dispute Notice. At such negotiations each party must be represented by a person who has the authority to agree to such resolution. All aspects of the negotiation (except the fact that the negotiations took place) will be privileged.

19.3 Expert Determination

If a dispute between the Professional Services Contractor and the Principal is not resolved by negotiation within 20 Business Days (or any other time period agreed by the parties in writing) after receipt of the Dispute Notice ("Negotiation Period") then, subject to the parties' right to seek injunctive or urgent declaratory relief, and before either party has recourse to any litigation, the parties must submit the dispute to expert determination by an independent expert.

If the Professional Services Contractor and the Principal do not agree upon an independent expert within 10 Business Days of the end of the Negotiation Period then either party may request the Chair of the Resolution Institute (or the person acting in that position at the time) to nominate an expert.

The parties must enter into an agreement with the agreed or nominated expert on the terms of the agreement in Schedule 10 or such other terms as the parties and the expert may agree.

Except where the parties otherwise agree in writing:

- (a) each party must bear its own costs and pay one half of the expert's fees and expenses;
- (b) the expert must not act as an arbitrator;
- (c) the determination of the expert will be final and binding on the parties except where:
 - (i) the expert's determination relating to a dispute is that one party shall pay to the other an amount, or carry out works to an amount, greater than the amount stated in the Contract Particulars, or if no amount is stated, greater than \$ [redacted]; and

- (ii) a party gives notice of appeal to the other party within 15 Business Days of the determination being given; and
- (d) the determination is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under the procedure in clause 19.4 below.

19.4 Litigation

If the determination of the expert is not final and binding on the parties, but without limiting clause 19.3(d), either party may commence litigation in relation to the dispute.

19.5 Continuation

Each party must continue to perform its obligations under this Agreement notwithstanding the existence of a dispute.

19.6 Common Disputes

- (a) The Professional Services Contractor must:
 - (i) within 5 Business Days of the date of this Agreement, provide to the Principal three copies of the Accession Deed duly executed by the Professional Services Contractor; and
 - (ii) at all relevant times comply with the Common Disputes Deed.
- (b) In the event that a dispute the subject of a Notice of Dispute under clause 19.1 may be concerned with matters that also arise in respect of the respective rights and obligations of the Principal and the Construction Contractor under the D&C Contract, then the Principal may, by written notice to the Professional Services Contractor within 12 Business Days of the Notice of Dispute under clause 19.1, elect that the Common Disputes Deed will apply.
- (c) If the Principal so elects:
 - (i) the Common Disputes Deed will apply to the dispute;
 - (ii) none of the provisions in clauses 19.2 to 19.4 will apply to the dispute; and
 - (iii) any dispute resolution process which has already commenced under this Agreement in respect of the dispute will be permanently stayed.

20 NOTICE OF BREACH

If the Professional Services Contractor is in breach of this Agreement, then the Principal may give a written notice to the Professional Services Contractor stating:

- (a) that it is a notice under this clause 20;
- (b) the breach relied upon; and
- (c) that this Agreement will be terminated unless the breach is remedied within the period set out in the notice, which must be no less than 10 Business Days.

21 TERMINATION

21.1 Termination for Breach or Financial Difficulty

The Principal may, without prejudice to any other right, terminate this Agreement by notice in writing to the Professional Services Contractor from the date stated in the notice if:

- (a) the Professional Services Contractor fails to remedy a breach of this Agreement within the time stated in a notice under clause 20; or

- (b) an Event of Insolvency occurs to the Professional Services Contractor whether or not there has been a breach of contract by the Professional Services Contractor.

If this Agreement is terminated pursuant to this clause 21.1 the parties' remedies, rights and liabilities will be the same as they would have been under the law governing this Agreement had the Professional Services Contractor repudiated this Agreement and the Principal elected to treat this Agreement as at an end and recover damages.

21.2 Termination for Any Reason

- (a) The Principal may terminate this Agreement at any time for any reason, by written notice to the Professional Services Contractor.
- (b) If the Principal terminates this Agreement pursuant to this clause 21.2, the Principal:
 - (i) may, in its absolute discretion, complete the uncompleted part of the Services itself or by engaging any third party; and
 - (ii) must reimburse the Professional Services Contractor for the cost of Services performed to the date of termination plus the direct costs reasonably incurred by the Professional Services Contractor as a result of the termination. Such payment will be a limitation upon the Principal's liability to the Professional Services Contractor in connection with the termination of this Agreement.
- (c) If the Principal terminates this Agreement pursuant to this clause 21.2, the Professional Services Contractor must immediately hand over to the Principal all copies of any documents provided by the Principal to the Professional Services Contractor and all Contract Material (whether complete or not).
- (d) This clause 21.2 survives the termination of this Agreement by the Principal under this clause 21.2.

22 CONFIDENTIALITY

22.1 Acknowledgement

The Professional Services Contractor acknowledges that all of the Confidential Information is and will be the sole and exclusive property of the Principal.

22.2 Warranty and Covenant

- (a) The Professional Services Contractor warrants and covenants that it will treat and keep the Confidential Information in the strictest of confidentiality and expressly acknowledges and agrees that the Confidential Information is of a confidential nature.
- (b) The Professional Services Contractor warrants and covenants that it will do everything reasonably necessary to protect and maintain the confidentiality of the Confidential Information.
- (c) The Professional Services Contractor may not disclose to any person other than:
 - (i) the Principal; or
 - (ii) a person who has signed a Confidentiality Deed Poll in the form of Schedule 2 in favour of the Principal,that the Confidential Information has been made available to the Professional Services Contractor or that discussions or negotiations are taking place concerning this Agreement, and undertakes:
 - (iii) to protect and safeguard Confidential Information against unauthorised publication or disclosure;

- (iv) not to use Confidential Information for any reason or purpose except as directed by the Principal; and
- (v) to comply with any security measures in connection with Confidential Information that may be required by the Principal.

22.3 Personal Information

Without limiting any obligation that the Professional Services Contractor has under any applicable privacy laws, where the Professional Services Contractor has access to Personal Information in order to fulfil its obligations under this Agreement, it must where collecting Personal Information on behalf of the Principal, comply with the *Privacy and Personal Information Protection Act 1998* (NSW) as if it were the Principal.

22.4 Authorised Disclosure

If the Principal's Representative approves in writing the disclosure of Confidential Information, the Professional Services Contractor may disclose that Confidential Information in accordance with the terms of that approval.

22.5 Return of Confidential Information

If the Principal requests it, the Professional Services Contractor must:

- (a) promptly return to the Principal all documents and other physical records of Confidential Information in its possession, custody, power or control;
- (b) if any Confidential Information in the possession, custody, power or control of the Professional Services Contractor is in a form that cannot be detached from valuable equipment (including, but not limited to, Confidential Information stored by electronic, electromagnetic or other means), the Professional Services Contractor must permanently delete and erase the Confidential Information; and
- (c) provide a statutory declaration to the Principal confirming that all those records and any copies have been returned or deleted and erased, as appropriate.

Notwithstanding this clause 22.5 or any other provision of this Agreement, the Principal authorises the Professional Services Contractor to retain for record purposes one copy of material provided to the Professional Services Contractor by the Principal and one copy of the Contract Material. The Professional Services Contractor must treat all material retained under this provision as Confidential Information.

22.6 Confidentiality Deed Poll

Unless otherwise agreed, the Professional Services Contractor must procure each officer, employee, subcontractor, or agent of the Professional Services Contractor involved in the performance of the Services including all Key People to sign and deliver to the Principal a Confidentiality Deed Poll in the form of Schedule 2.

22.7 Obligations To Continue

The obligations of the Professional Services Contractor under this clause 22 survive completion of the Services or termination of this Agreement and are enforceable at any time at law or in equity and continue to the benefit of and are enforceable by the Principal.

22.8 Injunctive Relief

In the event of a breach by the Professional Services Contractor of the Professional Services Contractor's obligations under this clause 22, then in addition to, and without prejudice to, any other remedy that the Principal may have, the Principal will be entitled to seek and obtain injunctive relief in any court of competent jurisdiction.

22.9 Further Assurances

The Professional Services Contractor must do all things and execute all documents, including, but not limited to, executing any agreements of assignment, or agreements under hand or seal, which may reasonably be required by the Principal, to give effect to the provisions of this Agreement.

23 DISCLOSURE OF CONTRACT INFORMATION

The Professional Services Contractor acknowledges that the Principal may disclose this Agreement (and information concerning the terms of this Agreement) under or in accordance with any one or more of the following:

- (a) the *Government Information (Public Access) Act 2009* (NSW);
- (b) the *Ombudsman Act 1974* (NSW); and
- (c) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of parliamentary accountability.

24 GOVERNING LAW

This Agreement is subject to the laws of the State of New South Wales.

25 GST

The Principal and the Professional Services Contractor agree:

- (a) unless otherwise stated all dollar amounts referred to in this Agreement are GST exclusive;
- (b) if GST is or becomes payable on a supply made by a party ("Supplier") under or in connection with this Agreement, including the Services, the party providing the consideration for the supply ("Recipient") must pay an additional amount to the Supplier equal to the GST payable by the Supplier (or representative member of a GST group of which the Supplier is a member) in relation to the supply;
- (c) any amount payable under clause 25(b) will be paid to the Supplier at the same time as the consideration for the supply is paid to the Supplier;
- (d) if any party is required under this Agreement to reimburse or pay to the other party an amount (other than any payment on account of the Fee and any disbursements referred to in the Contract Particulars for which it is entitled to payment) calculated by reference to a cost, expense, or an amount paid or incurred by that party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that party (or representative member of a GST group of which that party is a member) is entitled in respect of any acquisition relating to that cost, expense or other amount;
- (e) notwithstanding any other provision of this Agreement, where the Recipient is the Professional Services Contractor, it will not be obliged to pay any amount in respect of GST to the Principal (whether under this clause 25 or otherwise) in respect of a taxable supply made by the Principal unless the Principal issues to the Professional Services Contractor a tax invoice that complies with the GST Law in respect of that taxable supply;
- (f) the parties agree that unless otherwise agreed in writing, the following will apply to all taxable supplies made by the Professional Services Contractor to the Principal under or in connection with this Agreement:
 - (i) the Principal will issue to the Professional Services Contractor a recipient created tax invoice ("RCTI") for each taxable supply made by the Professional Services Contractor to the Principal under this Agreement;

- (ii) the Principal will issue to the Professional Services Contractor an adjustment note for any adjustment event;
 - (iii) the Professional Services Contractor will not issue a tax invoice in respect of any taxable supply it makes to the Principal; and
 - (iv) the Principal may notify the Professional Services Contractor that it will no longer issue a RCTI for each taxable supply made by the Professional Services Contractor under this Agreement, in which case, from that point in time, the Principal will not be required to issue RCTIs in respect of such supplies and the Professional Services Contractor will be required to issue tax invoices to the Principal (including under clause 17.3) as a condition precedent to the Principal being obliged to pay any amount in respect of GST to the Professional Services Contractor in respect of any such taxable supply;
- (g) each party acknowledges and warrants that at the time of entering into this Agreement it is registered for GST and will notify the other party if it ceases to be registered for GST or ceases to comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs;
- (h) if the GST payable in relation to a supply made by the Supplier under this Agreement varies from the additional amount paid by the other party under this clause 25 in respect of that supply, then the Supplier will provide a corresponding refund or credit to or will be entitled to receive the amount of that variation from the other party (as appropriate);
- (i) the Professional Services Contractor must ensure that each insurance policy referred to in clause 10 covers any liability to GST such that the proceeds of any claim under the policy (after payment of GST) are sufficient to fully indemnify the party who suffers the loss that is claimed; and
- (j) in clauses 17.3 and 25:
- (i) "GST" means the tax payable on taxable supplies under GST Law;
 - (ii) "GST Law" means the *A New Tax System (Goods & Services Tax) Act 1999* (Cth) and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax; and
 - (iii) terms which are defined in GST Law have the meaning provided by GST Law.

Subject to clauses 25(a) to 25(i) (inclusive), the Professional Services Contractor must pay all taxes, duties, levies, imposts and charges which may be payable arising out of or in any way in connection with the Services.

26 LIMITATION OF LIABILITY

- (a) Subject to clauses 26(b), 26(c) and 26(d):
- (i) the Professional Services Contractor's liability to the Principal in contract, tort (including negligence) or otherwise under this Agreement is limited to the amount stated in the Contract Particulars; and
 - (ii) the Professional Services Contractor is not liable to the Principal in contract, tort (including negligence) or otherwise under this Agreement in respect of Consequential Loss or Damage.
- (b) The Professional Services Contractor's liability is unlimited in circumstances where bodily injury or death of a person results as a consequence of an act or omission of the Professional Services Contractor.
- (c) The limitation of liability in clause 26(a)(i) or clause 26(a)(ii) will not apply to any liability:

- (i) to the extent to which the Professional Services Contractor is (or will be) entitled to be indemnified pursuant to an insurance policy that it is required to hold under this Agreement in respect of that liability;
 - (ii) for which, but for a failure by the Professional Services Contractor to comply with its obligations under this Agreement or under an insurance policy, the Professional Services Contractor would have received payment or been indemnified under an insurance policy effected in accordance with this Agreement;
 - (iii) which arises from any fraud, wilful misconduct or criminal conduct by the Professional Services Contractor or any of its employees, servants or agents including the Key People;
 - (iv) where the Professional Services Contractor abandons the performance of its obligations under this Agreement;
 - (v) out of which by law the Professional Services Contractor cannot contract; or
 - (vi) arising under clause 18.10.
- (d) The limitation of liability in clause 26(a)(ii) will not apply to any liability arising under or in connection with clause 7.2 or 9(a).
- (e) The Principal is not liable to the Professional Services Contractor in contract, tort (including negligence) or otherwise under this Agreement in respect of Consequential Loss or Damage.

27 NO WAIVER

Failure by the Principal to enforce or compel performance of any term or condition of this Agreement does not constitute a waiver of that term or condition and does not impair the right of the Principal to enforce it at a later time or to pursue remedies it may have for any subsequent breach of that term or condition.

28 RETURN OF DOCUMENTS

On completion of the Services or upon the termination of this Agreement, the Professional Services Contractor must deliver to the Principal:

- (a) all Contract Material produced by the Professional Services Contractor regardless of its stage of completion; and
- (b) the Principal's documents, samples, patterns, moulds and other information provided to the Professional Services Contractor in carrying out those Services.

29 ENTIRE AGREEMENT

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

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

30 PROPORTIONATE LIABILITY

- (a) To the extent permitted by law, part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or liabilities of either party under this Agreement whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.

Without limiting the above, the rights, obligations and liabilities of the Professional Services Contractor and the Principal under this Agreement with respect to proportionate liability are as specified in this Agreement and not otherwise, whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, in tort or otherwise.

- (b) To the extent permitted by law:
 - (i) the Professional Services Contractor must not seek to apply the provisions of part 4 of the *Civil Liability Act 2002* (NSW) in relation to any claim by the Principal against the Professional Services Contractor (whether in contract, tort or otherwise); and
 - (ii) if any of the provisions of part 4 of the *Civil Liability Act 2002* (NSW) are applied to any claim by the Principal against the Professional Services Contractor (whether in contract, tort or otherwise), the Professional Services Contractor will indemnify the Principal against any loss, damage, cost or expense which the Principal is not able to recover from the Professional Services Contractor because of the operation of part 4 of the *Civil Liability Act 2002* (NSW).

31 SEVERABILITY

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

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

32 ASSIGNMENT AND NOVATION

- (a) The Professional Services Contractor must not assign, transfer or novate any of its rights, interests or obligations in this Agreement without the prior written consent of the Principal and except on such terms as are determined in writing by the Principal.
- (b) The Principal may, for its sole convenience and at its absolute discretion, assign, novate or otherwise deal with its rights and obligations without the Professional Services Contractor's consent to any other Authority. The Professional Services Contractor must execute any document reasonably required to give effect to the assignment, novation or other dealing.
- (c) Without limiting clause 32(b) the Principal may at any time novate this Agreement to a Construction Contractor nominated by the Principal. If directed by the Principal, the Professional Services Contractor must, without being entitled to compensation, within 5 Business Days of the date of receipt by the Professional Services Contractor of the direction, execute and deliver to the Principal a deed of novation in the form which appears in Schedule 9 in favour of the Construction Contractor nominated by the Principal.
- (d) For the purpose of effecting a novation under clause 32(c), the Professional Services Contractor hereby irrevocably appoints the Principal's Representative to be the Professional Services Contractor's attorney with authority to execute such documents as are necessary to give effect to the novation and to bind the Professional Services Contractor accordingly.

SCHEDULE 1 – CONTRACT PARTICULARS

Principal:

Transport for NSW

ABN 18 804 239 602

Address: Level 5, Zenith Centre, Tower A
821 Pacific Highway
Chatswood NSW 2067

Tel: 02 9200 0200 Fax: 02 9200 0290

**Professional Services
Contractor:**

Alstom Transport Australia Pty Ltd

ABN 68 165 157 451

Address: 16 Giffnock Avenue, North Ryde, NSW 2113

Tel: 02 8870 6000 Fax: N/A

Commencement Date:

The date of execution by the last party to execute this Agreement

(clause 1)

Completion requirements:

(clause 1)

- In respect of each of Portion 1, Portion 2, Portion 3 and Portion 4, Portion 5, Portion 6, Portion 7 and Portion 8, the Professional Services Contractor has received CCB Gate 4 unconditional approval for all Contract Material required in respect of the relevant Portion.
- In respect of Portion 9, the Professional Services Contractor has completed and submitted all Contract Material required for a CCB Gate 5 submission in respect of that Portion.
- In respect of all Portions:
 - the Professional Services Contractor has provided the Principal's Representative with the Professional Services Contractor's Certificate of Completion in the form of Schedule 8 for the Services and for each Portion; and
 - anything else stated in the Agreement to be a condition or requirement of Completion.

Confidential Information:

(clause 1)

Other Documents:

(clause 1.1, refer to "Agreement")

Nil

Fee:
(clause 1)

The Fee comprises:

- (a) a fixed price lump sum of **\$6,310,735.64 (excl. GST)** for performing the whole of the fixed price lump sum part of the Services specified in Schedule 5.1 and in item L4 in Schedule 5.2. A breakdown of the fixed price lump sum is provided in Schedule 5.1 and in item 4 in Schedule 5.2; and
- (b) the amounts referred to in items L2 and L3 in Schedule 5.2.

Payment Milestones
(clause 1)

Item B3 in Schedule 5.1	Completion of Portion 1
Item C3 in Schedule 5.1	Completion of Portion 2
Item D3 in Schedule 5.1	Completion of Portion 3
Item E3 in Schedule 5.1	Completion of Portion 4
Item F3 in Schedule 5.1	Completion of Portion 5
Item G3 in Schedule 5.1	Completion of Portion 6
Item H3 in Schedule 5.1	Completion of Portion 7
Item I3 in Schedule 5.1	Completion of Portion 8
Item J1 in Schedule 5.1	Completion of Portion 9
Item K1 in Schedule 5.1	Completion of Portion 10

Portions
(clause 1)

Portion 1 - includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in section 3.4 of the Services Brief and obtain the unconditional approval of CCB Gate 4 for the geographical location between Kirrawee (inclusive) and Cronulla (inclusive).

Portion 2 - includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in section 3.4 of the Services Brief and obtain the unconditional approval of CCB Gate 4 for the geographical location between Allawah (inclusive) and Oatley (inclusive).

Portion 3- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in

sections 3.4 of the Services Brief and obtain the unconditional approval of CCB Gate 4 for the geographical location between Como (inclusive) and Waterfall (inclusive).

Portion 4- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in sections 3.4 of the Services Brief and obtain the unconditional approval of CCB Gate 4 for the geographical location between Wollie Creek (inclusive) and Charlton (inclusive).

Portion 5- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in section 3.4 of the Services Brief and obtain the unconditional approval of CCB Gate 4 for the geographical location between Unanderra (inclusive) and Kiama (inclusive).

Portion 6- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in section 3.4 of the Services Brief and obtain the unconditional approval of and CCB Gate 4 for the geographical location between North Wollongong (inclusive) and Port Kembla (inclusive).

Portion 7- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in sections 3.4 of the Services Brief and obtain the unconditional approval of and CCB Gate 4 for the geographical location between Wombarra (inclusive) and Fairy Meadow (inclusive).

Portion 8- includes:

- the part of the Services briefly described in section 3.3 of the Services Brief; and
- Completion of all necessary Contract Material as identified in sections 3.4 of the Services Brief and obtain the unconditional approval of and CCB Gate 4 for the geographical location between Helensburgh (inclusive) and Scarborough (inclusive).

Portion 9 - includes:

- the part of the Services briefly described in section 3.5 of the Services Brief; and
- Completion of all necessary Contract Material as identified in section 3.5 of the Services Brief for a CCB Gate 5 submission, including final safety assurance and as-built documentation.

Portion 10 - includes:

- the part of the Services briefly described in section 3.8 of the Services Brief.

Project:
(clause 1)

Advanced train control Migration System (AMS) – Trackside Area 4 and 5 Data Design (ISD-17-6378)

Services:
(clause 1)

As described in the Services Brief.

Dates for Completion:
(clause 18.2)

Portion 1	
Portion 2	
Portion 3	
Portion 4	
Portion 5	
Portion 6	
Portion 7	
Portion 8	
Portion 9	
Portion 10	

Liquidated damages
(clause 18.10)

- Portion 1 - \$ per day
- Portion 2 - \$ per day
- Portion 3 - \$ per day
- Portion 4 - \$ per day
- Portion 5 - \$ per day
- Portion 6 - \$ per day
- Portion 7 - \$ per day
- Portion 8 - \$ per day
- Portion 9 - \$ per day
- Portion 10 - \$ per day

Limit of liability for liquidated damages or general damages for delay under clause 18.10(c):

(clause 18.10)

(a) Subject to paragraph (b), the Professional Services Contractor's aggregate liability under clauses 18.10(a) and 18.10(c) in respect of any one Portion is limited to the sum of:

(i) % of the value of the Portion (which, as at the Commencement Date, is the amount specified in Schedule 5.1 in respect of the Portion); and

(ii) % of the value of the Services set out in items A1 to A11 in Schedule 5.1.

(b) The Professional Services Contractor's aggregate liability under clauses 18.10(a) and 18.10(c) is limited to % of the Fee.

Time period for provision of the Safety Report: (clause 3.2)

As required by clause 295 of the Work Health and Safety Regulation 2017 or when requested by the Principal.

Minimum Level of Professional Indemnity Insurance:

(clause 10.1)

\$ for each occurrence and \$ in the annual aggregate.

Time for maintaining Professional Indemnity Insurance:

(clause 10.1)

6 years.

Minimum Level of Public Liability Insurance:

(clause 10.2)

\$ for each and every occurrence.

Professional Services Contractor's Representative:

(clause 11.1)

Tel: 02 8870 6000 Fax: 02 9200 0290

Key People: (clause 11.2)

Principal's Representative:
(clause 11.3)

Peter Jones, Senior Trackside Manager,
Automatic Train Protection

Tel: 02 9200 0200 Fax: 02 9200 0290

Rates for the valuation of variations: (clause 16.3)

As set out in Schedule 6.

Disbursements for which the Professional Services Contractor is entitled to be paid:
(clause 17.1)

The Professional Services Contractor has no entitlement to be paid disbursements.

Times for Payment Claims:
(clause 17.1)

The fifth Business Day of the month

Expert Determination final and binding amount:
(clause 19.3(c))

\$

Limit of Professional Services Contractor's Liability:
(clause 26)

SCHEDULE 2 – CONFIDENTIALITY DEED POLL

Professional Services Contract Number: _____

Professional Services Contractor: _____

("Professional Services Contractor")

Confidentiality Deed Poll made at _____ on: ___/___/___

By:

Name: _____

Address: _____

("Recipient")

In favour of:

Transport for NSW

("Principal")

Background

The Principal and the Professional Services Contractor entered into the Professional Services Contract numbered above ("**Professional Services Contract**"), in which the Professional Services Contractor agreed to perform certain services.

It is a requirement of the Professional Services Contract that the Professional Services Contractor procures such of its officers, employees, subcontractors and agents as are required by the Principal to sign an individual confidentiality deed poll.

The Professional Services Contractor has requested and the Recipient has agreed, to execute this deed poll.

Confidential Information1. *Confidential Information* is:

- (a) any information (including, without limitation, information contained in proposals, designs, tenders, reports, advices, minutes of meetings or correspondence) in any form which has come to the knowledge of the Recipient by any means and which has been or will be given to the Recipient either directly or indirectly by the Principal or by a person on behalf of the Principal or by a proponent or tenderer,

- (b) any material produced by the Professional Services Contractor or the Recipient under the Professional Services Contract,

but does not include:

- (c) information which, at the time of disclosure, was already in the public domain;
- (d) information which, subsequent to disclosure, enters the public domain except through breach of this deed poll or any other obligation of confidence; or
- (e) information which the Recipient is required to disclose by law or the listing rules of the Australian Securities Exchange.

In the event of uncertainty as to whether:

- (a) any information is Confidential Information; or
- (b) any information is lawfully within the public domain,

that information is taken to be Confidential Information and the Confidential Information is taken to be not within the public domain, unless the Recipient is informed by the Principal in writing to the contrary.

Warranty and covenant

2. The Recipient warrants and covenants that it will treat and keep the Confidential Information in the strictest of secrecy and confidentiality and expressly acknowledges and agrees that the Confidential Information is of a secret and confidential nature.
3. The Recipient warrants and covenants that it will do everything reasonably necessary to protect and maintain the confidentiality of the Confidential Information.
4. The Recipient may not disclose to any person other than:
 - (a) the Principal;
 - (b) a person who has signed a Confidentiality Deed Poll in the form of this document in favour of the Principal pursuant to the Professional Services Contract,that the Confidential Information has been made available to the Recipient or that discussions or negotiations are taking place concerning the Professional Services Contract.
5. The Recipient undertakes:
 - (a) to protect and safeguard Confidential Information against unauthorised publication or disclosure; and
 - (b) not to use Confidential Information for any reason or purpose except as directed by the Principal; and
 - (c) to comply with any security measures in connection with Confidential Information that may be required by the Principal.

Authorised disclosure

6. If the Principal's Representative approves in writing the disclosure of Confidential Information, the Recipient may disclose that Confidential Information in accordance with the terms of that approval.

Return of Confidential Information

7. If the Principal requests it, the Recipient must:
 - (a) except as allowed under clause 22 of the Professional Services Contract, promptly return to the Principal all documents and other physical records of Confidential Information in its possession, custody, power or control;
 - (b) if any Confidential Information in the possession, custody, power or control of the Recipient is in a form that cannot be detached from valuable equipment (including, but not limited to, Confidential Information stored by electronic, electromagnetic or other means), the Recipient must permanently delete and erase the Confidential Information; and
 - (c) provide a statutory declaration to the Principal confirming that all those records and any copies have been returned or deleted and erased, as appropriate.

Continuing obligation

8. The obligations of the Recipient under this deed poll continue after the completion or termination of:
 - (a) the Professional Services Contract; and
 - (b) the Recipient's employment, engagement or assignment with the Professional Services Contractor.

Injunctive relief

9. In the event of a breach by the Recipient of the Recipient's obligations under this deed poll, then in addition to, and without prejudice to, any other remedy that the Principal may have, the Principal will be entitled to seek and obtain injunctive relief in any court of competent jurisdiction.

Further assurances

10. The Recipient must do all things and execute all documents, including but not limited to executing any agreements of assignment, or agreements under hand or seal, which may be required by the Principal to give effect to the provisions of this Confidentiality Deed Poll at a later date.

Non-waiver

11. The failure of the Principal to enforce any of the provisions of this deed poll or the granting at any time of any other indulgence is not to be construed as a waiver of that provision or of the right of the Principal to enforce that or any other provision at a later date.

Jurisdiction

12. This deed poll is governed by and subject to the laws of New South Wales.

No revocation

This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.

**Executed as a Deed Poll
by the Recipient:**

in the presence of:

Recipient

Witness

Name (please print)

Name (please print)

SCHEDULE 3 – FORM OF STATUTORY DECLARATION AND SUBCONTRACTOR'S STATEMENT

FORM OF STATUTORY DECLARATION

Statutory Declaration	Oaths Act (NSW) Ninth Schedule
I,	Insert full name of Declarant
Of	Insert address
do solemnly and sincerely declare that:	
1. I am the representative of:	
.....(ABN.....)	Insert name of Contractor, and ABN if applicable
("the Contractor")	
in the Office Bearer capacity of:	
.....	Insert position title of Declarant
2. The Contractor has a contract with: (ABN.....)	Insert name of Principal and ABN
to carry out [Contract No.]	Insert name of Contract and Contract No
("the Contract")	
3. I personally know the facts which I have set out in this declaration.	
4. All employees who have at any time been engaged by the Contractor for work done under the Contract:	
a) have been paid all remuneration and benefits to the date of this declaration payable to them by the Contractor in respect of their employment on work under the Contract, and	
b) have otherwise had accrued to their account all benefits to which they are entitled from the Contractor as at the date of this declaration in respect of their employment on work under the Contract pursuant to any award, enterprise agreement, act or regulation,	
with the exception of the employees and respective amounts unpaid or not accrued for each employee listed below:	
Employee:	Insert names and addresses of the unpaid employees, the amounts unpaid, and whether in respect of wages, allowances, holiday pay, long service leave payments and superannuation entitlement etc.
Amount unpaid or not accrued:	
.....	
.....	
5. Attached to and forming part of this declaration, as Annexure A, is a supporting statement for the purposes of section 13(7) of the Building and Construction Industry Security of Payment Act 1999 (NSW).	
6. In all cases where a subcontractor or supplier to the Contractor has provided services and/or materials in respect of the Contract and has submitted a claim to the Contractor for these services or materials which as at the date of this statutory declaration would have been due and payable but which the Contractor disputes, the reasons for such dispute have been notified in writing to the subcontractor or supplier by the Contractor prior to the date of this statutory declaration. Where such dispute relates to part only of the subcontractor or supplier's claim, that part of the claim not in dispute has been paid by the Contractor to the subcontractor or supplier as at the date of this statutory declaration except for the amounts listed in 5 above.	
7. The provisions of the Contract relating to the payment of employees, subcontractors and suppliers of the Contractor have been complied with by the Contractor.	
8. The Contractor has been informed by each subcontractor to the Contractor (except for subcontracts not exceeding \$25,000 at their commencement) by statutory declaration in equivalent terms to this declaration (made no earlier than the date 14 days before the date of this declaration):	
a) that their subcontracts with their subcontractors and suppliers comply with the requirements of the Contract relating to payment of employees and subcontractors, and	

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 (NSW). I am aware that I may be subject to punishment by law if I wilfully make a false statement in this declaration.

Declared at: on
(place) (day) (month) (year)

.....
(signature of Declarant)

in the presence of an authorised witness, who states:

I,
(Name of authorised witness)

(Please cross out any text that does not apply)

1. * I saw the face of the person.

OR

* I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering.

2. * I have known the person for at least 12 months.

OR

* I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was:
(describe identification document relied on)

.....
(signature of authorised witness)

.....
(date)

.....
(name of authorised witness)

.....
(Justice of the Peace / Solicitor of the Supreme Court of New South Wales)

[for other person legally authorised to administer an oath under the Oaths Act 1900 (NSW) or where the declaration is sworn outside the State of New South Wales, any person having authority to administer an oath in that place.

Authorised witness must print or stamp his or her full name, qualification and address before whom the declaration is made. JPs must include their registration number.]

Annexure A

Supporting statement by head contractor regarding payment to subcontractors

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this statement, the terms "principal", "head contractor", "subcontractor", and "construction contract" have the meanings given in section 4 of the *Building and Construction Industry Security of Payment Act 1999*.

Head contractor: [*business name of head contractor*]

ABN: [[*ABN*]

* 1. has entered into a contract with:[*business name of subcontractor*]

ABN: [*ABN*]

Contract number/identifier: [*contract number/identifier*]

OR

* 2. has entered into a contract with the subcontractors listed in the attachment to this statement.

* [*Delete whichever of the above does not apply*]

This statement applies for work between [*start date*] and [*end date*] inclusive (the construction work concerned), subject of the payment claim dated [*date*].

I,[*full name*], being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature:..... Date:

Full name: Position/Title:
.....

Attachment

Schedule of subcontractors paid all amounts due and payable				
Subcontractor	ABN	Contract number/ identifier	Date of works (period)	Date of payment claim (head contractor claim)

Schedule of subcontractors for which an amount is in dispute and has not been paid				
Subcontractor	ABN	Contract number / identifier	Date of works (period)	Date of payment claim (head contractor claim)

Annexure B

SUBCONTRACTOR'S STATEMENT

Note to the parties
 For the purpose of this Subcontractor's Statement:
 - "the subcontractor" is the Professional Services Contractor; and
 - "the principal contractor" is Transport for NSW

REGARDING WORKERS COMPENSATION, PAYROLL TAX AND REMUNERATION

(Note 1 - see back of form)

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

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

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

Subcontractor: ABN:

 (Business name)

of:

 (Address of subcontractor)

has entered into a contract with: ABN:
 (Business name of principal contractor) (Note 2)

Contract number/identifier: (Note 3)

This Statement applies for work between:/...../..... and/...../..... inclusive, (Note 4)

subject of the payment claim dated:/...../..... (Note 5)

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

- (a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [] and only complete (f) and (g) below. *You must tick one box.* (Note 6)
- (b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated/...../..... (Note 7)
- (c) All remuneration payable to relevant employees for work under the contract for the above period has been paid. (Note 8)
- (d) Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. (Note 9)
- (e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. (Note 10)

(f) Signature: Full Name:

(g) Position/Title Date / /

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

Notes

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

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called **the subcontractor**) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.

3. Provide the unique contract number, title, or other information that identifies the contract.

4. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

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

Section 127(11) of the *Industrial Relations Act 1996* states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'

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

Statement Retention

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

Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

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

In terms of s175B of the *Workers Compensation Act* and clause 18 of schedule 2 of the *Payroll Tax Act 2007*

a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

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

SCHEDULE 4 – FORM OF STATEMENT OF INTERESTS AND ASSOCIATIONS

This form is completed by the Professional Services Contractor when directed by the Principal as per clause 8.

Date:

Name:

Organisation:

To: Transport for NSW

[Principal]

In relation to: [name of project in full]

Declaration

I [insert full name] of

..... [insert business address]

agree and acknowledge that, except for the matters disclosed below:

- 1. To the best of my knowledge and belief, I do not have:
 - (a) any financial or other interest, either directly or indirectly in;
 - (b) any immediate family members (spouse, children, parents or siblings) or close friends with any financial or other interest in;
 - (c) any other interest or association, either directly or indirectly with,the entities listed below.

Disclosure

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)

(if further space is required please attach a signed separate letter)

I undertake to:

1. notify the Principal as soon as possible after I become aware of any matter which could affect the accuracy or completeness of the statements made in this deed or which would make them incorrect if this deed was given again; and
2. make a further updated declaration as soon as practicable.

I confirm that the statements set out in this deed are true and correct as at the date indicated below.

Executed as a Deed Poll

by the Recipient:

in the presence of:

Recipient

Witness

Name (please print)

Name (please print)

Date

Date

SCHEDULE 5
SCHEDULE 5.1– FIXED PRICE LUMP SUM FEE

REF	DESCRIPTION	Lump sum Amount AUD \$
A	PRELIMINARIES & GENERAL REQUIREMENTS	
A1	Preparation and ongoing updating of all Management Plans required under the Agreement (including TSRs)	
A2	Provision of insurances, fees and levies	
A3	Production and management of project schedule	
A4	Production of monthly reports and weekly reports	
A5	Project and Engineering Management	
A5.1	Project management	
A5.2	Engineering management	
A6	Interface management and Design Advised	
A7	Others - Contractor's Risk and Contingency Allowance	
A8	Update of Training Materials	
A9	Update of manual rules, review of inputs, supplementary control table info	
A10	Design Advisor for D&C Supplier	
A11	Training Participation	
B	PORTION 1	
B1	AMS data preparation management activities and deliverables for Portion 1 including approved data release notes, data installation form, data validation form, test certificates and obtain unconditional approval of CCB Gate 4.	
B2	Assurance activities and deliverables for Portion 1.	
B3	All relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 1.	
C	PORTION 2	
C1	AMS data preparation management activities and deliverables for Portion 2 including approved data release notes, data installation form, data validation form, test certificates and obtain unconditional approval of CCB Gate 4.	

REF	DESCRIPTION	Lump sum Amount AUD \$
C2	Assurance activities and deliverables for Portion 2.	
C3	All relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 2.	
D	PORTION 3	
D1	AMS data preparation management activities and deliverables for Portion 3 including approved data release notes, data installation form, data validation form, test certificates and obtain unconditional approval of CCB Gate 4.	
D2	Assurance activities and deliverables for Portion 3.	
D3	All relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 3.	
E	PORTION 4	
E1	AMS data preparation management activities and deliverables for Portion 4 including approved data release notes, data installation form, data validation form, test certificates and obtain unconditional approval of CCB Gate 4.	
E2	Assurance activities and deliverables for Portion 4.	
E3	All relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 4.	
F	PORTION 5	
F1	AMS data preparation management activities and deliverables for Portion 5 including approved data release notes, data installation form, data validation form, test certificates to obtain unconditional approval of CCB Gate 4.	
F2	Assurance activities and deliverables for Portion 5.	
F3	Unconditional approval of all relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 5.	
G	PORTION 6	
G1	AMS data preparation management activities and deliverables for Portion 6 including approved data release notes, data installation form, data validation form, test certificates to obtain unconditional approval of CCB Gate 4.	

REF	DESCRIPTION	Lump sum Amount AUD \$
G2	Assurance activities and deliverables for Portion 6.	
G3	Unconditional approval of all relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 6.	
H	PORTION 7	
H1	AMS data preparation management activities and deliverables for Portion 7 including approved data release notes, data installation form, data validation form, test certificates to obtain unconditional approval of CCB Gate 4.	
H2	Assurance activities and deliverables for Portion 7.	
H3	Unconditional approval of all relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 7.	
I	PORTION 8	
I1	AMS data preparation management activities and deliverables for Portion 8 including approved data release notes, data installation form, data validation form, test certificates to obtain unconditional approval of CCB Gate 4.	
I2	Assurance activities and deliverables for Portion 8.	
I3	Unconditional approval of all relevant supporting documents required for submission to CCB Gate 4 (data testing works) for Portion 8.	
J	PORTION 9	
J1	Provision of all completed handover documentation including as-builts and final assurance documentation required for submission to CCB Gate 5 for all above portions.	
K	PORTION 10 - Training of TfNSW Personnel	
K1	Data Design Training, Competency Assessment and Mentorship of eight (8) nos. personnel nominated by TfNSW as detailed in Section 3.8 of the Services Brief.	
L	Office Accommodation	
L1	IT setup including but not limited to: a) Network cabling & port activation;	



	b) Laptop setup & provision for 13 x TfNSW / Sydney Trains resources; c) VPN setup for 13 x TfNSW / Sydney Train resources; and Account setup 8 x TfNSW / Sydney Train resources.	
	Less <input type="text"/> % discount on Items A to J	<input type="text"/>
	TOTAL LUMP SUM PRICE (A+B+C+D+E+F+H+I+J+K) less discount	\$ 6,310,735.64

SCHEDULE 5.2 COST REIMBURSEABLE ITEMS

REF	DESCRIPTION	Unit	Qty	Amount AUD \$
L	Office Accommodation			
L2	998 m ² Of Office Accommodation at Level 2, 16 Giffnock Ave, Macquarie Park, including parking (Co-Location Premises).	Month	6	
L3	All outgoings for Co-Location Premises and the building facilities, including but not limited to provision of desk, chairs, printers, internet, landline phone, electricity, water, cleaning, tea & coffee making facility and reception.	Month	6	
L4	Relocation of Alstom resources to Level 2 and return to Level 4	Lump Sum	1	

Note:

- (a) **"Co-Location Period"** means the period commencing on the Commencement Date and ending on the latter of:
- (i) the day that is 176 days after the Commencement Date; and
 - (ii) the date that the Principal vacates the Co-Location Premises.
- (b) Each payment claim which includes a claim in respect of any of items L2, L3 or L4 in Schedule 5.2 must include evidence (including invoices) satisfactory to the Principal's Representative of the cost claimed by the Professional Services Contractor.

SCHEDULE 6 – RATES FOR VALUATION OF VARIATIONS

(clause 16.3)

Subject to the next paragraph, the rates below are fixed for the duration of this Agreement, not subject to rise and fall, and **include preliminaries, profit and Overhead Costs, but exclude GST.**

If the Date for Completion of the Services or any Portion is extended by the Principal's Representative under clause 18.5, on 4 June 2019 and on each subsequent anniversary of that date, the rates below will be adjusted as follows:

New rate = existing rate + (existing rate x the increase in the Consumer Price Index for Sydney All Groups ("CPI") as last published by the Australian Bureau of Statistics for the previous year).

Fees will be paid on an hourly rates basis with a maximum daily fee for each person of 8 hours multiplied by the person's (or role's) hourly rate.

Role	Hourly Rate \$A (excl. GST, incl. OH&P)	Capped Daily Rate \$A (excl. GST, incl. OH&P)
Project Management which includes all of the following roles at their relevant percentages: <ul style="list-style-type: none"> • Project Manager at <input type="text"/> %; • Contract Manager at <input type="text"/> %; • Planner at <input type="text"/> % • Quality Manager at <input type="text"/> % • Finance Controller at <input type="text"/> % • Project Assistant at <input type="text"/> % 		
Design Manager		
Data Preparation Engineer		
Data Validation Engineer		
Data Preparation Manager		
System Assurance		
Data Validation Manager		
Independent Professional Reviewer		
Data programming support		
Interface Manager		
NIT support		

SCHEDULE 7 – OPTIONS

(Clause 16.5)

Not used.

SCHEDULE 8 – PROFESSIONAL SERVICES CONTRACTOR’S CERTIFICATE OF COMPLETION

(Definition of "Completion" in Clause 1 and Clause 18.6(c))

PROFESSIONAL SERVICES CONTRACTOR'S CERTIFICATE OF COMPLETION	
PROFESSIONAL SERVICES CONTRACTOR:	
Description of Portion or Services: _____ _____ _____	
I certify that the Completion of the above Portion / the Services has / have been achieved in accordance with the requirements of the Agreement between the Principal and _____, subject to the register of unresolved issues attached.	
I further certify that: (a) All Variations (including concessions) are listed in the attached compliance register. (b) All Defects have been satisfactorily rectified and their documentation closed out. (c) All required documentation has been submitted. (d) All notices regarding system deficiencies have been satisfactorily closed out.	
I further certify that the attached compliance records as required by the Contract reflect the true status of the Portion / the Services.	
SIGNATURE: _____ SIGNATURE: _____ <i>(Professional Services Contractor's Representative)</i>	
DATE: _____	

SCHEDULE 9 – DEED OF NOVATION

(Clause 32(c))

[Refer to notes under clause 32]

Deed of Novation

[
ABN []]

[
ABN []]

[
ABN []]

Deed of Novation made at _____ on _____

Parties *[insert name]* ABN *[insert]* of *[insert]* (**Retiring Party**)
 [insert name] ABN *[insert]* of *[insert]* (**Continuing Party**)
 [insert name] ABN *[insert]* of *[insert]* (**Substitute Party**)

Recitals

- A The Retiring Party and the Continuing Party are parties to the Contract.
- B The Retiring Party and the Substitute Party have asked the Continuing Party to agree to the novation of the Contract on the terms and conditions of this deed.
- C The Continuing Party has agreed to the novation of the Contract on the terms and conditions of this deed.

This deed provides

Definitions and interpretation

1.1 Definitions

Defined terms in the Contract have the same meanings in this deed, unless the contrary intention appears.

In this deed:

"Claim" means any claim, notice, demand, action, proceeding, litigation, investigation or judgment whether based in contract, tort, statute or otherwise.

"Contract" means the agreement between the Retiring Party and the Continuing Party described in the Schedule.

"Effective Date" means *[insert date]*.

"GST" means the Goods and Services Tax as defined in the A New Tax System (Goods and Services) Act 1999 (Cth.).

"Liability" means all liabilities, losses, Claims, damages, outgoings, costs and expenses of whatever description.

"Related Entity" has the meaning ascribed to that term in section 9 of the Corporations Act 2001 (Cth).

1.2 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (c) **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) **includes** in any form is not a word of limitation; and
- (k) a reference to **\$** or **dollar** is to Australian currency.

Condition Precedent to Novation

Clause 3 of this deed will have no force and effect until the Effective Date.

Novation

3.1 Novation

- (a) The parties novate the Contract so that the Substitute Party and the Continuing Party are parties to a new agreement on the same terms as the Contract.
- (b) Any reference in the Contract to the Retiring Party will be read as a reference to the Substitute Party.

3.2 Assumptions of rights and obligations

- (a) The Substitute Party:
 - (i) will be bound by and must comply with the terms of the Contract and will enjoy the rights and benefits conferred on the Retiring Party under the Contract; and
 - (ii) will assume the obligations and Liability of the Retiring Party under the Contract,in all respects as if the Substitute Party had originally been named in the Contract as a party instead of the Retiring Party.
- (b) The Continuing Party will comply with the terms of the Contract on the basis that the Substitute Party has replaced the Retiring Party under the Contract in accordance with this deed.

3.3 Release by Continuing Party

- (a) The Continuing Party releases the Retiring Party from:

- (i) any obligation or Liability under or in respect of the Contract; and
 - (ii) any action, claim and demand it has against the Retiring Party under or in respect of the Contract.
- (b) This release does not affect any rights the Continuing Party may have against the Substitute Party as a result of the assumption by the Substitute Party under the terms of this deed of the obligations and Liability of the Retiring Party under the Contract.

3.4 Insurance

As from the Effective Date:

- (a) the Substitute Party must replace any insurances effected and maintained by the Retiring Party under the terms of the Contract; and
- (b) the Continuing Party will take the necessary steps to ensure that, for all insurances required to be effected by the Continuing Party under of the terms of the Contract, the Substitute Party is named in place of the Retiring Party as required by the Contract.

Ongoing Rights of Retiring Party

4.1 Direct Enquiries

In addition to any other rights which the Retiring Party may have, the Continuing Party and the Substitute Party each agree that the Retiring Party may make enquiries directly of the Continuing Party for the purpose of establishing whether the Continuing Party is complying with its obligations under the Contract.

4.2 Retiring Party to have benefit of Promises

- (a) The Continuing Party warrants in favour of the Retiring Party that in performing the Services it will comply with its obligations under the Contract and that the Retiring Party will continue to have the benefit of all promises, undertakings, covenants and warranties made or given by the Continuing Party under the Contract as if the Retiring Party remained a party to the Contract
- (b) Without limiting the above, the Continuing Party undertakes to the Retiring Party that it will exercise all reasonable skill, care and diligence in performing the Services including in issuing any certificates it is required to issue under the Contract and further acknowledges that the Retiring Party will be relying upon the skill and judgment of the Continuing Party in issuing those certificates and acknowledges that:
 - (i) in performing the Services it will owe a duty of care to the Retiring Party; and
 - (ii) it is aware that the Retiring Party will be relying upon the skill and judgment of the Continuing Party in performing the Services and the warranties given by the Continuing Party in this deed.

4.3 Report by Continuing Party

The Continuing Party undertakes to the Retiring Party that it will exercise all reasonable skill, care and diligence to ensure that the design intent of the Works as contained in the Design Documentation in existence at the date of execution of this deed, is reflected in the completion of the Design Documentation and in the execution of the Works.

Without limiting the above, the Continuing Party must conduct such inspections of the Works at such times and in such detail as may reasonably be expected of a consultant engaged in a project of the size and complexity of the Works.

The Continuing Party must act in good faith and in the best interests of the Retiring Party and promptly advise the Retiring Party about any matter in which the Continuing Party has been instructed by the Substitute Party to provide the Services in a manner which is, or may result in an outcome which is, not in accordance with the requirements of the Contract, including:

- (a) any instruction or direction which it receives, or any work or services it becomes aware of, which in the reasonable opinion of the Continuing Party, is not in accordance with any provision of the Contract including where the Substitute Party's instructions:
 - (i) in relation to design are not consistent with the Contract or may result in the Works to be constructed not being fit for their intended purpose; or
 - (ii) require the Continuing Party to issue a certificate under the Contract where the conditions for the issue of that certificate under the Contract have not been satisfied; and
- (b) any non-conformity of any Design Documentation produced pursuant to the Contract, or to the Design Documentation in existence at the date of this deed, upon becoming aware of the non-conformity.

Overriding effect

The parties agree that the execution and operation of this deed will for all purposes be regarded as due and complete compliance with the terms of the Contract relating to any requirement for consent to assignment of the Contract so far as any such provisions would apply with respect to the novation of the Contract to the Substitute Party.

Representations and warranties

6.1 Authority

Each party represents and warrants to each other party that it has full power and authority to enter into and perform its obligations under this deed.

6.2 Authorisations

Each party represents and warrants to each other party that it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms.

6.3 Binding obligations

Each party represents and warrants to each other party that this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

Duties, costs and expenses

7.1 Stamp duty

The Substitute Party must pay all stamp duty, duties or other taxes of a similar nature (including but not limited to any fines, penalties and interest) in connection with this deed or any transaction contemplated by this deed (except to the extent the terms of the Contract provide otherwise).

7.2 Costs

Each Party must pay its own legal costs and expenses in negotiating, preparing and executing this deed.

7.3 GST

The parties agree that:

- (a) with any payment of amounts payable under or in connection with this deed including without limitation, by way of indemnity, reimbursement or otherwise, the party paying the amount must also pay any GST in respect of the taxable supply to which the amount relates;
- (b) the party receiving the payment will provide a tax invoice; and
- (c) the payment of any amount referred to in paragraph (a) which is a reimbursement or indemnification of a cost, expense, loss or liability will exclude any part of the amount for which the other party can claim an input tax credit.

General

8.1 Governing law

This deed is governed by and must be construed according to the laws of the State or Territory stated in Schedule 1.

8.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of the State or Territory stated in Schedule 1, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 8.2(a).

8.3 Amendments

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

8.4 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed operates as a waiver of any other breach of that term or of a breach of any other term of this deed.

8.5 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

8.6 Severance

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

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or

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

8.7 Further acts and documents

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

8.8 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior consent of each other party.

Schedule 1

Contract
(Clause 1.1)

.....
.....

Governing Law and Jurisdiction
(Clause 1.1 and 8.1)

.....
.....

Executed as a deed.

[Insert names of parties]

SCHEDULE 10 – EXPERT DETERMINATION AGREEMENT

Expert Determination Agreement

[Insert name of Principal]

Principal

[Insert name of Professional Services Contractor]

Contractor

[Insert name of Expert]

Expert

Expert Determination Agreement made at **on**

Parties **[Insert name and address of Principal] ("Principal")**

[Insert name and address of Professional Services Contractor] ("Professional Services Contractor")

[Insert name and address of Expert agreed between the Parties or appointed pursuant to clause [to be inserted] of the PSC Contract] ("Expert")

Recitals

- A. The Principal and the Professional Services Contractor (together "**the Parties**" and each "**a Party**") are parties to a contract (the "**PSC Contract**") for **[to be inserted]**.
- B. By written notice dated **[to be inserted]**, the **[insert Principal or Professional Services Contractor as applicable]** has required that the matter described in Schedule 1, being a matter that the PSC Contract requires or permits to be referred to an Expert for determination, be determined by an Expert appointed under clause 19.3 of the PSC Contract (the "**Matter**").
- C. Pursuant to clause 19.3 of the PSC Contract, the Expert has been appointed to determine the Matter in accordance with the process set out in this Agreement.

Operative part**1. APPOINTMENT OF EXPERT**

- (a) The Parties appoint the Expert to determine the Matter in the manner and within the times set out in this Agreement and the Expert accepts the appointment on the basis set out in this Agreement.
- (b) The Parties agree that:
- (i) the Expert will act as an expert and not as an arbitrator;
- (ii) neither the determination of the Matter, nor the process required by this Agreement is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
- (iii) the rules of evidence and natural justice do not apply to the determination; and
- (iv) the Expert must conduct the determination of the Matter in accordance with the Rules for Expert Determination Process set out in Schedule 2.
- (c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the

Parties immediately and, unless the Parties agree otherwise, terminate this Agreement.

2. CONFIDENTIALITY

All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any other person, except with the prior written consent of both Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.

3. COSTS AND FEES

- (a) As between the Parties and the Expert, the Parties are jointly and severally liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Schedule 3. The Parties agree to comply with any direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.
- (b) The Parties agree as between themselves that:
 - (i) they will each pay one half of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Schedule 3; and
 - (ii) they will each bear their own costs of and incidental to the preparation of this Agreement and their participation in the determination.

4. EXCLUSION OF LIABILITY AND INDEMNITY

Except in the case of fraud, the Expert will not be liable to either Party for any act or omission by the Expert in the performance or purported performance of this Agreement. The Parties jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this Agreement.

5. CO-OPERATION OF THE PARTIES

Each Party agrees to take part in the determination in good faith and to comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination.

6. GOVERNING LAW

This Agreement is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

7. JURISDICTION

- (a) The Parties and the Expert irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the courts to which the appeals from those courts may be made.

- (b) The Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within clause 7(a).



Schedule 1 - The Matter

[To be inserted when it comes time for expert determination]

Schedule 2 - Rules for Expert Determination Process**1. Commencement**

Except as provided in clause 4.3 of these Rules, the expert determination process begins when the Expert accepts an appointment to determine the Matter in accordance with these Rules and the Code of Conduct appended to these Rules.

2. Written Submissions

2.1 Within 7 days after the date this process begins, Party A (i.e. the Party who gave notice of dispute under clause 19.1 of the PSC Contract) must, in addition to any particulars provided by Party A under clause 19.1 of the PSC Contract, give the other Party and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.

2.2 Within 7 days after the statement in clause 2.1 is served, the other Party must give Party A and the Expert a written response to Party A's submissions.

2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Party's response in clause 2.2 within the time allowed by the Expert.

2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.

3. Conference

3.1 The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the Parties agree otherwise, the conference will be held in Sydney.

3.2 At least 14 days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.

3.3 The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under clause 3.2, the Expert and the other Party may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the Expert determination process.

3.4 The Parties:

- (a) may be accompanied at a conference by legal or other advisers; and
- (b) will be bound by any procedural directions as may be given by the Expert in relation to the conference both before and during the course of the conference.

3.5 The conference must be held in private.

3.6 If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties.

4. General

- 4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with the PSC Contract.
- 4.2 All proceedings and submissions relating to the Expert determination process must be kept confidential except:
- (a) with the prior consent of the Parties;
 - (b) as may be required by law; or
 - (c) as may be required in order to enforce the determination of the Expert.
- 4.3 The Expert must:
- (a) inform the Parties of:
 - (i) any relationship or interest with the Parties or their respective officers, employees, contractors, consultants or agents;
 - (ii) any interest the Expert has in the matters in dispute; and
 - (iii) any circumstance which might reasonably be considered to adversely affect the expert's capacity to act independently or impartially,immediately upon becoming aware of any such circumstances; and
 - (b) upon making any disclosure under this clause 4.3, unless and until the Parties agree otherwise terminate the proceedings.

5. The Determination

- 5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 90 days after the Expert's acceptance of appointment, the Expert must:
- (a) determine the Matter between the Parties; and
 - (b) notify the Parties of that determination.
- 5.2 The determination of the Expert must:
- (a) be in writing stating the Expert's determination and giving reasons;
 - (b) be made on the basis of the submissions (if any) of the parties, the conference (if any) and the Expert's own expertise; and
 - (c) meet the requirements of the PSC Contract.
- 5.3 Subject to clause 5.4, to the extent permitted by law, the Expert's determination will be final and binding on the Parties in the circumstances set out in clause 19.3(c) of the PSC Contract.

5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

6. Costs

Security for costs must be deposited by both Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.

7. Modification

These rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

APPENDIX 1 TO RULES FOR EXPERT DETERMINATION PROCESS**Code of Conduct for an Expert**

1. The function of the Expert is to make a determination of the Matter in accordance with the PSC Contract and the Expert Determination Agreement, including the Rules and this Code of Conduct.
2. The Expert must receive the written submissions and responses of the Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Matter.
3. The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
4. The Expert must disclose to both Parties all information and documents received.
5. If a Party fails to make a written submission, the Expert may continue with the process.
6. Subject to clause 3.3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of both Parties.

Schedule 3 - The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]



Signed as an agreement.

Signed for and on behalf of the Principal by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the
Professional Services Contractor by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed by the Expert **[insert name]** in the
presence of:

[Signature]

[Name of witness]

[Signature of witness]

SCHEDULE 11- NOT USED



SCHEDULE 12 – COMMON DISPUTES DEED

Common Disputes Deed

Transport for NSW

UGL Engineering Pty Limited ABN 96 096 365 972

(From the Accession Date) the person who accedes to this deed under clause 2 (Professional Services Contractor)

Table of Contents

1.	DEFINITIONS AND INTERPRETATION	95
1.1	Definitions	95
1.2	Interpretation	95
2.	ACCESSION BY PROFESSIONAL SERVICES CONTRACTOR.....	96
3.	COMMON DISPUTES	97
4.	DISPUTE RESOLUTION.....	97
4.1	Notice of Common Dispute	97
4.2	Resolution Procedures	97
4.3	Negotiation	98
4.4	Expert Determination	98
4.5	The Expert	98
4.6	Rules of Expert Determination	99
4.7	Agreement with Expert	99
4.8	Determination of Expert	99
4.9	Arbitration	100
5.	GOVERNING LAW	100
6.	JURISDICTION	100
	SCHEDULE 1 - EXPERT AGREEMENT	95
	ANNEXURE A - THE MATTER	105
	ANNEXURE B - RULES FOR EXPERT DETERMINATION PROCESS	106
	APPENDIX 1 TO RULES FOR EXPERT DETERMINATION PROCESS	109
	ANNEXURE C - THE EXPERT'S FEES AND DISBURSEMENTS	110
	SCHEDULE 2 - FORM OF ACCESSION DEED.....	114

Date	
Parties	
1.	Transport for NSW (ABN 18 804 239 602), a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (the Principal);
2.	(From the Accession Date) the person who accedes to this deed under clause 2, being the person defined as the "Acceding Party" in the Accession Deed that the Principal requires the D&C Contractor to execute under clause 2 (the Professional Services Contractor);
3.	UGL Engineering Pty Limited (ABN 96 096 365 972) of Level 8, 40 Miller Street, North Sydney NSW 2060 (the D&C Contractor),
	each a Party and together the Parties .
Recitals	
A	The Principal and the D&C Contractor have entered into the D&C Contract.
B	The Principal and the Professional Services Contractor have entered into the Professional Services Contract.
C	The works to be carried out by the D&C Contractor under the D&C Contract interface with the services to be carried out by the Professional Services Contractor under the Professional Services Contract.
D	The terms of this deed will apply to Common Disputes where TfNSW so elects under each of the D&C Contract and the Professional Services Contract.

It is agreed as follows.

1. Definitions and Interpretation

1.1 Definitions

Accession Deed means the deed in substantially the same form as Schedule 2 (with relevant details duly completed) which is to be executed by the Professional Services Contractor, the Principal and the D&C Contractor in accordance with clause 2.

Common Dispute means a dispute between the Principal, D&C Contractor or the Professional Services Contractor

- (a) which arises under or in connection with the D&C Contract, which touches upon or concerns the Professional Services Contract or where a like dispute arises in connection with the Professional Services Contract; or
- (b) which arises under or in connection with the Professional Services Contract, which touches upon or concerns the D&C Contract or where a like dispute arises in connection with the D&C Contract.

D&C Contract means the contract for the design and construction of ATP Areas 4 and 5 Trackside (which include design, construction, installation and commissioning of automatic train protection trackside equipment in the Contract Area) between the Principal to the D&C Contractor.

Executive Negotiator means:

- (a) in the case of the Principal, Murray McArdle, Director Commercial;
- (b) in the case of the D&C Contractor, the person stated in the Accession Deed as the Executive Negotiator; and
- (c) in the case of the Professional Services Contractor,

or any other person appointed by a Party as its Executive Negotiator and of whose appointment the other Parties have been notified.

Principal's Representative means the "Principal's Representative" as defined under the D&C Contract or Professional Services Contract (as applicable).

Professional Services Contract means the contract between the Principal and the Professional Services Contractor for the provision of services in relation to ATP Areas 4 and 5 Trackside and which contract is anticipated to be awarded by the Principal to the Professional Services Contractor after the date of this deed.

1.2 Interpretation

In this deed unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;

- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any Party to this deed includes that Party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to this deed or to any other deed, agreement, document or instrument is deemed to include a reference to this deed or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (e) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (f) headings are for convenience only and do not affect the interpretation of this deed;
- (g) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (h) no rule of construction applies to the disadvantage of a Party on the basis that the Party put forward or drafted this deed or any part.

2. Accession by Professional Services Contractor

- (a) The D&C Contractor must, upon being requested by the Principal, execute three counterparts of the Accession Deed in accordance with the Principal's instructions and provide such copies to the Principal, notwithstanding that the counterparts of the Accession Deed may not have been signed by the Principal or the Principal Services Contractor.
- (b) The D&C Contractor may not object to the identity of the person selected by the Principal to be the Professional Services Contractor.
- (c) The rights and obligations of the Professional Services Contractor and the obligations owed to the Professional Services Contractor under this deed will only become effective upon the accession of the Professional Services Contractor to this deed in accordance with this clause 2 and the executed Accession Deed.
- (d) Upon accession of the Professional Services Contractor to this deed as referred to in clause 2 the rights and liabilities of the parties to this deed will be as set out in this deed as amended in accordance with the requirements of the Accession Deed.
- (e) The Principal will provide the D&C Contractor with a copy of the Accession Deed duly executed by the Principal and the Professional Services Contractor, after it has been executed by the Principal and the Professional Services Contractor.
- (f) The D&C Contractor acknowledges that the Professional Services Contract does not exist at the date of this deed, and agrees that it may not object to the

content of the Professional Services Contract as may be agreed between the Principal and the Professional Services Contractor. The D&C Contractor agrees to be bound to this deed despite the fact that the Professional Services Contract will be signed after the date of this deed and may not raise any claim in connection with the non-existence of the Professional Services Contract as at the date of this deed.

3. Common Disputes

If the Principal has provided the notices required under clause 4.1 of this deed, the Parties agree to resolve or determine Common Disputes via the procedures in this deed and not via the D&C Contract, the Professional Services Contract, or otherwise.

4. Dispute resolution

4.1 Notice of Common Dispute

If the Principal wishes this deed to apply, it must provide:

- (a) a notice to the D&C Contractor stating that this deed will apply in respect of a Common Dispute; and
- (b) a notice to the Professional Services Contractor under clause 19.6 of the Professional Services Contract,

(Notice of Common Dispute).

4.2 Resolution Procedures

- (a) If the Principal has provided a Notice of Common Dispute to each other Party, then:
 - (i) any of the Parties seeking to resolve the Common Dispute must do so in accordance with the procedures set out in this clause 4 (the **Dispute Resolution Procedures**); and
 - (ii) compliance with the Dispute Resolution Procedures is a condition precedent to any entitlement to claim relief or remedy (whether by way of proceedings in a court or otherwise) in respect of any Common Dispute.
- (b) Nothing in this clause 4 prevents:
 - (i) any of the Parties seeking urgent injunctive or declaratory relief from a court in connection with the Common Dispute without first having to attempt to negotiate and determine the Common Dispute in accordance with this clause 4; or
 - (ii) the Parties meeting at any time to seek to resolve the Common Dispute.

- (c) The Parties' obligations under the D&C Contract and the Professional Services Contract (as applicable) will continue despite the existence of a Common Dispute between the Parties.

4.3 Negotiation

- (a) Promptly after the date of receipt by the other Parties of the Notice of Common Dispute (the **Notice Date**), the Parties must meet to discuss and attempt to resolve the Common Dispute.
- (b) If the Common Dispute is not resolved within 14 days of the Notice Date (the **Referral Date**) any Party may by notice in writing refer the Common Dispute to the Executive Negotiators who must:
 - (i) meet and undertake genuine and good faith negotiations with a view to:
 - A. clarifying and narrowing the issues in dispute; and
 - B. resolving the Common Dispute; and
 - (ii) if they cannot resolve the Common Dispute, endeavour to agree upon a procedure to resolve the Common Dispute.
- (c) If appropriate in the circumstances, at or prior to the meeting referred to in clause 4.3(b) the Parties will exchange documents critical to the resolution of the Common Dispute.

4.4 Expert Determination

- (a) If a Dispute is referred for resolution under clause 4.3(b) and it is not resolved within 21 days after the Referral Date, the Common Dispute must be submitted to an expert determination.
- (b) The Common Dispute will be referred to an expert determination whether or not the Executive Negotiators have complied with clause 4.3(b).

4.5 The Expert

The expert determination under clause 4.4 is to be conducted by:

- (a) an independent industry expert agreed by the Parties; or
- (b) where:
 - (i) the Parties are unable to agree upon an independent industry expert within 42 days after the Referral Date; or
 - (ii) an independent industry expert appointed under this clause 4.5:
 - A. is unavailable;
 - B. declines to act;

- C. does not respond within 14 days to a request by one or more Parties for advice as to whether he or she is able to conduct the determination; or
- D. does not make a determination within the time required by clause 4.6(e),

an independent industry expert appointed by the Chair of the Resolution Institute.

4.6 Rules of Expert Determination

- (a) An expert determination conducted under this clause 4 is not an arbitration and the expert is not an arbitrator. The expert may reach a decision from his or her own knowledge and expertise.
- (b) The expert determination must be made in accordance with the rules for the expert determination process which appears in Schedule 1 or such other rules as the Parties and the expert may agree.
- (c) The expert must:
 - (i) disclose to the Parties any interest he or she has in the outcome of the determination; and
 - (ii) not communicate with one Party to the determination without the knowledge of the other.
- (d) Each Party will bear its own costs in respect of any expert determination of a Common Dispute.
- (e) Unless otherwise agreed between the Parties, the expert must notify the Parties of his or her decision upon an expert determination conducted under this deed within the period set out in the agreement between the Parties and the expert.

4.7 Agreement with Expert

- (a) The expert will not be liable to the Parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud.
- (b) The Parties must enter into an agreement with the appointed expert on the terms set out in Schedule 1 or such other terms as the Parties and the expert may agree.

4.8 Determination of Expert

The determination of the expert:

- (a) must be given to the Parties in writing;
 - (i) will be:

- A. substituted for the relevant direction of the Principal's Representative (if applicable); and
 - B. final and binding,

unless a Party gives a notice of appeal to the other Parties within 21 days of receipt of the determination; and
 - (ii) is to be given effect to by the Parties unless and until it is reversed, overturned or otherwise changed by way of arbitration under clause 4.9.
- (b) Where a Party gives a notice of appeal under this clause 4.8, any Party may refer the Common Dispute to arbitration under clause 4.9.

4.9 Arbitration

- (a) Any Dispute which is referred to arbitration will be conducted before a person to be:
 - (i) agreed between the Parties; or
 - (ii) failing agreement within 21 days after the Common Dispute has been referred to arbitration, appointed by the Chair of the Resolution Institute.
- (b) To the extent that they are not inconsistent with this deed, the Resolution Institute Arbitration Rules will apply to the arbitration.
- (c) The seat of the arbitration will be Sydney, Australia.
- (d) The arbitrator will have power to grant all legal, equitable and statutory remedies and, subject to clause 4.8, to open up, review and substitute any decision of the expert under clause 4.8 that is not final and binding on the Parties pursuant to clause 4.8(b).
- (e) Notwithstanding anything else, to the extent permissible by law, the arbitrator will have no power to apply or to have regard to the provisions of Part 4 of the *Civil Liability Act 2002 (NSW)*.

5. Governing Law

This deed is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

6. Jurisdiction

- (a) The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the courts to which the appeals from those courts may be made with respect to any arbitration or proceedings that are permitted to be brought at any time under clause 4.2(b)(i).
- (b) The Parties irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future

have that any proceedings has been brought in an inconvenient forum, where that venue falls within clause 6(a).

Schedule 1 - Expert Agreement

Expert Determination Agreement made at _____ on _____

Parties **Transport for NSW (ABN 18 804 239 602)** a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (**Principal**)

[Insert name and address of D&C Contractor] (D&C Contractor)

Alstom Transport Australia Pty Ltd (ABN 68 165 157 451) of 16 Giffnock Avenue, North Ryde, NSW 2113 (**Professional Services Contractor**)

[Insert name and address of Expert] (Expert)

Background

- A. The Principal, the D&C Contractor and the Professional Services Contractor (together "**the Parties**" and each "**a Party**") are Parties to a deed regarding the resolution of common disputes (**Contract**).
- B. By written notice dated *[to be inserted]*, the *[insert Party as applicable]* has required that the matter described in Annexure A, being a matter that the Contract requires or permits to be referred to an Expert for determination, be determined by an Expert appointed under clause 4.5 of the Contract (**Matter**).
- C. Pursuant to clause 4.5 of the Contract, the Expert has been appointed to determine the Matter in accordance with the process set out in this Agreement.

Operative part

1. Appointment of Expert

- (a) The Parties appoint the Expert to determine the Matter in the manner and within the times set out in this Deed and the Expert accepts the appointment on the basis set out in this Deed.
- (b) The Parties agree that:
 - (i) the Expert will act as an expert and not as an arbitrator;
 - (ii) neither the determination of the Matter, nor the process required by this Deed is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
 - (iii) the rules of evidence and natural justice do not apply to the determination; and

- (iv) the Expert must conduct the determination of the Matter in accordance with the Rules for Expert Determination Process set out in Annexure B;
- (c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Parties immediately and, unless the Parties agree otherwise, terminate this Deed.

2. Confidentiality

All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any other person, except with the prior written consent of all Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.

3. Costs and Fees

- (a) As between the Parties and the Expert only (and without limiting or otherwise restricting clause 4.6(d) of the Contract), the Principal is liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure C. The Principal agrees to comply with any direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.
- (b) The Parties agree as between themselves that they will each bear their own costs of and incidental to the preparation of this Deed and their participation in the determination.

4. Exclusion of Liability and Indemnity

Except in the case of fraud, the Expert will not be liable to any Party for any act or omission by the Expert in the performance or purported performance of this Deed. The Parties jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this Deed.

5. Co-operation of the Parties

Each Party agrees to take part in the determination in good faith and to comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination.

6. Governing Law

This deed is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

7. Jurisdiction

- (a) The Parties and the Expert irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the New South Wales courts to which the appeals from those courts may be made.
- (b) The Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within clause 7(a).

Annexure A - The Matter

[To be inserted when it comes time for expert determination]

Annexure B - Rules for Expert Determination Process**1. Commencement**

- 1.1 Except as provided in clause 4.3 of these Rules, the expert determination process begins when the Expert accepts an appointment to determine the Matter in accordance with these Rules and the Code of Conduct appended to these Rules.

2. Written Submissions

- 2.1 Within 7 days after the date this process begins, Party A (ie the Party that initiated the dispute) must give the other Parties and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.
- 2.2 Within 7 days after the statement in clause 2.1 is served, the other Parties must give Party A and the Expert a written response to Party A's submissions.
- 2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Parties' responses in clause 2.2 within the time allowed by the Expert.
- 2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.

3. Conference

- 3.1 The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the Parties agree otherwise, the conference will be held in Sydney.
- 3.2 At least 14 days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.
- 3.3 The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under clause 3.2, the Expert and the other Parties may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the Expert determination process.
- 3.4 The Parties:
- (a) may be accompanied at a conference by legal or other advisers; and
 - (b) will be bound by any procedural directions as may be given by the Expert in relation to the conference both before and during the course of the conference.
- 3.5 The conference must be held in private.
- 3.6 If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties.

4. General

- 4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with the Contract.
- 4.2 All proceedings and submissions relating to the Expert determination process must be kept confidential except:
- (a) with the prior consent of the Parties;
 - (b) as may be required by law; or
 - (c) as may be required in order to enforce the determination of the Expert.
- 4.3 The Expert must:
- (a) inform the Parties of:
 - (i) any relationship or interest with the Parties or their respective officers, employees, contractors, consultants or agents;
 - (ii) any interest the Expert has in the matters in dispute; and
 - (iii) any circumstance which might reasonably be considered to adversely affect the expert's capacity to act independently or impartially,
 - (iv) immediately upon becoming aware of any such circumstances; and
 - (b) upon making any disclosure under this clause 4.3, unless and until the Parties agree otherwise terminate the proceedings.

5. The Determination

- 5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 90 days after the Expert's acceptance of appointment, the Expert must:
- (a) determine the Matter between the Parties; and
 - (b) notify the Parties of that determination.
- 5.2 The determination of the Expert must:
- (a) be in writing stating the Expert's determination and giving reasons;
 - (b) be made on the basis of the submissions (if any) of the Parties, the conference (if any) and the Expert's own expertise; and
 - (c) meet the requirements of the Contract.
- 5.3 Subject to clause 5.4, to the extent permitted by law, the Expert's determination will be final and binding on the Parties unless a notice of appeal is given in accordance with clause 4.8 of the Contract.

5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

6. Costs

6.1 Security for costs must be deposited by all Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.

7. Modification

7.1 These rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

Appendix 1 to Rules for Expert Determination Process**Code of Conduct for an Expert**

1. The function of the Expert is to make a determination of the Matter in accordance with the Contract and the Expert Determination Agreement, including the Rules and this Code of Conduct.
2. The Expert must receive the written submissions and responses of the Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Matter.
3. The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
4. The Expert must disclose to all Parties all information and documents received.
5. If a Party fails to make a written submission, the Expert may continue with the process.
6. Subject to clause 3.3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of all Parties.

Annexure C - The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]

Signed as an agreement.

Signed for and on behalf of the Principal by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the D&C
Contractor by *[insert name]* in the
presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the
Professional Services Contractor by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]



Signed by the Expert *[insert name]* in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Schedule 2 - Form of Accession Deed

This Accession Deed made at _____ on _____

Parties **Transport for NSW (ABN 18 804 239 602)** a New South Wales Government agency constituted under section 3C of the *Transport Administration Act 1988* (NSW) of Level 5, Zenith Centre, Tower A 821 Pacific Highway Chatswood NSW 2067 (**TfNSW**)

UGL Engineering Pty Limited (ABN 96 096 365 972) of Level 8, 40 Miller Street North Sydney NSW 2060 (the **D&C Contractor**)

(together the **Continuing Parties**)

Alstom Transport Australia Pty Ltd (ABN 68 165 157 451) of 16 Giffnock Avenue, North Ryde, NSW 2113

(**Acceding Party**)

Background

- A. The Continuing Parties are each party to the Common Disputes Deed.
- B. Each of the Continuing Parties and the Acceding Party has agreed that the Acceding Party will accede to the Common Disputes Deed on or about the date of execution of the D&C Contract, on the terms of this deed.
- C. The Continuing Parties and the Acceding Party have agreed to amend the Common Disputes Deed on the terms set out in this deed.

This deed provides

1. Definitions and interpretation

1.1 Definitions

In this deed:

Accession Deed means this deed.

Effective Date means the date of this deed.

Common Disputes Deed means the deed titled "Common Disputes Deed" which was originally entered into between the Continuing Parties on **21 March 2018**.

Professional Services Contractor means the entity or person that enters into the Professional Services Contract with TfNSW.

Professional Services Contract means the agreement entitled **ISD-17-6378 Advanced train Control Migration System (AMS) Trackside Areas 4 and 5 Data Design** entered into between TfNSW and the Professional Services Contractor on or about the date of this deed.

1.2 Definitions in the Common Disputes Deed

Except as otherwise defined in clause 1.1, terms used in this deed that are defined in the Common Disputes Deed will have the same meaning in this deed as are provided for in the Common Disputes Deed.

1.3 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation,
and the following rules apply in interpreting this deed unless the context makes clear that a rule is not intended to apply:
- (b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (c) **person** includes an individual, the estate of an individual, a body politic, a corporation, a statutory or other authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted substitutes and assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document (including this deed and any other deed, agreement, instrument, guideline or code of practice) is to that document as amended, varied, novated, ratified, supplemented or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:
 - (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
 - (ii) any consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (j) **includes** in any form is not a word of limitation;
- (k) a reference to **\$** or **dollar** is to Australian currency;

- (l) where under this deed:
- (i) a notice, certificate or direction is required to be given; or
 - (ii) a default must be remedied,
- within a stated number of days, only Business Days will be counted in computing the number of days;
- (m) for all purposes other than as set out in clause 1.3(l), **day** means calendar day;
- (n) a reference to a **month** is a reference to a calendar month;
- (o) a reference to a court or tribunal is to an Australian court or tribunal;
- (p) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
- (q) any reference to **information** will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

1.4 No bias against drafter

In the interpretation of this deed, no rule of construction applies to the disadvantage of one party on the basis that the party or its representative put forward or drafted this deed or any provision in it.

2. Consideration

In consideration of the Acceding Party executing this deed, each Continuing Party agrees to pay the Acceding Party \$1 upon the Acceding Party's request.

3. Covenant

3.1 Covenant by Acceding Party

The Acceding Party confirms that it has been supplied with a copy of the Common Disputes Deed as originally executed by the Continuing Parties and covenants with each of the Continuing Parties, with effect from the Effective Date, to be bound by the provisions of, and to perform all of the Professional Services Contractor's obligations under, the Common Disputes Deed in so far as they may remain to be observed and performed as at the date of this Accession Deed.

3.2 Covenant by Continuing Parties

Each Continuing Party covenants with the Acceding Party, with effect from the Effective Date, to be bound by the provisions of, and to perform all its obligations under the Common Disputes Deed in so far as they may remain to be observed and performed as at the date of this Accession Deed.

4. Representations and Warranties

The Acceding Party represents and warrants to each of the Continuing Parties that the obligations in this deed are valid and binding obligations of the Acceding Party.

5. General

5.1 Notices

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

Name: **Transport for NSW**
Address: Level 5, Zenith Centre, Tower A,
821 Pacific Highway Chatswood NSW 2067
Fax no: (02) 9200 0290
For the attention of: Peter Jones, Senior Project Manager

Name: **UGL Engineering Pty Limited**
Address: Level 8, 40 Miller Street
North Sydney NSW 2060
Fax no: N/A
For the attention of: Contractor's Representative

Name: **Alstom Transport Australia Pty Ltd**
Address: 16 Giffnock Avenue, North Ryde, NSW 2113
Fax no: [insert]
For the attention of:

- (c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary, or authorised agent of, that party;
- (d) must be delivered by hand or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 5.1(b); and
- (e) is taken to be received by the addressee:
 - (i) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;

- (ii) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (iii) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
- (iv) (in the case of delivery by hand) on delivery,

but if the communication is taken to be received on a day that is not a Business Day or after 5:00pm, it is taken to be received at 9:00am on the next Business Day.

5.2 Governing Law

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

5.3 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any action or proceedings which may be brought at any time relating in any way to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any action or proceedings, and any claim it may now or in the future have that any action or proceedings have been brought in an inconvenient forum, if that venue falls within clause 5.3(a).

5.4 The Principal as a public authority

- (a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Principal to exercise any of its functions and powers pursuant to any law.
- (b) Each of the other parties acknowledges and agrees that, without limiting clause 5.4(a), anything which the Principal does, fails to do or purports to do pursuant to its functions and powers under any law will be deemed not to be an act or omission by the Principal under this deed and will not entitle either of the other parties to make any claim against the Principal.

5.5 Amendments

This deed may only be varied by a deed executed by or on behalf of each of the parties.

5.6 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

5.7 Cost of performing obligations

Each party must, unless this deed expressly provides otherwise, pay its own costs and expenses in connection with performing its obligations under this deed.

5.8 Further acts and documents

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

5.9 Consents

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

5.10 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior consent of each other party unless this deed expressly provides otherwise.

5.11 Replacement body

Where a reference is made to any authority, institute, association, body, person or organisation (**Former Body**) which is reconstituted, renamed, replaced, ceases to exist or has its powers or functions transferred to another authority, institute, association, body, person or organisation, that reference will be deemed to refer to the authority, institute, association, body, person or organisation (**Replacement Body**) which then serves substantially the same powers, functions or objects as the Former Body. Any reference to any senior officer of the Former Body will be to the equivalent senior officer of the Replacement Body.

5.12 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

5.13 No representation or reliance

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

5.14 Expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with negotiating and preparing this deed.

5.15 Stamp duties

TfNSW:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed, the performance of this deed and each transaction effected by or made under this deed;
- (b) indemnifies each other party against any liability arising from failure to comply with clause 5.15(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

5.16 Entire agreement

To the extent permitted by Law, in relation to its subject matter, this deed (together with the Accession Deed from the time of accession by the D&C Contractor):

- (a) embody the entire understanding of the parties, and constitute the entire terms agreed by the parties; and
- (b) supersede any prior written or other agreement of the parties.

5.17 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this deed.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this deed.
- (c) A party must pay on demand any amount it must pay under an indemnity in this deed.

5.18 No agency, partnership, joint venture or other fiduciary relationship

Nothing in this deed will be construed or interpreted as:

- (a) conferring a right in favour of any party to enter into any commitment on behalf of another party or otherwise to act as agent of another party; or
- (b) constituting the relationship between any two or more of the parties (or all of the parties) as that of partners, joint venturers or any other fiduciary relationship.

5.19 Severance

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

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

5.20 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws which at any time operate directly or indirectly to lessen or affect in favour of a party any obligation under this deed, or to delay or otherwise prevent or prejudicially affect the exercise by a party of any right, power or remedy under this deed or otherwise, are expressly waived.



Executed as a deed.

Signed for and on behalf of the Principal by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the D&C
Contractor by *[insert name]* in the
presence of:

[Signature]

[Name of witness]

[Signature of witness]

41. Common Disputes Deed

Common Disputes Deed

Transport for NSW

UGL Engineering Pty Limited ABN 96 096 365 972

(From the Accession Date) the person who accedes to this deed under clause 2
(Professional Services Contractor)



Table of Contents

1. Definitions and Interpretation	150
1.1 Definitions	150
1.2 Interpretation	151
2. Accession by Professional Services Contractor	151
3. Common Disputes	152
4. Dispute resolution	152
4.1 Notice of Common Dispute	152
4.2 Resolution Procedures	152
4.3 Negotiation	153
4.4 Expert Determination	154
4.5 The Expert	154
4.6 Rules of Expert Determination	155
4.7 Agreement with Expert	155
4.8 Determination of Expert	155
4.9 Arbitration	156
5. Governing Law	156
6. Jurisdiction	156
Schedule 1 - Expert Agreement	158
Annexure A - The Matter	161
Annexure B - Rules for Expert Determination Process	162
Appendix 1 to Rules for Expert Determination Process	165
Annexure C - The Expert's Fees and Disbursements	166
Schedule 2 - Form of Accession Deed	169

Date	
Parties	<ol style="list-style-type: none"> 1. Transport for NSW (ABN 18 804 239 602), a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (the <i>Principal</i>); 2. (From the Accession Date) the person who accedes to this deed under clause 2, being the person defined as the "Acceding Party" in the Accession Deed that the Principal requires the D&C Contractor to execute under clause 2 (the <i>Professional Services Contractor</i>); 3. UGL Engineering Pty Limited (ABN 96 096 365 972) of Level 8, 40 Miller Street, North Sydney NSW 2060 (the <i>D&C Contractor</i>), <p>each a <i>Party</i> and together the <i>Parties</i>.</p>
Recitals	<ol style="list-style-type: none"> A The Principal and the D&C Contractor have entered into the D&C Contract. B The Principal and the Professional Services Contractor have entered into the Professional Services Contract. C The works to be carried out by the D&C Contractor under the D&C Contract interface with the services to be carried out by the Professional Services Contractor under the Professional Services Contract. D The terms of this deed will apply to Common Disputes where TfNSW so elects under each of the D&C Contract and the Professional Services Contract.

It is agreed as follows.

1. Definitions and Interpretation

1.1 Definitions

Accession Deed means the deed in substantially the same form as Schedule 2 (with relevant details duly completed) which is to be executed by the Professional Services Contractor, the Principal and the D&C Contractor in accordance with clause 2.

Common Dispute means a dispute between the Principal, D&C Contractor or the Professional Services Contractor

- (a) which arises under or in connection with the D&C Contract, which touches upon or concerns the Professional Services Contract or where a like dispute arises in connection with the Professional Services Contract; or
- (b) which arises under or in connection with the Professional Services Contract, which touches upon or concerns the D&C Contract or where a like dispute arises in connection with the D&C Contract.

D&C Contract means the contract for the design and construction of ATP Areas 4 and 5 Trackside (which include design, construction, installation and commissioning of automatic train protection trackside equipment in the Contract Area) between the Principal to the D&C Contractor.

Executive Negotiator means:

- (a) in the case of the Principal, Murray McArdle, Director Commercial;
- (b) in the case of the D&C Contractor, the person stated in the Accession Deed as the Executive Negotiator; and
- (c) in the case of the Professional Services Contractor, Paul Gill, Managing Director, TIS,

or any other person appointed by a Party as its Executive Negotiator and of whose appointment the other Parties have been notified.

Principal's Representative means the "Principal's Representative" as defined under the D&C Contract or Professional Services Contract (as applicable).

Professional Services Contract means the contract between the Principal and the Professional Services Contractor for the provision of services in relation to ATP Areas 4 and 5 Trackside and which contract is anticipated to be awarded by the Principal to the Professional Services Contractor after the date of this deed.

1.2 Interpretation

In this deed unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any Party to this deed includes that Party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to this deed or to any other deed, agreement, document or instrument is deemed to include a reference to this deed or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (e) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (f) headings are for convenience only and do not affect the interpretation of this deed;
- (g) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (h) no rule of construction applies to the disadvantage of a Party on the basis that the Party put forward or drafted this deed or any part.

2. Accession by Professional Services Contractor

- (a) The D&C Contractor must, upon being requested by the Principal, execute three counterparts of the Accession Deed in accordance with the Principal's instructions and provide such copies to the Principal, notwithstanding that the counterparts of the Accession Deed may not have been signed by the Principal or the Principal Services Contractor.
- (b) The D&C Contractor may not object to the identity of the person selected by the Principal to be the Professional Services Contractor.
- (c) The rights and obligations of the Professional Services Contractor and the obligations owed to the Professional Services Contractor under this deed will only become effective upon the accession of the Professional Services

Contractor to this deed in accordance with this clause 2 and the executed Accession Deed.

- (d) Upon accession of the Professional Services Contractor to this deed as referred to in clause 2 the rights and liabilities of the parties to this deed will be as set out in this deed as amended in accordance with the requirements of the Accession Deed.
- (e) The Principal will provide the D&C Contractor with a copy of the Accession Deed duly executed by the Principal and the Professional Services Contractor, after it has been executed by the Principal and the Professional Services Contractor.
- (f) The D&C Contractor acknowledges that the Professional Services Contract does not exist at the date of this deed, and agrees that it may not object to the content of the Professional Services Contract as may be agreed between the Principal and the Professional Services Contractor. The D&C Contractor agrees to be bound to this deed despite the fact that the Professional Services Contract will be signed after the date of this deed and may not raise any claim in connection with the non-existence of the Professional Services Contract as at the date of this deed.

3. Common Disputes

If the Principal has provided the notices required under clause 4.1 of this deed, the Parties agree to resolve or determine Common Disputes via the procedures in this deed and not via the D&C Contract, the Professional Services Contract, or otherwise.

4. Dispute resolution

4.1 Notice of Common Dispute

If the Principal wishes this deed to apply, it must provide:

- (a) a notice to the D&C Contractor stating that this deed will apply in respect of a Common Dispute; and
- (b) a notice to the Professional Services Contractor under clause 19.6 of the Professional Services Contract,

(Notice of Common Dispute).

4.2 Resolution Procedures

- (a) If the Principal has provided a Notice of Common Dispute to each other Party, then:

- (i) any of the Parties seeking to resolve the Common Dispute must do so in accordance with the procedures set out in this clause 4 (the **Dispute Resolution Procedures**); and
 - (ii) compliance with the Dispute Resolution Procedures is a condition precedent to any entitlement to claim relief or remedy (whether by way of proceedings in a court or otherwise) in respect of any Common Dispute.
- (b) Nothing in this clause 4 prevents:
- (i) any of the Parties seeking urgent injunctive or declaratory relief from a court in connection with the Common Dispute without first having to attempt to negotiate and determine the Common Dispute in accordance with this clause 4; or
 - (ii) the Parties meeting at any time to seek to resolve the Common Dispute.
- (c) The Parties' obligations under the D&C Contract and the Professional Services Contract (as applicable) will continue despite the existence of a Common Dispute between the Parties.

4.3 Negotiation

- (a) Promptly after the date of receipt by the other Parties of the Notice of Common Dispute (the **Notice Date**), the Parties must meet to discuss and attempt to resolve the Common Dispute.
- (b) If the Common Dispute is not resolved within 14 days of the Notice Date (the **Referral Date**) any Party may by notice in writing refer the Common Dispute to the Executive Negotiators who must:
 - (i) meet and undertake genuine and good faith negotiations with a view to:
 - A. clarifying and narrowing the issues in dispute; and
 - B. resolving the Common Dispute; and
 - (ii) if they cannot resolve the Common Dispute, endeavour to agree upon a procedure to resolve the Common Dispute.
- (c) If appropriate in the circumstances, at or prior to the meeting referred to in clause 4.3(b) the Parties will exchange documents critical to the resolution of the Common Dispute.



4.4 Expert Determination

- (a) If a Dispute is referred for resolution under clause 4.3(b) and it is not resolved within 21 days after the Referral Date, the Common Dispute must be submitted to an expert determination.
- (b) The Common Dispute will be referred to an expert determination whether or not the Executive Negotiators have complied with clause 4.3(b).

4.5 The Expert

The expert determination under clause 4.4 is to be conducted by:

- (a) an independent industry expert agreed by the Parties; or
- (b) where:
 - (i) the Parties are unable to agree upon an independent industry expert within 42 days after the Referral Date; or
 - (ii) an independent industry expert appointed under this clause 4.5:
 - A. is unavailable;
 - B. declines to act;
 - C. does not respond within 14 days to a request by one or more Parties for advice as to whether he or she is able to conduct the determination; or
 - D. does not make a determination within the time required by clause 4.6(e),

an independent industry expert appointed by the Chair of the Resolution Institute.

4.6 Rules of Expert Determination

- (a) An expert determination conducted under this clause 4 is not an arbitration and the expert is not an arbitrator. The expert may reach a decision from his or her own knowledge and expertise.
- (b) The expert determination must be made in accordance with the rules for the expert determination process which appears in Schedule 1 or such other rules as the Parties and the expert may agree.
- (c) The expert must:

- (i) disclose to the Parties any interest he or she has in the outcome of the determination; and
- (ii) not communicate with one Party to the determination without the knowledge of the other.
- (d) Each Party will bear its own costs in respect of any expert determination of a Common Dispute.
- (e) Unless otherwise agreed between the Parties, the expert must notify the Parties of his or her decision upon an expert determination conducted under this deed within the period set out in the agreement between the Parties and the expert.

4.7 Agreement with Expert

- (a) The expert will not be liable to the Parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud.
- (b) The Parties must enter into an agreement with the appointed expert on the terms set out in Schedule 1 or such other terms as the Parties and the expert may agree.

4.8 Determination of Expert

The determination of the expert:

- (a) must be given to the Parties in writing;
 - (i) will be:
 - A. substituted for the relevant direction of the Principal's Representative (if applicable); and
 - B. final and binding,unless a Party gives a notice of appeal to the other Parties within 21 days of receipt of the determination; and
 - (ii) is to be given effect to by the Parties unless and until it is reversed, overturned or otherwise changed by way of arbitration under clause 4.9.
- (b) Where a Party gives a notice of appeal under this clause 4.8, any Party may refer the Common Dispute to arbitration under clause 4.9.



4.9 Arbitration

- (a) Any Dispute which is referred to arbitration will be conducted before a person to be:
 - (i) agreed between the Parties; or
 - (ii) failing agreement within 21 days after the Common Dispute has been referred to arbitration, appointed by the Chair of the Resolution Institute.
- (b) To the extent that they are not inconsistent with this deed, the Resolution Institute Arbitration Rules will apply to the arbitration.
- (c) The seat of the arbitration will be Sydney, Australia.
- (d) The arbitrator will have power to grant all legal, equitable and statutory remedies and, subject to clause 4.8, to open up, review and substitute any decision of the expert under clause 4.8 that is not final and binding on the Parties pursuant to clause 4.8(b).
- (e) Notwithstanding anything else, to the extent permissible by law, the arbitrator will have no power to apply or to have regard to the provisions of Part 4 of the *Civil Liability Act 2002* (NSW).

5. Governing Law

This deed is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

6. Jurisdiction

- (a) The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the courts to which the appeals from those courts may be made with respect to any arbitration or proceedings that are permitted to be brought at any time under clause 4.2(b)(i).
- (b) The Parties irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceedings has been brought in an inconvenient forum, where that venue falls within clause 6(a).

Schedule 1 - Expert Agreement

Expert Determination Agreement made at _____ **on** _____

Parties **Transport for NSW (ABN 18 804 239 602)** a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (**Principal**)

UGL Engineering Pty Ltd (ABN 96 096 365 972) of Level 8, 40 Miller Street, North Sydney NSW 2060 (**D&C Contractor**)

Alstom Transport Australia Pty Ltd (ABN 68 165 157 451) of 16 Giffnock Avenue, North Ryde, NSW 2113 (**Professional Services Contractor**)

[Insert name and address of Expert] (Expert)

Background

- A. The Principal, the D&C Contractor and the Professional Services Contractor (together "**the Parties**" and each "**a Party**") are Parties to a deed regarding the resolution of common disputes (**Contract**).
- B. By written notice dated *[to be inserted]*, the *[insert Party as applicable]* has required that the matter described in Annexure A, being a matter that the Contract requires or permits to be referred to an Expert for determination, be determined by an Expert appointed under clause 4.5 of the Contract (**Matter**).
- C. Pursuant to clause 4.5 of the Contract, the Expert has been appointed to determine the Matter in accordance with the process set out in this Deed.

Operative part

1. Appointment of Expert

- (a) The Parties appoint the Expert to determine the Matter in the manner and within the times set out in this Deed and the Expert accepts the appointment on the basis set out in this Deed.
- (b) The Parties agree that:
 - (i) the Expert will act as an expert and not as an arbitrator;

- (ii) neither the determination of the Matter, nor the process required by this Deed is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
 - (iii) the rules of evidence and natural justice do not apply to the determination; and
 - (iv) the Expert must conduct the determination of the Matter in accordance with the Rules for Expert Determination Process set out in Annexure B;
- (c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Parties immediately and, unless the Parties agree otherwise, terminate this Deed.

2. Confidentiality

All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any other person, except with the prior written consent of all Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.

3. Costs and Fees

- (a) As between the Parties and the Expert only (and without limiting or otherwise restricting clause 4.6(d) of the Contract), the Principal is liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure C. The Principal agrees to comply with any direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.
- (b) The Parties agree as between themselves that they will each bear their own costs of and incidental to the preparation of this Deed and their participation in the determination.

4. Exclusion of Liability and Indemnity

Except in the case of fraud, the Expert will not be liable to any Party for any act or omission by the Expert in the performance or purported performance of this Deed. The Parties jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this Deed.

5. Co-operation of the Parties

Each Party agrees to take part in the determination in good faith and to comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination.

6. Governing Law

This deed is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

7. Jurisdiction

- (a) The Parties and the Expert irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the New South Wales courts to which the appeals from those courts may be made.
- (b) The Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within clause 7(a).



Annexure A - The Matter

[To be inserted when it comes time for expert determination]

Annexure B - Rules for Expert Determination Process

1. Commencement

- 1.1 Except as provided in clause 4.3 of these Rules, the expert determination process begins when the Expert accepts an appointment to determine the Matter in accordance with these Rules and the Code of Conduct appended to these Rules.

2. Written Submissions

- 2.1 Within 7 days after the date this process begins, Party A (ie the Party that initiated the dispute) must give the other Parties and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.
- 2.2 Within 7 days after the statement in clause 2.1 is served, the other Parties must give Party A and the Expert a written response to Party A's submissions.
- 2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Parties' responses in clause 2.2 within the time allowed by the Expert.
- 2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.

3. Conference

- 3.1 The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the Parties agree otherwise, the conference will be held in Sydney.
- 3.2 At least 14 days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.
- 3.3 The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under clause 3.2, the Expert and the other Parties may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the Expert determination process.
- 3.4 The Parties:
- (a) may be accompanied at a conference by legal or other advisers; and
 - (b) will be bound by any procedural directions as may be given by the Expert in relation to the conference both before and during the course of the conference.



- 3.5 The conference must be held in private.
- 3.6 If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties.
- 4. General**
- 4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with the Contract.
- 4.2 All proceedings and submissions relating to the Expert determination process must be kept confidential except:
- (a) with the prior consent of the Parties;
 - (b) as may be required by law; or
 - (c) as may be required in order to enforce the determination of the Expert.
- 4.3 The Expert must:
- (a) inform the Parties of:
 - (i) any relationship or interest with the Parties or their respective officers, employees, contractors, consultants or agents;
 - (ii) any interest the Expert has in the matters in dispute; and
 - (iii) any circumstance which might reasonably be considered to adversely affect the expert's capacity to act independently or impartially,
 - (iv) immediately upon becoming aware of any such circumstances; and
 - (b) upon making any disclosure under this clause 4.3, unless and until the Parties agree otherwise terminate the proceedings.
- 5. The Determination**
- 5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 90 days after the Expert's acceptance of appointment, the Expert must:
- (a) determine the Matter between the Parties; and
 - (b) notify the Parties of that determination.

- 5.2 The determination of the Expert must:
- (a) be in writing stating the Expert's determination and giving reasons;
 - (b) be made on the basis of the submissions (if any) of the Parties, the conference (if any) and the Expert's own expertise; and
 - (c) meet the requirements of the Contract.
- 5.3 Subject to clause 5.4, to the extent permitted by law, the Expert's determination will be final and binding on the Parties unless a notice of appeal is given in accordance with clause 4.8 of the Contract.
- 5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.
6. **Costs**
- 6.1 Security for costs must be deposited by all Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.
7. **Modification**
- 7.1 These rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

Appendix 1 to Rules for Expert Determination Process

Code of Conduct for an Expert

1. The function of the Expert is to make a determination of the Matter in accordance with the Contract and the Expert Determination Agreement, including the Rules and this Code of Conduct.
2. The Expert must receive the written submissions and responses of the Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Matter.
3. The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
4. The Expert must disclose to all Parties all information and documents received.
5. If a Party fails to make a written submission, the Expert may continue with the process.
6. Subject to clause 3.3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of all Parties.

Annexure C - The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]



Signed as an agreement.

Signed for and on behalf of the Principal by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the D&C
Contractor by [insert name] in the
presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the
Professional Services Contractor by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed by the Expert *[insert name]* in the
presence of:

[Signature]

[Name of witness]

[Signature of witness]



Schedule 2 - Form of Accession Deed

This Accession Deed made at

on 29 March 2018

Parties

Transport for NSW (ABN 18 804 239 602) a New South Wales Government agency constituted under section 3C of the *Transport Administration Act 1988* (NSW) of Level 5, Zenith Centre, Tower A 821 Pacific Highway Chatswood NSW 2067 (TfNSW)

UGL Engineering Pty Limited (ABN 96 096 365 972) of Level 8, 40 Miller Street North Sydney NSW 2060 (the **D&C Contractor**)

(together the **Continuing Parties**)

[insert name of Professional Services Contractor] (ABN [insert]) of [insert address] **Alstom Transport Australia Pty Ltd (ABN 68 165 157 451) of 16 Griffrock Avenue, North Ryde, NSW 2113**
(**Acceding Party**)

Background

- A. The Continuing Parties are each party to the Common Disputes Deed.
- B. Each of the Continuing Parties and the Acceding Party has agreed that the Acceding Party will accede to the Common Disputes Deed on or about the date of execution of the D&C Contract, on the terms of this deed.
- C. The Continuing Parties and the Acceding Party have agreed to amend the Common Disputes Deed on the terms set out in this deed.

This deed provides

1. Definitions and interpretation

1.1 Definitions

In this deed:

Accession Deed means this deed.

Effective Date means the date of this deed.

Common Disputes Deed means the deed titled "Common Disputes Deed" which was originally entered into between the Continuing Parties on [insert date].

Professional Services Contractor means the entity or person that enters into the Professional Services Contract with TfNSW.

Professional Services Contract means the agreement entitled *[insert full title]* entered into between TfNSW and the Professional Services Contractor on or about the date of this deed.

1.2 Definitions in the Common Disputes Deed

Except as otherwise defined in clause 1.1, terms used in this deed that are defined in the Common Disputes Deed will have the same meaning in this deed as are provided for in the Common Disputes Deed.

1.3 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation,
- and the following rules apply in interpreting this deed unless the context makes clear that a rule is not intended to apply:
- (b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (c) **person** includes an individual, the estate of an individual, a body politic, a corporation, a statutory or other authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted substitutes and assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document (including this deed and any other deed, agreement, instrument, guideline or code of practice) is to that document as amended, varied, novated, ratified, supplemented or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:
- (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
 - (ii) any consolidations, amendments, re-enactments and replacements;



- (g) a word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (j) **includes** in any form is not a word of limitation;
- (k) a reference to **\$** or **dollar** is to Australian currency;
- (l) where under this deed:
 - (i) a notice, certificate or direction is required to be given; or
 - (ii) a default must be remedied,within a stated number of days, only Business Days will be counted in computing the number of days;
- (m) for all purposes other than as set out in clause 1.3(l), **day** means calendar day;
- (n) a reference to a **month** is a reference to a calendar month;
- (o) a reference to a court or tribunal is to an Australian court or tribunal;
- (p) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
- (q) any reference to **information** will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

1.4 No bias against drafter

In the interpretation of this deed, no rule of construction applies to the disadvantage of one party on the basis that the party or its representative put forward or drafted this deed or any provision in it.

2. Consideration

In consideration of the Acceding Party executing this deed, each Continuing Party agrees to pay the Acceding Party \$1 upon the Acceding Party's request.

3. Covenant

3.1 Covenant by Acceding Party

The Acceding Party confirms that it has been supplied with a copy of the Common Disputes Deed as originally executed by the Continuing Parties and covenants with each of the Continuing Parties, with effect from the Effective Date, to be bound by the provisions of, and to perform all of the Professional Services Contractor's obligations under, the Common Disputes Deed in so far as they may remain to be observed and performed as at the date of this Accession Deed.

3.2 Covenant by Continuing Parties

Each Continuing Party covenants with the Acceding Party, with effect from the Effective Date, to be bound by the provisions of, and to perform all its obligations under the Common Disputes Deed in so far as they may remain to be observed and performed as at the date of this Accession Deed.

4. Representations and Warranties

The Acceding Party represents and warrants to each of the Continuing Parties that the obligations in this deed are valid and binding obligations of the Acceding Party.

5. General

5.1 Notices

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

Name: **Transport for NSW**

Address: Level 5, Zenith Centre, Tower A,
821 Pacific Highway Chatswood NSW 2067

Fax no: (02) 9200 0290

For the attention of: Senior Project Manager

Name: **UGL Engineering Pty Limited**

Address: Level 8, 40 Miller Street
North Sydney NSW 2060

Fax no: N/A

For the attention of: Brett Richards, Contractor's Representative

Name: [insert name of Professional Services
Contractor] *Aistom Transport Australia Pty Ltd*

Address: [insert] *16 Griffnock Avenue, North Ryde,*

Fax no: [insert] *NSW, 2113*

For the attention of: [insert] *[Redacted] Managing Director*

- (c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary, or authorised agent of, that party;
- (d) must be delivered by hand or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 5.1(b); and
- (e) is taken to be received by the addressee:
 - (i) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
 - (ii) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
 - (iii) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
 - (iv) (in the case of delivery by hand) on delivery,

but if the communication is taken to be received on a day that is not a Business Day or after 5:00pm, it is taken to be received at 9:00am on the next Business Day.

5.2 Governing Law

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

5.3 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any action or proceedings which may be brought at any time relating in any way to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any action or proceedings, and any claim it may now or in the future have that any action or proceedings have been brought in an inconvenient forum, if that venue falls within clause 5.3(a).

5.4 The Principal as a public authority

- (a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Principal to exercise any of its functions and powers pursuant to any law.
- (b) Each of the other parties acknowledges and agrees that, without limiting clause 5.4(a), anything which the Principal does, fails to do or purports to do pursuant to its functions and powers under any law will be deemed not to be an act or omission by the Principal under this deed and will not entitle either of the other parties to make any claim against the Principal.

5.5 Amendments

This deed may only be varied by a deed executed by or on behalf of each of the parties.

5.6 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

5.7 Cost of performing obligations

Each party must, unless this deed expressly provides otherwise, pay its own costs and expenses in connection with performing its obligations under this deed.



5.8 Further acts and documents

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

5.9 Consents

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

5.10 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior consent of each other party unless this deed expressly provides otherwise.

5.11 Replacement body

Where a reference is made to any authority, institute, association, body, person or organisation (**Former Body**) which is reconstituted, renamed, replaced, ceases to exist or has its powers or functions transferred to another authority, institute, association, body, person or organisation, that reference will be deemed to refer to the authority, institute, association, body, person or organisation (**Replacement Body**) which then serves substantially the same powers, functions or objects as the Former Body. Any reference to any senior officer of the Former Body will be to the equivalent senior officer of the Replacement Body.

5.12 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

5.13 No representation or reliance

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

5.14 Expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with negotiating and preparing this deed.

5.15 Stamp duties

TfNSW:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed, the performance of this deed and each transaction effected by or made under this deed;
- (b) indemnifies each other party against any liability arising from failure to comply with clause 5.15(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

5.16 Entire agreement

To the extent permitted by Law, in relation to its subject matter, this deed (together with the Accession Deed from the time of accession by the D&C Contractor):

- (a) embody the entire understanding of the parties, and constitute the entire terms agreed by the parties; and
- (b) supersede any prior written or other agreement of the parties.

5.17 Indemnities

- (a) Each indemnity in this deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this deed.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this deed.
- (c) A party must pay on demand any amount it must pay under an indemnity in this deed.

5.18 No agency, partnership, joint venture or other fiduciary relationship

Nothing in this deed will be construed or interpreted as:

- (a) conferring a right in favour of any party to enter into any commitment on behalf of another party or otherwise to act as agent of another party; or

- (b) constituting the relationship between any two or more of the parties (or all of the parties) as that of partners, joint venturers or any other fiduciary relationship.

5.19 Severance

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

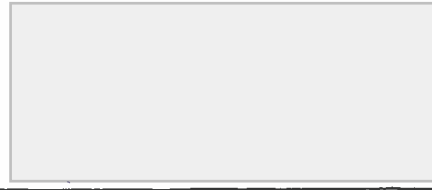
- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed.

5.20 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws which at any time operate directly or indirectly to lessen or affect in favour of a party any obligation under this deed, or to delay or otherwise prevent or prejudicially affect the exercise by a party of any right, power or remedy under this deed or otherwise, are expressly waived.

Executed as a deed.

Signed for and on behalf of the Principal by
[insert name] in the presence of:

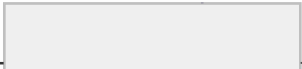


[Signature]

PASCAL LABOUE

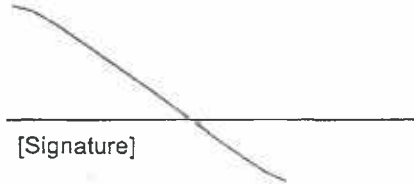
Lewis Heard

[Name of witness]



[Signature of witness]

Signed for and on behalf of the D&C
Contractor by [insert name] in the
presence of:



[Signature]

[Name of witness]

[Signature of witness]

B



Signed for and on behalf of the
Professional Services Contractor by
[insert name] in the presence of:

[Redacted signature box]

[Signature]

[Redacted witness name box]

[Name of witness]

[Redacted witness signature box]

[Signature of witness]

Executed as a deed in accordance with s127 of
the Corporations Act 2001 by UCL Engineering
Pty Ltd (ABN 96 096 365 972):

[Redacted director signature box]

Director Signature

William Kidman

Print Name

[Redacted director/secretary signature box]

Director/Secretary Signature

Pryce Dale

Print Name

Signed for and on behalf of the
Professional Services Contractor by
[insert name] in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

ROBERT STEWART
DIRECTOR

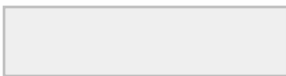
ROBERT STEWART
DIRECTOR

AGREEMENT EXECUTION PAGE

DATED 29 day of March 2018

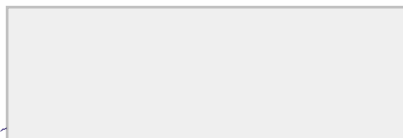
SIGNED as a Deed.

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



Signature of Witness

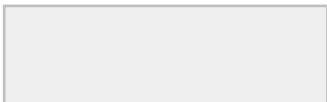
Lewis Heard
Full Name of Witness



Signature of Authorised Signatory

PASCAL LABOUE
Full Name of Authorised Signatory

Signed by Alstom Transport Australia Pty Ltd ABN 68 165 157 451 in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of Director

JEREMIE MOULES
Full Name of Director
DIRECTOR



Signature of Company Secretary/Director

KIRSTEN STEWART
Full Name of Company Secretary/Director
COMPANY SECRETARY

EXHIBIT A - SERVICES BRIEF



Transport
for NSW

Services Brief

Automatic Train Protection Program

Trackside Areas 4 and 5 Data Design

Document Number: 5713936_6

Commercial In Confidence

Table of Contents

1	Introduction	4
1.1	General	4
1.2	Overview of the Automatic Train Protection (ATP) Program	4
1.3	Definitions and Interpretations	5
1.4	Abbreviations and Acronyms	7
1.5	Purpose of the ATP Program Area 4 and 5 Trackside Data Design Project	7
1.6	Not Used	8
1.7	Milestone Dates	8
1.8	Exclusions	13
2	Professional Services Contractor’s Obligations	13
2.1	Resources	13
2.2	Team Establishment	14
2.3	Document Control and Issues Management	14
2.4	Collaborative Audit Process	15
2.5	Compliance with Rail Safety National Law	15
2.6	Professional Services Contractor’s Program	15
2.7	Progress Reporting	15
2.8	Office Accommodation	16
3	Detailed Scope of Services	17
3.1	Professional Services Contractor’s Activities	17
3.2	Not Used	17
3.3	Area 4 and 5 ATP Data Design - Scope	17
3.4	Area 4 and 5 - Contract Material	17
3.5	Portion 9: As Built Documentation for Portions 1 to 8	21
3.6	Control Tables – Supplementary Data	21
3.7	Test Logs during NIT	21
3.8	Portion 10: Data Design Training for TfNSW Personnel	21
4	General Requirements	23
4.1	Introduction	23
4.2	Not Used	23
4.3	Operational Requirements	23
4.4	Codes and Standards	23
4.5	Not Used	24
4.6	Not Used	24
4.7	Assurance of Services	24
4.8	AEO Status	24
4.9	Application of AEO Engineering Management Methodologies	24
4.10	Application of Management Plans	24
4.11	Configuration Change Control	24
5	Performance and Design Requirements	26
5.1	General Design Obligations	26
5.2	Detailed Design Obligations	26
5.3	Competency for Design	26
5.4	Not Used	26
5.5	Other Criteria	26
6	Not Used	27
7	Services Management	28
7.1	Management Plans	28
7.2	Other Services Management Obligations	31
7.3	Review by the Principal	32
7.4	Contract Material Quality	32
7.5	Area 4 and 5 Baseline Requirements	32

7.6 Support to Network Integration Testing (NIT)..... 33

- APPENDIX A – Standards, Specifications and Guidelines
- APPENDIX B – Project Hazard Log
- APPENDIX C – Interface Schedule
- APPENDIX D – Technical Assumptions and Departures
- APPENDIX E – Information Documents

1 Introduction

1.1 General

Transport for NSW (TfNSW / the Principal) is the lead agency of the NSW Department of Transport, with primary responsibility for transport policy and regulation, planning and programs, freight and regional development, projects, services and the customer’s experience of transport.

Infrastructure and Services (I&S) is a division of TfNSW responsible for the development, procurement and delivery of major transport infrastructure and fleet assets. TfNSW strive to deliver innovative and sustainable transport networks, enabling TfNSW to build an integrated, customer-focused transport system that connects people with places and producers with markets, making New South Wales a better place to live and work.

Externally I&S works in partnership with transport contractors and the construction industry, contracting and procuring resources and services to achieve ‘best for project’ outcomes.

Internally I&S provides the knowledge systems and services to deliver projects that meet time, cost and quality objectives. I&S work closely with other divisions of TfNSW to develop the right projects that meet customer needs, thus facilitating successful project delivery.

This Services Brief sets out the scope of services, general requirements and technical requirements for the Professional Services Contractor’s Services in terms of data design for Area 4 and Area 5.

This Services Brief contains the following sections:

Section 1	Introduction and outline of Services Brief, providing an overview of the Project and its objectives.
Section 2	Professional Services Contractor’s Obligations.
Section 3	Scope of activities detailing the extent of the Services required from the Professional Services Contractor.
Section 4, 5, 6	Design performance, technical and general requirements including the detailed minimum technical requirements for the Services including the minimum criteria to be used in the development of the design for each element of the Services.
Section 7	Details of the project specific requirements for management/progress meetings, design workshops and audits of the Project. These items are in addition to the required activities of the TSRs and the Agreement.

1.2 Overview of the Automatic Train Protection (ATP) Program

Following the Waterfall rail accident in January 2003, the 2005 Report of the special commission of inquiry recommended, at recommendation 32, that RailCorp implement an ATP system. Following extensive research into driver safety systems, RailCorp adopted the European Train Control System (ETCS) Level 1 Full Supervision as its preferred ATP technology.

In January 2011, RailCorp engaged Alstom Limited to provide equipment and engineering services for the first Approval Package (AP1), the first of three such approval packages for the delivery of ATP across the NSW metropolitan rail network. The ATP program was vested to TfNSW in 2013.

The TfNSW Rail Systems Strategy (RSS) identifies the direction of rail systems in the NSW rail network. In this context, rail systems include signalling, train control, automatic train protection (ATP), Automatic Train Operation (ATO) and related systems. The RSS identified that an approach based on ETCS offered the most appropriate solution for the Sydney rail network.

1.2.1 Advanced train control Migration System

Following an initial review and undertaking of the planned roll-out of ETCS Level 1 Full Supervision (FS), an alternative solution known as ETCS Level 1 Limited Supervision (LS) emerged with the release of

an updated version of the ETCS specification in 2013. A business case was developed that supported a change in project scope to the installation of ETCS Level 1 LS equipment. It was considered that the LS system would better manage the safety of the network SFAIRP. This in turn is in line with the Sydney's Rail Future plan to eventually replace ETCS level 1 trackside equipment and progress to ETCS Level 2.

An LS solution provides safety through speed supervision whilst relying on the existing signalling system to provide movement authorities to trains. When LS is combined with the existing signalling system it provides a cost-effective solution to protect trains from over speeding and passing signals at danger.

The ultimate goal is to progress ETCS control beyond ETCS Level 1 LS. The program to install the LS equipment on NSW rolling stock and network is considered a migration path towards full implementation of an Advanced Train Control System (ATCS) and is therefore referred to as the Advanced train control Migration System (AMS). The AMS can be delivered across the whole network in a shorter time frame than an FS solution and is more cost effective.

1.3 Definitions and Interpretations

In this Services Brief, all words and expressions have the meanings assigned to them in:

- (a) the Agreement;
- (b) TfNSW Standard Requirements (TSRs);
- (c) AMS Project Specifications; or
- (d) as defined in Table 1 below.

Table 1: Definitions

Term	Definition
AMS Project Specifications	The suite of documents referred to in Appendix A under the table titled "Other Standards, Specifications and Guidelines".
CCB Gate 4	Has the meaning set out in TfNSW Configuration Management Plan (T MU AM 04001 PL).
CCB Gate 5	Has the meaning set out in TfNSW Configuration Management Plan (T MU AM 04001 PL).
Codes and Standards	Refers to AMS project specifications, ASA technical notes, ASA standard drawings, ASA standards, Sydney Trains procedures/network rules, Australian standards and guidelines and any other international codes, standards or specifications.
Configuration Control Board or CCB	means the board established by TfNSW to manage configuration changes for the Infrastructure and & Services Division of TfNSW's programs and projects in accordance with the Configuration Management Framework.
Configuration Management Framework	means the framework established by the ASA from time to time for configuration management.
Gold Key	A special configuration key used to de-pair an LEU from its configuration key.
Permit to Work	The authority to perform signalling activities by a specified person in a specified location or project, with specified equipment types on the Sydney Trains network.
Principal Contractor	has the same meaning as assigned under the WHS Legislation.

Term	Definition
Tail cable	<p>The cable between the trackside junction box and the LEU location.</p> <p>Note: This cable was previously, and may still be, described in some TfNSW documentation as a 'Trunk Cable'.</p>
TfNSW Configuration Management Plan	<p>This <i>TfNSW Configuration Management Plan</i> operates as the highest level configuration management plan for TfNSW and does so in conjunction with the TS 20001: 2013 <i>System Safety Standard for New or Altered Assets</i>. This document includes the establishment of a standard framework to facilitate coordination and communication between TfNSW, TfNSW agencies and Authorised Engineering Organisations (AEOs) that perform configuration management and asset assurance activities.</p>
TfNSW Standard Requirements	<p>The TfNSW Standard Requirements in Exhibit C to the Agreement.</p>

1.4 Abbreviations and Acronyms

Abbreviations and acronyms used in this Services Brief have the meaning listed in Table 2.

Table 2: Abbreviations and Acronyms

Abbreviation or Acronym	Meaning
AEO	Authorised Engineering Organisation
AP1	Approval Package 1
ASA	Asset Standards Authority (formerly RailCorp)
AMS	Advanced train control Migration System
ATO	Automatic Train Operation
ATP	Automatic Train Protection
BEPT	Balise Electronic Programming Tool (used for programming LEUs and balises)
CAD	Computer Aided Design
CCB	Configuration Change Board
CMAAC	Configuration Management and Asset Assurance Committee (TfNSW)
DOORS	Dynamic Object Oriented Requirements System (DOORS) is a requirement management tool.
ETCS	European Train Control System
FS	Full Supervision
I&S	Infrastructure and Services
IPR	Independent Professional Reviewer
LEU	Lineside Electronic Unit
LV	Low Voltage
NSW	New South Wales
RAATM	Requirements Analysis, Allocation and Traceability Matrix
RAMS	Reliability, Accessibility, Maintainability & Safety
RSS	Rail Systems Strategy
SFAIRP	So Far As is Reasonably Practical
SIT	System Integration Test
TfNSW	Transport for New South Wales
WHS	Work Health & Safety

Also refer to:

- (a) ESG 007 - Glossary of Signalling Terms; and
- (b) AMS Project Glossary.

1.5 Purpose of the ATP Program Area 4 and 5 Trackside Data Design Project

The purpose of the ATP Area 4 and 5 Trackside Data Design Project includes:

- (a) Production of data for new ETCS trackside equipment between Wollli Creek (exclusive) and Kiama (inclusive); and

- (b) The provision of data design and data validation training and mentoring of TfNSW personnel; and
- (c) The provision of shared office accommodation for:
 - (i) TfNSW to undertake the training and mentoring in item (b); and
 - (ii) Alstom and TfNSW to perform various data design activities.

The Services comprise of Portions 1 - 11, as further described in this Services Brief.

All Contract Material for CCB gates will be required to be submitted in compliance with requirements set out under the TfNSW Configuration Management Framework.

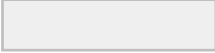

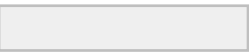
1.6 Not Used

1.7 Milestone Dates

The milestone dates for the Services are listed in Table 3.

Table 3: Milestone Dates

Item	Summary of Contract Material required	Services Brief Reference	Milestone Date
General	Project schedule	Section 2.6 and TSR	Ten (10) Business Days after the Commencement Date.
General	Monthly report	Section 2.7.1	On the last day of each month or the next consecutive Business Day.
General	Fortnightly report	Section 2.7.2	Fortnightly, on each Tuesday or the next consecutive Business Day.
General	Interface management plan	Section 7.1.6	
General	Design management plan	Section 7.1.7	
General	All other management plans	Section 7.1	
Portion 1	AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Kirrawee to Cronulla	Section 3.3,3.4	
Portion 1	All relevant supporting documents ready for review (data testing works) - geographical location between Kirrawee to Cronulla		
Completion of Portion 1	Approved data release notes, data installation form, data validation form and test certificates geographical location between Kirrawee to Cronulla	Section 3.3,3.4	

Item	Summary of Contract Material required	Services Brief Reference	Milestone Date
	Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 1		
Portion 2	<p>AEO validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Allawah to Oatley</p> <p>All relevant supporting documents ready for review (data testing works)- geographical location between Allawah to Oatley</p>	Section 3.3,3.4	
Completion of Portion 2	<p>Approved data release notes, data installation form, data validation form and test certificates – geographical location between Allawah to Oatley</p> <p>Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 2</p>	Section 3.3,3.4	Date for Completion of Portion 2
Portion 3	<p>AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Como to Waterfall</p> <p>All relevant supporting documents ready for review (data testing works) - geographical location between Como to Waterfall</p>	Section 3.3,3.4	
Completion of Portion 3	<p>Approved data release notes, data installation form, data validation form and test certificates – geographical location between Como to Waterfall</p> <p>Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 3</p>	Section 3.3,3.4	Date for Completion of Portion 3
Portion 4	<p>AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Wollie Creek to Carlton</p> <p>All relevant supporting documents ready for review (data testing works) -</p>	Section 3.3,3.4	

Item	Summary of Contract Material required	Services Brief Reference	Milestone Date
	geographical location between Wollie Creek to Carlton		
Completion of Portion 4	Approved data release notes, data installation form, data validation form and test certificates– geographical location between Wollie Creek to Carlton Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 4	Section 3.3,3.4	Date for Completion of Portion 4
Portion 5	AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Unanderra to Kiama All relevant supporting documents ready for review (data testing works) - geographical location between Unanderra to Kiama	Section 3.3,3.4	
Completion of Portion 5	Approved data release notes, data installation form, data validation form and test certificates– geographical location between Unanderra to Kiama Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 4	Section 3.3,3.4	Date for Completion of Portion 5
Portion 6	AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between North Wollongong to Port Kembla North All relevant supporting documents ready for review (data testing works) - geographical location between North Wollongong to Port Kembla North	Section 3.3,3.4	
Completion of Portion 6	Approved data release notes, data installation form, data validation form and test certificates– geographical location between North Wollongong to Port Kembla North Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 4	Section 3.3,3.4	Date for Completion of Portion 6

Item	Summary of Contract Material required	Services Brief Reference	Milestone Date
Portion 7	AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Wombarra to Fairy Meadow All relevant supporting documents ready for review (data testing works) - geographical location between Wombarra to Fairy Meadow	Section 3.3,3.4	
Completion of Portion 7	Approved data release notes, data installation form, data validation form and test certificates– geographical location between Wombarra to Fairy Meadow Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 4	Section 3.3,3.4	Date for Completion of Portion 7
Portion 8	AEO Validated data release notes, data installation form, data validation form and test certificates (ready for CCB Gate 4 submission) – geographical location between Helensburgh to Scarborough All relevant supporting documents ready for review (data testing works) - geographical location between Helensburgh to Scarborough	Section 3.3,3.4	
Completion of Portion 8	Approved data release notes, data installation form, data validation form and test certificates– geographical location between Helensburgh to Scarborough Unconditional approval of CCB Gate 4 for all Contract Material in respect of Portion 4	Section 3.3,3.4	Date for Completion of Portion 8
Completion of Portion 9	All relevant supporting documents required for submission to CCB Gate 5, including final safety assurance and as built documentation	Section 3.5	Date for Completion of Portion 9
Portion 10	Provision of data design training and mentoring for TfNSW personnel	Section 3.8	Date for Completion of Portion 10

Table 4: Portion Boundary Breakdown

Area 4

<u>Stations</u>	<u>Circuit Book</u>	<u>Signalling plan</u>
-----------------	---------------------	------------------------

Wolli Creek	CB27 Arncliffe - Carlton	Sydenham - Banksia (x)
Arncliffe		Arncliffe (x) - Carlton
Banksia		
Rockdale		
Kogarah		
Carlton		
Allawah	CB10 Hurstville - Sutherland	
Hurstville		
Penthurst		
Mortdale		
Oatley		
Como	CB64 Oatley (x) - Sutherland - Loftus Junction (x)	Oatley (x) - Engadine (x)
Jannali		
Sutherland		
Loftus	CB101 Loftus Junction - Waterfall (x)	Engadine - Waterfall
Engadine		
Heathcote		
Waterfall	CB69 Waterfall	
Kirrawee	CB67 Sutherland (x) - Cronulla (x)	Sutherland (x) - Cronulla
GyMEA		
Miranda		
caringbah		
wollooware		
Cronulla		

Area 5

<u>Stations</u>	<u>Circuit Book</u>	<u>Signalling plan</u>
Helensburgh	CB280 - Helensburgh CB281 - Metropolitan Colliery Junction	Waterfall (x) - Helensburgh Helensburgh (x) - MJC
Oxford	CB282 - Oxford	Oxford
Stanwell Park	CB283 - Coalcliff	Stanwell Park - coalcliff
Coalcliff		
Scarborough	Cb284 - Scarborough	Coalcliff (x) - Scarborough
Wombarra	CB286 - Thirroul	Thirroul
Coldedale		
Austinmer		
Thirroul		
Bulli		
Woonoona	CB288 - Corrimal	Corrimal
Bellambi		
Corrimal		

Towradgi		
Fairy Meadow		
North Wollongong	CB289 - Wollongong	Wollongong
Wollongong		
Coniston	CB246 - Port Kembla Balloon Loop CB291 Alans Creek	Wollongong (x) - Unanderra (x)
Lysaghts		Alans Creek
Cringilla		
Port Kembla North	Cb292 Port Kembla North	Port Kembla North
Unanderra	Cb73 - Unanderra	Unanderra
Kembla Grange racecourse		
Dapto	CB299 - Dapto	Dapto - Kiama
Albion Park	Cb295 Albion Park	
Oak flats		
Dunmore	CB296 - Dunmore	
Minnamurra		
Bombo	CB297 - Bombo	
Kiama	CB298 - Kiama	

	Design Package 1
	Design Package 2
	Design Package 3
	Design Package 4
	Design Package 5
	Design Package 6
	Design Package 7
	Design Package 8

1.8 Exclusions

The Concept Design (of circuit books, signalling plan, track insulation plan), subsystem integration test activities, and physical installation of works do not form part of the Services.

2 Professional Services Contractor's Obligations

The Professional Services Contractor must carry out and manage the Services in accordance with the requirements of this Agreement, including the Services Brief and the TSRs.

2.1 Resources

The Professional Services Contractor must:

- (a) adequately resource to complete the Services, including ensuring resources have the requisite competencies as stipulated within relevant Codes and Standards in order to meet safety and reliability requirements and to ensure the integrity of the signalling system; and
- (b) provide all necessary labour to undertake the Services in a safe manner.

The Professional Services Contractor acknowledges that:

- (c) it must develop and maintain a competency management system as part of its AEO accreditation for its authorised scope of work;
- (d) for signalling services, the signalling licensing and authorisation system to be employed by the Professional Services Contractor is prescribed in Sydney Trains Engineering Procedure TMG A1412 'Process for Signalling Personnel - Authorisations & Licensing';
- (e) Sydney Trains is administering the signalling licensing and authorisation process for all signalling personnel required to work within the rail network; and
- (f) the current listing of licensed and authorised signalling personnel is set out in Sydney Trains document RGS41415 and any other subsequent competency framework deployed by Sydney Trains.

Within the above competency framework, the Professional Services Contractor must ensure that:

- (g) all personnel have the required competencies (including being trained, qualified and accredited) for the Services they undertake. Personnel required to perform a duty on a live operating signalling system must be included in the Sydney Trains listing RGS41415 'Signalling Personnel - Licensing and Authorisation Status' and be appropriately authorised or licensed for the duty;
- (h) all personnel are adequately supervised in line with their competencies;
- (i) resources are scheduled to achieve the milestone dates in Table 3 and to ensure the Services are complete by the relevant Date for Completion for each Portion;
- (j) adequate resources are supplied by the Professional Services Contractor that have the suitable competencies to issue and/or gain a Permit to Work in accordance with ASA (formerly RailCorp) procedure TMG A1419 'Authority to Work on RailCorp Signalling Infrastructure – Permit to Work'; and
- (k) resources are programmed in accordance with the Professional Services Contractor's program.

The Professional Services Contractor acknowledges that it is responsible for securing all necessary resources. In particular, TfNSW is not obliged to assist the Contractor to secure Sydney Trains resources listed in RGS41415 'Signalling Personnel - Licensing and Authorisation Status' to facilitate the Professional Services Contractor performing the Services.

2.2 Team Establishment

The Professional Services Contractor must:

- (a) provide, lead, organise, control and coordinate the resources (including any specialist sub-consultants) necessary to deliver the Services; and
- (b) ensure that all people and parties fully understand and fulfil their role required by this Agreement, including this Services Brief.

The Professional Services Contractor will generally carry out the Services at its own premises and must attend meetings with the Principal within the Sydney metropolitan area as required.

2.3 Document Control and Issues Management

The Professional Services Contractor must establish and implement a document management and control system to track and store all documentation produced during the performance of the Services.

The Professional Services Contractor's responsibilities for the document management and control system include:

- (a) establishing and implementing a document register for the documents received from and sent to the Principal's Representative, the Principal's advisors, authorities and other stakeholders;
- (b) the receipt, management and distribution of documents, and the responses to these documents, including requests for information; and
- (c) the establishment and maintenance of an issues register/database for management of all key issues, including receipt, response, follow up and close out.

2.4 Collaborative Audit Process

The Professional Services Contractor and the Principal will undertake audits in accordance with the Agreement.

2.5 Compliance with Rail Safety National Law

The Principal is accredited for its role in managing the design and construction of rail works under the Rail Safety National Law. The Professional Services Contractor must operate under the Principal's accreditation for the Services in accordance with the Principal's accreditation requirements and must not do anything to place the Principal in breach of its accreditation or the Rail Safety National Law.

The Principal's policies on drug and alcohol testing and fatigue management are applicable to all Professional Services Contractor personnel classified as Rail Safety Workers employed under the Agreement.

The Professional Services Contractor must ensure that all persons classified as Rail Safety Workers hold appropriate certificates of competency as required by the Rail Safety National Law.

The Professional Services Contractor must comply with the access requirements in the TSRs.

2.6 Professional Services Contractor's Program

The Professional Services Contractor must develop, maintain and submit the Professional Services Contractor's program in accordance with the TSRs.

2.7 Progress Reporting

2.7.1 Monthly Report

The Professional Services Contractor must, on the last day of each month or the next Business Day, prepare and present a monthly report in accordance with the TSRs.

2.7.2 Fortnightly Report

The Professional Services Contractor must, on Tuesday of each week or the next Business Day where the Tuesday is a gazetted public holiday in NSW, prepare and present a fortnightly report to the Principal's Representative mapping the actual progress of completing the Services against the Professional Services Contractor's program. The exact format and layout of the fortnightly report will be agreed with the Principal upon commencement of the Services, but must record the following information:

- (a) a summary of detailed design activities completed;
- (b) a rolling 3 week look-ahead schedule of proposed design activities;
- (c) current status reflecting progress on the baseline Professional Services Contractor's program, detailing delays and action to bring progress up to baseline program; and
- (d) list of design documents showing:
 - (i) Contract Material in development by the Professional Services Contractor;

- (ii) Contract Material that will be submitted to the Principal's Representative for review in the current week;
- (iii) the status of Contract Material that has been submitted to the Principal's Representative for review (being: "in review", "reviewed with comments", or "reviewed with no comments"); and
- (iv) a summary of stakeholder consultation performed and issues arising.

2.8 Office Accommodation

The Professional Services Contractor shall provide office accommodation with a floor area of 998 m² located at level 2, 16 Giffnock Avenue, North Ryde, NSW 2113 for a minimum period of six (6) months from the Commencement Date.

The Professional Services Contractor shall be responsible for the provision of all services associated with the office accommodation including electricity, office furniture, cleaning, milk, tea, coffee, kitchen facilities and associated kitchenware.

The Professional Services Contractor shall provide all IT set-up including:

- a) all network cabling and port activation;
- b) laptop set and VPN and account up for TfNSW personnel; and
- c) Connection to the Professional Services Contractor's network including access to the Professional Services Contractor's high-speed global network for access to the servers, global ETCS platform and video-conference facilities.

This office accommodation is for the sole use of TfNSW and the Professional Services Contractor's personnel to undertake data design activities associated with the Principal's ATP program. Should the Professional Services Contractor utilise this area for any other purpose then the amounts referred to in Schedule 5.2 of the General Conditions of the Agreement will be reduced to the extent of such use.

3 Detailed Scope of Services

3.1 Professional Services Contractor's Activities

Without limiting the Professional Services Contractor's other obligations under the Agreement, the Services include all things necessary to:

- (a) accurately update designs based on the location of installed balises;
- (b) develop and produce ATP data for LEUs and balises as per Codes and Standards and relevant AMS Project Specifications; and
- (c) ensure the Services comply with the minimum criteria and performance and technical requirements set out in this Services Brief.

3.2 Not Used

3.3 Area 4 and 5 ATP Data Design - Scope

The technical details for Area 4 and 5 are defined by the Concept Design and supported by documents listed in Appendix E. The following describes the Services required for Area 4 and 5.

Portions 1- 8: ATP Data Design Services

The Professional Services Contractor must undertake the following in respect of each of Portions 1 - 8:

- (a) produce the infrastructure database necessary as an input to complete the data preparation and data validation required as part of this Services Brief;
- (b) complete the data preparation and data validation for (fixed and controlled) balise groups, LEUs and fixed balise groups for speed signs and high risk speed sign as required by the Concept Design;
- (c) provide all Contract Material required for CCB Gate 4 as described in 4TP-FT-256/6.0 (including but not limited to project hazard log, IPR safety notices, safety assurance statement, IPR report, and resolved construction non-conformance reports);
- (d) update ETCS data based on the site measurements for the all fixed balise groups and controlled balise groups;
- (e) upload of ETCS data for Area 4 and 5 works onto BEPT to be submitted to the Principal for programming onto balises and LEU;
- (f) programming of configuration keys with ETCS data;
- (g) provision of final safety documentation (for testing) that will also support TfNSW safety case for operational service; and
- (h) complete the verification and validation of data designs as required in the ATP trackside SSRS and standards / guidelines / principles, i.e. preliminary RAATM.

3.4 Area 4 and 5 - Contract Material

Portion 1: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (a) approved data release notes for Portion 1;
- (b) approved data installation and validation forms for Portion 1;
- (c) updated data release notes for Portion 1 testing;
- (d) updated data installation and validation forms for Portion 1 testing;

- (e) programmed BEPT and configuration keys for Portion 1 (BEPT and configuration keys to be provided by the Principal);
- (f) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (g) Portion 1 baseline requirements (refer to section 7.5 of this Services Brief);
- (h) non-conformance reports; and
- (i) supporting documentation for submissions into CCB Gate 4 as per obligations of an AEO under the Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 1.

Portion 2: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (a) approved data release notes for Portion 2;
- (b) approved data installation and validation forms for Portion 2;
- (c) updated data release notes for Portion 2 testing;
- (d) updated data installation and validation forms for Portion 2 testing;
- (e) programmed BEPT and configuration keys for Portion 2 (BEPT and configuration keys to be provided by Principal);
- (f) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (g) Portion 2 baseline requirements (refer to section 7.5 of this Services Brief);
- (h) non-conformance reports; and
- (i) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 2.

Portion 3: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (a) approved data release notes for Portion 3;
- (b) approved data installation and validation forms for Portion 3;
- (c) updated data release notes for Portion 3 testing;
- (d) updated data installation and validation forms for Portion 3 testing;
- (e) programmed BEPT and configuration keys for Portion 3 (BEPT and configuration keys to be provided by Principal);
- (f) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (g) Portion 3 baseline requirements (refer to section 7.5 of this Services Brief);
- (h) non-conformance reports; and
- (i) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 3.

Portion 4: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (a) approved data release notes for Portion 4;
- (b) approved data installation and validation forms for Portion 4;
- (c) updated data release notes for Portion 4 testing;
- (d) updated data installation and validation forms for Portion 4 testing;
- (e) programmed BEPT and configuration keys for Portion 4 (BEPT and configuration keys to be provided by Principal);
- (f) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (g) Portion 4 baseline requirements (refer to section 7.5 of this Services Brief);
- (h) non-conformance reports; and
- (i) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 4.

Portion 5: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (j) approved data release notes for Portion 5;
- (k) approved data installation and validation forms for Portion 5;
- (l) updated data release notes for Portion 5 testing;
- (m) updated data installation and validation forms for Portion 5 testing;
- (n) programmed BEPT and configuration keys for Portion 5 (BEPT and configuration keys to be provided by Principal);
- (o) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (p) Portion 5 baseline requirements (refer to section 7.5 of this Services Brief);
- (q) non-conformance reports; and
- (r) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 5.

Portion 6: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (s) approved data release notes for Portion 6;
- (t) approved data installation and validation forms for Portion 6;

- (u) updated data release notes for Portion 6 testing;
- (v) updated data installation and validation forms for Portion 6 testing;
- (w) programmed BEPT and configuration keys for Portion 6 (BEPT and configuration keys to be provided by Principal);
- (x) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (y) Portion 6 baseline requirements (refer to section 7.5 of this Services Brief);
- (z) non-conformance reports; and
- (aa) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 6.

Portion 7: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (bb) approved data release notes for Portion 7;
- (cc) approved data installation and validation forms for Portion 7;
- (dd) updated data release notes for Portion 7 testing;
- (ee) updated data installation and validation forms for Portion 7 testing;
- (ff) programmed BEPT and configuration keys for Portion 7 (BEPT and configuration keys to be provided by Principal);
- (gg) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (hh) Portion 7 baseline requirements (refer to section 7.5 of this Services Brief);
- (ii) non-conformance reports; and
- (jj) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 7.

Portion 8: Data Design Services Contract Material

The Professional Services Contractor must submit the following Contract Material to the Principal's Representative for review in accordance with section 7.3:

- (kk) approved data release notes for Portion 8;
- (ll) approved data installation and validation forms for Portion 8;
- (mm) updated data release notes for Portion 8 testing;
- (nn) updated data installation and validation forms for Portion 8 testing;
- (oo) programmed BEPT and configuration keys for Portion 8 (BEPT and configuration keys to be provided by Principal);
- (pp) completion of work instruction for activities relating to the programming of ETCS data onto BEPT and LEU configuration keys;
- (qq) Portion 8 baseline requirements (refer to section 7.5 of this Services Brief);

- (rr) non-conformance reports; and
- (ss) supporting documentation for submissions into CCB Gate 4 as required under the AEO Codes and Standards.

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 8.

3.5 Portion 9: As Built Documentation for Portions 1 to 8

The Professional Services Contractor must submit the following to the Principal's Representative for review in accordance with section 7.2:

- (a) all necessary Contract Material to support the safety case;
- (b) as-built data designs when Portions 1 to 8 are completed; and
- (c) provide all Contract Material required for CCB Gate 5 as described in 4TP-FT-256/6.0 (including but not limited to project hazard log, IPR safety notices, approved final safety assurance report, agreed configuration change plan, RAMS report, and resolved construction non-conformance reports).

The Professional Services Contractor must submit this Contract Material to the Principal's Representative as a condition precedent to Completion of Portion 9.

3.6 Control Tables – Supplementary Data

The Professional Service Contractor must provide the following inputs to the control table:

- (a) IP Model;
- (b) Metal Signal;
- (c) M-M Count; and
- (d) NID_BG.

3.7 Test Logs during NIT

The test logs and red-line mark-ups will be progressively made available to the Professional Services Contractor during the Network Integration Testing (NIT). The NIT testing is expected to begin in May 2019 and is anticipated to run for approximately 10-14 weeks.

3.8 Portion 10: Data Design Training for TfNSW Personnel

The Professional Service Contractor shall provide training, competency assessment and mentorship in data design for eight (8) TfNSW personnel, include representatives employed or engaged by TfNSW and Sydney Trains (**Trainees**). Four (4) personnel will be trained and mentored in data validation and four (4) personnel will be trained and mentored in data preparation. All expenses for flights, accommodation, living expenses and other sundry costs for the nominated TfNSW personnel will be covered by the Principal.

The Principal's personnel who have previously been trained in data design shall be the Trainees initial contact for mentoring; supported by Alstom engineers to respond to the more complex queries from the Trainees.

The data design training and mentoring will be held over a thirteen (13) week period as detailed in table 3.8.1.

Item	Training	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13
1	Overview Training Course													
2	Data Prep Training Course													

3	Data Validation Training Course														
4	Data Prep Mentoring														
5	Data Validation Mentoring														

Table 3.8.1 Data Design Training program

4 General Requirements

4.1 Introduction

The Contract Material must be compatible with and integrated into the existing electrified rail network. The Services must comply with relevant Codes and Standards as required by this Services Brief and the Agreement.

Without limiting or affecting the Professional Services Contractor's obligations under any other provisions of the Agreement, in delivering the Services, the Professional Services Contractor must:

- (a) carry out the Services safely;
- (b) minimise impacts on the environment and community;
- (c) complete the Services for each Portion by the relevant Date for Completion; and
- (d) avoid unplanned disruption to the rail network operations.

The Professional Services Contractor must develop the design so that spare capacity within the existing signalling infrastructure including location enclosures, cable routes and cables is utilised wherever possible in the design.

The Professional Services Contractor must carry out verification and validation of the relevant Codes and Standards and relevant AMS Project Specifications and provide all necessary compliance evidence. The compliance evidence must be provided in the form of a verification matrix in accordance with ASA standard (T MU AM 06004 ST) and comply with DOORS format (or equivalent as informed by the Principal).

4.2 Not Used

4.3 Operational Requirements

4.3.1 General

The NSW rail infrastructure, rolling stock and associated transport facilities will continue to operate during the Services. The Services must have no effect on the operation of the NSW rail network and the associated facilities.

4.4 Codes and Standards

- (a) The Services must, as a minimum, be designed to comply with relevant Codes and Standards.
- (b) References in this Services Brief to an AMS Project Specification, standard, regulation or code including an ASA or Standards Australia publication must, unless stated otherwise, be read as a reference to the current version of the particular AMS Project Specification, standard, regulation or code as amended from time to time.
- (c) Where specific AMS Project Specifications, standards, regulations and codes are nominated in this Services Brief in relation to particular areas of the Services, these are minimum requirements and do not relieve the Professional Services Contractor's obligation to comply with all other standards, regulations, technical notes and codes listed in Appendix A or published on the ASA's website.
- (d) In the event of any inconsistency, ambiguity or discrepancy between a requirement of this Services Brief and any Codes and Standards or among any Codes and Standards, the following order of precedence shall apply:
 - (i) specific provisions of the Services Brief;
 - (ii) AMS Project Specifications;
 - (iii) ASA technical notes;

- (iv) ASA standard drawings;
- (v) ASA standards;
- (vi) Sydney Trains procedures/network rules;
- (vii) Australian standards and guidelines; and
- (viii) any other international codes, standards or specifications.

4.5 Not Used

4.6 Not Used

4.7 Assurance of Services

The Professional Services Contractor must undertake all safety assurance activities and provide all Contract Material required for the successful delivery of the Project in accordance with the Agreement and the requirements set out in ASA standard TS 20001 System Safety Standard for New or Altered Assets.

The Services have been assessed as safety significant for the purposes of compliance with TS 20001.

4.8 AEO Status

All engineering tasks must be undertaken under the authority of an AEO in accordance with ASA Requirements.

4.9 Application of AEO Engineering Management Methodologies

The Professional Services Contractor must have in place, maintain and consistently apply engineering management methodologies for the delivery and assurance of the Services that comply with ASA Requirements and the requirements of the Agreement.

This includes application of the requirements within ASA standard T MU MD 00009 ST "AEO Authorisation Requirements".

4.10 Application of Management Plans

The Professional Services Contractor must develop and submit in accordance with this Services Brief an appropriate management plan (or suite of plans) which defines how the engineering management methodologies are applied to the Services. The Professional Services Contractor must work in accordance with these plans that have not been rejected by the Principal.

All revisions to the management plans must be submitted to the Principal in accordance with section 7.3.

4.11 Configuration Change Control

The Professional Services Contractor will operate under the remit of the Tier 2 CCB, and must operate under the governance arrangements established by the TfNSW CCB.

TfNSW will have a Tier 2 CCB and CMAAC to approve configuration changes at the CCB Gates as per the ASA standard TfNSW Configuration Management Plan T MU AM 04001 PL.

The Professional Services Contractor is to supply all relevant Contract Material for TfNSW gateway submissions for CCB and CMAAC and support the Principal to achieve unconditional approval of each gate submission as required under the Agreement.

Where any Contract Material which the Agreement requires be submitted to the CCB, this Contract Material needs to have been submitted for the review of the Principal's Representative under section 7.3, and

- (a) the Principal's Representative gives the Professional Services Contractor the advice referred to in section 7.3(c); or

- (b) the relevant period of time in clause 7.3 has expired and the Principal's Representative has not rejected the Contract Material or made any comments on the Contract Material,

the Principal will use reasonable endeavours to obtain a Configuration Change Acceptance Notice (where relevant) for the relevant design package from the CCB.

Without limiting or otherwise affecting the clause 1.3 of the General Conditions of the Agreement, any act or omission of the Principal in connection with the CCB, any Configuration Change Acceptance Notice, any review, approval or rejection of Contract Material by the CCB, or the Configuration Management Framework is an exercise of the Principal's functions and powers pursuant to the Statutory Requirements and not an act or omission by the Principal under this Agreement and clause 1.3(c) of the General Conditions of the Agreement will apply.

Nothing in this section 4.11 limits or otherwise affects the Professional Services Contractor's obligation to obtain Configuration Change Acceptance Notices for the Contract Material as a pre-condition to Completion.

5 Performance and Design Requirements

5.1 General Design Obligations

The Concept Design has been prepared (or in the case of the Signalling Design, will be prepared) by or on behalf of the Principal and depicts the Principal's requirements for the Services. All design work completed by the Professional Services Contractor must:

- (a) include all documentation, reports and interdisciplinary checks for the Services; and
- (b) be in accordance with/integrate the Concept Design, and signalling design.

The Professional Services Contractor's design must include documentary evidence including calculations to demonstrate the management or removal of interdisciplinary conflicts, safety in design and constructability review and close off of stakeholder comments.

The Professional Services Contractor must liaise and interact with the Principal in resolving and managing the design interface issues in accordance with the Agreement. The Professional Services Contractor must ensure that such interdisciplinary checks and reviews are organised and that a fully coordinated and integrated design is produced.

5.2 Detailed Design Obligations

The Professional Services Contractor must develop the data designs required for ATP Area 4 and 5 split into Portions 1 to 8.

The Professional Services Contractor must develop the data designs based on the Concept Design and signalling design using AMS Project Specifications, detailed specification drawings, signalling principles, signalling procedures, and signalling guidelines. The Services for detailed design include:

- (a) the development of data design; and
- (b) the production of all as-built documentation.

As the AEO for the Services, the Professional Services Contractor's design documentation must be developed, accepted and approved in accordance with the Professional Services Contractor's processes which meet the requirements of relevant Codes and Standards, AMS Project Specifications and the TSR.

In its role as the AEO for the Project, the Professional Services Contractor will design, review, verify and approve the data designs prior to submitting them to the Principal's Representative for review under section 7.3 after which section 4.11 will apply. Upon receipt of a Configuration Change Acceptance Notice from the TfNSW CCB Gate 4, the data designs may be endorsed by the AEO.

All designs developed by the Professional Services Contractor must be produced in accordance with ASA standards and AMS Project Specifications.

5.3 Competency for Design

The Professional Services Contractor and its proposed personnel and subcontractors must comply with the competencies for design requirements set out in the TSRs and AEO requirements.

5.4 Not Used

5.5 Other Criteria

In carrying out the detailed design, the Professional Services Contractor must note that there will be a number of interfacing parties, including the Principal's network rollout contractor, Sydney Trains, NSW Trains, Utility Service owners (gas/electricity/etc) and other Authorities.

The Professional Services Contractor must establish all relevant requirements from such interfacing parties and consider, discuss and obtain the Principal's approval of those requirements prior to incorporating these requirements into the design.

6 Not Used

7 Services Management

The Professional Services Contractor must employ a management system that is consistent with the NSW Government quality management systems guidelines and must develop and implement a project-specific services management plan that is based on AS/NZS ISO 9001:2000 or equivalent. The services management plan must cover the Professional Services Contractor and any subcontractors engaged by the Professional Services Contractor.

The Professional Services Contractor's quality management processes must focus on customer satisfaction and require compliance in accordance with AS/NZS ISO 9001:2000 and must:

- (a) satisfy the specified requirements documented in this Services Brief including all relevant guidelines, specifications, Codes and Standards;
- (b) include processes required to accurately complete the Services on time; and
- (c) satisfy all Statutory Requirements.

7.1 Management Plans

The following management plans must be prepared and submitted to the Principal's Representative for review by the dates specified in Table 3:

- (a) contract management plan;
- (b) project work health and safety management plan (forms part of contract management plan);
- (c) rail safety management plan;
- (d) fatigue management plan;
- (e) quality management plan;
- (f) interface management plan;
- (g) design management plan; and
- (h) risk management plan.

Subject to the approval of the Principal's Representative, the various management plans may be consolidated into an integrated services management plan, in which case the earliest submission date in Table 3 will apply.

7.1.2 Contract Management Plan

The Professional Services Contractor must prepare, submit and thereafter implement a Contract Management Plan to demonstrate how it proposes to perform the Services in accordance with the requirements of the Agreement. The plan must satisfy the requirements laid out in the TSR.

The Contract Management Plan must:

- (a) include a project work health and safety management plan; and
- (b) address the employment of Aboriginal and Torres Strait Islander people and compliance with the NSW Government Policy on Aboriginal Participation in Construction (May 2015).

7.1.3 Rail Safety Management Plan

If the Services involve work in or adjacent to the rail corridor or rail environment, the Professional Services Contractor must prepare, submit and implement a rail safety management plan which addresses the requirements of rail safety in the Agreement, Rail Safety National Law and AS4292 Railway Safety Management.

7.1.4 Fatigue Management Plan

The Professional Services Contractor must prepare, submit and thereafter implement a fatigue management plan for all its personnel and subcontractors that is accordance with:

- (a) WHS Legislation;
- (b) the Rail Safety National Law (if the Services involve work in and adjacent to the rail corridor and the rail environment); and
- (c) the TSRs.

7.1.5 Quality Management Plan

The Professional Services Contractor must prepare, submit and thereafter implement a quality management plan for all its design activities in accordance with relevant Codes and Standards and AEO requirements.

7.1.6 Interface Management Plan

The Professional Services Contractor is responsible for undertaking co-ordination with stakeholders, i.e. Sydney Trains, subcontractors, other contractors and all interfacing parties as required to ensure satisfactory completion of the Services.

The Professional Services Contractor must prepare, submit and thereafter implement an interface management plan identifying relevant interface protocols and the communications tools that will be used to successfully manage interactions with all interfacing parties. This plan must be in place and agreed with Sydney Trains and other relevant stakeholders prior to any Services being carried out. Details of interface requirements are shown within Appendix C.

The interface management plan must:

- (a) describe how the Professional Services Contractor will ensure that appropriate resources and procedures are in place to effectively identify and manage interfaces and interfacing parties;
- (b) nominate a single person to provide a consistent point of contact for all interfaces and interface management issues;
- (c) identify all demarcations, responsibilities and interfaces with other parties;
- (d) incorporate a schedule of interface meetings to be initiated by the Professional Services Contractor;
- (e) outline the site activities planned to be carried out in the Agreement and gain endorsement from Stakeholders, and
- (f) outline the activities to manage the interfaces with Other Contractors and other interfacing parties.

During the course of delivering the Services, the Professional Services Contractor must consult and gain agreement from Sydney Trains and other relevant stakeholders with regards to the proposed design/works to be carried out.

The Professional Services Contractor must arrange, attend and minute each interface meeting identified in the schedule of interface meetings.

The Professional Services Contractor must attend safety interface meetings prior to accessing worksites if any, under the control of other Principal Contractors (such as where large projects are in progress) in order to agree the access requirements that the Professional Services Contractor must comply with when performing the Services.

7.1.7 Design Management Plan

The Professional Services Contractor must provide an initial submission of the design management plan to the Principal's Representative in accordance with the requirements of this Services Brief.

The Professional Services Contractor must progressively review, monitor, amend and update the design management plan. The design management plan must be based on the Professional Services Contractor's management systems and processes as assessed by the ASA as part of its AEO

authorisation and must include the measures, including audit, that the Professional Services Contractor must utilise to ensure that, as a minimum:

- (a) all design tasks are appropriately resourced by competent personnel;
- (b) all design personnel are aware of the requirements of the Agreement and any obligations of designers under relevant Statutory Requirements;
- (c) all designs are prepared in accordance with requirements of the Agreement;
- (d) the development of the design is effectively coordinated and the interrelationships identified and managed across all:
 - (i) design interfaces, including with existing systems, operational systems, and maintenance systems;
 - (ii) design stages; and
 - (iii) design packages, where the design work has been portioned into design packages.
- (e) the aspect of RAMS, verification and validation activities are being managed;
- (f) all stakeholders have been appropriately identified, that stakeholder consultation is undertaken in accordance with the requirements of the Agreement and that may include presentations of the design to relevant parties including the design and sustainability review panel;
- (g) all design assumptions are documented and verified;
- (h) all designs are checked, reviewed and verified by competent personnel and that verification or proof engineering is conducted in accordance with the requirements of the Agreement;
- (i) all construction methodologies, sequencing, staging, temporary or enabling works are taken into account and the associated risks are managed in the design;
- (j) an asset maintenance strategy and an asset operations strategy are delivered with the design in accordance with requirements of the Agreement;
- (k) safety, constructability, sustainability, reliability, availability and maintainability are demonstrated in the design;
- (l) durability assessment and durability statements are included with the design;
- (m) all completed designs or completed portions of the design are accompanied by a design assurance certificate from the AEO;
- (n) a process for managing design change is implemented that integrates with configuration management activities (all documentation is compliant with requirements of the Agreement including TfNSW document CAD Protocols and Submission of Drawings to TfNSW (4TP-RL-004) and discipline specific ASA requirements;
- (o) all hazards identified in the preliminary hazard analysis and systems hazard analysis are designed out or carried over into the project hazard log; and
- (p) all designs comply with relevant Codes and Standards.

7.1.8 Risk Management Plan

Prior to commencing any Services, the Professional Services Contractor must prepare and submit a risk management plan in accordance with the TSRs.

7.1.9 Design Defects Management Plan

Prior to commencing any Services, the Professional Services Contractor must prepare, submit and thereafter implement the design defects management plan in accordance with the TSRs.

7.1.10 Updating Management Plans

The Professional Services Contractor must implement, audit and update the management systems and plans as necessary for the ongoing successful management of the Services.

Any updates and modifications to the management plans must be provided to the Principal's Representative for review. The Professional Services Contractor must not decrease or otherwise reduce the commitments and requirements, including those relating to the scope, reporting, processes, procedures, effort, resources, experience or expertise, in the developed of any subsequently amended versions of the management plans.

7.2 Other Services Management Obligations

7.2.1 Attendance at Meetings

A project inception meeting will occur within the first week following the Commencement Date. The Professional Services Contractor will also be required to attend relevant technical meetings and workshops with a number of stakeholders as required by TfNSW including a monthly progress meeting which will be held in the second week of every month.

7.2.2 Interface Obligations with the Construction Contractor

The Professional Service Contractor is to provide a capable, competent and responsible resource to interface directly and collaboratively with the Construction Contractor's design team. The purpose of the role is to provide, oversight, guidance and expert advice on the quality and suitability of the Construction Contractor's design deliverables to TfNSW (prior to the Construction Contractor's design deliverables being issued to TfNSW) that will be used as inputs for the Professional Services Contractor to perform their Services in accordance with the Agreement. The nature of the collaborative relationship is predicated on the recognition of the subject matter expert knowledge of the Professional Services Contractor and the ETCS detailed design specific requirements of the Construction Contractor to mitigate any potential delays to the Project.

As a minimum the Professional Services Contractor must:

- (a) provide a capable, competent and responsible resource to interface directly and collaboratively with the Construction Contractor's design team to provide the guidance and expert advice and determine the suitability of the Construction Contractor's design deliverables to mitigate any delays in enabling the Professional Services Contractor to perform their Services; and
- (b) ensure the resource complies with the requirements within section 7.2.2.1 and section 7.2.2.2 in this Services Brief.

7.2.2.1 Attendance of Design Interface Meetings

The Professional Service Contractor must ensure the resource described in clause 7.2.2 attends design interface meetings conducted by the Construction Contractor. The design interface meetings will be held to ensure the interface between signalling design and data design is managed in an efficient and proper manner and the Construction Contractor's deliverables are of suitable quality to meet the ETCS data designer's requirements.

One or more meetings are expected to be held each week for the first 30 days of design, and then reducing to one meeting each week for the next 30 days of design, and further reducing on an as-needs basis through to delivery of the final design deliverables.

The Principal will attend the design interface meeting.

7.2.2.2 Embedment with the Construction Contractor

- (a) The Professional Services Contractor must ensure the resource described in section 7.2.2 is embedded into the Construction Contractor's office for the days that a design interface meeting referred to in section 7.2.2.1 is held. The resource must be embedded for the entire day during the hours of 9am and 5pm and work collaboratively in providing the oversight, guidance and

expert advice to the Construction Contractor as referred to in section 7.2.2. The intention of the embedment is to facilitate a collaborative working environment between the Professional Services Contractor and the Construction Contractor to promptly provide advice.

- (b) The embedded resource must be available to provide support to the Construction Contractor during the Construction Contractor activities relating to data programming. This support will be on an as needed basis.

7.3 Review by the Principal

The Principal may review all Contract Material including management plans and the Contract Material described in Sections 3. Within ten (10) Business Days of receipt of Contract Material, the Principal may review the Contractor Material and may:

- (a) reject the document, if in the opinion of the Principal the document or any part does not comply with the requirements of the Agreement (including this Services Brief), stating the nature of the non-compliance, or
- (b) provide comments on the document, or
- (c) advise the Professional Services Contractor that it has no comments on the document.

If any document is not rejected and the Principal responds to the submission with comments in accordance with paragraph (b) above, the Professional Services Contractor must respond to the comments within ten (10) Business Days or such other period as may be directed by the Principal. If the Professional Services Contractor fails to respond to the Principal's comments within this period in a manner satisfactory to the Principal the document will be deemed to have been rejected. If any document is rejected under paragraph (a) above or deemed to be rejected under this paragraph, the Professional Services Contractor must submit an amended document within a reasonable timeframe as agreed with the Principal and this section 7.3 will re-apply.

If the Principal does not provide any response within 10 Business Days of the submission of Contract Material, the relevant Contract Material will be deemed to be Contract Material against which the Principal has no comments.

7.4 Contract Material Quality

All draft and final documents produced under the Agreement must:

- (a) demonstrate a high quality of drafting;
- (b) be well designed and thoroughly proof read and checked prior to submission;
- (c) not require substantial revision as a result of poor document design, drafting and editing, or quality control;
- (d) be reviewed and approved by an assigned senior member of the Professional Services Contractor's team; and
- (e) be developed and submitted in accordance with the TSRs.

The Principal may reject any document which is inadequate in this respect.

7.5 Area 4 and 5 Baseline Requirements

The Professional Services Contractor must include as part of the Contract Material:

- (a) design production assumptions and omissions;
- (b) all verification and validation requirements under the 'ATP Project - Design Verification and System Validation Procedure' (Desksite # 5512481)
- (c) all documentation (complete with version, dates, origin and status) used to produce the individual design documents for the Professional Services Contractor's Activities; and

- (d) all correspondence relevant to the production of the design package.

The purpose of the ATP Area 4 and 5 baseline requirements is to establish traceability and to allow the Principal to identify any changes between the completion of each subsystem stage and respective handover.

7.6 Support to Network Integration Testing (NIT)

The Professional Services Contractor must make available suitably competent engineer(s) to support TfNSW's Network Integration Testing of Areas 4 & 5 on an as needed basis, in order to analyse NIT test logs together with the Area 4 & 5 Design and Construct Contractor, to determine actions required to resolve defects. The support is required on an as needed basis for the duration of the NIT.

NIT is expected to begin in May 2019 and is anticipated to run for approximately 8-12 weeks

APPENDIX A – Standards, Specifications and Guidelines

Notes:

- 1) The documents listed in this section do not constitute a complete list of the requirements documents. The documents are included because either they are not accessible via the public internet or the public internet versions are superseded by the versions listed herein.
- 2) The AMS Project Specifications and ASA standards/guidelines listed in this section will be subject to amendment for AMS. The AMS Project Specifications shall be read in conjunction with the ASA standards/guidelines. Where any inconsistency occurs the AMS Project Specifications shall take precedence over the ASA technical notes.
- 3) Some descriptions listed in this section may not exactly match document titles.
- 4) Refer to the Supporting Documents Pack for copies of documents listed in this section. See attached DVD titled “ATP AMS Trackside Data Design Information”

Specification – ATP Construction Drawings

The below-listed M05-500 series of ATP Construction Drawings are presently published on the ASA web site as Revision 1 August 2012 set. However, the published Revision 1 set is out of date and must not be used. The below-listed versions of the drawings shall be used.

Drg No	Title	Sheet No	Revision
M05-143	Signal Location Case Single Width Case Arrangement & Details	Sheet 1 of 4	Revision 0
M05-143	Signal Location Case Single Width Case Arrangement & Details	Sheet 2 of 4	Revision 0
M05-143	Signal Location Case Single Width Case Arrangement & Details	Sheet 3 of 4	Revision 0
M05-143	Signal Location Case Single Width Case Arrangement & Details	Sheet 4 of 4	Revision 0
M05-145	Signal Location Case Double Width Case Arrangement & Details	Sheet 1 of 4	Revision 0
M05-145	Signal Location Case Double Width Case Arrangement & Details	Sheet 2 of 4	Revision 0
M05-145	Signal Location Case Double Width Case Arrangement & Details	Sheet 3 of 4	Revision 0
M05-145	Signal Location Case Double Width Case Arrangement & Details	Sheet 4 of 4	Revision 0
M05-149	Signal Location Case Equipment Rack Arrangement	Sheet 1 of 2	Revision 0
M05-149	Signal Location Case Equipment Rack Arrangement	Sheet 2 of 2	Revision 0
M05-150	Signal Location Case Removable Lifting Bracket Details	Sheet 1 of 1	Revision 0
M05-160	Signal Location Case Standard Lockbar Details	Sheet 1 of 1	Revision 0
M05-500	ETCS Balise Mounting Pad	Sheet 1 of 1	Revision 0
M05-501	Alstom Balise with Timber Sleeper Installation Diagram	Sheet 1 of 2	Revision F Not signed off.
M05-501	Alstom Balise with Timber Sleeper Installation Diagram	Sheet 2 of 2	Revision C Not signed off
M05-502	Alstom Balise with Concrete Sleeper Installation Diagram	Sheet 1 of 2	Revision F Not signed off
M05-502	Alstom Balise with Concrete Sleeper Installation Diagram	Sheet 2 of 2	Revision D Not signed off
M05-503	Alstom Balise Position and Orientation Acceptance Diagram	Sheet 1 of 1	Revision F Not signed off
M05-503	Alstom Balise Position and Orientation Acceptance Diagram. Sheet 2 deleted and not required.	Sheet 2	-

Drg No	Title	Sheet No	Revision
M05-503	Alstom Balise Position and Orientation Acceptance Diagram. Sheet 3 deleted and not required.	Sheet 3	-
M05-504	ETCS Trackside Junction Box – Assembly Details	Sheet 1 of 3	Revision G
M05-504	ETCS Trackside Junction Box – Assembly Details	Sheet 2 of 3	Revision G
M05-504	ETCS Trackside Junction Box – Assembly Details	Sheet 3 of 3	Revision G
M05-505	ETCS Trackside Junction Box Wall Mount – Fabrication Details	Sheet 1 of 1	Revision E
M05-506	ETCS Trackside Junction Box In-Ground Post – Fabrication Details	Sheet 1 of 2	Revision F
M05-506	ETCS Trackside Junction Box In-Ground Post – Fabrication Details	Sheet 2 of 2	Revision C
M05-507	Alstom Balise Standard Placement Diagram	Sheet 1 of 1	Revision D
M05-508	Schaffner Power Filter Module Mounting Assembly	Sheet 1 of 1	Revision A Not signed off
M05-509	Balise Cross Track Cable Protection Diagram	Sheet 1 of 1	Revision C
M05-510	ETCS Trackside Junction Box Installation Diagram	Sheet 1 of 2	Revision I
M05-510	ETCS Trackside Junction Box Installation Diagram	Sheet 2 of 2	Revision B
M05-511	ETCS Trackside Junction Box Cable Termination Details	Sheet 1 of 3	Revision E
M05-511	ETCS Trackside Junction Box Cable Termination Details	Sheet 2 of 3	Revision C
M05-511	ETCS Trackside Junction Box Cable Termination Details	Sheet 3 of 3	Revision B
M05-512	Alstom Balise with Worse Case Train and Platform Marker Relationship Diagram	Sheet 1 of 1	Revision D
M05-513	ATP Stopping Location Signage – Assembly Diagram. Drawing not required.	Sheet 1 of 2	-
M05-513	ATP Stopping Location Signage – Assembly Diagram. Drawing not required.	Sheet 2 of 2	-
M05-514	BEGIN ATP Signage Assembly Diagram	Sheet 1 of 2	Revision 1
M05-514	BEGIN ATP Signage Assembly Diagram	Sheet 2 of 2	Revision 1
M05-515	END ATP Signage Assembly Diagram	Sheet 1 of 2	Revision 1
M05-515	END ATP Signage Assembly Diagram	Sheet 2 of 2	Revision 1
M05-516	LEU Vital Plug Coupler Assembly Diagram	Sheet 1 of 1	Revision E

Drg No	Title	Sheet No	Revision
M05-517	Balise Cable at LEU – Type A & B Assembly Diagram (Option cable)	Sheet 1 of 1	Revision A
M05-518	One/Two LEU Cabinet Backplate Manufacturing Diagram	Sheet 1 of 1	Revision C
M05-519	ALSTOM LEU Ethernet Cable – Type J Assembly Diagram	Sheet 1 of 1	Revision B
M05-520	LEU Power Cable 24V DC Assembly Diagram	Sheet 1 of 2	Revision C
M05-520	LEU Power Cable 24V DC Assembly Diagram	Sheet 2 of 2	Revision B
M05-521	ATP LEU Retrofit – General Layout	Sheet 1 of 3	Revision D
M05-521	ATP LEU Retrofit – General Layout	Sheet 2 of 3	Revision D
M05-521	ATP LEU Retrofit – General Layout	Sheet 3 of 3	Revision C
M05-522	LEU Power Supply Cable 120V _{AC} Assembly Diagram	Sheet 1 of 1	Revision C
M05-523	ATP LEU Location Label Manufacturing Detail	Sheet 1 of 2	Revision C
M05-523	ATP LEU Location Label Manufacturing Detail	Sheet 2 of 2	Revision B
M05-524	Balise Location ID Plate Manufacturing Diagram	Sheet 1 of 2	Revision G Not signed off
M05-524	Balise Location ID Plate Manufacturing Diagram	Sheet 2 of 2	Revision F Not signed off
M05-525	Alstom LEU & Power Supply General Assembly Diagram	Sheet 1 of 3	Revision C
M05-525	Alstom LEU & Power Supply General Assembly Diagram	Sheet 2 of 3	Revision C
M05-525	Alstom LEU & Power Supply General Assembly Diagram	Sheet 3 of 3	Revision C
M05-526	Alstom LEU Mounting Bracket Manufacturing Diagram	Sheet 1 of 1	Revision B
M05-527	LEU Interconnection Assembly Diagram	Sheet 1 of 2	Revision A
M05-527	LEU Interconnection Assembly Diagram	Sheet 2 of 2	Revision A
M05-528	Alstom ATP LEU Annexe Cabinet Mounting Plate General Layout	Sheet 1 of 2	Revision C
M05-528	Alstom ATP LEU Annexe Cabinet Mounting Plate General Layout	Sheet 2 of 2	Revision C
M05-529	Alstom ATP LEU Full Height Cabinet General Layout	Sheet 1 of 5	Revision E
M05-529	Alstom ATP LEU Full Height Cabinet General Layout	Sheet 2 of 5	Revision E

Drg No	Title	Sheet No	Revision
M05-529	Alstom ATP LEU Full Height Cabinet General Layout	Sheet 3 of 5	Revision E
M05-529	Alstom ATP LEU Full Height Cabinet General Layout	Sheet 4 of 5	Revision E
M05-529	Alstom ATP LEU Full Height Cabinet General Layout	Sheet 5 of 5	Revision D
M05-530	Alstom ATP LEU Cabinet Components List General Layout Wall Mount	Sheet 1 of 2	Revision C
M05-530	Alstom ATP LEU Cabinet Components List General Layout Wall Mount	Sheet 2 of 2	Revision C
M05-531	ATP Terminals and Resistor Components & Assembly	Sheet 1 of 2	Revision B
M05-531	ATP Terminals and Resistor Components & Assembly	Sheet 2 of 2	Revision D
M05-532	Alstom LEU Annexe Cabinet Main Earthing Arrangements	Sheet 1 of 3	Revision E
M05-532	Alstom LEU Annexe Cabinet Main Earthing Arrangements	Sheet 2 of 3	Revision C
M05-532	Alstom LEU Annexe Cabinet Main Earthing Arrangements	Sheet 3 of 3	Revision A
M05-533	Alstom LEU Ethernet Cable – Type K Assembly Diagram	Sheet 1 of 1	Revision D
M05-534	ATP Defining Danger Points. Drawing not required	Sheet 1 of 1	-
M05-535	Balise Cover Plate Assembly (prototype)	Sheet 1 of 1	Revision C Not signed off
M05-536	ATP LEU Double Skin Annexe Cabinet Typical Arrangement	Sheet 1 of 5	Revision D
M05-536	ATP LEU Double Skin Annexe Cabinet Typical Arrangement	Sheet 2 of 5	Revision D
M05-536	ATP LEU Double Skin Annexe Cabinet Typical Arrangement	Sheet 3 of 5	Revision D
M05-536	ATP LEU Double Skin Annexe Cabinet Typical Arrangement	Sheet 4 of 5	Revision D
M05-536	ATP LEU Double Skin Annexe Cabinet Typical Arrangement	Sheet 5 of 5	Revision A
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 1 of 7	Revision D
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 2 of 7	Revision E
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 3 of 7	Revision D
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 4 of 7	Revision C
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 5 of 7	Revision C

Drg No	Title	Sheet No	Revision
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 6 of 7	Revision B
M05-537	ATP LEU Annexe Cabinet Exterior Manufacturing Details	Sheet 7 of 7	Revision A
M05-538	ATP LEU Annexe Cabinet Tail Cable Termination Details	Sheet 1 of 3	Revision F Not signed off
M05-538	ATP LEU Annexe Cabinet Tail Cable Termination Details	Sheet 2 of 3	Revision F Not signed off
M05-538	ATP LEU Annexe Cabinet Tail Cable Termination Details	Sheet 3 of 3	Revision C Not signed off
M05-539	Stiffener Bracket. Drawing not required	Sheet 1 of 1	-
M05-540	ATP Annexe Cabinet 45mm Spacer	Sheet 1 of 2	Revision C
M05-540	ATP Annexe Cabinet 45mm Spacer	Sheet 2 of 2	Revision B
M05-541	Conduit Protector. Drawing not required	Sheet 1 of 1	-
M05-542	Alstom Balise Cable At LEU 90-Degrees – Type A & B Assembly Diagram	Sheet 1 of 1	Revision B
M05-543	LEU 90-Degree Ethernet Cable – Type J Assembly Diagram	Sheet 1 of 1	Revision B
M05-544	Balise Location ID Plate Attachment Diagram	Sheet 1 of 4	Revision D
M05-544	Balise Location ID Plate Attachment Diagram	Sheet 2 of 4	Revision D
M05-544	Balise Location ID Plate Attachment Diagram	Sheet 3 of 4	Revision C
M05-544	Balise Location ID Plate Attachment Diagram	Sheet 4 of 4	Revision A
M05-545	Alstom Balise Longitudinal Mounting Plate Assembly Diagram	Sheet 1 of 1	Revision G Not signed off
M05-546	Alstom Balise ID Plate Manufacturing Diagram	Sheet 1 of 1	Revision F Not signed off
M05-547	ATP Location Cabinet Lighting Circuit and Assembly Diagram	Sheet 1 of 1	Revision C
M05-548	Vortok Spreader Beam – Alstom Balise Installation Diagram (between-sleeper beam)	Sheet 1 of 1	Revision C
M05-549	ATP LEU ID Plate Manufacturing Detail	Sheet 1 of 1	Revision C Not signed off
M05-550	ATP Track Datum Plate Manufacturing Diagram	Sheet 1 of 1	Revision 0

Drg No	Title	Sheet No	Revision
M05-551	Alstom LEU Configuration Key Tether Cord – Assembly Diagram	Sheet 1 of 1	Revision C
M05-552	Alstom Balise Plug Coupler Assembly Diagram	Sheet 1 of 1	Revision E Not signed off
M05-553	Balise Drilling Template. Drawing not required	Sheet 1 of 1	-
M05-554	Alstom LEU Type 2 Bracket Manufacturing Diagram	Sheet 1 of 2	Revision C
M05-554	Alstom LEU Type 2 Bracket Manufacturing Diagram	Sheet 2 of 2	Revision C
M05-555	Location Case ATP Installation Earth Bar – Fabrication Diagram	Sheet 1 of 1	Revision B
M05-556	Current Sensing – ATP Bypass Terminal Assembly	Sheet 1 of 1	Revision C
M05-557	Alstom ATP LEU Full Height Cabinet Tail Cable Termination Details	Sheet 1 of 2	Revision D Not signed off
M05-557	Alstom ATP LEU Full Height Cabinet Tail Cable Termination Details	Sheet 2 of 2	Revision C Not signed off
M05-558	Standard Placement of Balise at Guard Rails & Derailment Plinth	Sheet 1 of 2	Revision D
M05-558	Standard Placement of Balise at Guard Rails & Derailment Plinth	Sheet 2 of 2	Revision C
M05-559	Alstom Balise Spacer Block Manufacturing Diagram	Sheet 1 of 1	Revision A
M05-560	ATP Power/Surge Protection – Assembly Details	Sheet 1 of 1	Revision B
M05-561	ATP Ethernet Extender Mounting Plate Manufacturing Diagram (note: presently mounting holes only suit DDW225)	Sheet 1 of 2	Revision C
M05-561	ATP Ethernet Extender Mounting Plate Manufacturing Diagram (note: presently mounting holes only suit DDW225)	Sheet 2 of 2	Revision B
M05-562	Gold Key Assembly Diagram	Sheet 1 of 1	Revision C Not signed off
M05-563	LEU PS Cable 120V _{AC} with Filter Assembly Diagram	Sheet 1 of 1	Revision B
M05-564	ATP LEU Location Meter Attachment Plate Manufacturing Drawing	Sheet 1 of 2	Revision B
M05-564	ATP LEU Location Meter Attachment Plate Manufacturing Drawing	Sheet 2 of 2	Revision B
M05-565	ATP Temporary Speed Warning Balise Assembly	Sheet 1 of 2	Revision B
M05-565	ATP Temporary Speed Warning Balise Assembly	Sheet 2 of 2	Revision B
M05-566	Not required		

Drg No	Title	Sheet No	Revision
M05-567	ETCS Trackside Tunnel Junction Box Cable Termination Details	Sheet 1 of 3	Revision B Not signed off
M05-567	ETCS Trackside Tunnel Junction Box Cable Termination Details	Sheet 2 of 3	Revision B Not signed off
M05-567	ETCS Trackside Tunnel Junction Box Cable Termination Details	Sheet 3 of 3	Revision B Not signed off
M05-568	Standard Placement of Alstom Balise at Angle Iron Guard Rails. (<i>Not currently available</i>)	Sheet 1 of 2	-
M05-568	Standard Placement of Alstom Balise at Angle Iron Guard Rails. (<i>Not currently available</i>)	Sheet 2 of 2	-
M05-569	On-Sleeper Vortok Spreader Beam Alstom Balise Installation Diagram	Sheet 1 of 1	Revision A
M05-570	Alstom ATP Virtual Balise Group – Assembly & Fitment Diagram	Sheet 1 of 2	Revision A Not signed off
M05-570	Alstom ATP Virtual Balise Group – Assembly & Fitment Diagram	Sheet 2 of 2	Revision A Not signed off
M05-571	ATP 4 Bolt Guard Rail Benkler Joint Drilling Templates – Fabrication Diagram. (<i>Not currently available</i>)	Sheet 1 of 1	-
M08-889	Track Cable Protector Manufacturing Details	Sheet 1 of 1	Revision 0
M08-890	Drilling Template for Track Cable Protector Manufacturing Details	Sheet 1 of 1	Revision 0

Standards, Specifications and Guidelines

Document ID	Title	Version
ATP Project Specifications and Requirements		
02	AMS Signal Design Principles (Note: These Principles take precedence over ESG 100).	Version: 3.0
03	AMS Circuit Design Standard. (See Note 1 below)	Version: 3.0
04	AMS Identification of High Risk Turnouts (Guideline)	Version: 3.0
05	AMS Look-Ahead Design Guideline	Version: 2.0
06	AMS Approach Balise Selection and Position Design Guideline	Version: 1.1
07	AMS Balise Arrangement for High Risk Location Design Guideline	Version: 3.0
08	Balise Placement where there is no space	Version: 1.0
09	Resolving Maximum Speed in Areas where Speed Signs are Deficient	Version: 2.0
10	Cascading Cases - Application Example	Version: 2.0
11	AMS Identification of High Risk Speed Sign Reductions	Version: 1.0
12	Geographical Data for AMS	Version: 1.3
13	Gradient Simplification	Version: 2.0
14	AMS Trackside - Signalling Interface Description	Version: 2.0

Document ID	Title	Version
15	Virtual Balise Cover Guideline	Version 1.0
N/A	Alstom ETCS Trackside Equipment Set To Work, Testing and commissioning (manual).	Version 2.0
<p>Note 1: The TfNSW ASA presently published version of both SDG 001 <i>Circuit Design Standards</i> V1.12 and SDG 003 <i>Circuit Design Standards ATP</i> V1.3 include functions for ATP however these are NOT to be used for the purposes of ATP Project, as they are obsolete. The Medium Works Contractor shall use the: <i>ATP Project Specification: AMS Circuit Design Standard</i>.</p>		
<p>Note 2: Section 6.2 of TfNSW ASA presently published version 1.6 of ESG 004 <i>Signals - Practices and Configuration Signalling Equipment Strategy</i> advises that 'Trainstops are not required in ETCS Level 1 systems', however this statement is incorrect.</p>		
TfNSW ATP Requirements		
SRS	(AMS) System Requirements Specifications	Version: 3.0
SSRS	AMS Trackside Sub-System Requirements Specification	Version: 4.0
TfNSW ATP Requirements verification & validation		
DeskSite #5510516	AEO verification activities module - Excel template	Version: 2.0
DeskSite #5510518	AEO validation activities module - Excel template	Version: 2.0
TfNSW SMS & QMS Documents		
T MU MD 00006 TI	Technical Information for CAD and Engineering Drawings	Version: 1.0
4TP-RL-004	CAD Protocols & Submission of Drawings to TfNSW	Version: 1.0
4TP-ST-161	AEO Signalling Design Audit Review & Management Plan	Version: 3.0
4TP-ST-192	Configuration Management	Version: 4.0
7TP-SD-146	Water Discharge & Reuse Guideline	Version: 4.0
4TP-PR-143	Earned Value Management using Primavera P6	Version: 1.0
4TP-PR-158	Scenario – Defect Management	Version: 6.0
9TP-PR-105	Environmental Incident Classification & Reporting	Version: 13.0
4TP-FT-105	Work Activity Advice	Version: 7.0
9TP-FT-101	Environmental Incident/Non-compliance Report	Version: 8.0
9TP-FT-207	Discharge or Reuse Water Approval	Version: 3.0
30-SD-038	Generic Rail Safety Risk Register	Version: 4.0
30-SD-101	Generic WHS Operational Risk Register	Version: 3.0
TfNSW-editorial-style	TfNSW Editorial Style Guidelines	Version: 10/2015
Sydney Trains Documents & General		
EMS-09-FM-0165	Ballast Environmental Risk Assessment	Version: 2.0
RG S 41415	Signalling Personnel – Licensing & Authorisation Status	Version: 2.4
SMS-06-FM-4362	Project Work Notification (PWN)	Version: 2.0

Document ID	Title	Version
IMD-FM-036	Project Scope of Works	Version: 5.1
ICT-SGD-70119	Network Access Form External Networks	-
N/A	Service Providers ICT User Account & Email / Modification Request	-
N/A	AMS Project Glossary	Version: 5.4

APPENDIX B – Project Hazard Log

Note: PHL provided currently does not include items arising from signalling detailed design.

APPENDIX C – Interface Schedule

APPENDIX D – Technical Assumptions and Departures

APPENDIX E – Information Documents

Ref	Document	Version	Format
	Interactive Workshop: Output and Reference Documents		
1.1	Detailed SFS review and fixes - Area 4 (Rev 04) JOINT comments	4	Pdf
1.2	Detailed SFS review and fixes - Area 5 (Rev 04) JOINT comments	4	Pdf
2	ATP - High Risk Turnouts In Deployment Areas 4 and 5	1	Pdf
3	Interactive Workshop - Working Control Document	1	Pdf
4.1	Driver Diagrams - Area 4 Markup 1-25 Interactive Workshop Master 31-01-18	1	Pdf
4.2	Driver Diagrams - Area 4 Markup 25-49 Interactive Workshop Master 31-01-18	1	Pdf
4.3	Driver Diagrams - Area 5 Markup 1-24 Interactive Workshop Master 31-01-18	1	Pdf
4.4	Driver Diagrams - Area 5 Markup 25-49 Interactive Workshop Master 31-01-18	1	Pdf
4.5	Drivers Diagrams - Area 5 Markup 50-70 Interactive Workshop Master 31-01-18	1	Pdf

EXHIBIT B - CONCEPT DESIGN



EXHIBIT C - TfNSW STANDARD REQUIREMENTS



TfNSW Standard Requirements (PSC)

5TP-FT-410/2.0

Template – Applicable to Infrastructure and Services

Quality Management System

Status:	Approved
Version:	2.0
Branch:	Commercial
Business unit:	Procurement
Date of issue:	18 February 2016
Review date:	18 February 2017
Audience:	Project Delivery/For use with the PSC templates
Asset classes:	<input checked="" type="checkbox"/> Heavy Rail; <input checked="" type="checkbox"/> Light Rail; <input checked="" type="checkbox"/> Multi Sites; <input checked="" type="checkbox"/> Systems; <input checked="" type="checkbox"/> Fleets
Project delivery model:	TP Project/Alliance/Novo Rail
Project type:	For all project types
Project lifecycle:	<input type="checkbox"/> Feasibility; <input type="checkbox"/> Scoping; <input checked="" type="checkbox"/> Definition; <input checked="" type="checkbox"/> Construction readiness; <input checked="" type="checkbox"/> Implementation; <input type="checkbox"/> Finalisation; <input type="checkbox"/> Not applicable
Process owner:	Director Commercial

Document History

Version	Date of approval	Doc. control no.	Summary of change
1.0	19 August 2015	4542197_1	New consolidated TSR document replacing the suite of individual TSRs (TSR C, TSR E, TSR P, TSR S, TSR T) for use with the PSC Templates Includes revisions to TSR P elements re Planning & Scheduling
2.0	18 February 2016	4373714_7	Updated with feedback from functional areas and projects

TfNSW authored documents referenced within this document can be found on TfNSW's website: <http://www.transport.nsw.gov.au/projects> under the "Working with us" and "Environmental Services" Menu Tabs.

Table of Contents

1	Introduction	5
1.1	Purpose.....	5
1.2	User instructions.....	5
2	Project administration.....	10
2.1	Requirements for management plans	10
2.2	Professional services contractor’s program	12
2.3	Document management	16
2.4	Monthly reporting.....	17
2.5	Principal’s audit and surveillance.....	18
2.6	Training and competence of employees	19
2.7	Employee reference checks	19
3	Technical requirements	19
3.1	AEO engineering management methodologies.....	19
3.2	Principal’s configuration change control process	20
4	Property	20
4.1	General property management requirements	20
4.2	Access.....	21
4.3	Surveys	22
4.4	Pre commencement property compliance checklist	24
4.5	Property design requirements.....	24
4.6	Activity within the property boundaries	24
4.7	Ongoing property monitoring	24
5	Planning, sustainability and environmental management.....	25
5.1	Planning	25
5.2	Environmental Management.....	25
5.3	Sustainability	27
6	Safety management.....	27
6.1	General requirements.....	27
6.2	Management of health and safety risk	28
6.3	Safe work method statements	31
6.4	Safety incident reporting, investigation and recording.....	31
6.5	Principal contractor.....	32
7	Communications, stakeholder and community liaison	33
7.1	General requirements.....	33
7.2	Meetings with stakeholders	33
7.3	Public communication materials	33
7.4	Media, marketing and promotional material	33
7.5	Notifications.....	34
7.6	Complaints and enquiries management.....	34
8	Working in and adjacent to the rail corridor and rail environment	35

8.1	The operating railway system	35
8.2	Track possessions.....	36
8.3	Rail safety	39
ANNEXURE A – Additional Project Requirements		43
ANNEXURE B – TfNSW Standard Risk Matrix.....		44
ANNEXURE C – Pre-Commencement Property Compliance Checklist		48
ANNEXURE D – Environmental Records		51

1. Introduction

1.1. Purpose

This TfNSW Standard Requirement (TSR) describes requirements and processes with which the Professional Services Contractor and any Subcontractors must comply. This TSR must be read in conjunction with the Agreement.

Unless noted otherwise in Annexure A - Additional Project Requirements, all requirements specified in this TSR apply to the Services.

1.2. User instructions

Unless noted otherwise, wherever used in this TSR, words and phrases have the meaning given to them in the General Conditions. In addition to those defined terms the following words or phrases have the meaning given to them below:

Asset Handover	The point in time at which the control of certain specified assets is transferred to an Operator/Maintainer and/or Asset Owner for their ongoing operation and maintenance.
Asset Owner	The organisation who will ultimately own the assets subject to the Asset Handover. In some cases this may also be the Operator/Maintainer.
Australian Network Rules and Procedures	Australian Network Rules and Procedures as defined by the Rail Industry Safety and Standards Board.
Authority Approvals	Any licence, permit, consent, approval, determination, exemption, certificate, memorandum of understanding, notification or permission from any Authority or under any Law, or any requirement made under any Law, which must be obtained or satisfied (as the case may be) to: <ul style="list-style-type: none"> (a) carry out the Services including for the avoidance of doubt all things required for conducting work within the Rail Corridor or affecting rail operations and all things required for dealing with, transporting and disposing of contamination, hazardous materials or waste; or (b) occupy and use for its intended purpose the completed works or Services or a completed Portion, and for the avoidance of doubt includes: (c) the Planning Approval; and (d) the environment protection licence issued under the <i>Protection of the Environment Operations Act 1997 (NSW)</i>.
CCB	Configuration Control Board, a group of persons with the responsibility and authority to make decisions on configuration changes relating to TfNSW assets
CDR	Critical Design Review or equivalent stage of the design as developed in accordance with the Professional Services Contractor's systems engineering processes.
CMAAC	Configuration Management and Asset Assurance Committee as defined in the "TfNSW Configuration Management Plan T MU AM 04001 PL".

Codes and Standards	The codes and standards to which the Services must comply, including those nominated in the Agreement, TSR and Services Brief and for the avoidance of doubt including the ASA Requirements.
Commissioning	Systematic process of ensuring that all infrastructure, equipment and systems installed in a project perform interactively in accordance with the design intent and the Operator/Maintainer's functional and operational needs.
Configuration Management Gates	Has the meaning as defined in the "TfNSW Configuration Management Plan T MU AM 04001 PL".
Contract Management Plan (CMP)	The Management Plan to be developed by the Professional Services Contractor in accordance with the requirements of this TSR which acts as a framework for bringing together all the management requirements for the Services into a coordinated and integrated plan.
Configuration Materials	Those Contract Materials, describing the operation and maintenance requirements of the assets contemplated by the Services under the Agreement
Control	Control of an area of the Site including any worksite means undertaking all the activities required to manage and control all access to and across an area of the Site, including any worksite, and maintaining the temporary and permanent infrastructure provided by the Professional Services Contractor including the temporary works. Such activities will include managing, controlling and maintaining the security of an area of the Site, including any worksite, conducting basic familiarisation and safety inductions for all those accessing an area of the Site including any worksite (but not inductions specific to Other Contractor Works), operating and maintaining the temporary and permanent infrastructure provided by the Professional Services Contractor including the temporary works and liaising with any Authority.
Cost Loaded Baseline Schedule	A baseline program or schedule where the Professional Services Contractor's costs are distributed across activities such that a cash flow S-Curve may be created, this will also be used as the basis for measuring Earned Value.
Danger Zone	Danger Zone as defined in the "Australian Network Rules and Procedures".
Earned Value	Method of measuring and reporting project cost performance based on integrated time, cost and scope elements in accordance with " TfNSW Quality Management System - Earned Value Management using Primavera P6 ".
Environmental Control Map (ECM)	Document prepared to assist in the planning and delivery of works, specific to a work area and/or activity that identifies the physical location of physical protection measures, work method controls and monitoring requirements to minimise the impact of activities on the environment and community.

Environmental Management System (EMS)	A tool for managing the impacts of an organisation's activities on the environment and provides a structured approach to planning and implementing environment protection measures.
Environmental Representative	The environmental manager appointed by the Principal, or any replacement notified by the Principal's Representative.
EPL	Environmental Protection License
Fruin Level of Service	A level of service standard for pedestrian access created by John J Fruin PhD.
Global Possession Calender and Standard Working Calendar	Default calendars in TfNSW's P6 Database which can be made available on request.
Hierarchy of Control Measures	As defined in the "Work Health and Safety Regulations 2011 Part 3.1 Managing Risks to Health and Safety".
Hold Point	Verification point beyond which the relevant part of the Services may not proceed without the verification and subsequent written authorisation of the Principal's Representative.
Incident	<p>(a) any work health and safety or environmental or security incident arising from the performance of (or failure to perform) the Services including:</p> <ul style="list-style-type: none"> (i) a fatality or injury to any person including any incident which must be reported to New South Wales WorkCover Authority; (ii) loss of containment, escape of or migration of contamination off-site and into the environment; (iii) any fire or dangerous event on the Site; (iv) a security breach; (v) any unauthorised removal of trees; (vi) a non compliance with an Authority Approval; or (vii) any public complaint; or <p>(b) any unplanned and/or undesired event which results in or has the potential to result in injury, ill-health, damage to or loss of property, interruption to operations or environmental impairment,</p> <p>and includes:</p> <p>(c) a near miss, breach of procedure, quality failure and/or injuries to contractors and members of the public; and</p> <p>(d) "occurrences" and "notifiable occurrences" under the WHS Legislation and Rail Safety National Law.</p>
Law	Commonwealth, New South Wales or local government legislation, including ordinances, instruments, codes of practice, policy & statutory guidance (but excluding the Building Code of Australia, any other building codes or Standards Australia codes), requirements, regulations, by-laws and other subordinate legislation; principles of law or equity established by decisions of

courts; and Authority Approvals (including any condition/requirement under them).

Local Possession Authority	The Local Possession Authority as defined in the Australian Network Rules and Procedures.
Management Plan	Any management plan to be developed by the Professional Services Contractor in accordance with the requirements of this TSR or the Agreement which describe how the Professional Services Contractor will manage related matters and issues that arise during the delivery of the Services.
NABERS	The National Australian Built Environment Rating System
National Counter Terrorism Alert Levels	Levels described in the Australian Government's National Terrorism Public Alert System and referenced on the Australian National Security website
Operator/Maintainer	Organisation that operates and maintains existing assets and/or will operate and maintain the new assets, post Asset Handover. In some cases, this may also be the Asset Owner.
Original Equipment Manufacturer	The company that originally manufactured the product.
Other Contractor Work	The works to be undertaken by an Other Contractor on a part of the Site during any period in which the Professional Services Contractor has been engaged as principal contractor in respect of that part of the Site.
PDR	Preliminary Design Review or equivalent stage of the design as developed in accordance with the Professional Services Contractor's systems engineering processes.
Planning Approval	Any Authority Approval issued from time to time by either the Principal or the Minister for Planning and Infrastructure (acting in their capacity as determining authority) under the <i>Environmental Planning and Assessment Act 1979 (NSW)</i> in respect of the Services; and any mitigation measures and statement of commitments that are required to be complied with or fulfilled.
Plant	Equipment, appliances, machinery and things used in the execution of the Services, but not forming part of the works.
Professional Services Contractor's Program	The program or schedule referred to in clause 2.2 of this TSR
Project Rail Safeworking Coordinator	A person appointed by the Principal, accountable for monitoring the management of Worksite Protection and rail safety requirements for controlled and managed worksites on the programs/projects being delivered by Transport Projects Office on behalf of the NSW State government.
Property Representative	The Property Representative appointed by the Principal
Rail Corridor	The area containing the Rail Track, rail junctions, level crossings, station buildings, platforms, signal boxes, tunnels, bridges and other associated structures. This area is often defined by railway boundary fencing and in the absence of such fencing, is defined

	by a physical boundary (i.e. tunnel, building or retaining walls) or everywhere within 15 metres of the outermost rails.
Rail Industry Worker Identification Card (RIW)	A competence card issued to demonstrate successful completion of the Rail Industry Safety Induction training course and medical examination.
Rail Safety	Rail Safety as defined in the Rail Safety National Law (NSW).
Rail Safety Act	The Rail Safety National Law (NSW).
Rail Safety Work	Rail Safety Work as defined in the Rail Safety Act.
Rail Safety Worker (RSW)	Rail Safety Worker as defined in the Rail Safety Act.
Rail Track	The rails fastened on sleepers or transoms and founded on ballast or bridge decking or concrete slab, associated signalling and overhead wiring components (in electrified areas).
Rail Transport Operator	An entity defined by the Rail Safety Act as a rail operator or rail transport operator.
Regulator	The holder of a public office, or a public authority, of the Commonwealth, or of a State, or member of a government regulatory agency who or which is responsible for enforcing Laws, regulations, and established rules.
RMS	Roads and Maritime Services, a corporation constituted by section 46(1) of the <i>Transport Administration Act 1988</i> (NSW). A reference in any of the TSR documents to the “Roads and Traffic Authority” or “RTA” is to be construed as a reference to Roads and Maritime Services.
Safe Work Method Statements (SWMS)	Documents so titled and prepared in accordance with this TSR and that give specific instructions on how to safely perform a work related task, or operate a piece of plant or equipment etc.
SDR	System Definition Review or equivalent stage of the design as developed in accordance with the Professional Services Contractor’s systems engineering processes.
Site	Has the meaning assigned in Annexure A of this TSR;
Subcontractor	A subcontractor of the Professional Services Contractor, including a consultant or a supplier of goods or services (including professional services and plant hire) or both.
Track Possessions	A period during which the Professional Services Contractor has access to Rail Track for the purpose of carrying out the Services including for the purpose of rectifying Defects.
Vehicle Registration Database	The Principal’s database recording a rail vehicle’s ownership and technical details to indicate that the vehicle has met the Principal’s acceptance requirements and is authorised to operate on rail infrastructure managed by the Principal’s Representative.
Witness Point	Point identified where the Principal’s Representative may review, witness, inspect, or undertake tests on any component, method, or process of the Services.
Work Breakdown Structure	Framework of discrete work elements (or tasks) used to organise and define the total project work scope, cost, and schedule control elements.
WorkCover NSW	WorkCover Authority of New South Wales.

Worksite Protection	The safety measures adopted, in relation to rail operations, to protect persons brought or invited to any part of the Site located within the Rail Corridor.
Worksite Protection Personnel	The personnel assigned to implement the required Worksite Protection for work within the Rail Corridor.
Worksite Protection Plan	The plan (provided by the Professional Services Contractor) documenting the safety measures adopted, in relation to rail operations, to protect persons brought or invited to any part of the Site located within the Rail Corridor.

2. Project administration

2.1. Requirements for management plans

The Professional Services Contractor must provide a number of Management Plans. The Management Plans must reflect the specific requirements of this TSR and the Agreement, as amended by Annexure A.

The Management Plans must be written in such a manner as to:

- (a) demonstrate to the Principal, the Professional Services Contractor's understanding of the requirements and how they intend to be addressed in the delivery of the Services; and
- (b) provide the Professional Services Contractor's employees with the ability to achieve a consistent approach to the delivery of the Services by referencing the Management Plans.

The Professional Services Contractor must carry out the Services in accordance with the Management Plans and the Agreement.

2.1.1. Requirements for the contract management plan

The Contract Management Plan (CMP) is the Professional Services Contractor's project-specific overarching Management Plan that includes any other Management Plans that the Professional Services Contractor must develop under the Agreement. The CMP must provide a framework in one coordinated and integrated Management Plan to describe the complete management activities, systems and processes which the Professional Services Contractor will employ in its delivery of the Services.

Unless otherwise noted in Annexure A, the Professional Services Contractor must have in place, maintain and consistently apply until Completion, a CMP to inform and direct personnel and others engaged by the Professional Services Contractor about the specific work practices, resources, responsibilities, sequence of activities, controls and checks that are to be implemented during the performance of the Services. The timing and frequency for the initial and subsequent submissions of the CMP to the Principal's Representative for review is nominated in Annexure A of this TSR.

The CMP must:

- (a) explain in a systematic, coordinated and integrated structure, the managerial structure for delivery of the Services;
- (b) define responsibilities, resources and processes for planning and performing the Services and verifying that the Services meet the requirements of the Agreement;
- (c) cross reference each of the sub Management Plans required to be developed by the Professional Services Contractor, through the use of a matrix or equivalent, listing its compliance with the relevant part of the Agreement including any TSR and Services Brief;

- (d) list all deliverables, required to be provided by the Professional Services Contractor, under this Agreement;
- (e) describe the process for the submission, Principal's review, and resubmission of all Contract Materials and other documentation using the Principal's electronic document management tool described in Clause 2.3.2;
- (f) describe how the Professional Services Contractor will comply with all relevant Laws, Codes and Standards and requirements, applicable to the Services;
- (g) define the interface and associated responsibilities of the Professional Services Contractor, Subcontractors other third parties and the Principal;
- (h) define the document submission requirements relating to the Configuration Materials in relation to Track Possessions, Asset Handover, the CCB process and Completion;
- (i) document the interface with the Professional Services Contractor's corporate systems as applicable under the Agreement; and
- (j) identify the responsible person for developing and updating the CMP and other Management Plans.

2.1.2. Project work health and safety management plan

Unless otherwise noted in Annexure A, the Professional Services Contractor must have in place, maintain and consistently apply until Completion a Project Work Health and Safety Management Plan which documents how the safety management system will be implemented and communicated to all persons associated with the Services.

The timing and frequency for the initial and subsequent submissions of the Project Work Health and Safety Management Plan to the Principal's Representative for review is nominated in Annexure A of this TSR.

The Work Health and Safety Management Plan must:

- (a) describe the means of providing the Services in accordance with the safety management requirements stated in the Agreement, Law and this TSR;
- (b) comply with the "NSW Government Work Health and Safety Management Systems and Auditing Guidelines";
- (c) demonstrate the requirements of clause 6.1.2 in this TSR in relation to safety culture;
- (d) describe how the Professional Services Contractor will manage risks in accordance with "AS/NZS ISO 31000:2009 - Risk Management" and TfNSW's risk framework in Annexure B; and
- (e) ensure that where the Services involve work in or adjacent to the Rail Corridor or the rail environment, include provision for rail safeworking arrangements, based upon (without limitation) compliance with the Australian Network Rules and Procedures.

2.1.3. Workplace relations management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Workplace Relations Management Plan which documents how industrial relations will be managed.

The Workplace Relations Management Plan must be in accordance with the Contract requirements.

The timing and frequency for the initial and subsequent submissions of the Workplace Relations Management Plan to the Principal's Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

2.2. Professional services contractor's program

2.2.1. General requirements

The Professional Services Contractor, unless noted otherwise in Annexure A or the Agreement, must submit a Cost Loaded Baseline Schedule within 10 Business Days of the Commencement Date to the Principal's Representative Representative's for review. The Professional Services Contractor is required to update the Professional Services Contractor's Program on a monthly basis and submit to the Principal's Representative by the first Business Day of the month (with a status date of the last calendar day of the previous month) unless otherwise specified in Annexure A and at any other times required by the Agreement. The Professional Services Contractor must submit an A3 size PDF copy of the Professional Services Contractor's Program, with the monthly progress report. Without limiting the Agreement, the Professional Services Contractor's Program and other programs must comply with the following requirements.

2.2.2. Planning environment

The Professional Services Contractor must provide the Professional Services Contractor's Program in the latest P6 version (XER format). The Principal will import the Professional Services Contractor's Program into the Principal's Primavera planning environment database. The Principal will maintain the database security and control the access to the database. The Professional Services Contractor must develop, status and maintain the Professional Services Contractor's Program in Primavera P6 on the Principal's planning environment. The Professional Services Contractor will be given access to the Principal's planning environment via Citrix at no extra cost to the Professional Services Contractor. The Professional Services Contractor must ensure that each update to the Professional Services Contractor's Program as submitted in accordance with this clause 2.2 is archived within the Principal's planning environment. The Professional Services Contractor will be able to export the program file (no more than once per week) via a request to the Principal's Representative. The file will be emailed to the Professional Services Contractor. The Professional Services Contractor will not be provided with access to import any programs into the Principal's Primavera database. The Principal will not make changes to the Professional Services Contractor's Program without the approval of the Professional Services Contractor. Generally, any changes made will be limited to the application of activity codes or addition of logic links to external Principal schedules.

2.2.3. Program framework

As a minimum, the Professional Services Contractor's Program must:

- (a) group the Services and milestones in a Work Breakdown Structure (WBS) that is aligned to the payment schedule or other form of cost breakdown structure included in the Agreement;
- (b) show Earned Value in accordance with "AS 4817-2006 Project Performance Measurement using Earned Value" and "TfNSW [Earned Value Management using Primavera P6 - 4TP-PR-143](#)";
- (c) include budgeted cost, actual and actual cost input into the relevant WBS items each month, by the Professional Services Contractor;
- (d) define approved variation activities and/or additional working days in a separate WBS and cost breakdown structure item, so that cost and time of the variation activities can be clearly distinguished from the original scope;

- (e) have a separate WBS structure outlining each step of the design review process for each individual design package; where relevant; and
- (f) show the Principal's review periods in accordance with any requirements set out in the Agreement.

2.2.4. Program setup and maintenance

As a minimum, the Professional Services Contractor's Program must:

- (a) include all key activities and deliverables detailed in this TSR and the Agreement and any other activities and deliverables directed by the Principal's Representative;
- (b) include requirements for the submission, review and approval of all deliverables including the Management Plans and other Contract Materials;
- (c) outline the dates when the Professional Services Contractor will require information, documents, materials or instructions from the Principal and the dates when the Professional Services Contractor will provide information or documents to the Principal. These dates must be consistent with dates that the Principal could reasonably have anticipated at the Commencement Date;
- (d) provide start and finish dates for all elements of the Services (including design, procurement and investigation activities), milestones, Track Possessions, external dependencies, Principal deliverables, Operator/Maintainer deliverables and any other significant events and contractual Completion dates;
- (e) show the lead times for the supply of information, selection of Subcontractors and suppliers, approvals, and the supply of equipment by the Principal, its agents or persons for whom the Professional Services Contractor is not responsible. Each period must be represented in a separate activity from the Professional Services Contractor's activity for the relevant items;
- (f) clearly identify the access requirements and activities, including Track Possessions and any outages;
- (g) show activities for Site mobilisation, establishment and demobilisation;
- (h) clearly identify the critical path activities and milestones;
- (i) show codes, resources and expense activities as directed by the Principal's Representative;
- (j) show quantities and rates as requested by the Principal's Representative;
- (k) identify time leads and lags, resources and other constraints;
- (l) show calendars identifying the working and non-working days for the Services. Project calendars are to be up-to-date and reflect changes to the available working periods. The calendars must reflect the Global Possession Calendar and Standard Working Calendar which can be provided on request. No other allowances for wet weather or other such contingencies are to be made in the calendars;
- (m) reflect the time scheduled, remaining duration and actual physical progress of the Services, and be consistent with all constraints on access, performance and coordination;
- (n) show allowance for weather and other event contingencies in a single activity at the end of the critical path and prior to Completion; and
- (o) show Commissioning and Asset Handover activities, including the time allowed for testing and Commissioning of major items.

2.2.5. Program quality

The quality of the Professional Services Contractor’s Program will be examined by the Principal’s Representative upon the initial submission and again upon each subsequent submission. The Professional Services Contractor must maintain the quality of the Professional Services Contractor’s Program, by satisfying the criteria in the table provided below. The Professional Services Contractor’s Program will be rejected by the Principal’s Representative if the quality does not meet the thresholds prescribed below. Further assessment criteria and thresholds may be added or modified by the Principal’s Representative to the assessment of quality.

Deviations from the thresholds must be approved by the Principal’s Representative, prior to being accepted.

The quality of the Professional Services Contractor’s Program will be assessed for all normal activities and milestones that are planned, in-progress, or complete.

Criteria	Description	Remarks	Threshold
Missing Predecessors	Total number of activities that are missing predecessors.	Activities that have missing predecessors are known as open-ended activities. Open ends cause time and risk analysis calculations to be erroneous. Ideally, all open ends should be fixed in a program during the planning phase.	Less than 1%
Missing Successors	Total number of normal activities that are missing successors.	Activities that have missing successors are known as open-ended activities. Open ends cause time and risk analysis calculations to be erroneous. Ideally, all open ends should be fixed in a program during the planning phase	Less than 1%
Merge Hotspot	The total number of activities with a high number of predecessor links.	Also known as merge bias, merge hotspot is an indication as to how complex the start of an activity is. If the number of links is greater than two, then there is a high probability that the activity in question will be delayed due to the cumulative effect of all links having to complete on time in order for the activity to start on time.	Less than 2.5%
Diverge Hotspot	The total number of activities with a high number of successor links.	A diverge hotspot is an indication as to how complex the end of an activity is. If the number of links is greater than two, then there is a high probability that the activity in question may delay a large number of successors.	Less than 2.5%
Critical	Number of critical activities	The number of critical tasks within a grouping. Typically critical activities have total finish float of zero. Primavera programs may have critical activities with more than zero float depending on	No threshold

Criteria	Description	Remarks	Threshold
		the threshold set in Primavera P6.	
0 to 20 Days Float	Total number of activities with positive float of more than zero and less than or equal to 20 days.	Near critical activities should be closely monitored during execution to ensure a successful on-time project.	No threshold
Hard Constraints (Finish on, Start on, Mandatory Finish, Mandatory Start)	Number of activities with hard or two-way constraints.	Hard or two-way constraints such as Must start on or Must finish on should be avoided. Consider using soft constraints if absolutely necessary. Includes normal activities and milestones that are planned, in-progress, or complete.	Zero
Soft Constraints (Start On or After, Finish On or After)	Number of activities with soft or one-way constraints.	Soft or one-way constraints such as start no earlier than or finish no later than, constrain an activity in a single direction. While not as impactful as hard constraints, soft constraints do impact critical path method calculations in a program and should be reviewed carefully.	Zero
High Float	Excessive free total float	Number of activities with total float greater than 2 months. Activities must be agreed with the Principal's Representative	Less than 5%
Negative Float	Total number of activities with total finish float less than 0 working days.	Negative float is a result of an artificially accelerated or constrained program. Negative float indicates that a program is not possible, based on the current Completion dates. Compare this metric to constraint metrics to determine which activities (with negative float) are being impacted by constraints. Ideally, there should not be any negative float in the program. Includes normal activities and milestones that are planned or in-progress.	Zero
High Duration	Total number of activities that have a duration longer than 10 days. This number should not exceed 5%.	Total number of activities that have a duration longer than 10 days. Activities must be agreed with the Principal's Representative.	Less than 5%
Zero Duration	Normal activities having a Zero duration	Normal activities having a Zero duration	Zero

Criteria	Description	Remarks	Threshold
Wrong Status	Activities started or completed in the future	All activities with status in the future must be corrected in order to maintain an accurate execution plan. Includes only normal activities and milestones that are in progress or complete	Zero
SF Predecessors	Total number of activities with Start to Finish (SF) logic links.	Start-to-finish links are deliberately used very rarely because they have the unusual effect that the successor happens before the predecessor. Generally a poor practice when planning. Includes only normal activities and milestones that are planned, in-progress, or complete.	Zero
Leads and Lags	Lags in excess of 10 days	A lag is a duration applied to a logic link often used to represent non-working time between activities such as concrete curing. Lags tend to hide detail in programs and cannot be "stated" like normal activities. Lags should typically be replaced with activities. Includes normal activities and milestones that are planned, in-progress, or complete.	Zero
Logic on summaries		A summary is not a true activity. Logic should be tied to activities within the schedule	Zero
Reverse logic		As a result of a negative lag (a lead), the successor activity starts before their predecessor.	Zero

2.3. Document management

2.3.1. Formatting

The Professional Services Contractor must provide the Principal with electronic copies of all documents required to be submitted or re-submitted, on CD/DVD in PDF and native formats (such as Microsoft Word, Microsoft Excel, P6, CAD in *.dwg. or *.dgn.).

The Professional Services Contractor must promptly advise the Principal of any proposed changes to be made to the current documents and re-submit the revised documents within 5 Business Days of the amendment, with the changes clearly marked on the document.

2.3.2. Principal's document management system tool

Where nominated in Annexure A, the Principal will administer the document deliverables using the Principal's nominated electronic document management tool. The Professional Services Contractor must engage and utilise the Principal's electronic document management tool, as specified or otherwise agreed with the Principal.

2.4. Monthly reporting

Unless otherwise nominated in Annexure A, the Professional Services Contractor must prepare and submit to the Principal's Representative a monthly progress report updating and describing as a minimum:

- (a) the progress status at the end of the previous month, as compared to the current Professional Services Contractor's Program and the Professional Services Contractor's other programs;
- (b) planned Services over the forthcoming 3 month period;
- (c) a list and timing of Hold Points and Witness Points planned for the forthcoming 3 month period;
- (d) a description, including photographs, of the progress made on all current Services;
- (e) a summary of the financial status of the Agreement, including detailed final cost forecasts, and separate lists for the cost of approved variations, claims and outstanding claims for variations;
- (f) the actual number and categories of personnel and equipment currently engaged by the Professional Services Contractor to carry out the Services (including apprentices and those engaged in off-site functions such as engineering and specialist Subcontractors). This data must also be compared with the planned resources;
- (g) the status of any Contract Materials, design documentation, deliverables, major procurement orders, Subcontracts, manufacture and the overall delivery of the Services;
- (h) if applicable, dates for the anticipated submission of design packages at key stages of the design including SDR, PDR, CDR, and "approved for construction", stages;
- (i) safety statistics in a format agreed with the Principal's Representative;
- (j) if applicable, the status of planning activities including all Authority Approvals;
- (k) if applicable, Track Possession, shutdown or outage activity, the progress report must also include monthly reliability statistics listing the following:
 - i. Incidents in Track Possession/shutdown/outage;
 - ii. Incidents in non-Track Possession/shutdown/outage;
 - iii. actual Incidents;
 - iv. potential Incidents in Track Possession/shutdown/outage; and
 - v. potential Incidents in non-Track Possession/shutdown/outage;
- (l) any non compliances or non conformances of the Services in relation to the Agreement and other obligations in Law;
- (m) the steps taken by the Professional Services Contractor to address those non compliances or non conformances;
- (n) any issues arising from or affecting the CMP and its sub-plans;
- (o) records of all corrective and preventative actions taken by the Professional Services Contractor under the CMP and its sub-plans, and audits of such actions;
- (p) cooperation, coordination, industrial relations and interface matters with Other Contractors;
- (q) summary updates relating to community issues and potential community issues;

- (r) details of the completed Services and upcoming activities including any associated community impacts in a form suitable for inclusion on the Principal's website;
- (s) details of complaints and enquiries received by the Professional Services Contractor in relation to the Services;
- (t) activities of the dispute resolution board, where such a board is established under the Agreement;
- (u) details of the status, implementation, operation and effectiveness of the Risk Management Plan where required in Annexure A. As a minimum, the Professional Services Contractor must provide:
 - i. a report on the risks deemed 'extreme' or 'high' within the risk register;
 - ii. an overview of the full risk register (e.g. number of risks by category and rating, number of new risks identified and risks closed out during the previous month);
 - iii. the status of associated controls and tasks; and
 - iv. any results of risk audits;
- (v) where the Services includes signalling system works, the progress report must also include a one page summary of the status of signalling design packages and provide the status of signalling inspection and test documentation such as permit to work applications, inspection and test plans, installation works packages, Commissioning test plans and Commissioning works packages; and
- (w) any other information the Principal's Representative reasonably requires.

2.5. Principal's audit and surveillance

Audit, surveillance and inspection of the Professional Services Contractor's process and compliance with the requirements of the Agreement and the Professional Services Contractor's quality management system may be conducted by the Principal at any time. The Principal's Representative may utilise independent auditors and surveillance officers to assist the Principal in any such audit, surveillance or inspection. The independent auditors and surveillance officers will assist the Principal's Representative in recording the progress and performance of the Services. These records may be used by the Principal's Representative for any purpose.

The Professional Services Contractor must be cooperative in assisting the independent auditor(s) and surveillance officer(s) in undertaking their duties. When any audit is to be undertaken by the Principal, the Professional Services Contractor must:

- (a) make available, all records produced under the Agreement;
- (b) make suitable facilities available as agreed between the Principal's Representative and the Professional Services Contractor, to accommodate the audit and audit team; and
- (c) provide all reasonable assistance during the audit including the participation of representatives from the Professional Services Contractor's organisation (and Subcontractor's organisations) who can efficiently locate and produce the requested information for the audit. Assistance from technical specialists will also be provided by the Professional Services Contractor as required by the Principal's Representative during each audit.

The Professional Services Contractor must ensure that the audit report recommendations are actioned in accordance with appropriate corrective and preventive systems in a timely and agreed manner.

The Professional Services Contractor must provide the Principal's Representative with a copy of the results of any self-verification and any audit, when requested by the Principal's Representative.

2.6. Training and competence of employees

The Professional Services Contractor must ensure its employees and the employees of Subcontractors engaged in carrying out the Services on the Site are inducted and trained in the requirements of the Agreement to achieve a level of awareness and competence appropriate to their assigned activities, and required for the effective implementation of applicable Management Plans prior to the relevant employee carrying out any Services on Site.

The Professional Services Contractor must establish and maintain a register of training carried out including dates, names of people who have completed the training and details of the trainer. Training is to include site-specific training to cover all relevant technical, property, environmental, safety and community issues.

The Professional Services Contractor's relevant personnel must attend any training provided by the Principal specified in Annexure A, or as otherwise directed by the Principal's Representative.

Any person who has not been inducted must not perform any of the Services or work on the Site.

2.7. Employee reference checks

The Principal's Representative may direct the Professional Services Contractor to undertake police criminal record checks for any of the Professional Services Contractor's and Subcontractor's employees. The Professional Services Contractor must develop procedures on how such checks will be undertaken and how the results will be treated in confidence. The Principal's Representative must be promptly notified of the results of these checks if any offences have been recorded. The Principal's Representative may review the results of the checks and consider whether those records pose a potential risk to the Services or any person on Site. The Principal's Representative may then liaise with the Professional Services Contractor to discuss any action that should be taken. The Principal's Representative may direct the Professional Services Contractor to immediately remove a person, on the basis of their criminal record, from the Site and prevent that person from continuing to undertake any of the Services.

3. Technical requirements

The following requirements apply, as indicated in Annexure A.

3.1. AEO engineering management methodologies

The Professional Services Contractor must have in place, maintain and consistently apply until Final Completion, engineering management methodologies for the delivery and assurance of the Services that must as a minimum:

- (a) comply with ASA Requirements including application of the requirements within ASA Standard T MU MD 00009 ST "AEO Authorisation Requirements" and the requirements of the Agreement;
- (b) provide systems and procedures sufficient to ensure compliance with the Professional Services Contractor's risk management obligations under Law and under this Agreement;
- (c) identify any risks in the performance of the Services for which ASA authorisation is required;

- (d) provide for the comprehensive and systematic assessment of any identified risks;
- (e) specify the controls (including audits, expertise, resources, and staff) that are to be used by the Professional Services Contractor to manage identified risks; and
- (f) include procedures for monitoring, reviewing and revising the adequacy of those controls.

3.2. Principal's configuration change control process

The Principal operates a tier 2 configuration control board, CCB and CMAAC to approve configuration changes at the Configuration Management Gates as per the ASA Standard TfNSW Configuration Management Plan T MU AM 04001 PL.

The Professional Services Contractor must comply with the specific requirements listed in the Services Brief, the Professional Services Contractor must:

- (a) operate network integration under the remit of the CCB and must operate under the governance arrangements established by the CCB;
- (b) submit to the Principal's Representative, Contract Materials, Configuration Materials and other documents which are required for the Principal's various submissions to the CCB and CMAAC in a format that complies with the Principal's management system; and
- (c) support the Principal in achieving successful approval through each of the Configuration Management Gates required.

4. Property

The following property requirements apply unless otherwise noted in Annexure A.

4.1. General property management requirements

4.1.1. Property representative

In the event that the Principal has engaged a Property Representative for the project, the Professional Services Contractor must work with the Property Representative and provide the Property Representative with access to the Site and all property records requested. Where no Property Representative has been engaged, the Principal's Representative will fulfil their functions.

The Professional Services Contractor must appoint a person to be the Professional Services Contractor's property representative. This representative must be present during all inspections undertaken by the Property Representative.

Any findings by the Property Representative from inspections or document reviews must be actioned within the timeframes reasonably required by the Property Representative. The Professional Services Contractor must provide written notification to the Principal that the findings of the Property Representative have been closed out within the timeframes specified in the Property Management Plan where required, or otherwise required in the Agreement.

4.1.2. Non conformance

All property incidents, non conformances and non compliances must be reported to the Property Representative and the Principal's Representative.

The Principal may also advise the Professional Services Contractor of non conformances, non compliances and deficiencies in relation to property matters and the Professional Services Contractor must deal with and close-out the non conformances or deficiencies using its own compliance system as directed.

The Professional Services Contractor must also comply with the requirements of "AS/NZS ISO 9001 Quality Management Systems – Requirements" in relation to the identification,

management and addressing of property non conformance, corrective action and preventative action.

4.1.3. Property records

The Professional Services Contractor must provide the records described in Annexure A.

4.1.4. Pre-commencement property risk assessment

The Professional Services Contractor must undertake a comprehensive and Site-specific property risk assessment in consultation with the Property Representative, prior to the commencement of any Site based activity. A staged risk assessment may be utilised, upon agreement with the Principal. This risk assessment must identify the actual and potential property impacts of the Services and the control measures that are required to be implemented in order to provide property protection in accordance with the requirements of the Agreement. With respect to the Site (and where the Site is at more than one location, for each part of the Site), this risk assessment must be consistent with the risk framework included in Annexure B and is to include:

- (a) permanent and temporary worksite access requirements and timing;
- (b) access to or across adjoining properties and timing;
- (c) crane swings, air rights and impacts on neighbouring properties or the Rail Corridor;
- (d) access to Services;
- (e) any future subdivision, easements, other title interests or divestment requirements;
- (f) any future commercial impacts of resultant works; and
- (g) Site investigation and contamination.

4.2. Access

4.2.1. Ownership and rights of access

The Professional Services Contractor is responsible for managing the Site and minimising the impact of the Services on adjoining owners during any investigations, early/enabling works, physical activity and Defects rectification activities. The Professional Services Contractor must ensure it has the necessary legal rights to access the appropriate property prior to commencing the Services. To assist the Professional Services Contractor, the Principal has developed a non-exhaustive list of applicable legislation, described in "[TfNSW Property Compliance Register - 2TP-ST-175](#)".

Prior to commencing the Services, the Professional Services Contractor must conduct property ownership searches (if lands are not supplied by the Principal) and undertake above ground and underground property boundary surveys of every land parcel where the Professional Services Contractor will occupy, access or carry out physical activity in support of the Services.

Services to be undertaken on roads e.g. RMS owned lands or Council property, require a Work Authorisation Deed (WAD), Section 138 permit or other *Roads Act* 1993 (NSW) consent or agreement with the owner or authority. If this has not been undertaken by the Principal prior to the engagement of the Professional Services Contractor, and it is not the Principal's responsibility under the Agreement, the Professional Services Contractor must negotiate the WAD or permit on behalf of the Principal to gain access to the lands and carry out the relevant Services. The Principal must approve the content of the agreement before it is formally released to any external party (e.g. RMS and Councils) for negotiation and execution.

4.2.2. Neighboring property

At least 2 weeks prior to commencement of the Services and activity on Site, the Professional Services Contractor must identify all neighbouring land owners, tenants, businesses, occupants, who may be impacted by the Services and provide the Principal's Representative with a consolidated list that includes:

- (a) addresses;
- (b) land use (retail, residential, garage, etc.);
- (c) primary contact name, phone number and email address;
- (d) likely impact that the Services will have on neighbouring property; and
- (e) any past correspondence.

Where access to neighbouring property is required, the Professional Services Contractor must comply with the *Access to Neighbouring Land Act 2000* (NSW) and this Agreement. In such cases, the Professional Services Contractor must prepare an application for access, provide the application to the Property Representative for review, and, if approved, submit the application to the local court.

4.3. Surveys

4.3.1. Land surveys

The Professional Services Contractor must verify survey control for the Services and must:

- (a) prior to commencing any activity which could affect existing infrastructure (including roads, railways, utility services and buildings), undertake a survey to identify and record the location of the relevant Site boundaries in relation to existing infrastructure; and
- (b) provide the Principal's Representative with reports on the location of the Site boundary in relation to existing infrastructure prior to commencing the relevant Professional Services Contractor's activity.
- (c) avoid, where reasonably possible, disturbance of existing survey marks and must re-establish any such marks disturbed or affected by the Services; and
- (d) carry out boundary and engineering surveys in accordance with the *Surveying and Spatial Information Act 2002* (NSW) and the *Surveying and Spatial Information Regulation 2012* (NSW).

4.3.2. Pre-commencement property condition surveys

At least 2 weeks prior to the commencement of the Services, the Professional Services Contractor must carry out pre-commencement property condition surveys to record the existing condition of adjoining land and properties and to assess the susceptibility of critical services or structures or buildings to damage or unacceptable changes or alterations as a result of the Services.

In carrying out the condition surveys, the Professional Services Contractor must minimise disruption to property owners and occupiers.

The Professional Services Contractor must engage an independent third party to ensure compliance against the minimum standard of condition surveys; and

4.3.3. Post-activity property condition surveys

At the times specified in Annexure A, the Professional Services Contractor must perform a post-activity condition survey on each property previously subject to a pre-commencement property condition survey.

The Professional Services Contractor must ensure that post-activity property condition surveys are performed to the same standards as the pre-commencement property condition surveys. The Professional Services Contractor must ensure that the same surveyor performs both the pre and post condition surveys on a particular property.

The Professional Services Contractor must submit all post-activity property condition survey reports to the Principal's Representative for review in accordance with the contract within 10 Business Days of the survey. Each report must contain a certificate from the surveyor who performed the survey certifying that the survey has been completed and is an accurate assessment of the property's condition.

The post-activity property condition survey reports must include a determination of the cause of any monitored change or damage identified (if any) since the previous surveys and the Professional Services Contractor's proposed remedial works or activities. If any damage is found to have been caused by the Services, the Professional Services Contractor must:

- (a) provide the Principal with a proposal setting-out the remedial action required;
- (b) obtain the property owner's acceptance, in a form agreed to by the Principal, of the compensation, repair or reinstatement work, and release from future claims and actions; and
- (c) if no damage is found to have been caused by the Services, the Professional Services Contractor must:
 - i. write to the property owner and provide a copy of both reports for the property owner's records; and
 - ii. provide the Principal's Representative with a copy of all records for its future reference.

4.3.4. Condition survey requirements

The Professional Services Contractor must ensure that the processes and procedures for performing all condition surveys on buildings and / or other infrastructure facilities are based on industry best practices. Examples of acceptable standards for condition surveys of buildings include:

- (a) sections 4 and 5 of the "Royal Institute of Chartered Surveyors (RICS) Guidance Note 63/2010 Building surveys and technical due diligence"; and
- (b) "AS 4349 Inspection of Buildings – General Requirements", and with specific regard to the heritage elements within the Site .

The Professional Services Contractor's reports on condition surveys of buildings must as a minimum record the following features:

- (c) major features of the buildings and developments including location, type, construction, age and present condition, including any defects or damage;
- (d) type of foundations including columns, walls and retaining structures;
- (e) an assessment of the susceptibility of the building to further movement or stress;
- (f) an assessment of the effectiveness of water-proofing systems in basements to the anticipated movements caused by the Services; and
- (g) an assessment of the susceptibility of the building to changes in water levels resulting from the Services.

The Principal's Representative may direct the Professional Services Contractor to include additional properties and assets in the condition surveys if it considers they have the potential to be damaged as part of the Services and a Principal nominated person may attend the undertaking of condition surveys.

4.4. Pre commencement property compliance checklist

The Professional Services Contractor must prepare and submit to the Property Representative, the Pre-Commencement Property Compliance Checklist contained in Annexure C, to demonstrate that all legal and contractual property related obligations have been met. The checklist must be submitted:

- (a) 10 Business Days prior to occupation of any part of the Site; and
- (b) 10 Business Days prior to the commencement of the Services.

4.5. Property design requirements

Where the design is part of the Services, the Professional Services Contractor's drawings must clearly identify property boundaries relative to all components of the workscope and Services. Unless otherwise specified under the Agreement, and as a minimum, the Professional Services Contractor must include drawings at all stages of design (including but not limited to "approved for construction" and "as built" drawings).

The Professional Services Contractor must ensure that the location of any designed elements carried out as a part of the Services including the location of all proposed new or reconditioned assets are within the property boundaries (including air or subsurface stratum) of the Site.

4.6. Activity within the property boundaries

The Professional Services Contractor must ensure that the Services are carried out within the property boundaries (including air or subsurface stratum) of the Site. The Professional Services Contractor must:

- (a) procure for itself and at its own cost the occupation or use of or relevant rights over any land or buildings in addition to the Site, including any land owned by RailCorp or other property owner, which is necessary or which it may require for the purposes of carrying out the Services; and
- (b) at its own cost carry out all activities and procure all Services necessary to make the land or buildings suitable for use by the Professional Services Contractor.

If any activity is to be carried out on an adjoining property and no formal agreement has been reached with the adjoining property owner, the Professional Services Contractor must cease this part of the Services and immediately notify the Principal.

Liability is solely with the Professional Services Contractor if the Services are illegally undertaken on adjoining property owner's land.

4.7. Ongoing property monitoring

The Professional Services Contractor must implement a monitoring and inspection regime for properties with the potential to be detrimentally or negatively affected by the Services. The monitoring and inspection regime must address the requirements of the Agreement, the Planning Approvals and third party agreements and agreements made with any Authority. The Professional Services Contractor must also comply with the project-specific requirements for the ongoing monitoring set out in Annexure A and include these requirements in the Property Management Plan, where required.

For activities in or adjacent to the Rail Corridor, the Professional Services Contractor must implement specific monitoring regimes and emergency and response procedures for all Services close to or under, and likely to affect, live rail track in accordance with RailCorp monitoring standards.

5. Planning, sustainability and environmental management

The following requirements apply unless otherwise noted in Annexure A.

5.1. Planning

5.1.1. Planning Approvals

The Professional Services Contractor must fulfil all the conditions and requirements of any Planning Approval nominated in the Agreement, except to the extent that it allocates responsibilities to the Principal.

Where the Professional Services Contractor is responsible for a submission to an Authority for an Authority Approval, or where an Authority requests a document submission, the Professional Services Contractor must provide a submission to the Principal's Representative for review, prior to issue to the relevant Authority.

Where the Principal provides comments, the Professional Services Contractor must first address the comments and provide a final submission to the Principal's Representative with a request to forward to the relevant Authority. The Professional Services Contractor must adequately address all comments to the satisfaction of the Principal's Representative prior to submitting to the Authority.

The Professional Services Contractor must not communicate (phone, mail, email etc.) directly with any Authority unless written consent is provided by the Principal and a communications protocol has been established.

Consistency checklists, in the format provided by the Principal's unless otherwise agreed, are to be completed by the Professional Services Contractor and provided to the Principal's Representative for review in circumstances where Services are likely to deviate from the approved project.

Where inconsistency with the approved project exists or is likely to exist, the Professional Services Contractor may request the Principal seek a project modification. Under such circumstances, it is the Professional Services Contractor's responsibility to provide the necessary reports, studies and final submission to the Principal's Representative to justify the modification. Any modification must detail property, environmental, community and all other related impacts.

5.1.2. Principal's planning and environmental compliance monitoring system

Where nominated in Annexure A, the Professional Services Contractor must:

- (a) Use the Principal's nominated system to undertake self-regulation to confirm that all Services are compliant with all Authority Approvals (including the EPL and Planning Approval); and
- (b) implement a reporting structure consistent with the Principal's planning and environmental compliance monitoring system in addition to any other reporting requirements under the Agreement.

5.2. Environmental Management

5.2.1. Principal's environmental management guidelines

The Principal has developed a number of environmental management guidelines, which provide guidance on how to manage certain aspects of environmental management during Site based activities. These guidelines are available on TfNSW's website

<http://www.transport.nsw.gov.au/projects/project-toolkit/standard-requirements>. The Services must be provided, having regards to these guidelines.

5.2.2. Professional services contractor's environmental management system

Unless otherwise noted in Annexure A, the Professional Services Contractor's Environmental Management System (EMS) must comply with the relevant requirements of the "NSW Government Environmental Management System Guidelines" and remain accredited under "AS/NZS ISO 14001:2015" whilst the Services are undertaken.

The EMS utilised must be consistent with the requirements prescribed in this TSR and the Agreement.

5.2.3. Notification of environmental incidents and non compliances

The Professional Services Contractor must notify and manage all environmental Incidents and non compliances in accordance with the Agreement and "[TfNSW Environmental Incident Classification and Reporting - 9TP-PR-105](#)".

The Principal's Representative may advise an environmental non compliance or deficiency in writing. Upon receipt of such advice the Professional Services Contractor must deal with and close-out the non compliance or deficiency under its EMS and in accordance with the requirements of the Agreement. The "[TfNSW Environmental Incident/Non-Compliance Report - 9TP-FT-101](#)" must be completed by the Professional Services Contractor and returned to the Principal's Representative within 48 hours, unless otherwise directed by the Principal's Representative.

The Professional Services Contractor must ensure that any environmental non compliances are identified, managed and addressed (including via the carrying out of corrective actions and preventative actions) in accordance with the provisions of "AS/NZS ISO 9001:2008" that relate to control of non conforming product and improvement.

5.2.4. Environmental related complaints

Complaints received by the Professional Services Contractor from any source in relation to environmental issues must be handled, recorded and reported in accordance with this TSR and the conditions of any applicable Authority Approval. The Professional Services Contractor must immediately notify the Principal's Representative and the Environmental Representative of any environmental complaints received and the actions taken to resolve the complaint.

5.2.5. Environmental control maps

Unless otherwise noted in Annexure A, the Professional Services Contractor must develop, implement and maintain Environmental Control Maps (ECMs) in accordance with all Authority Approvals and the "[TfNSW Guide to Environmental Control Map - 3TP-SD-015](#)". Each ECM must be specific to a work area and/or work activity and identify the sensitive environmental areas and receivers and the location of mitigation measures to minimise the impact of the Services on the environment and community.

Each ECM must be prepared as a map, suitably enlarged (e.g. A0 size) for mounting on the wall of a site-office and for use by on-site personnel (e.g. A3 size).

The Professional Services Contractor must submit the ECMs to the Environmental Representative for review at least 5 Business Days' prior to the commencement of the Services in the area covered by the ECMs. The Professional Services Contractor must incorporate any comments made by the Environmental Representative into the final ECMs. The Professional Services Contractor must regularly review and update the ECMs to incorporate works progression and changing characteristics of the Site, and revise or amend environmental protection measures if those identified in the ECMs are not adequate in achieving compliance with the environmental obligations under the Agreement. The revised

ECMs must be submitted to the Environmental Representative for review and approval unless otherwise agreed with the Environmental Representative.

5.2.6. Control of environmental records

The Professional Services Contractor must comply with section 4.5.4 (Control of Records) of “AS/NZS ISO 14001:2015”.

The Professional Services Contractor must retain all environmental records, including those required in the whole of this clause 5 for a period of no less than 5 years from Completion. The Professional Services Contractor must provide the Principal with copies of the environmental records stated at Annexure D. Records not required to be stored on-site must be forwarded to the Principal’s Representative within 3 Business Days of a request.

5.3. Sustainability

Any comments made by the Principal on the documents submitted for review under this clause 5.3 must be incorporated into the final document by the Professional Services Contractor. The Services must comply with the final version of such documents.

5.3.1. Sustainability and climate requirements

The Professional Services Contractor must comply with the Principal’s sustainability and climate requirements indicated in Annexure A.

5.3.2. NSW Government resource efficiency policy (GREP)

The Professional Services Contractor must comply with the requirements of the GREP as it applies to the Services, and as indicated in Annexure A.

6. Safety management

6.1. General requirements

The Professional Services Contractor must manage health and safety in accordance with the WHS Legislation, Codes and Standards, NSW Government Guidelines and requirements of the Agreement. The Contractor must ensure compliance, by it and those persons it exercises control over, with relevant Laws, the Rail Safety National Law, Codes and Standards, codes of practice and Agreement requirements as a minimum.

6.1.1. Contractor’s senior management representative

The Professional Services Contractor must identify and advise the Principal’s Representative at all times, who is the senior management representative responsible for implementing and maintaining the safety requirements of this the Agreement and monitoring the effectiveness of the Contractor’s safety management system in complying with all safety requirements.

6.1.2. Safety culture

The Professional Services Contractor must continuously promote a safer, healthier, more productive workplace. The Professional Services Contractor must establish and maintain an effective safety management system that facilitates the flow of information both within the Professional Services Contractor’s organisation and between the Professional Services Contractor’s organisation, Subcontractors and the Principal.

The Professional Services Contractor must provide strong leadership and promote safety as a core value, establishing and enforcing high standards of performance and ensuring relevant expertise is available.

The Professional Services Contractor must ensure open and effective consultation and further mutual trust with the Principal's Representative, providing timely response to safety issues and concerns.

The Professional Services Contractor must ensure the safety management system and the safety culture supports:

- (a) senior management commitment to safety;
- (b) commitment to work with the Principal's Representative to develop project-specific lead and lag key performance indicators;
- (c) shared care and concern for hazards;
- (d) workers to adapt to their changing environment where required;
- (e) organisational learning through monitoring, analysis and feedback systems;
- (f) methods for providing feedback and set timeframes for such provision;
- (g) methods to communicate and share learning from successes and failures;
- (h) the encouragement of teamwork and of worker involvement in promoting and maintaining a positive safety culture;
- (i) methods to demonstrate how site-safety rules will be reflected in practice and how such rules will be incorporated into the Services; and
- (j) methods to enable the ongoing development of safety improvements developed in consultation and communication with the Principal's Representative, as required.

The management of health and safety as well as the means of developing the required safety culture must be documented in the Project Work Health and Safety Plan in Clause 2.

6.1.3. Failure to comply

If the Principal's Representative is of the opinion that the Professional Services Contractor, the Professional Services Contractor's personnel or a Subcontractor have not complied, or are not complying with any health and safety requirements in the Agreement, this TSR or under the Rail Safety National and/or WHS Legislation, including the requirement to eliminate or minimise the risks so far as is reasonably practicable, then the Principal's Representative may:

- (a) direct the Professional Services Contractor to immediately comply with the obligation; and/or
- (b) without limiting clause 17.8 of the Agreement, where there is an immediate risk to the health, safety or welfare of any persons as a result of the non compliance, direct the Professional Services Contractor to immediately suspend carrying out all or any part of the Services until such time as the Professional Services Contractor is compliant.

6.2. Management of health and safety risk

6.2.1. Risk management

The Professional Services Contractor must manage risks in accordance with "AS/NZS ISO 31000:2009 - Risk Management" and TfNSW's risk framework in Annexure B.

The Professional Services Contractor must:

- (a) eliminate all risks to health and safety; and
- (b) if it is not reasonably practicable to eliminate risks to health and safety; minimise those risks so far as is reasonably practicable applying, maintaining and reviewing the prescribed Hierarchy of Control Measures.

As part of the determination of whether risks have been eliminated or minimised so far as is reasonably practicable, the Professional Services Contractor must review, and record the review of the Principal's [Generic Work Health and Safety Operational Risk Register - 30-SD-101](#) and where the Services involve Rail Safety Work, the Professional Services Contractor must also review the [Generic Rail Safety Risk Register - 30-SD-038](#).

The Professional Services Contractor must maintain a register of risks which complies with Annexure B, and includes:

- (c) a description of the risk/hazard and its likely impact;
- (d) the risk level assessed for each hazard;
- (e) specific control measures, including safe work methods to be implemented to eliminate or mitigate risks;
- (f) the residual risks/hazards;
- (g) methods to be used to monitor effectiveness of safe work methods and control measures;
- (h) the person(s) responsible for monitoring implementation of the control measures;
- (i) consultative processes employed by the Professional Services Contractor in relation to the risk/hazard and the persons involved; and
- (j) demonstrable application of the Hierarchy of Control Measures undertaken to lessen the risks so far as is reasonably practicable.

In addition the Principal has detailed a number of control measures that are expected to be deployed, unless a more robust risk control is applied through a process of risk assessment. These control measures are set out in clauses 6.2.2 to 6.2.8

6.2.2. Plant

The Professional Services Contractor must ensure that all Plant is properly operated and maintained in accordance with the manufacturer's instructions and in accordance with the *Work and Safety Regulation 2011* (NSW) and the associated codes of practice, so as to ensure that it poses no risk to the health and safety of any person on the Site or on land adjoining the Site.

The Professional Services Contractor must also:

- (a) ensure that quick hitch attachments fitted to excavators and other earth moving machinery are of the fully automatic type with a secondary locking attachment. The secondary attachment is to be capable of preventing the excavator attachment from releasing in the event of a partial or total failure of the power supply or when the operator stops operating the machine. All half-hitch, mechanical-hitch, form-lock, semi-automatic types are prohibited; and
- (b) where mobile plant's operating envelope is capable of encroaching within 3 metres of the Danger Zone or the safe approach distance to live electrical infrastructure, implement the use of programmable zone limiting devices that limit the hoisting and/or slewing and which are designed to be "fail safe" or which meet Category 4 reliability in accordance with "AS4024.1 Safeguarding of Machinery" or a SIL of 3 under "AS 61508 Functional safety of electrical / electronic / programmable electronic safety-related systems".

6.2.3. Electrical safety

The Professional Services Contractor must control the risks associated with electrical safety in accordance with all relevant Codes and Standards and Laws, including WHS Legislation.

These controls must take into account that live work is not permitted and isolated circuits are to be treated as live until they have been proven dead by testing.

6.2.4. Use of portable earphone equipped music players

The use of portable earphone equipped music players on Site is prohibited.

6.2.5. Fires or burning off

Fires or burning off will not be permitted anywhere on the Site.

6.2.6. First aid and emergency arrangements

The Professional Services Contractor must manage the provision of first aid for the Services in accordance with the WHS Legislation.

In addition the Professional Services Contractor must provide a defibrillator (and suitable training in its use for its senior first aid personnel) at each major first aid location, and must ensure persons trained in the use of the defibrillator are on Site at all times.

6.2.7. National Counter Terrorism Alert Levels

The Professional Services Contractor must:

- (a) ensure that the security management of the Services reflects the National Counter Terrorism Alert Levels;
- (b) develop procedures to communicate and respond to changes in the National Counter Terrorism Alert Levels; and
- (c) document how notification of a terrorism incident will be made to the Principal's Representative and Law enforcement authorities, and the roles and responsibilities of the Professional Services Contractor's employees and Subcontractors in such an event.

6.2.8. Alcohol and other drugs

The Principal's policy of zero tolerance of alcohol and illegal drug use applies to the Agreement. Alcohol and illegal drugs are not permitted on any Site or on premises controlled or managed by the Principal.

The Professional Services Contractor must develop policies and procedures to ensure this policy of zero tolerance of alcohol and illegal drugs use is adhered to at all times. The Professional Services Contractor must develop and implement effective alcohol and drug testing procedures in line with relevant Laws.

The Professional Services Contractor must ensure that all persons associated with the Services (including the Professional Services Contractor's personnel, visitors, Subcontractor workers and agents) are aware of their obligations to comply with all alcohol and drug requirements.

The Principal prohibits any persons under the influence of alcohol or drugs from working on any projects carried out for or controlled or managed by the Principal, regardless of their work location. Prescription and over-the-counter drugs may also affect a person's ability to work safely and the Professional Services Contractor, in consultation with the Principal's Representative, will determine its policy in relation to prescription and over-the-counter drugs on a case by case basis.

All of the Professional Services Contractor's personnel and workers of Subcontractors may be subject to alcohol and drug testing by an authorised testing officer of the Principal at any time whilst carrying out the Services (including within the Professional Services Contractor's Site amenities or facilities).

Testing for the presence of alcohol and other drugs may be undertaken during the following occasions:

- a) before performing duties (pre-sign on, primarily alcohol test);
- b) during the performance of duties (random and reasonable cause); and
- c) following any Incident.

Anyone that tests positive to alcohol or drug tests or who refuses an alcohol or drug test must be removed from the Site immediately, and the Principal's Representative must be notified immediately.

The Professional Services Contractor must take disciplinary action against a person associated with the Services who breaches the Principal's policy of zero tolerance of alcohol and illegal drug use. The nature of the disciplinary action to be taken must be communicated to the Principal's Representative.

Each individual that signs on at the commencement of each shift will be declaring themselves to be free of alcohol and drugs.

If the Services involves entering, or working adjacent to; the Rail Corridor and the rail environment, the alcohol and other drugs procedures must be in line with the Rail Safety National Law, and the testing regime must include prestart testing prior to Track Possessions.

6.3. Safe work method statements

Before work commences the Professional Services Contractor must provide Safe Work Method Statements (SWMS) for the proposed Services. The Professional Services Contractor must also ensure that the Services are carried out in accordance with the relevant SWMS for the work. The Professional Services Contractor must ensure that the SWMS are reviewed and, as necessary, revised if relevant control measures are revised.

All SWMS, regardless of whether they are authored by the Professional Services Contractor or Subcontractors, must, unless otherwise directed by the Principal's Representative, be submitted to the Principal's Representative at least 5 Business Days prior to the commencement of any significant activity. The Principal's Representative may review any submitted SWMS. All SWMS must be listed on a consolidated SWMS register that must be proactively maintained by the Professional Services Contractor and communicated to the Principal no less than monthly.

The Professional Services Contractor acknowledges and agrees that by exercising its right under this clause 6.3, the Principal's Representative is not assuming any management or Control of the Site or the Services and is only receiving the SWMS information to monitor the Professional Services Contractor's compliance with its obligations under this Agreement and/or applicable Laws, including the WHS Legislation and/or the Rail Safety National Law.

6.4. Safety incident reporting, investigation and recording

The Professional Services Contractor must notify the Principal's Representative of any Incident and comply with the requirements of the "NSW Government Work Health and Safety Management Systems and Auditing Guidelines" and clauses 6.4.1 and 6.4.2 below.

6.4.1. Recording of incidents

The Professional Services Contractor must immediately notify the Principal's Representative of any Incident and record the Incident by using the "INX InControl Incident Management System "INX". Should INX not be accessible, the Professional Services Contractor must report in a manner that enables effective subsequent recording in INX.

All notifiable occurrences under Rail Safety National Law must be reported immediately to the Principal's Representative and to the relevant Regulators. Where any type of notice, infringement or fine by a Regulator has been issued to the Professional Services Contractor in relation to undertaking the Services, the Professional Services Contractor must immediately notify the Principal's Representative.

6.4.2. Investigation of incidents

The Professional Services Contractor must undertake investigation of all minor and major near-miss or actual Incidents. The minor investigation must be recorded within INX utilising the minor investigation template contained therein. Minor investigations must be completed within 28 days of the Incident.

The Principal's Representative may direct the Professional Services Contractor to undertake a major investigation into an Incident or potential Incident, utilising the major investigation template contained within INX. Major investigations must be completed within 42 days of the Incident. Terms of reference for major investigations will be issued by the Principal. If a major investigation requires the appointment of an external independent investigator, the Professional Services Contractor will bear the cost of the investigation.

The Principal may participate in any investigation being undertaken by the Professional Services Contractor or initiate its own investigation. If the Principal instigates its own investigation the Professional Services Contractor must provide the Principal with all assistance reasonably required for the purposes of the investigation, this includes the waiver of legal professional privilege over any investigation report prepared by, or on behalf of, the Professional Services Contractor. The Parties may agree that any investigation report that is subject to legal professional privilege may, between the Professional Services Contractor and the Principal, be subject to a common interest privilege.

6.5. Principal contractor

In this clause 6.5 the terms 'construction project', 'construction work', 'principal contractor' and 'workplace' have the same meanings assigned to those terms under the WHS Legislation. For the purpose of the WHS Legislation and the Agreement, the Services and any work carried out by an Other Contractor is taken to be part of the same construction project. During any period for which the Professional Services Contractor is specified in Annexure A as being; or the Principal's Representative directs the Professional Services Contractor to be in Control of any part of the Site and to the extent that the Services or any Work includes construction work:

- a) the Principal engages the Professional Services Contractor as the principal contractor in respect of the Services and all Other Contractor Work carried out on that part of the Site;
- b) the Principal authorises the Professional Services Contractor to have management and Control of each workplace at which the Services and the Other Contractor Work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation; and
- c) the Professional Services Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation.

To the extent not prohibited by Law, the Professional Services Contractor must indemnify the Principal against any damage, expense, loss or liability suffered or incurred by the Principal arising out of or in any way in connection with the Professional Services Contractor's failure to discharge the duties imposed on a principal contractor by the WHS Legislation that the Professional Services Contractor is required to discharge in accordance with this clause 6.5 Where the Professional Services Contractor is not specified in Annexure A as being, or the Principal's Representative has not directed that the Professional Services Contractor is to be in Control of a part of the Site, the Professional Services Contractor:

- d) acknowledges that the person who is specified in Annexure A as being in Control of that part of the Site is the principal contractor in respect of all construction work carried out by or on behalf of the Principal on that part of the Site during the period during which that person is in Control of that part of the Site; and

- e) must comply with any exercise by the person referred to in this clause 6.5(d) of such authority as is necessary to enable that person to discharge the responsibilities imposed on a principal contractor by the WHS Legislation.

The Professional Services Contractor must comply with any direction by the Principal's Representative for the purposes of compliance with a condition or restriction of the Principal's accreditation under the Rail Safety National Law (NSW), except to the extent that compliance with the direction of the Principal's Representative is inconsistent with the Professional Services Contractor's obligations under clauses 6.5 d) and e).

The Professional Services Contractor acknowledges and agrees that access to Site or any part thereof will only confer on the Professional Services Contractor a right to such management and control as is necessary to enable the Professional Services Contractor to execute the Services in accordance with this Agreement and to discharge its responsibilities under the WHS Legislation, including to discharge its responsibilities as principal contractor.

7. Communications, stakeholder and community liaison

7.1. General requirements

The Professional Services Contractor must:

- (a) ensure that the Principal is provided with adequate information and notification of planned communications activities; and
- (b) consult the Principal's Representative prior to taking any action that may impact on stakeholders and the community.

7.2. Meetings with stakeholders

The Professional Services Contractor must not meet stakeholders without seeking approval from the Principal. The Professional Services Contractor must provide the Principal with a minimum of 3 Business Days' notice prior to any meeting with the community or stakeholders. The Professional Services Contractor must also support any meetings with stakeholders by providing relevant materials for presentation and/or distribution at such meetings. The Professional Services Contractor must ensure that suitable persons are available to attend all such meetings, including "after-hours" meetings. Such persons must be adequately informed and suitably qualified to participate and be able to take the lead during meetings where requested by the Principal's Representative.

7.3. Public communication materials

The Professional Services Contractor must promptly provide all information as reasonably required or directed by the Principal's Representative. All public communication material produced by the Professional Services Contractor must meet "Web Accessibility Guidelines 2.0 (WCAG 2.0)" and be consistent with and comply with the "TfNSW Transport Projects Style Guide for Professional Services Contractors and Consultants" and the "[TfNSW Editorial Style Guidelines](#)". The Professional Services Contractor must not release any public communication material until it is approved by the Principal's Representative.

7.4. Media, marketing and promotional material

The Principal wishes to exercise control over the release of any information regarding the Services. This includes any media, marketing or promotional material that the Professional Services Contractor or Subcontractor seeks to publish, or any press releases or responses to enquiries from the media. For clarity this also includes material placed on construction hoardings and fences and the like.

The Professional Services Contractor must not release any verbal or written statements, provide any information or allow Site access without a prior written request containing the

relevant information to, and receive subsequent written approval from, the Principal's Representative.

The Professional Services Contractor must also make all enquiries or contact, including requests to access Site by the media, government representative or other organisation, known to the Principal.

These constraints also apply to the Professional Services Contractor's consultants and Subcontractors.

7.5. Notifications

The Professional Services Contractor must issue written notifications to stakeholders and the community at least 7 calendar days before commencing any activity with the potential to impact stakeholders and the community. The written notification must use the template provided by the Principal and must include the distribution details shown on a map.

The written notifications must be reviewed and approved by the Principal's Representative prior to being issued to stakeholders and the community. The Principal's Representative will require a minimum of 5 Business Days to review and approve any written notification.

7.6. Complaints and enquiries management

The Professional Services Contractor is responsible for responding to complaints and enquiries received regarding the Services and impacts associated with the Services. Complaints and enquiries may be received through a variety of avenues including the Principal's 24-hour response line or project info line, in writing (letter or email), direct to the Principal via telephone, or direct to the Professional Services Contractor or Subcontractors.

In responding to complaints the Professional Services Contractor must:

- (a) record details of every complaint received and how it was managed and closed out;
- (b) investigate and determine the source of the complaint immediately, including an immediate call to the complainant where the complaint was received by telephone. Should the Professional Services Contractor determine that the complaint does not relate to the Services, the Professional Services Contractor must immediately notify the Principal's Representative;
- (c) provide at least an oral response to the complainant regarding what action is proposed as soon as possible and within a maximum of 2 hours from the time of the complaint during standard "construction" hours as outlined in the Planning Approval, or on the next Business Day during all other times (unless the complainant requests otherwise). If no phone number was provided, the complaint must be responded to within a maximum of 24 hours for emails and 5 Business Days for letters from time of receipt;
- (d) forward information on any complaints received, including response times and details of any actions undertaken or proposed or investigations occurring, to the Principal's Representative in writing each Business Day;
- (e) provide the Principal with details in writing of any complaint, the close out actions and the date action was implemented.

8. Working in and adjacent to the rail corridor and rail environment

The following requirements apply to the Professional Services Contractor, except where otherwise indicated in Annexure A.

8.1. The operating railway system

The Professional Services Contractor acknowledges and agrees that:

- (a) it is aware that Sydney Trains or another Operator/Maintainer may continue to use areas adjacent to, or within the Site as part of normal operations of the railway system on a commercial basis during the undertaking of the Services;
- (b) the continuance of normal operations of the railway system, including within the Site, adjoining areas and railway stations, on a commercial basis by Sydney Trains or another Operator/Maintainer during the performance of the Services must be maintained to the satisfaction of the Operator/Maintainer as notified by the Principal's Representative. The Professional Services Contractor must ensure that the railway system operations and infrastructure are not impeded or interfered with by reason of the performance of the Services, except where this is approved in writing beforehand by the Principal's Representative;
- (c) it must maintain and coordinate sufficient access to the railway system, for users and operators, so as not to hinder main traffic routes, including access to and from operating railway station platforms, ticketing areas and the Rail Corridor, and the flow of traffic, including on or accessing the Site and the adjoining areas, except where this is approved in writing beforehand by the Principal's Representative;
- (d) it must, in performing the Services, do everything that could be reasonably expected of the Professional Services Contractor to avoid Sydney Trains or another Operator/Maintainer breaching any obligation it may have arising out of or in connection with the continuing operation of the railway system on a commercial basis;
- (e) it must ensure:
 - i. access and egress for Sydney Trains or another Operator/Maintainer and its Professional Services Contractors to the Site to undertake regular inspections and to complete maintenance and repairs of the operator's infrastructure where required;
 - ii. access and egress to those parts of the Site required by Other Contractors are made available and coordinated so as to minimise any interference with or disruption to the Services; and
 - iii. emergency egress routes (including routes to the Rail Corridor and its support system) are maintained at all times and that emergency systems (including the Sydney Trains emergency warning intercommunication system and fire alarm panels) remain operational throughout the duration of the Agreement;
- (f) it must provide a safe place for persons carrying out Rail Track inspections and/or maintenance work, for example, refuges in any hoarding/fencing erected adjacent to the Rail Track;
- (g) it must comply with any Sydney Trains or other Operator/Maintainer standards applicable to the Services including for work that is adjacent to an operating rail line and to live overhead wires;

- (h) it must ensure that whilst undertaking the Services, no employees or Plant (including, for example, by the slewing of cranes) of the Professional Services Contractor, Subcontractors or consultants enter an operating Rail Corridor, except as permitted by Sydney Trains “RailSafe Network Rules”; and
- (i) it must at all times, and to the satisfaction of the Principal’s Representative, carry out the Services in a manner that will ensure the safety of all property and persons, including the general public, travelling public, station lessees, railway traffic, railway system personnel, road traffic and any person associated or engaged in connection with the Services.

8.2. Track possessions

8.2.1. Arrangements for track possessions

The Track Possessions available to the Professional Services Contractor are set out in the Agreement.

For each Track Possession to be utilised by the Professional Services Contractor, the Professional Services Contractor must attend and incorporate the requirements from:

- (a) the “Tier 6 Possession Coordination Meeting” with Sydney Trains held approximately 12 weeks prior to the Track Possession. This meeting will decide the coordination of all activities in the Track Possession, working hours, movements of equipment and work trains in the Track Possession area;
- (b) the “Possession Coordination Meeting” with Sydney Trains held approximately two weeks prior to the Track Possession to discuss train movements and safe working; and
- (c) the “Pre-Possession Meeting” with Sydney Trains, usually held prior to the Track Possession to confirm the detailed arrangements for the Track Possession and coordinate the activities of each party working in the Track Possession.

For each Track Possession to be utilised by the Professional Services Contractor, the Professional Services Contractor must conform to the requirements of the relevant Rail Transport Operator.

If a Track Possession involves an asset or partial asset being handed over to the Asset Owner or Operator/Maintainer (even if only for maintenance prior to it being commissioned), a Commissioning event and formal Asset Handover will be required. In these circumstances, the following documents appertaining to the assets being handed over are required to be submitted to the Principal’s Representative for review at least six weeks prior to the Track Possession:

- (d) Safe Work Method Statements;
- (e) residual risk assessments;
- (f) Configuration Materials including operations and maintenance manuals, drawings, as directed by the Principal’s Representative;
- (g) Contract Materials;
- (h) design documentation; and
- (i) any other documents required as directed by the Principal’s Representative.

Where power isolation is required, the Professional Services Contractor must specify what power is required to be shut down and the time and duration required for the power isolation. This information must be submitted to the Principal’s Representative for review, in accordance with the Agreement at least 16 weeks prior to each Track Possession.

8.2.2. Interface arrangements during track possessions

The Professional Services Contractor may not have exclusive access to any Rail Tracks or areas within the vicinity of Rail Tracks during a Track Possession. The Professional Services Contractor must coordinate the Services with those sharing the Track Possession, including parties involved in the operation or maintenance of the rail system and Other Contractors. This includes, where required, the Professional Services Contractor allowing for Operator/Maintainers' contractors and Other Contractors to pass through the worksite(s) during the Track Possessions. The extent of Operator/Maintainers Contractors and Other Contractors activities on or within the vicinity of the Rail Track during Track Possessions will be determined at the "Tier 6 Possession Coordination Meeting" referred to in clause 8.2. The Professional Services Contractor must ensure that all persons invited or brought onto the Site by the Professional Services Contractor or Other Contractors, and those who enter an area within the Rail Corridor undertake all necessary Site inductions and obey all directions given by the Worksite Protection Personnel.

Prior to the end of the Track Possession, an appropriately qualified inspector holding the appropriate competencies must approve adequate completion of the relevant Services and sign off on "Sydney Trains Certificate of Practical Completion/Certification (W42F01)". Any Defects listed on W42F01 must be rectified by the Professional Services Contractor to the satisfaction of the Principal's Representative within 5 Business Days of the issue of the relevant W42F01.

The Principal's Representative may alter, cancel or curtail any Track Possession at any time.

8.2.3. Requesting additional possessions

It is unlikely that, in addition to those specified in the Agreement, weekend Track Possessions, the Operator/Maintainer's resources and/or Track Possessions (with or without power) in overnight periods when trains are not running, will be available for the Services. If the Professional Services Contractor requires additional Track Possessions, power isolation and/or the Operator/Maintainer's resources, they are to be arranged by the Professional Services Contractor at the Professional Services Contractor's own cost. This includes reimbursing the Principal's Representative for any costs that it incurs in respect of granting the additional Track Possessions and procuring the Operator/Maintainer's resources. In the case of an alliance contract, the allocation of these additional costs will be in accordance with the commercial framework of the agreement.

The Professional Services Contractor must provide a written request for additional Track Possessions or power isolation of overhead and transmission lines with a notice period as specified in the Agreement.

Upon a written request by the Professional Services Contractor, the Principal will seek to facilitate obtaining additional Track Possessions, power isolations and/or the Operator/Maintainer's resources for the Professional Services Contractor by arranging a meeting between the Professional Services Contractor and the Operator/Maintainer. At this meeting or subsequent meetings, possible dates for Track Possessions, power isolations and/or additional Operator/Maintainer's resources may be identified.

The Principal does not guarantee the granting of, and is not obliged to arrange additional Track Possessions, power isolations or Operator/Maintainer resources on any particular date, or at all.

Where power isolation is required, the Professional Services Contractor must specify what power is required to be shut down and the time and duration required for the power isolation. This information must be submitted to the Principal's Representative for review, in accordance with the Agreement at least 16 weeks prior to each Track Possession.

8.2.4. Planning and managing track possessions

To ensure that Track Possessions are managed effectively and safely, the Professional Services Contractor must:

- (a) prepare, maintain and update policies and procedures for planning and managing Track Possession work in accordance with the “Sydney Trains Possession Manual”; and
- (b) prepare and submit to the Principal’s Representative for review for conformance with the “Sydney Trains Possession Manual”, six weeks prior to each Track Possession:
 - i. a consolidated plan comprising all information required in advance of the Track Possession including that detailed in the “Sydney Trains Possession Manual”; and
 - ii. a program including:
 - A. the elements of the Services to be completed prior to the Track Possession;
 - B. an hour by hour breakdown of the elements of the Services to be carried out during the Track Possession;
 - C. milestones and the time and date by which they must be achieved so as to ensure that the rail infrastructure can be reinstated within the allocated time and which, if not achieved by the nominated time, would result in the Professional Services Contractor bringing work to an end and commencing reinstatement of the rail infrastructure and other works to avoid a delay in returning the Track Possession and/or delays to trains;
 - D. adequate allowance of time at the beginning and end of the Track Possession to safely remove and reinstate the affected rail infrastructure to operational condition and for providing and removing safeworking protection and the Operator/Maintainer inspections and certifications;
 - E. the specific risks to be managed during the Track Possession and the procedures to be followed in managing these risks;
 - F. any potential interface issue in any way connected with work carried out by an Other Contractor or involving the Operator/Maintainer’s operational and maintenance activities; and
 - G. progress/program review meetings scheduled during the Track Possession as requested by the Principal’s Representative and/or the Operator/Maintainer.

The Professional Services Contractor must immediately comply with any instructions by the Principal’s Representative to vary the program described in clause 8.2.4(b), or curtail the Services if the Principal’s Representative considers that continuing with intended Services will result in a delay to returning the Track Possession and/or delay to trains.

8.2.5. Certification of work in track possessions

Before handover of an area at the end of any Track Possession the Professional Services Contractor must provide to the Principal and, if required by the Principal’s Representative, to the Operator/Maintainer; the following:

- (a) for any form of civil or structural works that will support operating Rail Track, written certification by the Professional Services Contractor’s designers (including design

Subcontractors) that the relevant works are safely able to support the operating rail infrastructure;

- (b) for any adjustments to or interruptions of service to signalling, track, overhead wiring or high voltage infrastructure, written certification from the Professional Services Contractor's designers (including design Subcontractors) that such infrastructure is suitable for operations and complies with the approved design;
- (c) for any adjustments to or interruptions of service to signalling, overhead wiring or high voltage infrastructure, written certification from a Sydney Trains (or other relevant Operator/Maintainer's) representative that such infrastructure is suitable for operations; and
- (d) all other infrastructure certification required by Sydney Trains or the relevant Operator/Maintainer and/or Asset Owner.

8.3. Rail safety

8.3.1. Project work notification and work activity advice

The Professional Services Contractor must complete and submit the relevant Operator/Maintainer's Project Work Notification or other applicable document to the Principal's Representative at least six weeks prior to the planned Services, including any works in a Track Possession. The Professional Services Contractor must comply with the requirements of the "TfNSW/Rail Transport Operator Safety Interface Agreement".

A Work Activity Advice (WAA) must be produced by the Professional Services Contractor using the form [TfNSW Work Activity Advice Form – 4TP-FT-105](#). Each WAA must cover a particular part of the Services and includes the SWMS applicable to that part of the Services. The Professional Services Contractor must conduct a pre-work briefing with all personnel involved, including the Protection Officer as defined in the Australian Network Rules and Procedures, prior to commencing the work.

8.3.2. Competencies

The Professional Services Contractor must provide the Principal's Representative with a list of position descriptions which identifies whether each position is a Rail Safety Worker. The Principal may require alteration of the designation of Rail Safety Workers as nominated by the Professional Services Contractor.

Any person supervising or setting up safe work arrangements for the Services on or in the vicinity of the Rail Corridor must hold the qualifications required by the Rail Transport Operator and the Principal.

The Professional Services Contractor must ensure that no person undertakes Rail Safety Work unless they have been issued with a certificate of competency under the Rail Safety National Law.

The Professional Services Contractor must consult with the Principal's Representative to obtain a determination as to when the RIW card is required for the Services. The Professional Services Contractor must ensure that any visitors required to enter the Rail Corridor complete the relevant safety inductions.

8.3.3. Fatigue management, medical and health management

For workers carrying out Rail Safety Work the Professional Services Contractor must apply the following fatigue, medical and health minimisation controls:

- (a) implement a fatigue management program that:

- (i) addresses the requirements of the Rail Safety National Law and this Agreement;
 - (ii) restricts workers to no more than 12 hours worked at a time not including travel time to and from work, unless there is a declared Incident in which case work can be performed up to a maximum of 16 hours at a time, as long as workers are not required to drive a motor vehicle or operate heavy plant or equipment after the 12th hour;
 - (iii) restricts workers that have worked more than 12 hours from driving after finishing work;
 - (iv) includes periods of 11 hours rest away from work;
 - (v) restricts the maximum number of work days to 12 work days in 14 consecutive days;
 - (vi) minimises to five consecutive occasions where eight hours are worked at night (i.e. after normal office hours) or four consecutive occasions where 10 hours are worked at night or three consecutive occasions where 12 hours are worked at night without a 48 hour rest break;
 - (vii) ensures employees receive a minimum of 48 consecutive hours free of work in a 14-day period; and
 - (viii) has the capacity to replace or relieve workers where unplanned or unavoidable extended hours have created a risk to employee health and safety;
- (b) inform such persons that they are subject to medicals and health assessments in accordance with the “National Standard for Health Assessments of Rail Safety Workers”;
 - (c) ensure that the “National Standard for Health Assessments of Rail Safety Workers” are undertaken and documented including re-examinations. The documented records must be maintained according to the *State Records Act 1998 (NSW)*; and
 - (d) inform such persons that additional medical and health assessments may be required to be undertaken where they are involved in a safety accident or where there is reasonable cause for concern that person may be unable to perform work safely (such as upon return from a long illness).

8.3.4. Work on track methods for working safely

Unless specified by the issue of a safeworking notice by the Principal’s Representative, the primary work on track methods for working safely are summarised as follows:

“*Construction Site*” - A worksite under construction without any rail traffic movements, or traction power systems being installed. Worksite Protection and RIW Identification are not required.

“*TfNSW Rail Site*” - A Principal’s Representative managed and controlled rail-site which has no interface access with other rail-sites or rail systems. Work within or potential to impact the Danger Zone requires Local Possession Authority in accordance with the Australian Network Rules and Procedures.

Should a TfNSW Rail Site encroach on the Danger Zone of any other adjoining Rail Transport Operator’s rail-site, then:

- (a) adjacent line protection must be implemented and managed in accordance with the rules of the adjoining Rail Transport Operator; and

- (b) an access interface is considered removed if points that allow entry and exit to the Transport Operator's rail-site are secured and a physical barrier is established at the limits of the TfNSW Rail Site.

Where the contracted Services are undertaken within a rail-site managed and controlled by another accredited Rail Transport Operator, the other Rail Transport Operator's Network Rules and Procedures apply.

8.3.5. Worksite protection personnel

Worksite Protection is required for carrying out the Services within the Rail Corridor in accordance with the Australian Network Rules and Procedures and/or the requirements of the Rail Transport Operator.

The Worksite Protection Personnel are required to hold a minimum of Worksite Protection Personnel level 2 accreditation (PO2).

The Worksite Protection Personnel must brief all personnel undertaking the Services on the Worksite Protection arrangements at the Site at the start of each shift or as is required by the Services (and agreed by the Principal's Representative).

Where the Principal is to provide the Worksite Protection Personnel, the Professional Services Contractor must provide 10 Business Days' notice in writing to the Principal's Representative requesting the number of Worksite Protection Personnel required.

8.3.6. Use of rolling stock, hi-rail vehicles and work Trains

Rolling stock and rail traffic are not permitted to travel or operate on the Site without the approval of the Principal.

The Principal's Representative may also impose requirements, limitations and constraints on rail traffic travelling or operating on the Site.

To the extent that any part of the Services requires the use of hi-rail vehicles or work trains the Professional Services Contractor must:

- (a) ensure that such vehicles are only operated by persons with appropriate competencies and by an organisation which holds accreditation as a "Rolling Stock Operator" (as that term is defined under the Rail Safety National Law);
- (b) ensure that hi-rail vehicles are duly checked and certified as being fit for their intended use at the start of each shift;
- (c) ensure the hi-rail vehicle has been certified as compliant and safe to use with the hi-rail modifications by the Original Equipment Manufacturer (or an independent competent engineer, including from a WHS and rail safety perspective);
- (d) ensure that the utilisation of hi-rail vehicles or work trains is appropriately addressed in the Professional Services Contractor's procedures to ensure safe operations, to prevent injury and damage to infrastructure and to ensure that responsibilities are identified and documented;
- (e) assess the past record of potential Subcontractors to ensure that they comply with the Rail Safety National Law and relevant rail accreditation requirements. The results of these assessments must be made available to the Principal's Representative upon request;
- (f) set out and carry out regular reviews of the performance of train and hi-rail operators engaged for the undertaking of the Services (including at least one review after each

major Track Possession or Incident, or in any event every three months). The results of these reviews must be made available to the Principal's Representative upon request; and

- (g) only use rolling stock, hi-rail vehicles and work trains authorised on the Vehicle Registration Database.

8.3.7. Swing arm plant – rail environment

The Professional Services Contractor must ensure the use of restrictors for swing arm plant.

The Professional Services Contractor's work planning process must include the validation of the proposed method of work to be carried out on the day. This validation process must include the completion of a site-specific risk assessment and development of a plant working diagram by the Professional Services Contractor in conjunction with the Project Rail Safeworking Coordinator and any other required project personnel.

The Professional Services Contractor's pre-work briefing must include the following items:

- (a) description of swing arm plant and equipment being used, including the type of restrictor(s) being used;
- (b) details of the "line in the sand" for the positioning of the chassis of the swing arm plant or equipment being used (including consideration of the size and reach of the swing arm plant or equipment);
- (c) arrangements for the provision of a spotter;
- (d) reference to the details included in the Worksite Protection Plan prepared by the Protection Officer that includes swing arm plant considerations; and
- (e) in the case of operations involving the use of a crane, details of the lifting plan developed for the Services.

ANNEXURE A – Additional Project Requirements

Additional Project Requirements

Clause	Site Means
1.2 Definitions	(a) the lands and other places described in Services Brief; and (b) any other lands and places made available to the Professional Services Contractor by the Principal for the purpose of this Agreement.

1.1.1.1. A2 Management Plans Clause 2

The following describes the requirements for Management Plans in clause 2.

Management Plan	Plan Required?	Reference for content	Timing for Initial Submission for Review	Frequency of Update
Contract Management Plan	Yes	2.1.1	Refer to Services brief	
Project Work Health and Safety Management Plan	Yes	2.1.2	T2	3 months
Workplace Relations Management Plan	Yes	2.1.3	T2	6 Months
Site Management Plan	No	N/A	N/A	N/A
Risk Management Plan	Yes	A30.2 below	T2	6 Months
Commuter and Passenger Management Plan	No	N/A	N/A	N/A
Traffic Management Plan	No	N/A	N/A	N/A
Defects Management Plan	No	N/A	N/A	N/A
Design Management Plan	Yes	A30.6 below	T1	6 Months
System Safety Plan	Yes	A30.7 below	T2	6 Months
Audit Management Plan	Yes	A30.8 below	T2	6 Months
Property Management Plan	No	N/A	N/A	N/A
Environmental Management Plan	No	N/A	N/A	N/A
Community and Stakeholder Management Plan	No	N/A	N/A	N/A

Legend

T1 10 Business Days after the date of this Agreement

T2 15 Business Days after the date of this Agreement

1.1.1.2. A3 Traffic Control Plan

Requirement	Applies?
<p>Is a Traffic Control Plan required?</p> <p>Where nominated in this clause A3, the Professional Services Contractor must prepare a detailed Traffic Control Plan (TCP) for the Site generally in accordance with the RTA manual "Traffic Control at Work Sites 4th Ed (June 2010)". The TCP must be submitted to and approved by the relevant Authority and submitted to the Principal's Representative for review prior to the commencement of any work on the Site. Thereafter, the Professional Services Contractor must ensure that the approved TCP is available for inspection by the Principal's Representative or any officer of WorkCover NSW, NSW Police, the RMS or any other Authority.</p>	No

1.1.1.3. A4 Environmental Management Plan

Requirement	Applies?
The Environmental Management Plan Must comply with the relevant requirements of the "NSW Government Environmental Management System Guidelines"	No

1.1.1.4. A5 Professional Services Contractors Program clause 2.2.1

Clause	Item	Requirement	Add Insertion
2.2.1	Professional Services Contractor's Program	Date first program is required	per Clause 2.2.1
		Monthly updates required?	per Clause 2.2.1
		Update submission timeframe	per Clause 2.2.1
		Required status date for program update	per Clause 2.2.1

1.1.1.5. A6 Principal's Document Management Tool clause 2.3.2

Clause	Requirement
2.3.2	No, the Principal will not administer the document deliverables using the Principal's electronic document management tool.
	The nominated electronic document management tool is N/A.

1.1.1.6. A7 Monthly Reporting clause 2.4

Clause	Requirement
2.4	A report is due as per Services Brief.

1.1.1.7. A8 Principal Provided Training clause 2.6

N/A

1.1.1.8. A9 AEO Engineering management clause 3.1

Clause	Requirement	Applies?
3.1	Is the Professional Services Contractor required to apply engineering management methodologies?	Yes

1.1.1.9. A10 Configuration Change Control clause 3.2

Clause	Requirement	Applies?
3.2 (a)	Operate network integration under the remit of the CCB and must operate under the governance arrangements established by the CCB;	Yes
3.2 (b)	Submit to the Principal's Representative, all Contract Materials, Configuration Materials and other documents which are required for the Principal's various submissions to the CCB and CMAAC; and	Yes
3.2 (c)	Support the Principal in achieving successful approval through each of the Configuration Management Gates required.	Yes

1.1.1.10. A11 Property Management clause 4

Clause	Requirement	Applies?
4.1.1	Property representative	No
4.1.2	Non conformance	No
4.1.3	Property records	No
4.1.4	Pre-commencement property risk assessment	No
4.2.1	Ownership and rights of access	No
4.2.2	Neighbouring property	No
4.3.1	Land surveys	No
4.3.2	Pre-commencement property condition surveys	No
4.3.3	Post-activity property condition surveys	No
4.3.4	Condition survey requirements	No
4.4	Pre commencement property compliance checklist	No
4.5	Property design requirements	No
4.6	Activity within the property boundaries	No
4.7	Ongoing property monitoring	No

1.1.1.11. A12 Submission of the Property Records clause 4.1.3

The Professional Services Contractor must provide the following records to the Property Representative:

Required Record or Reference	Applies?
Index of all property records noting issues/versions and where they are held	No
Qualifications/skills and competency records of Professional Services Contractor's personnel (including subcontractors)	No
Induction and training records for Professional Services Contractor's personnel and subcontractors	No
Property control and constraints maps (Worksite maps)	No
List of all adjoining property owners and details of all interaction / communications and complaints	No
Evidence of property inputs/outputs within the design development process including any sustainability initiatives	No
Surveillance, audit of subcontractors property performance and controls	No
Non-conformance and non-compliance property reports and register	No

1.1.1.12. A13 Post-activity Property Condition Surveys clause 4.3.3

Requirement	Interval Frequency
At the following times, the Professional Services Contractor must perform a post-activity condition survey on each property previously subject to a pre-commencement property condition survey.	N/A

1.1.1.13. A14 Ongoing Property Monitoring clause 4.7

General Requirement	Project Specific Requirement
The Professional Services Contractor must comply with the following project-specific requirements for ongoing property monitoring.	N/A

1.1.1.14. A15 Authority Approvals clause 5.1.1

Requirement	Applies?
Clause 5.1.1 Authority Approvals	No

1.1.1.15. A16 Planning and Environmental Compliance System clause 5.1.2

Clause	Requirement	Applies?
5.1.2 (a)	Use PECOMS/alternative to undertake self-regulation to confirm that all Professional Services Contractors' Activities are compliant with all Authority Approvals (including the EPL).	No
5.1.2 (b)	Implement a PECOMS/alternative reporting structure in addition to any other reporting requirements for the Agreement [and follow the applicable parts of " TfNSW Guide to Compliance Monitoring and Reporting using PECOMS - 9TP-SD-012 ".	No

1.1.1.16. A17 Professional Services Contractor's Environmental Management System clause 5.2.2

Requirement	Applies?
(i) Is a Professional Services Contractor's Environmental Management System accredited under ISO 14001:2004 required?	No
(ii) If No in (i) above, is a Professional Services Contractor's Environmental Management System required.	No

1.1.1.17. A18 Environmental Control Map clause 5.2.5

Requirement	Applies?
The Professional Services Contractor must develop, implement and maintain Environmental Control Maps (ECMs).	No

1.1.1.18. A19 Sustainability Requirements clause 5.3.1 (a)

Add Clause	Requirement	Applies?
5.3.1 (a)	The Professional Services Contractor must comply with the " TfNSW NSW Sustainable Design Guidelines " to meet a minimum Silver/ Gold/Platinum design rating.	No

1.1.1.19. A20 Sustainability Requirements clause 5.3.1 (b)

Add Clause	Requirement	Applies?
5.3.1 (b)	The Professional Services Contractor must submit a completed checklist in electronic format (form available at http://www.transport.nsw.gov.au/projects/Planning-and-assesment/sustainability) to the Principal's Representative for review every 6 months confirming compliance with the requirements of " TfNSW NSW Sustainable Design Guidelines "	No

1.1.1.20. A21 Sustainability Requirements clause 5.3.1 (c)

Add Clause	Requirement	Applies?
5.3.1 (c)	The Professional Services Contractor must prepare and submit to the Principal's Representative for review a Greenhouse Gas Inventory Report using the " TfNSW Carbon Estimation and Reporting Tool (CERT) " at each of the following stages: a. SDR or equivalent design stage (20% design); and b. CDR or equivalent design stage (100% design).	No

1.1.1.21. A22 Sustainability Requirements clause 5.3.1 (d)

Add Clause	Requirement	Applies?
5.3.1 (d)	<p>The Professional Services Contractor must prepare and submit for review by the Principal's Representative, a Climate Risk Assessment (CRA) Report in accordance with the TfNSW Climate Risk Assessment Guidelines – 9TP-SD-081 at the commencement of SDR (or equivalent) stage of design. This report must, as a minimum:</p> <ul style="list-style-type: none"> a. identify any project-specific climate change risks (utilising climate modelling data); and b. recommend risk mitigation measures to reduce the identified climate risks; and outline how risk mitigation measures will be addressed through the design process to reduce “extreme”, “high” and “medium” risks to “low” where practicable; and c. demonstrate how the recommended risk mitigation measures will/could be applied to the construction and operational phases of the project. 	No

1.1.1.22. A23 Sustainability Requirements clause 5.3.1 (e)

Add Clause	Requirement	Applies?
5.3.1 (e)	<p>The Professional Services Contractor must submit to the Principal's Representative for review, a whole of life costing in accordance with “ASA Standard T MU AM 01001 ST” at the [xxxx] stage of design.</p>	No

1.1.1.23. A24 Sustainability Requirements clause 5.3.1 (f)

Add Clause	Requirement	Applies?
5.3.1 (f)	<p>The Professional Services Contractor must register the project with the Infrastructure Sustainability Council of Australia and obtain a rating under the Infrastructure Sustainability rating scheme.</p>	No

1.1.1.24. A25 Sustainability Requirements clause 5.3.1 (g)

Add Clause	Requirement	Applies?
5.3.1 (f)	<p>The Professional Services Contractor must demonstrate, by inclusion in the Contract Management Plan or other relevant Management Plan their:</p> <ul style="list-style-type: none"> a. Corporate or project-specific equal employment opportunity Policy or Guideline and how its requirements will be implemented; and b. A learning and development program that is specific to 	No

	this project.	
--	---------------	--

1.1.1.25. A26 GREP clause 5.3.2 (a)

Add Clause	Requirement	Applies?
5.3.2 (a)	<p>The Professional Services Contractor must make available documents and evidence to assure the Principal that the Services are compliant with the requirements of the GREP policy. As a minimum, the Contractor must comply with the following requirements, to the extent they apply to the Services:</p> <p>E3. Minimum standards for new electrical appliances and equipment;</p> <p>E4. Minimum standards for new buildings, such that all new office buildings and fit-outs will be designed and built to a predicted performance of at least 4.5 stars for NABERS energy rating. For building types other than office buildings and fitouts, and where the facilities have projected development costs over \$10 million, the buildings must be designed and built so that energy consumption is predicted to 10% lower than if built to minimum compliance with National Construction Code requirements;</p> <p>W3. Minimum standards for new water using appliances; and</p> <p>A2. Low Volatile Organic Compound surface coatings.</p>	No

1.1.1.26. A27 GREP clause 5.3.2 (b)

Add Clause	Requirement	Applies ?
5.3.2 (b)	<p>The Professional Services Contractor must prepare the following reporting tools in the form provided by the Principal and submitted to the Principal's Representative for review:</p> <p>(a) an inventory of non-road diesel vehicles to be used to deliver the Services within 1 month of the date of the Agreement, and subsequently, annually (where the duration of the Agreement is of more than 1 year) – using TfNSW's Air Emission Data Collection Workbook 9TP-</p>	No

	FT-439; and a “TfNSW Waste Data Collection Worksheet” (to be provided by the Principal) to be submitted annually, by no later than the last Friday of the second week in August.	No
--	---	----

1.1.1.27. A28 Principal Contractor clause 6.5

Requirement	Applies?
Does Clause 6.5 apply?	No
If Yes. The principal contractor under the WHS legislation is	N/A
If Yes. The period of appointment is	N/A

1.1.1.28. A29 Working In or Adjacent to the Rail Corridor clause 8

Requirement	Applies?
Does Clause 8 apply?	Yes

1.1.1.29. A30 Requirements for Additional Management Plans (refer to A2)

A 30.1 Site management plan

Not required.

A 30.2 Risk management plan

The Professional Services Contractor must have in place, maintain and consistently apply until Completion, a Risk Management Plan that is in accordance with “ISO 31000 (Risk Management Guidelines and Principles)” and addresses the management of risks applicable to the undertaking of the Services.

The timing and frequency for the initial and subsequent submissions of the Risk Management Plan to the Principal’s Representative for review is nominated in A2 of this Annexure A.

The Risk Management Plan must include details of the risk management process to be employed during the delivery of Services and how TfNSW’s risk framework in Annexure B will be utilised as a tool for monitoring and managing the risk management process.

A 30.3 Commuter and passenger management plan

Not required.

A 30. 4 Traffic management plan

Not required.

A 30. 5 Defects management plan

Not required.

A 30.6 Design management plan

The Professional Services Contractor must have in place, maintain and consistently apply until Completion, a Design Management Plan that addresses the Professional Services Contractor's obligations and responsibilities relating to the design work.

The timing and frequency for the initial and subsequent submissions of the Design Management Plan to the Principal's Representative for review is nominated in A2 of this Annexure A.

The Design Management Plan must be based on the Professional Services Contractor's management systems and processes as assessed by the ASA as part of its AEO authorisation and must include the measures, including audit and verification that the Contractor will utilise to ensure that, as a minimum:

- (a) all design tasks are appropriately resourced by competent personnel;
- all design personnel are aware of the requirements of the Agreement and any obligations of designers under the WHS Legislation;
- all designs are prepared in accordance with requirements of the Agreement;

design packages are identified and a schedule is included which identifies each unique package, its scope, discipline and the stages of submission in accordance with any requirements of the Services Brief;

the development of the design is effectively coordinated and the interrelationships identified and managed across all:

- I. design interfaces, including with existing systems, operational systems, and maintenance systems;
- II. design stages;
- III. design packages, where the design work has been portioned into design packages; and
- IV. design disciplines (e.g. electrical, civil, track, signalling and rolling stock);

the Professional Services Contractor demonstrates familiarity with the Site and its constraints and the existing infrastructure so the works are designed and configured so as to achieve optimal integration from a human, asset and systems perspective in their operations and maintenance;

a system for the management of design review comments is incorporated;

all stakeholders in relation to the design have been appropriately identified, that appropriate stakeholder consultation is undertaken and includes workshops and presentations of the design to relevant parties including the design and sustainability review panel;

all design assumptions are documented and verified;

all designs are checked, reviewed and verified by competent personnel and that verification or proof engineering is conducted;

a requirements management process is adopted in accordance with "ASA Systems Engineering Standard T MU AM 06006 ST" and the related requirements of the Services Brief;

all methodologies, sequencing, staging, temporary or enabling works are taken into account and the associated risks are managed in the design;

an asset maintenance strategy and an asset operations strategy are delivered with the design;

safety, sustainability, reliability, availability and maintainability are demonstrated in the design;

durability assessment and durability statements are included with the design;

all completed designs or completed portions of the design are accompanied by a design assurance certificate from the AEO;

the process for managing design changes, and how this integrates with the configuration management activities in regards the CCB and CMAAC;

all inspection and test criteria are developed for the delivery of the works for incorporation in the inspection and test documentation that will verify and validate the works and Services;

all documentation is compliant with requirements of the Agreement, "[TfNSW CAD Protocols - 4TP-RL-004](#)" and discipline specific ASA Requirements;

risk arising from all hazards identified in the preliminary hazard analysis and systems hazard analysis are designed out or carried over, in the project hazard log or project specific safety risk register; and

all designs comply with relevant Codes and Standards and the ASA Requirements.

A 30.7 System safety plan

The Professional Services Contractor must have in place, maintain and consistently apply until Completion a System Safety Plan that defines the activities, evidence, deliverables and management arrangements that support the development of a safe system, the identification and management of safety risks to So Far As Is Reasonably Practicable, and provides suitable and sufficient assurance of the safety of the system in accordance with ASA Systems Safety Standard for New or Altered Assets TS2001

In addition the System Safety Plan must also demonstrate how the Contractor will comply with the requirements of TfNSW's enterprise risk matrix, included at Annexure B.

The timing and frequency for the initial and subsequent submissions of the System Safety Plan to the Principal's Representative for review is nominated in A2 of this Annexure A.

A 30.8 Audit management plan

The Professional Services Contractor must have in place, maintain and consistently apply until Completion an Audit Management Plan containing audit schedules and must prepare and submit audit reports to the Principal's Representative for review.

The timing and frequency for the initial and subsequent submissions of the Audit Management Plan to the Principal's Representative for review is nominated in A2 of this Annexure A .

The Audit Management Plan must outline the methodology, process and procedures adopted by the Professional Services Contractor to assure itself that the requirements of the Agreement are being met, including:

- (b) preparation of risk based audit schedules for the Services and any Subcontractor's activities that also take account of previous audit outcomes;

- (c) supply of competent and experienced resources to maintain the Audit Management Plan and implement the audit schedule;
- (d) reporting, analysing and determining trends based on those audits;
- (e) implementation of corrective and preventative actions as an outcome from those audits; and
- (f) measures to assess the effectiveness of the corrective and preventative actions.

A 30.9 Property management plan

Not required.

A 30.10 Environmental management plan

Not required.

A 30.11 Community and Stakeholder management plan

Not required.

1.1.1.30. A31 Project Specific Amendments to Standard Requirements

Add Clause	Requirement	Applies ?
TSR 2.4	The Professional Services Contractor must prepare the following safety information input submitted to the Principal's Representative every 23 rd day of the month the following items: (a) Total Hours worked (b) Total Number of workers	Yes

ANNEXURE B – TfNSW Standard Risk Matrix

Table 1 TERM risk assessment – Consequence criteria

Combined consequence table						
Rating	C6	C5	C4	C3	C2	C1
Descriptor/ Impact Area	Insignificant	Minor	Moderate	Major	Severe	Catastrophic
Health and Safety (Injury and Disease)	Illness, first aid or injury not requiring medical treatment.	Illness or minor injuries requiring medical treatment.	Single recoverable lost time injury or illness, alternate/restricted duties injury, or short-term occupational illness.	1-10 major injuries requiring hospitalisation and numerous days lost, or medium-term occupational illness.	Single fatality and/or 10-20 major injuries/permanent disabilities/chronic diseases.	Multiple fatalities and/or >20 major injuries/permanent disabilities/chronic diseases.
Environment	No appreciable changes to environment and/or highly localised event.	Change from normal conditions within environmental regulatory limits and environmental effects are within site boundaries.	Short-term and/or well-contained environmental effects. Minor remedial actions probably required.	Impacts external ecosystem and considerable remediation is required.	Long-term environmental impairment in neighboring or valued ecosystems. Extensive remediation required.	Irreversible large-scale environmental impact with loss of valued ecosystems.
Customer Experience/Operational Reliability	Short duration disruptions affecting part of one transport mode.	Minor disruptions affecting several parts of one transport mode.	Serious disruptions affecting operation of one complete transport mode.	Major disruptions affecting operations of one transport mode with network-wide effects on one or more other modes of transport.	Short duration shutdowns or substantial disruptions affecting multiple transport modes with sector-wide cascading effects.	Extensive shutdowns or extended disruptions with economy-wide effects.
Government/Stakeholder/Public Trust/Confidence	Negative article in local media. No discernible reaction/apprehension. Goodwill, confidence and trust retained.	Unease – Series of negative articles in local/state media. Confidence remains with some minor loss of goodwill or trust. Recoverable with little effort or cost. Some continuing scrutiny/attention.	Disappointment – Extended negative local/state media coverage. Confidence and trust dented but are quickly recoverable at modest cost within existing budget and resources.	Concern – Short-term negative state/national media coverage. Confidence and trust are diminished but are recoverable with time, staff effort and additional funding.	Displeasure – Extended negative state/national media coverage. Confidence and trust are damaged but recoverable at considerable cost, time and staff effort.	Outrage – Material change in the public perception of the organisation. Confidence and trust are severely damaged, possibly irreparably, and full recovery both questionable and costly.
Regulatory or Legal Breach	Low-level non-compliance with legal and/or regulatory requirement or duty by individuals or TfNSW.	Minor non-compliance with legal and/or regulatory requirement or duty. Investigation and/or report to authority.	Moderate non-compliance. Subject to comment and monitoring from applicable regulator. Small fine and no disruption to services.	Major breach resulting in enforcement action and/or prohibition notices. Substantial fine and no disruption to services.	Substantial breach resulting in prosecution, fines and/or litigation. License or accreditation restricted or conditional affecting ability to operate.	Prosecution leading to imprisonment of TfNSW executive. Loss of operating license.
Management Effort/Organisational Fatigue	An event, the impact of which can be absorbed as part of normal activity.	An event, the impact of which can be absorbed but some additional management effort is required.	An event, the impact of which can be absorbed but much broader management effort is required.	Major event which can be absorbed, but substantial management effort is required.	Severe event which requires extensive management effort but can be survived.	Catastrophic event with the clear potential to lead to the collapse of the organisation.
Benefit Realisation of Initiative, Program or Project	No time delay with initiative or project but it will incur a slight decrease in the benefits realised.	Minor delay with the initiative and/or a minor decrease in the benefits realised; or minor delay on the project or another project, with no public implications.	Several delays with the initiative and/or moderate decrease in benefits realised; or completion date missed for non-critical path project.	Major delays with the initiative and/or major decrease in benefits realised; or publicly announced portion/milestone missed or final completion date missed with demonstrable mitigating external circumstances.	Severe delays with initiative, which impacts across divisions and/or significant decrease in benefits realised; or publicly announced portion/milestone missed or final completion date missed on critical path project.	Failure to realise benefits of the initiative which adversely affects the enterprise-wide operations of TfNSW; or publicly announced milestone or final completion date significantly missed on critical path project.
Budget, Costs or Revenue	<\$100k	\$100k - \$1m	\$1m - \$10m	\$10m - \$50m	\$50m - \$100m	>\$100m

Table 2 TERM risk assessment – Likelihood criteria

Risk Likelihood Table						
Rating	L6	L5	L4	L3	L2	L1
Descriptor / Definition	Almost Unprecedented	Very Unlikely	Unlikely	Likely	Very Likely	Almost Certain
Qualitative Expectation	Not expected to ever occur during time of activity or project	Not expected to occur during the time of activity or project	More likely not to occur than occur during time of activity or project	More likely to occur than not occur during time of activity or project	Expected to occur occasionally during time of activity or project	Expected to occur frequently during time of activity or project
Quantitative Frequency	Less than once every 100 years	Once every 10 to 100 years	Once every 1 to 10 years	Once each year	1-10 times every year	10 times or more every year

Table 3 TERM risk matrix

Risk Matrix Evaluation Table								
Risk Ratings A - Very High B - High C - Medium D - Low			Consequence					
			Insignificant	Minor	Moderate	Major	Severe	Catastrophic
			C6	C5	C4	C3	C2	C1
Likelihood	Almost Certain	L1	C	B	B	A	A	A
	Very Likely	L2	C	C	B	B	A	A
	Likely	L3	D	C	C	B	B	A
	Unlikely	L4	D	D	C	C	B	B
	Very Unlikely	L5	D	D	D	C	C	B
	Almost Unprecedented	L6	D	D	D	D	C	C

Table 4 TERM risk tolerance and responses table

Risk rating	Response	Review frequency
<p>A</p> <p>Generally intolerable</p>	<p>Very high risks are generally intolerable and should be avoided except in extraordinary circumstances. Where the risk has health, safety or environmental consequences the activity must not be undertaken without the explicit approval of the Secretary TfNSW. An alternative solution must be found and all necessary steps must be taken to reduce the risk below this level without delay.</p>	Monthly
<p>Undesirable</p>	<p>High risks are undesirable. They can only be tolerated if it is not reasonably practicable to reduce the risk further. Where the risk has health, safety or environmental consequences the activity must not be undertaken without the explicit approval of the relevant Direct Report to the Secretary TfNSW who is to verify that all reasonably practicable treatments have been implemented. High risks are considered to be on the verge of being unacceptable and must be given immediate priority.</p>	Monthly
<p>Tolerable</p>	<p>Medium risks are tolerable if it is not reasonably practicable to reduce the risk further. Where a risk has health, safety or environmental consequences the activity should be reviewed to determine if the risk can be reduced further and whether all reasonable and practicable controls have been considered and/or applied. Additional treatment measures should be sought if significant benefit can be demonstrated and/or there is an additional treatment measure which is recognised as good practice in other like environments.</p>	Two Monthly
<p>D</p> <p>Broadly acceptable</p>	<p>Low risks are considered to be broadly acceptable. Where the risk has health, safety or environmental consequences control measures should be effective, reliable and subject to appropriate monitoring. If options for further risk reduction exist and costs are proportionate to the benefits, then implementation of such measures should be considered. The risk and its treatments should be subject to appropriate degrees and forms of monitoring to ensure that it remains at this level.</p>	Quarterly

Negligible risk

ANNEXURE C – Pre-Commencement Property Compliance Checklist

Pre Commencement Property Compliance Checklist

Compiled by: _____

On behalf of: _____

Agreement #: _____

Date: _____

#	Issue	Circle relevant answer and add comment	Attachment
1	Has the Professional Services Contractor been liaising with the Property Representative?	Y N NA Comment: [insert text here]	
2	Have all properties affected by the project been identified?	Y N NA Comment: [insert text here]	
3	Has a list of all affected properties been issued to the Principal's Representative?	Y N NA Comment: [insert text here]	
4	Are all properties owned by the Principal?	Y N NA Comment: [insert text here]	
5	Is access required to properties owned by other parties?	Y N NA Comment: [insert text here]	
6	Are all agreements in place with other landowners to permit the Professional Services Contractor to undertake the Services?	Y N NA Comment: [insert text here]	
7	Have all surveys been conducted?	Y N NA Comment: [insert text here]	
8	Have all surveys been cross-checked with the designs?	Y N NA Comment: [insert text here]	
9	Do any of the proposed Services fall outside the property / Site boundaries?	Y N NA Comment: [insert text here]	
10	If so, has the Professional Services Contractor got agreements to access the adjoining land?	Y N NA Comment: [insert text here]	
11	Are new easements, stratum, MOU's or WAD's with stakeholders required for the project?	Y N NA Comment: [insert text here]	
12	Have any new easement, stratum, MOU's or WAD's been drafted and issued to the Principal's Representative for review?	Y N NA Comment: [insert text here]	

#	Issue	Circle relevant answer and add comment	Attachment
13	Have all property Pre-commencement Condition Surveys been conducted and submitted?	Y N NA Comment: [insert text here]	
14	Has asset management been considered in design?	Y N NA Comment: [insert text here]	
15	Are there any other property risks?	Y N NA Comment: [insert text here]	

RECEIVED by TfNSW

Signed: _____

Received by: _____

Date: _____

REVIEWED by Property Representative

Signed: _____

Name: _____

Date: _____

Acceptable? (Conforms to Agreement requirements): Y/N provide reasons:

Comments provided: Y/N (attach comments)

No Comments or no further Comments: Y/N

ANNEXURE D – Environmental Records

Environmental Records

The following lists the environmental records required by this TSR. All records must be made available to the Principal's Representative. Professional Services Contractor must ensure that the Principal's Representative has the latest version of the records at all times.

Where the Contractor is required to forward records to the Principal's Representative, the Professional Services Contractor must submit one original and three copies (one of which is unbound) of each document (including draft and final reports, specifications, drawings, plans, etc.) for the Principal's review. In addition the Professional Services Contractor must also submit an electronic copy on CD/DVD in PDF and native formats (such as Microsoft Word, Microsoft Excel, CAD in *.dwg or *.dgn) of documents.

Required Record or Reference
Copies of all completed forms, templates required under the Codes and Standards, and applicable guidelines.
Professional Services Contractor's non compliance, incident, near miss, non conformance reports and register
Preventive and corrective action reports and register
Environmental audit reports
Environmental Control Maps
Index of all environmental records (prior to Completion)
Induction and training records
Records/checklists of inspection and testing
Records of environmental management reviews for the project
Register of equipment, calibration frequency and certificates
Surveillance, audit of Subcontractors environmental performance and controls