

Department of Finance

Deed in relation to Master Media Agency Services for the
Australian Government

Commonwealth of Australia as represented by the
Department of Finance (**Finance**)

and

[**insert name**] (Contractor)

Version 1.0

XX XXXX 2017

Note to Tenderer:

Finance may make amendments to this Draft Deed at any time, prior to execution with the successful Tenderer (if any).

Deed in relation to Master Media Agency Services

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DRAFT

Date

Parties

Name	[Insert name]
Address	[Insert address]
ABN	[Insert ABN]
Short form name	Contractor

Background

- A Finance undertook the Approach to Market (ATM) process to identify a master media agency for Australian Government advertising.
- B In reliance on the Contractor's response to the ATM (and other information provided by the Contractor during the ATM process), Finance selected the Contractor as its master media agency for the Services as defined by this Deed.
- C The Contractor:
- (i) agrees to provide the Management Services to Finance; and
 - (ii) irrevocably offers to supply the Advertising Services, if required by a Participant, in accordance with the terms and conditions of this Deed.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Deed, except where the contrary intention appears, the following definitions are used:

Accounting Standards	the standards of that name maintained by the Australian Accounting Standards Board (referred to in section 227 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)) or other accounting standards which are generally accepted and consistently applied in Australia.
Advertising Services	the services described in clause 3 and clause 4 of Schedule 1 and any tasks, functions or responsibilities not specifically described in this Deed or a Customer Contract which are incidental to the proper performance of the services referred to in this definition regardless of whether or not such service, function or responsibility is disclosed by a Customer.
Additional Advertising Services	the services described in clause 4 of Schedule 1 and any tasks, functions or responsibilities not specifically described in this Deed or a Customer Contract which are incidental to the proper performance of the services referred to in this definition regardless of whether or not such service, function or responsibility is disclosed by a Customer.
Advisers	<ul style="list-style-type: none">(a) the financial, commercial or legal advisers of a party; and(b) the respective officers and employees of those financial, commercial or legal advisers.
Affiliate Marketing	An agreement between two sites in which one site (the affiliate) agrees to feature content or an advertisement designed to drive traffic to another site. In return, the affiliate receives a percentage of sales or some other form of compensation generated by that traffic.
Agreement	<ul style="list-style-type: none">(a) where the Contractor is supplying the Management Services as required by clause 6, and in accordance with Schedule 1, this Deed; or(b) where the Contractor is supplying Advertising Services as required by clause 13.1 and in accordance with Schedule 1, a Customer Contract, <p>as varied from time to time in accordance with this Deed or the Customer Contract (as applicable).</p>

Agreement Material	any Material created, prepared or delivered by the Contractor on or following the commencement of the Agreement, for the purpose of or as a result of performing its obligations under the Agreement.
Approach to Market or ATM	the approach to market for the Master Media Agency for Services for the Australian Government (reference: FIN/014/17) issued by Finance on [TBC XXXX 2017].
Australian Government	Commonwealth of Australia.
Australian Government Media Rates	<p>the lower of:</p> <p>(a) the Media Suppliers' media rates, negotiated annually, or from time to time, by the Contractor on the Commonwealth's behalf; or</p> <p>(b) in instances where trading agreements are not in place for Media Suppliers, the relevant media rates, negotiated annually, or from time to time, by the Contractor or the Holding Company on behalf of the Contractor and, indirectly, the Commonwealth; or</p> <p>(c) media rates available to the Customer, as notified to the Contractor.</p>
Authorised Organisation	an organisation authorised by Finance to obtain Advertising Services from the Contractor under this Deed, as notified by Finance in writing to the Contractor from time to time.
Biddable Digital Media	media that is bought by the Contractor via real-time bidding through online self-service platform channels. Biddable Digital Media may include some media categorised under the sub-types specified in Appendix 2 to Schedule 1 – Reporting and Data Specification, Booking & Invoice Systems – Data Specifications. For the avoidance of doubt, Biddable Digital Media includes programmatic media.
Barter	a transaction in which two unrelated parties exchange goods or services without cash payment.
Blacklist	a list of websites established by the Contractor, and relevant subcontractors, on which Advertising Services are prohibited and for which the Customer will not pay any Third Party Costs.
Business Day	a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory.
Business Hours	from 9.00am to 5.00pm on a Business Day.
Campaign	as described in Appendix 1 of Schedule 1.

Campaign Advertising Supplier Register	a register for the procurement of suppliers that have demonstrated their experience and capacity to assist entities with the development of major advertising and information campaigns. The register comprises advertising, market research and public relations agencies, as well as specialists in communicating with Indigenous Australians and people from culturally and linguistically diverse backgrounds. It is administered by Finance and must be used by non-corporate Commonwealth entities for campaigns with expenditure over \$250,000.
Claim	any allegation, debt, cause of action, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise, arising out of or in connection with the Agreement.
Commencement Date	the date the Deed is signed by the last party to sign (or both parties if they sign on the same day).
Commonwealth	Commonwealth of Australia.
Commonwealth Entities	has the meaning given in the definition of 'Participant' set out in this clause 1.1.
Community Service Announcements	messages by Participants that are designed to be broadcast, published or placed in a Media Supplier's advertising or promotional spots free of charge.
Confidential Information	<p>information that is by its nature confidential and:</p> <ul style="list-style-type: none"> (a) in the case of information of Finance or a Participant is: <ul style="list-style-type: none"> (i) Agreement Material; (ii) Customer Data; (iii) Customer Material: or (iv) information of Finance or a Participant that the Contractor knows or ought to know is confidential; and (b) in the case of information of the Contractor or the Holding Company, is described in Schedule 9 <p>but does not include:</p> <ul style="list-style-type: none"> (c) information that is or becomes public knowledge other than by breach of the Agreement or any other confidentiality obligation.

Conflicts of Interest

means any actual, potential or perceived conflict of interest including any situation, arrangement, understanding, association, or agreement which might:

- (a) jeopardise the ability of the Contractor, a Holding Company Member or Personnel of either to represent the Customer's best interests; or
- (b) compromise the impartiality of the Contractor, a Holding Company Member or Personnel of either in providing Services, including but not limited to:
 - (i) any bonus or incentive to Personnel based on spending recommendations;
 - (ii) any financial interests or investments by the Contractor, a Holding Company Member or Personnel (whether by way of equity ownership, warrants, or otherwise or in the capacity of a director, officer, or consultant);
 - (iii) the provision or receipt by the Contractor or Holding Company Member of any services provided at a premium (i.e. above the true market value for such services);
 - (iv) the establishment by the Contractor or a Holding Company Member of a "preferred partner" or other equivalent relationship with other Holding Company Members, Media Suppliers or Vendors; or
 - (v) the referral by the Contractor to a Holding Company Member for creative or production services connected to any Media Placement (e.g. Native Advertising and outdoor billboards).

Consequential Loss

any loss recoverable at law (other than arising in the usual course of things) which is consequential upon other loss, including:

- (a) loss of income or revenue;
- (b) a loss of opportunity or goodwill;
- (c) a loss of profits;
- (d) a loss of anticipated savings or business; and
- (e) loss of value of any equipment.

Contractor

the party given the short form name "Contractor" in the deed information section of the Deed.

Contractor Representative	<p>the person identified as the representative of the Contractor in Schedule 4 to this Deed, and who is:</p> <ul style="list-style-type: none"> (a) responsible for the administration of this Deed; and (b) primary contact for Finance under this Deed and has the authority to deal with Finance in relation to important or significant operational matters as determined by Finance including, for example, escalation of issues and any other matters requested by the Finance Representative in relation to this Deed.
Contract Manager	the person identified as the representative of the Contractor in Schedule 4 to this Deed, and who is responsible for the administration of routine operational matters of this Deed with Finance and Participants.
Contract Management Meeting	meetings between Finance and the Contractor as described in clause 2.8 of Schedule 1.
Customer	<ul style="list-style-type: none"> (a) where the Contractor is providing the Management Services as required by clause 6, Finance; or (b) where the Contractor is providing Advertising Services as required by clause 13.1, the Participant who is a party to the Customer Contract.
Customer Contract	a contract formed between the Participant who is requiring Advertising Services and the Contractor, under clause 13.2(a).
Customer Data	all data and information relating to the Customer, and its operations, facilities, customers, Personnel, assets and programs (including personal information) in whatever form that data and information may exist and whether entered into, stored in, generated by or processed through software or equipment by or on behalf of the Customer.
Customer Material	any Material provided to the Contractor by the Customer.
Customer Satisfaction Survey	a survey of the Contractor and the Services, as outlined in clause 2.11 of Schedule 1.
Customer Satisfaction Performance Payment	the GST exclusive amount described in clause 2.3 of Schedule 2.
Customer Specific Advertising Requirements	any requirements of a Customer that have been disclosed in the Due Diligence Information provided in the course of the Approach to Market, and any other requirements for a

	Customer as notified by Finance to the Contractor from time to time.
Deed	this deed, as varied from time to time in accordance with clause 31, including the Schedules, appendices and any attachments.
Deed Period	the Initial Deed Period, plus any Extension Period/s.
Deliverable	any Agreement Material or other item or element of a Service to be provided by the Contractor under this Deed or a Customer Contract.
Dispute	<p>includes any dispute, controversy, difference or unresolved Claim arising out of or in connection with the Agreement or its subject matter, including any question concerning its formation, validity, interpretation, performance or breach but does not include:</p> <ul style="list-style-type: none"> (a) in relation to the Contractor's obligations in respect of the Remuneration Charge Back Amount or the WoAG Administration Fee; or (b) any investigation by any authority of the Commonwealth, a State or a Territory in connection with a breach or suspected breach of any Law by the Contractor or any of its Personnel.
Extension Period	the period referred to in clause 4.2(b).
Fee for Service	the GST exclusive amount (or amounts) the Contractor may be entitled to receive for the delivery of Additional Advertising Services, calculated in accordance with clause 3.4 of Schedule 2.
Finance	the Commonwealth of Australia as represented by the Department of Finance (as the contract manager).
Finance Representative	means the person holding the position of Assistant Secretary, Procurement Management Branch, Department of Finance or as otherwise advised by Finance from time to time.
Finance Satisfaction Performance Payment	the GST exclusive amount described in clause 2.4 of Schedule 2.
General Interest Charge Rate	<p>the general interest charge rate determined under section 8AAD of the <i>Taxation Administration Act 1953</i> (Cth) on the day payment is due, expressed as a decimal rate per day. This rate is available from the Australian Tax Office website:</p> <p>http://www.ato.gov.au/Rates/General-interest-charge-(GIC)-rates/?default.</p>

Gross Media Spend	the GST exclusive amount (or amounts) payable by a Customer to Media Suppliers (through the Contractor) in relation to the Media Placement without applying any Media Commission.
GST	the meaning given under the GST Act.
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Guarantee	a financial undertaking or security, or parent company guarantee required by Finance under clause 42.
Holding Company	<i>[insert name of ultimate holding company or any successor Person set out in Schedule 13.]</i>
Holding Company Acknowledgment and Agreement	means the document set out in Schedule 12.
Holding Company Member/s	<p>(a) the Holding Company and any of its Related Bodies Corporate, as well as any Person in which any of the Holding Company or its Related Bodies Corporate has a financial interest or investment.</p> <p>(b) Holding Company Members are listed in Schedule 13, with any changes to Schedule 13 to be advised to Finance within thirty (30) days of the change.</p>
Impressions	the metric used to measure when a digital advertisement is served and the presentation is tracked.
Information Commissioner	the Information Commissioner within the meaning of the <i>Australian Information Commissioner Act 2010</i> (Cth).
Information Security Manual or ISM	means the document suite published by the Australian Signals Directorate that details controls, principles and rationale for information security on ICT systems, which can be accessed at https://www.asd.gov.au/infosec/ism/ .
Information System	the information system described in clause 20.1.
Initial Deed Period	the period of three years, beginning on the Services Commencement Date.
Intellectual Property Rights	<p>all intellectual property rights, including the following rights:</p> <p>(a) patents, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks) and domain names;</p> <p>(b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and</p>

	<p>(c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,</p> <p>whether or not such rights are registered or capable of being registered.</p>
Job Posting	means the populating of back-end digital media templates with relevant advertising information, including social media and job board platform(s), in line with publisher guidelines and classification requirements.
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, including the common law and rules of equity as applicable from time to time.
Losses	liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party).
Management Services	the management services to be supplied by the Contractor as described in clause 2 of Schedule 1 and any tasks, functions or responsibilities not specifically described in this Deed which are incidental to the proper performance of the services referred to in this definition regardless of whether or not such service, function or responsibility is disclosed by Finance.
Material	includes property, systems, tools, information, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.
Matter of National Importance	communication with members of the public by the Australian Government, either nationally or in a specific location and as a matter of urgency. Matters of National Importance are the highest priority.
Media	all platforms on which Advertising Services (including Media Placements) are placed that now exist or may be invented, including but not limited to Television, cinema, radio, press, magazine, out-of-home, digital display, digital search, and all other forms of electronic media (e.g. an Affiliate Marketing platform).

Media Booking Authority	a media booking authority approved and signed by a Customer, substantially in the form of the authority set out in Schedule 7.
Media Brief	a document approved and signed by a Participant, substantially in the form set out in Schedule 5.
Media Commission	any GST exclusive amount of monetary benefit from a Media Supplier, in return for the Contractor placing an advertisement with that Media Supplier.
Media Instruction	<p>(a) for Campaign and complex Non-Campaign advertising, and each of these advertising types has the meaning given in Appendix 1 to Schedule 1, means a Media Brief; and</p> <p>(b) for Recruitment, Public Notice and/or Tender Notice advertising (and each of these advertising types has the meaning given in Appendix 1 to Schedule 1), means the initial request from a Participant for the supply of those Advertising Services, whether oral or in writing.</p>
Media Performance Report	the report prepared and delivered by the Contractor to Customers in accordance with clause 3.7 of Schedule 1.
Media Placements	advertising, sponsorship or promotional Media purchased by the Contractor, either directly or indirectly from third parties or Holding Company Members, in connection with the Services.
Media Plan	Schedule 6 to this Deed.
Media Suppliers	include, but are not limited to, Persons that own, sell or otherwise provide advertising, including any Related Bodies Corporate of those Persons.
Moral Rights	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the <i>Copyright Act 1968</i> (Cth).
National Accreditation Authority for Translators and Interpreters	means the National Accreditation Authority for Translators and Interpreters Ltd, ABN 42 008 596 996, that sets the standards for translating and interpreting services in Australia.
Non-Campaign	the collective of Recruitment, Public Notice and Tender Notice advertising types, and each of these advertising types has the meaning given in Appendix 1 to Schedule 1.

Notice	a notice, demand, consent, approval or communication issued under the Agreement.
Online Management System	means a system with the functionality described at [clauses 2.17, 2.18 and 2.19 of Schedule 1].
Part A	clauses 2 to 4.
Part B	clauses 5 to 11.
Part C	clauses 12 to 15.
Part D	clauses 16 to 44.
Participant	<p>(a) a non-corporate Commonwealth entity: being a Commonwealth entity that is not a body corporate as described in subsections 10 (1) and 11(b) of the PGPA Act;</p> <p>(b) a corporate Commonwealth entity: being a Commonwealth entity that is a body corporate as described in subsections 10(1) and 11(a) of the PGPA Act;</p> <p>(c) a Commonwealth company: being a <i>Corporations Act 2001</i> company that the Commonwealth controls as described in subsection 89(1) of the PGPA Act;</p> <p>(together, Commonwealth Entities)</p> <p>(d) the Australian Capital Territory government and the Northern Territory government; and</p> <p>(e) an Authorised Organisation.</p>
Person	any individual, corporation, limited liability company, trust, joint venture, association, company, limited or general partnership, unincorporated organisation, governmental authority or other entity.
Personnel	in relation to a party, any employee, officer, director, agent, authorised representative or professional adviser of that party, and in the case of the Contractor, of any subcontractor (except that the Customer's Personnel excludes the Contractor and the Contractor's Personnel)..
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
Pre-Existing Contractor Material	any Material developed by the Contractor before the commencement of the Agreement.
Principal or Inventory Mark-Up	the maximum percentage by which the Contractor or a Holding Company Member may mark-up a Principal or Inventory Sale over the cost of such goods or services

	incurred by the Contractor or a Holding Company Member
Principal or Inventory Sale	the sale to a Customer of Media Placements held by the Contractor or a Holding Company Member, regardless of how the Contractor or Holding Company Member obtained such Media Placements (e.g. through a Principal Transaction, Barter, private exchange or pooling arrangement, agency inventory, free time from Media, etc.).
Promoted Post	means the process of populating social media sites, managing event calendars, selecting advertising material from Customer's libraries (if applicable), targeting audience and optimising advertising.
Protective Security Policy Framework or PSPF	means the Australian Government's protective security requirement for the protection of its people, information and assets (which replaced the <i>Commonwealth Protective Security Manual</i> 2005) as amended or replaced from time to time, and can be accessed at https://www.protectivesecurity.gov.au/Pages/default.aspx .
Public Notice	has the meaning given in Appendix 1 of Schedule 1.
Rebates and Incentives	<p>any and all third party payments (including cash rebates, non-cash rebates or other incentives); agency volume payment of a bonus (an agency's receipt of a volume discount or compensation from media buys); discounted or unpaid media space or inventory; volume, early payment or other discounts; commissions; compensation, refunds or bonuses; bonus inventory, free or discounted media, sponsorship or promotional space; Barter inventory; services provided at a premium (i.e. above the true market value for such services); consulting or research agreements, service level agreements or any other source of financial or other benefit receivable directly or indirectly by Agency or Holding Company Members from third parties, including Media Suppliers or Vendors, which are either directly or indirectly related to:</p> <ol style="list-style-type: none"> the Customers' Media Placements or the delivery of Advertising Services; and/or the aggregate traded volume across all or multiple advertisers of the Contractor or Holding Company Members with the relevant third party, including Media Suppliers and Vendors, regardless as to whether these amounts are calculated as a function of media volume or given as a fixed amount.

	Without limiting the above, anything in the nature of Rebates or Incentives received by the Contractor or a Holding Company Member on account of creative or production work performed on the Customer's behalf is included within this definition of Rebates and Incentives.
Recruitment	has the meaning given in Appendix 1 of Schedule 1.
Related Bodies Corporate	has the meaning given in section 50 of the <i>Corporations Act 2001 (Cth)</i>
Remuneration Charge Back Amount	the GST exclusive amount to be collected by the Contractor from Customers of Advertising Services, calculated in accordance with clause 3.7 of Schedule 2.
Remuneration Amounts	the Retainer, Customer Satisfaction Performance Payment and Finance Satisfaction Performance Payment.
Reporting and Data Specifications	the specifications contained in Appendix 2 to Schedule 1.
Retainer	the GST exclusive amount described in clause 2.2 of Schedule 2.
Review Body	the review body, as notified by Finance to the Contractor from time to time.
Schedule	a schedule to this Deed.
Service Charges	<p>the Gross Media Spend,</p> <ul style="list-style-type: none"> (a) less Media Commission; (b) plus Fee for Service; (c) plus the WoAG Administration Fee; (d) plus Remuneration Charge Back Amount; (e) plus GST, <p>calculated in accordance with clause 3 of Schedule 2.</p>
Service Delivery Plan	as described in clause 2.3(b) of Schedule 1.
Service Level Failure	as described in Schedule 3.
Service Levels	the metrics used to measure and report performance of each Service and Deliverable as set out in Schedule 3.
Service Rebate	an amount calculated in accordance with Schedule 3, which is payable by the Contractor to Finance in accordance with clause 11.4 and Schedule 3.
Services	<ul style="list-style-type: none"> (a) for the purpose of a Customer Contract, means the Advertising Services required by the Customer

	under clause 13.1 and any related services or activities described in Schedule 1; or
	(b) for any other purpose under this Deed, means the Advertising Services and the Management Services and any other services or activities described in Schedule 1.
Services Commencement Date	1 July 2018.
Tax Invoice	has the meaning given under the GST Act.
Third Party Contracts	contracts entered into by the Contractor or Holding Company Members with Vendors or Media Suppliers in respect of the Services.
Third Party Costs	all third party costs incurred by the Contractor or any Holding Company Member in performing the Services, including Vendor and Media Supplier costs, Management Services, Advertising Services and Additional Advertising Services. For the avoidance of doubt, Third Party Costs do not include the Contractor's fees or expenses.
Third Party Material	any Material in which a third party holds Intellectual Property Rights that is: <ul style="list-style-type: none"> (a) included, embodied in or attached to the Agreement Material; or (b) used as part of the performance of the Services, including: <ul style="list-style-type: none"> (i) error corrections or translations to that Material; and (ii) derivatives of that Material where such derivative work cannot be used without infringing the Intellectual Property Rights in the underlying Material.
Transition In Period	the period commencing on the Commencement Date and ending on the Services Commencement Date.
Transition In Plan	the draft transition in plan contained in Schedule 11 to this Deed, which will be replaced by the final transition in plan approved by Finance in accordance with clause 4.1(a)(ii).
Transition In Services	the services to be provided by the Contractor during the Transition In Period, in accordance with the Transition In Plan.
Transition Out Period	(a) unless this Deed is terminated, the period commencing 60 days before the end of the Deed

	<p>Period and ending 90 days after the end of the Deed Period; or</p> <p>(b) if this Deed is terminated (for any reason), the period commencing on the date of termination and ending 90 days after the date of termination.</p>
Transition Out Plan	the plan most recently approved by Finance under clause 34.1
Transition Out Services	means the services to be provided by the Contractor during the Transition Out Period in accordance with the Transition Out Plan.
Unbilled Media	<p>(a) amounts in respect of Media Placements or Advertising Services for which the Customer has paid the Contractor in full or in part, but where the cost for the Media Placement remains unbilled in full or in part by the relevant Media Supplier.</p> <p>(b) the cost for Media Placements will not be considered Unbilled Media until 6 months after the date the Media Placement has aired or run.</p>
Vendor	<p>(a) any Person that is required for the delivery, purchase or placement of the Advertising Services and/or the Contractor's provision of Services, including, without limitation, technology platforms (e.g. demand-side platforms, supply-side platforms, trading desks, ad exchanges, re-targeting companies, advertising networks, etc.), market research companies (e.g. MRI, Mendelsohn, Audit Bureau of Circulation, SRDS, Nielsen Advviews, etc.), and technical service providers (e.g. providers of ad serving/delivery, ad tracking, listening and community management tools and other technology/technical services).</p> <p>(b) A Vendor may also be a Holding Company Member or a Media Supplier.</p>
Viewability	as currently defined by the Interactive Advertising Bureau Australia Limited (ABN 97 145 518 305) and the Media Rating Council (http://mediaratingcouncil.org/), as having 50% or more of an advertisement's pixels viewable by a person for at least one continuous second (display) or at least two continuous seconds (video), depending on the format.
Warranted Materials	the Pre-Existing Contractor Material and Third Party Material provided by the Contractor, the Deliverables and the Agreement Material.

Whitelist	a list of approved websites and apps established by the Contractor, and relevant subcontractors, where advertising may appear in respect of a Media Brief.
Whole of Australian Government (WoAG) Administration Fee	the GST exclusive amount to be collected by the Contractor from Customers of Advertising Services, calculated in accordance with clause 3.6 of Schedule 2.

1.2 Interpretation

In this Deed, except where the contrary intention appears:

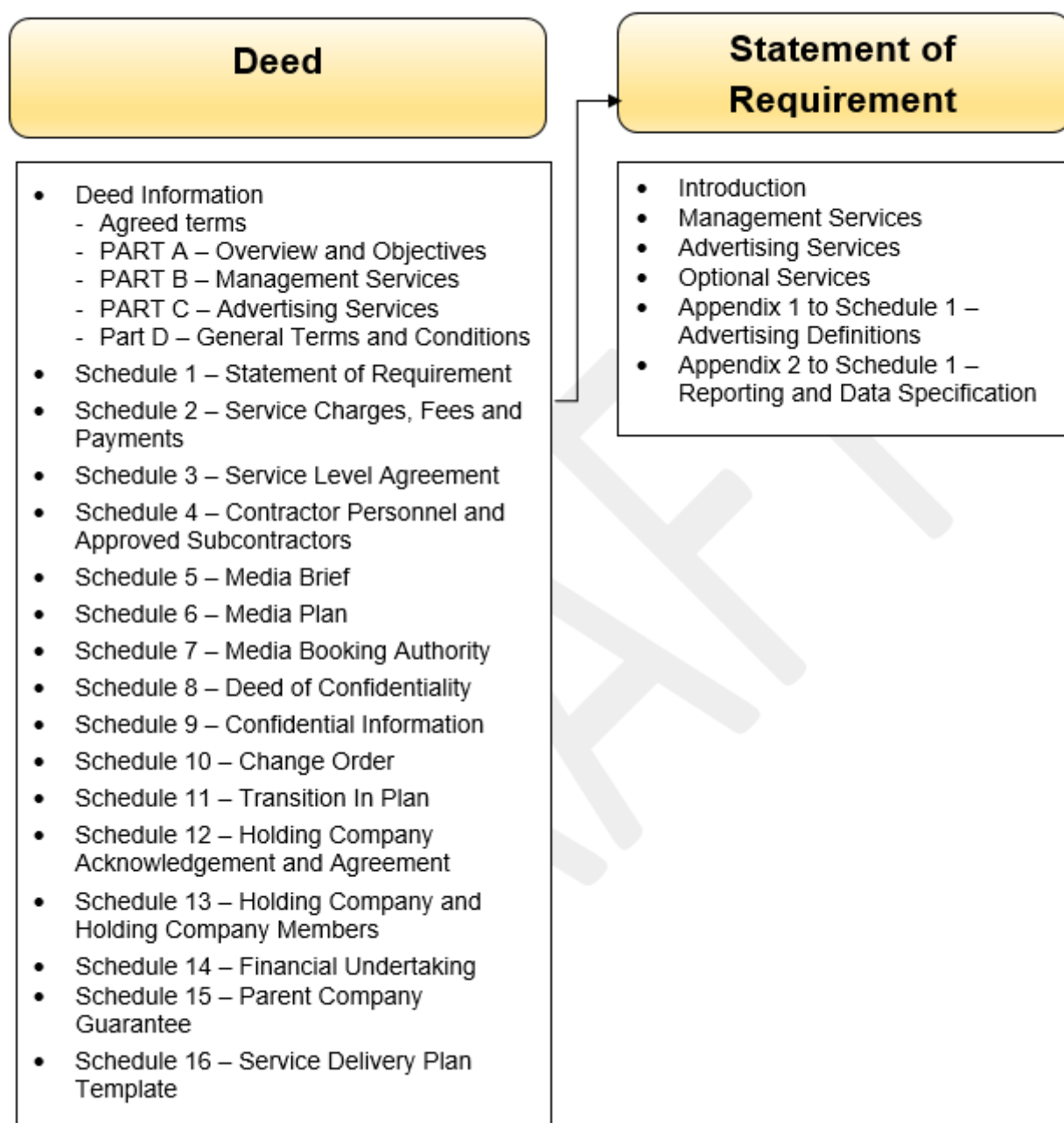
- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is to a clause, paragraph or schedule of this Deed;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Canberra, Australia time;
- (g) a reference to day is a calendar day;
- (h) a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Deed or any part of it;
- (o) headings are for ease of reference only and do not affect interpretation; and
- (p) unless otherwise indicated, terms referred to in this Deed have the same meaning in the Schedules and any attachments to the Schedules, or any other document incorporated by reference in this Deed.

PART A – Overview and Objectives

2. Structure of Deed

(a) The structure of the Deed is shown in Figure 1.

Figure 1: Structure of the Master Media Agency Services Deed



2.2 Part A – Overview and Objectives

- (a) Part A of this Deed provides an overview of the operation and effect of this Deed.
- (b) Finance will act as the contract manager for the advertising arrangement established by this Deed.

- (c) The Contractor must provide the Management Services to Finance, and offer to provide the Advertising Services to Participants, in accordance with this Deed.
- (d) The objectives for the advertising arrangement established by this Deed and how the Contractor must contribute to those objectives are set out in Schedule 1.

2.3 Part B – Management Services

- (a) Part B of this Deed sets out the specific rights and obligations of Finance and the Contractor in relation to the Management Services, including the Contractor's obligation to provide the Management Services to Finance.
- (b) In consideration of the satisfactory performance of the Services, Finance will pay the Contractor the Remuneration Amounts, in accordance with Schedule 2, and the other applicable requirements of this Deed.
- (c) The Contractor must collect the Remuneration Charge Back Amount and the WoAG Administration Fee from Customers, for and on behalf of Finance, and pay this money to Finance, in accordance with clause 7.

2.4 Part C – Advertising Services

- (a) Part C of this Deed sets out the arrangement for the provision of Advertising Services, including how Participants may order Advertising Services from the Contractor.
- (b) If a **Participant** orders Advertising Services from the Contractor, the Participant will become a **Customer** of the Contractor. A Customer Contract will be formed between the Customer and the Contractor, incorporating relevant terms and conditions of this Deed, in accordance with Part C.
- (c) The Contractor must provide Advertising Services to a Customer, in accordance with the Customer Contract.
- (d) In consideration of the satisfactory performance of the Advertising Services, the Customer will pay the Contractor the Service Charges, in accordance with Schedule 2 and the other applicable requirements of the Customer Contract.

2.5 Part D – General Terms and Conditions

- (a) Part D of this Deed sets out the general terms and conditions that form part of this Deed and a Customer Contract.

3. Priority of Deed documents

If there is inconsistency between any of the documents forming part of this Deed, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- (a) clauses 1 to 44 of this Deed;
- (b) the Schedules;
- (c) any appendices to the Schedules; and
- (d) documents incorporated by reference in this Deed.

4. Transition In and Duration of Deed

4.1 Transition In Period

- (a) During the Transition In Period, the Contractor must:
 - (i) consult with Finance in relation to the finalisation and implementation of the Transition In Plan and comply with any instructions from Finance in this regard;
 - (ii) provide a final Transition In Plan to Finance for approval, within seven Business Days after the Commencement Date (unless otherwise agreed with Finance);
 - (iii) comply with and provide Transition In Services in accordance with the final Transition In Plan, as approved by Finance;
 - (iv) meet with Finance at least fortnightly, to report on the progress of the implementation of the Services (unless otherwise advised by Finance);
 - (v) ensure there is a smooth transition, from the previous suppliers to the Australian Government in respect of the Services, to the Contractor; and
 - (vi) ensure all new arrangements are in place and have been adequately tested prior to the Services Commencement Date.
- (b) The Contractor acknowledges and agrees that the Contractor:
 - (i) must bear the costs associated with the transition in activities described in clause 4.1(a); and
 - (ii) will not be entitled to any Remuneration Amounts or other fees or charges in relation to the provision of the Management Services during the Transition In Period.
- (c) If Finance and the Contractor agree, the Advertising Services may be made available to Participants, on a case by case basis, during the Transition In Period. If Advertising Services are provided during the Transition In Period (with Finance's approval), a Customer Contract will be formed in accordance with clause 13.2 and the Contractor may be entitled to Service Charges in accordance with that Customer Contract.
- (d) Once Finance approves the final Transition In Plan, then:
 - (i) it becomes the Transition In Plan and will form part of this Deed (and vary the draft Transition In Plan contained at Schedule 11 as at the Commencement Date); and
- (e) it is a condition that the Contractor has, at the Services Commencement Date, performed all of its obligations under the Transition In Plan.

4.2 Deed Period

- (a) This Deed begins on the Commencement Date and continues for the duration of the Initial Deed Period, unless terminated earlier in accordance with clauses 11.5 or 32.
- (b) The Deed Period may be extended by Finance, for a further period or periods of up to three years in total, by giving at least 90 days written Notice to the Contractor prior to each period (**Extension Period/s**).

Part B – Management Services

5. Overview

- (a) Part B of this Deed sets out the specific rights and obligations of Finance and the Contractor in relation to the Management Services.

6. Management Services

- (a) The Contractor must provide the Management Services to Finance, from the Commencement Date and for the duration of the Deed Period.
- (b) The Contractor acknowledges and agrees that Participants may also be beneficiaries of the Management Services, as set out in Schedule 1.

7. Remuneration Charge Back Amount and WoAG Administration Fee

7.1 Collection of Remuneration Charge Back Amount and WoAG Administration Fee

- (a) The Contractor must collect the Remuneration Charge Back Amount and WoAG Administration Fee from Customers of Advertising Services, as set out in Schedule 2.

7.2 Public money requirements

- (a) The Contractor acknowledges that:
 - (i) once it has received payment of the Remuneration Charge Back Amount and WoAG Administration Fee from a Customer, it holds the Remuneration Charge Back Amount and WoAG Administration Fee on behalf of Finance;
 - (ii) the Remuneration Charge Back Amount and WoAG Administration Fee is deemed 'other Consolidated Funds Revenue (CRF) money' for the purposes of the PGPA Act;
 - (iii) it is a person other than the Commonwealth or a Commonwealth Entity for the purposes of section 105 of the PGPA Act; and
 - (iv) where a payment adjustment is required to be made in relation to particular Advertising Services, the person occupying the position of Chief Financial Officer for the Contractor has been delegated by the Chief Executive Officer of Finance to refund any Remuneration Charge Back Amount and WoAG Administration Fees to the relevant Customer for the amount required.
- (b) The Contractor must:
 - (i) hold the Remuneration Charge Back Amount and WoAG Administration Fee in an account which:
 - (A) is in the Contractor's name;
 - (B) the Contractor solely controls;
 - (C) is with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia;

- (D) is established and operated solely for the purposes of accounting for, and administering, the Remuneration Charge Back Amount and WoAG Administration Fee;
 - (E) is separate from the Contractor's other accounts; and
 - (F) bears a rate of interest reasonably required by Finance.
 - (ii) notify Finance of details sufficient to identify the account within 3 days after the Commencement Date and, if the account changes, within 2 days after the change;
 - (iii) identify the receipt and expenditure of (and interest on) Remuneration Charge Back Amount and the WoAG Administration Fee separately within the Contractor's accounting records so that at all times the Remuneration Charge Back Amount and the WoAG Administration Fee (and interest on the Remuneration Charge Back Amount and the WoAG Administration Fee) is identifiable and ascertainable;
 - (iv) deliver a monthly reconciliation report to Finance of the Remuneration Charge Back Amount and the WoAG Administration Fee (paid and unpaid by Customers) on the second Business Day of each month; and
 - (v) pay the Remuneration Charge Back Amount and the WoAG Administration Fee (plus any interest earned on the Remuneration Charge Back Amount and the WoAG Administration Fee) to Finance without set off or deduction within five Business Days of receipt of the Remuneration Charge Back Amount and the WoAG Administration Fee (as appropriate) from the Customer, provided it has performed a monthly reconciliation of the payment.
- (c) The Contractor must make payments of the Remuneration Charge Back Amount and the WoAG Administration Fee to Finance by electronic funds transfer direct to the following bank account in accordance with clause 7.2(b)(iv):
- Name: DoF Official Departmental Central Procurement Co-ordination Receipts and Payments Account
- BSB: 062-987
- Account: 1001-8795
- (d) The Contractor must issue to Finance a recipient created tax invoice that complies with the requirements of the GST Act when making payments of the Remuneration Charge Back Amount and the WoAG Administration Fee to Finance.

7.3 GST on the Remuneration Charge Back Amount and WoAG Administration Fee

- (a) Notwithstanding any provision in this Deed, the remittance of any Remuneration Charge Back Amount and WoAG Administration Fee to Finance is to be inclusive of GST.

7.4 Termination

- (a) The Contractor acknowledges and agrees that a failure to comply with this clause 7 constitutes a material breach of this Deed, which gives rise to a right to terminate for default in accordance with clause 32.2(a)(i).

8. Payment

8.1 Obligation to Pay

- (a) Subject to:
 - (i) the Services meeting the requirements of this Deed (including the Service Levels); and
 - (ii) the Contractor issuing a Tax Invoice in accordance with the applicable requirements of clause 4 of Schedule 2,

Finance must pay the Contractor the applicable Remuneration Amounts, in accordance with Schedule 2.
- (b) If Finance fails to pay a correctly rendered Tax Invoice within 30 days from the date on which that invoice was received by Finance, the Contractor:
 - (i) may charge simple interest in accordance with clause 4.7 of Schedule 2; and
 - (ii) must not stop or cause any delay in supplying the Services.

9. Advertising Services and Transparency

9.1 Obligation to ensure transparency

- (a) The Contractor will notify the Customer in writing at each instance if a recommended Media Supplier or Vendor is also a Holding Company Member and, obtain the Customer's written approval, on a case-by-case basis, before procuring services from any Holding Company Member. The Contractor must not procure services from any Holding Company Member if the Customer does not provide its written approval under this clause 9.1(a).
- (b) The Contractor and Holding Company Members must disclose to Finance their policy regarding gifts to employees from Media Suppliers or Vendors, including but not limited to cash or rebates, and will describe in writing how the Contractor and Holding Company Members enforce and ensure compliance with such policy. The Contractor and Holding Company Members will provide Finance with updates to the policy (if any) within ten (10) Business Days of the policy being updated.
- (c) At the Customer's request, the Contractor must obtain a minimum of three quotes from Media Suppliers and Vendors for the delivery of Advertising Services.
- (d) The Contractor must ensure that Third Party Contracts provide for terms that are consistent with, or more favourable to the Customer than, the terms of this Deed or a Customer Contract.
- (e) At Finance's or the Customer's request, the Contractor must disclose all payment terms for Third Party Costs as negotiated and committed with the relevant third party and provide any documentation to Finance or Customer (such as receipts, invoices, etc.) to verify the Third Party Costs.
- (f) The Contractor must, to the extent applicable, require compliance by Media Suppliers with all Commonwealth laws and policies relevant to the Services, all applicable Laws (including with respect to cookies, self-regulatory guidelines, industry standards and best practices), , and the Customer's instructions from time to time.

- (g) The Contractor must use, and provide Finance and any third parties authorised by Finance with access to, available industry systems, technology and proprietary tools that provide proof of appearance of Advertising Services and ensure placement compliance with the insertion order, industry best practices, and Finance's and the Customer's guidelines.
- (h) The Contractor must disclose any Advertising Services which are proposed to be included by it as part of a Principal or Inventory Sale. The Contractor and Customer will meet in good faith to discuss and agree in writing to the maximum Principal or Inventory Mark-Up amount for any agreed upon Principal or Inventory Sale. The Contractor will provide the Customer with proof and certification that any Advertising Services through a Principal or Inventory Sale were legitimately sourced and the favourable terms received on the Media in a Principal or Inventory Sale by the Contractor or the applicable third party (which may be a Holding Company Member), directly or indirectly, were not in whole or in part on account of the Customer's spending with the applicable Media Supplier or other Vendor.
- (i) The Contractor must provide ongoing training to Contractor Personnel on the Contractor's ethical, contractual and confidentiality obligations under this Agreement.

10. Rebates and Incentives

10.1 Obligation to pass through Rebates and Incentives

- (a) All transactions entered into by the Contractor and Holding Company Members in providing the Services, the flow of the Customer's funds through the Contractor, and any Rebates and Incentives received by the Contractor and Holding Company Members from third parties, including Media Suppliers and Vendors, directly or indirectly, must be transparent and fully disclosed to the Customer.
- (b) The Contractor and Holding Company Members will at no time receive or retain (without disclosure to the Customer, either inside Australia or outside Australia), any Rebates and Incentives or other benefits of any value from third parties, including Media Suppliers or Vendors, as a direct or indirect result of the Customer's spending under the Agreement, unless the Contractor or Holding Company passes on any Rebates and Incentives received to the Customer, in full.
- (c) The Contractor must provide Finance on a quarterly basis (during the Deed Period and for twelve (12) months thereafter) with a full and accurate written report which sets out in detail:
 - (i) the rates and terms of payment offered to the Contractor or Holding Company Members in the ordinary course of business between the Contractor or Holding Company Members (before any Rebates and Incentives have been applied) and a Media Supplier or any relevant subcontractor or Vendor for the delivery of any Advertising Services by the Contractor or Holding Company Members on behalf of the Customer;
 - (ii) the gross amounts of Rebates and Incentives the Contractor or any Holding Company Member, directly or indirectly, receives or is entitled to receive in sufficient detail to permit an accurate assessment by the Customer of the Rebates and Incentives due to the Customer;

- (iii) any actions by the Customer, Contractor or Holding Company Members that are required in order for the Rebates and Incentives to accrue; and
 - (iv) any early payment discounts received by or eligible to be received by the Contractor or Holding Company Members from a Media Supplier, Vendor or subcontractor.
- (d) The Customer is entitled to receive any early payment discounts received by the Contractor or Holding Company Member as a result of the provision of the Advertising Services unless:
 - (i) the Customer expressly chooses not to receive such discounts; or
 - (ii) the Contractor notifies the Customer with reasonable advanced notice of the deadline to qualify for such early payment discounts and the Customer fails to pay the Contractor for Advertising Services within the qualification period to receive such discounts.
- (e) The Contractor must provide to the Customer in writing details of Rebates and Incentives, in the Media Performance Report specified in clause 3.7 of Schedule 1, including:
 - (i) the nature and the amount of any of the Rebates and Incentives received by the Contractor or Holding Company Member from third parties, including Media Suppliers and Vendors, in respect of the Customer;
 - (ii) whether the Rebates and Incentives are reflected in the amount invoiced by the Media Supplier or subsequently provided (even after the expiration of the Term) directly or indirectly to any Holding Company Member; and
 - (iii) where the Contractor or a Holding Company Member aggregates the Customer's spending with other Contractor or Holding Company Member Customers, the portion of such Rebates and Incentives allocated to the Customer and the basis upon which such allocation is made to ensure that any such allocation is compliant with the formula provided in the Definitions and Interpretations section of this Agreement.
- (f) Subject to clause 10.1(g) below, Rebates and Incentives must be passed on to Customer in the same manner in which they are received by the Contractor (or Holding Company Member or Vendor) or as otherwise agreed with the Customer, within thirty (30) days of receipt by the Contractor or Holding Company Member.
- (g) Where Rebates or Incentives are provided by way of gifts, credits, discounts, or other Bartered inventory, the Contractor or Holding Company Member must provide written details to the Customer of such inventory and timing for when such inventory must be used.
- (h) The Contractor must at all times act in the best interests of the Customer in the provision of the Services, including to take all reasonable steps to pursue third parties, including Media Suppliers and Vendors, for any Customer Rebates and Incentives.
- (i) The Contractor must keep Finance informed of any relevant discounted Advertising Services available to the Customer through the Contractor's dealings with Media Suppliers together with any dates by which such discounted Advertising Services must be used by the Contractor in order to take advantage of the discount (and for the

avoidance of doubt such discounted media space will be included in the definition of Rebates and Incentives for the purpose of this Agreement whether directly or indirectly related to the Customer's Advertising Services).

11. Service Levels

11.1 Assessment of Services

- (a) The Contractor must provide the Services to meet or exceed the Service Levels specified in Schedule 3.
- (b) The Contractor acknowledges that Finance will measure the Contractor's performance of the Services against the Service Levels.

11.2 Reporting

- (a) The Contractor must report to Finance on its performance against the Service Levels, in accordance with Schedule 3.

11.3 Service Level Failure

- (a) If a Service Level Failure occurs, the Contractor must notify Finance of the Service Level Failure and take all necessary steps to remedy the Service Level Failure, in accordance with Schedule 3.

11.4 Service Rebates

If Finance notifies the Contractor that a Service Rebate is applicable for a Service Level Failure, the Contractor:

- (a) acknowledges that Finance can apply a Service Rebate in accordance with Schedule 3;
- (b) agrees that any Service Rebates:
 - (i) represent a reduction in the Remuneration Amount to reflect the provision of a lower level of service than is required under this Deed or a Customer Contract; or
 - (ii) are a genuine pre-estimate of the loss and damage the Customer will suffer as a result of a failure to achieve a Service Level and reflect the Commonwealth's legitimate interest in the performance of this Deed or a Customer Contract,as the case may be and constitute an agreed amount by which the Remuneration Amount or Service Charges (as relevant) will be reduced;
- (c) acknowledges that application of a Service Rebate under this Deed will be without prejudice to any other rights or remedies that Finance or Customers of the Advertising Services may have against the Contractor under, or arising from, this Deed or a Customer Contract as a result of the Contractor's failure to achieve a Service Level;
- (d) will not be subject to the application of a Service Rebate arising from the Contractor's failure to achieve a Service Level to the extent that the failure arose as a result of Finance's failure to fulfil its obligations under this Deed or a Customer's failure to fulfil its obligations under a Customer Contract; and
- (e) No Service Rebate will be applicable under clause 11.4 for the period between the Services Commencement Date and 31 December 2018. However, between the

Services Commencement Date and 31 December 2018, the Contractor must report against the Service Levels and correct Service Level Failures in accordance with clause 11.3 and Schedule 3.

11.5 Right to terminate

- (a) If the Contractor has persistently breached a number of Service Levels and has not corrected the Services in accordance with clause 11.3, Finance may terminate the Deed immediately by giving the Contractor written Notice.

11.6 Other rights

- (a) This clause 11 does not limit in any way any other right, remedy or recourse of Finance or Customers of the Services.

Part C – Advertising Services

12. Overview

- (a) Part C of this Deed sets out the arrangement for the provision of Advertising Services, including how Participants may order Advertising Services from the Contractor.
- (b) If a Participant orders Advertising Services from the Contractor, the Participant will become a Customer of the Contractor. A Customer Contract will be formed between the Customer and the Contractor, incorporating relevant terms and conditions of this Deed.
- (c) The Contractor must provide Advertising Services to a Customer, in accordance with the Customer Contract.

13. Advertising Services

13.1 Standing Offer

- (a) The Contractor irrevocably offers to supply the Advertising Services to Participants from the Services Commencement Date and for the duration of the Deed Period.
- (b) A Participant may accept the Contractor's offer in clause 13.1(a) by issuing a Media Instruction, under the terms and conditions of this Deed.
- (c) If a Media Instruction issued by a Participant under clause 13.1(b) is for Recruitment, Public Notice or Tender Notice advertising (non-complex Non-Campaign), and the request is made orally, the Contractor must provide the Participant with written acknowledgement of the request, which:
 - (i) states that the Advertising Services are being ordered under the Deed;
 - (ii) describes the Advertising Services being sought;
 - (iii) sets out the timeframe for the provision of the Advertising Services; and
 - (iv) confirms the person who will act as the Customer's representative for the purposes of the Customer Contract.
- (d) The Contractor must provide Participants with written acknowledgement of a request for Service within one (1) Business Day of receipt of the request.

13.2 Customer Contract

- (a) Unless otherwise stated by a Participant in writing, when a Participant gives the Contractor a Media Instruction in accordance with clause 13.1(b), a contract is formed between the Participant and the Contractor in relation to the Advertising Services (**Customer Contract**).
- (b) The following will form the terms and conditions of the Customer Contract:
 - (i) the Customer Contract will commence on the date the Media Instruction is issued to the Contractor and end 7 days after the last Tax Invoice, correctly rendered under the Customer Contract, is paid by the Customer (unless specified otherwise in the Media Instruction);

- (ii) clause 1 (as applicable);
 - (iii) clauses 9 and 10;
 - (iv) clause 13.2(c);
 - (v) clauses 14 to 44;
 - (vi) Schedule 1;
 - (vii) Schedule 2;
 - (viii) Schedule 3;
 - (ix) Schedule 4;
 - (x) Schedule 8;
 - (xi) Schedule 9;
 - (xii) Schedule 10;
 - (xiii) the Media Instruction;
 - (xiv) any written acknowledgement provided by the Contractor in accordance with clause 13.1(c); and
 - (xv) any Media Booking Authority.
- (c) If there is inconsistency between any of the documents forming part of a Customer Contract, those documents will be interpreted in the following order of priority to the extent of any inconsistency:
- (i) clause 1;
 - (ii) clauses 9 and 10
 - (iii) clauses 14 to 44;
 - (iv) Schedule 1;
 - (v) Schedule 2;
 - (vi) Schedule 3;
 - (vii) Schedule 4;
 - (viii) Schedule 8;
 - (ix) Schedule 9;
 - (x) Schedule 10;
 - (xi) any Media Booking Authority;
 - (xii) the Media Instruction, and
 - (xiii) any written acknowledgement provided by the Contractor in accordance with clause 13.1(c).

13.3 No Guarantee

- (a) The Contractor acknowledges that:

- (i) notwithstanding any other provision of this Deed, Finance does not guarantee or make any assurance that any Advertising Services or any particular volume of Advertising Services will be required from the Contractor under this Deed;
 - (ii) notwithstanding any other provision of this Deed, Finance and Participants (where approved by Finance) may at their absolute discretion obtain some or all of the Advertising Services, or services similar to the Advertising Services, from any source they choose; and
 - (iii) the Customer may withdraw an advertisement at any time.
- (b) If the Customer withdraws an advertisement under clause 13.3(a)(iii) after a Media Booking Authority has been approved and signed by the Customer, the Customer may be required to reimburse the Contractor's direct and substantiated costs incurred in providing Advertising Services prior to the date the Customer withdraws the advertisement that are not covered by the Remuneration Amounts for the Campaign or Non-Campaign advertising, prior to the Customer withdrawing the advertising.
 - (c) Nothing in clause 13.3(b) gives rise to any liability of the Customer for any Consequential Loss suffered by the Contractor as a result of the Customer withdrawing an advertisement under clause 13.3(a)(iii).

14. Customer Specific Advertising Services Requirements

- (a) The Contractor acknowledges that a Customer may:
 - (i) identify Customer Specific Advertising Services requirements, including those specified in the Appendix D - Due Diligence Information of RFT FIN14/07; and
 - (ii) incorporate Customer Specific Advertising Services requirements in a Service Delivery Plan as specified in clause 2.3(b) of Schedule 1.
- (b) If the Customer has Customer Specific Advertising Requirements, the Contractor must provide the Advertising Services for that Customer in accordance with those Customer Specific Advertising Requirements.

Note to Tenderer:

The initial Customer Specific Advertising Requirements are made available to Tenderers in Appendix D - Due Diligence Information.

15. Payment

15.1 Obligation to Pay

- (a) Subject to:
 - (i) the Advertising Services meeting the requirements of the Customer Contract and the Service Levels; and
 - (ii) the Contractor issuing a Tax Invoice in accordance with the applicable requirements of clause 4 of Schedule 2,
- the Customer must pay the Contractor the applicable Service Charges, in accordance with Schedule 2.

- (b) If the Customer fails to pay a correctly rendered Tax Invoice within 30 days from the date on which that invoice was received by the Customer, the Contractor:
 - (i) should notify Finance;
 - (ii) may charge simple interest in accordance with clause 4.7 of Schedule 2; and
 - (iii) must not stop or cause any delay in supplying the Advertising Services to the Customer.
- (c) The Contractor must pay invoices received by the Contractor under Third Party Contracts in accordance with the terms of the Third Party Contract, and not later than within 45 days or within other such reasonable timeframes as may be required by the relevant third party.

Part D – General Terms and Conditions

16. Overview

- (a) The terms and conditions outlined in Part D:
 - (i) form part of this Deed and apply to Finance and the Contractor, in relation to the Management Services; and
 - (ii) form part of a Customer Contract and apply to the Participant who is a party to the Customer Contract and the Contractor, in relation to the Advertising Services.
- (b) The term **Agreement** is used in Part D to refer to either:
 - (i) this Deed, where the Contractor is supplying the Management Services to Finance; or
 - (ii) the Customer Contract, where the Contractor is supplying the Advertising Services to a Participant who is a party to a Customer Contract,as the case may be.
- (c) The term **Customer** is used in Part D to refer to either:
 - (i) Finance, where the Contractor is supplying the Management Services; or
 - (ii) the Participant who is a party to the Customer Contract, where the Contractor is supplying the Advertising Services,as the case may be.
- (d) A Customer of the Advertising Services may only exercise rights under the Customer Contract to which that Customer is a party. A Customer of the Advertising Services (other than Finance) may not exercise rights under this Deed in relation to the Management Services.

17. Standard of Services

17.1 Service obligations

The Contractor must supply the Services:

- (a) to the reasonable satisfaction of the Customer;
- (b) with due skill and care and to the best of the Contractor's knowledge and expertise;
- (c) to a high standard and in accordance with the professional standards of conduct applying to the relevant industry;
- (d) in accordance with the Service Levels;
- (e) in accordance with relevant Australian industry standards, best practice and guidelines or where none apply, relevant international industry standards, best practice and guidelines;
- (f) in accordance with all applicable Laws;

- (g) in accordance with Customer policies and specific requirements referred to in Schedule 1, the Media Instruction or the Media Plan (or policies and specific requirements otherwise made known to the Contractor by the Customer from time to time);
- (h) in accordance with any directions in relation to the Services given by the Customer from time to time;
- (i) so as to meet any timeframes specified in Schedule 1, the Media Instruction or the Media Plan, and where no timeframes are specified, promptly and without delay;
- (j) so as to keep accurate and auditable records relating to the performance of the Services; and
- (k) otherwise in accordance with the provisions of the Agreement.

17.2 Co-operation with Personnel

The Contractor must in the performance of the Services:

- (a) fully co-operate with the Customer Personnel; and
- (b) use its best efforts to coordinate its activities so as to support and facilitate, in the Customer's best interests, the timely and efficient completion of all work and other activities to be performed for the Customer.

18. Contractor Personnel

18.1 Use of Contractor Personnel

The Contractor must:

- (a) provide the Services or any part of the Services to which its particular expertise relates, with the active involvement of, and using the expertise of, the Contractor Personnel; and
- (b) ensure that each of the Contractor Personnel is aware of and complies with the Contractor's obligations in providing the Services.

18.2 Changes to Contractor Personnel

- (a) The Contractor or the Holding Company must provide Finance with written Notice of any changes to the Contractor Personnel as soon as the Contractor or the Holding Company is aware of changes to the Contractor Personnel, in accordance with clause 43;
- (b) The Contractor must provide Finance with a revised list of Contractor Personnel within 14 days of any changes to the Contractor Personnel. Finance may reject any Contractor proposed replacement Personnel in accordance with clause 18.3.

18.3 Replacement of Contractor Personnel

- (a) Finance may at any time require the Contractor or the Holding Company to remove from work in respect of the Services any of the Contractor Personnel. The Contractor or the Holding Company must promptly arrange for the removal of such Contractor Personnel and their replacement with Contractor Personnel of suitable ability and qualifications at no additional charge and at the earliest opportunity.

- (b) If a Customer (other than Finance) requests the Contractor to remove from work in respect of the Advertising Services any of the Contractor Personnel the Contractor must immediately notify Finance and only remove the Contractor Personnel if Finance approves.

18.4 Standards of Personnel

The Contractor must:

- (a) ensure that its Personnel are properly educated, trained, fully qualified and appropriately experienced for the Services they are required to perform;
- (b) ensure that before assigning any Contractor Personal to supply Services, or permitting any Contractor Personal to enter any premises of the Customer, or to handle or become aware of Agreement Material, Customer Data, Customer Material, Confidential Information or Personal Information, the Contractor Personal holds the required security clearance in accordance with any applicable Commonwealth or Customer security policies and procedures;
- (c) use its best efforts to manage the adequate availability of its Personnel to perform the Services in accordance with the Service Levels, and to keep the turnover of its Personnel to reasonable and low levels; and
- (d) ensure that all its Personnel comply with all applicable obligations of the Contractor under the Agreement.

19. Customer Premises

19.1 Conduct at the Customer's premises

- (a) The Contractor must, if using or accessing the Customer's premises or facilities, comply with all reasonable directions and procedures relating to work health and safety and security in operation at those premises or facilities whether specifically drawn to the attention of the Contractor or as might reasonably be inferred from the circumstances.

20. Information Systems and Data Capture

20.1 Establishment and maintenance of the Information System

- (a) The Contractor must establish and maintain from the Deed Commencement Date and for the duration of the Deed Period and the Transition Out Period, a system (**the Information System**) to capture the information necessary to deliver the reporting and data specifications set out in Appendix 2 of Schedule 1.

20.2 Data ownership

- (a) All data contained in the Information System that relates to:
 - (i) Finance or another Participant; or
 - (ii) the Services,will be Agreement Material. For the avoidance of doubt, data relating to clients of the Contractor who are not Participants is not Agreement Material.

- (b) On the expiry or termination of this Deed, the Contractor must provide to Finance and the relevant Customer all Agreement Material contained in the Information System, in the form and storage medium required by Finance and the relevant Customer.
- (c) The Contractor must not use any Agreement Material contained in the Information System (or any other Agreement Material) for any purpose other than the provision of the Services or the performance of the Agreement. Without limitation, the Contractor must not use or disclose the Agreement Material contained in the Information System (or any other Agreement Material) for promotional, marketing or benchmarking purposes, or for site visits for other customers or potential customers, without the prior written consent of Finance and the relevant Customer.

21. Monitoring progress

21.1 Progress meetings

- (a) The Contractor must meet with the Customer at the times and in the manner set out in Schedule 1 (or as otherwise advised by Finance), to discuss any issues in relation to the provision of the Services.

21.2 Reporting

- (a) The Contractor must provide the Customer with reports in accordance with Appendix 2 of Schedule 1.
- (b) The Contractor must, if requested by Finance, provide written certification of the accuracy of any report provided. The certification of accuracy must be made by the Contractor's chief accounting officer, or other appropriate senior person as agreed by Finance.

22. Compliance with Laws and Policies

22.1 Protection of personal information

- (a) This clause 22.1 applies only where the Contractor deals with personal information when, and for the purpose of, providing Services.
- (b) In this clause 22.1:
 - (i) **Privacy Act** means the *Privacy Act 1988* (Cth); and
 - (ii) the terms **agency**, **approved privacy code (APC)**, **Australian Privacy Principles (APPs)** and **personal information** have the same meaning as they have in section 6 of the Privacy Act.
- (c) The Contractor acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the Privacy Act, and agrees in respect of the provision of Services:
 - (i) to use or disclose personal information obtained during the course of providing Services, only for the purposes of the Agreement;
 - (ii) not to do any act or engage in any practice that would breach an APP contained in Schedule 1 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that APP;

- (iii) to carry out and discharge the obligations contained in the APPs as if it were an agency under the Privacy Act;
 - (iv) to notify individuals whose personal information the Contractor holds, that complaints about acts or practices of the Contractor may be investigated by the Information Commissioner who has power to award compensation against the Contractor in appropriate circumstances;
 - (v) not to use or disclose personal information or engage in an act or practice that would breach section 16F of the Privacy Act, or an APC, where that APC is applicable to the Contractor, unless:
 - (A) in the case of section 16F: the use or disclosure is necessary, directly or indirectly, to discharge an obligation of the Agreement; or
 - (B) in the case of an APC: where the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under the Agreement, and the activity or practice which is authorised by the Agreement is inconsistent with the APC;
 - (vi) to disclose in writing to any person who asks, the content of the provisions of the Agreement (if any) that are inconsistent with an APC binding a party to the Agreement;
 - (vii) to immediately notify Finance if the Contractor becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 22.1, whether by the Contractor or any subcontractor;
 - (viii) to comply with any directions, guidelines, determinations or recommendations of the Information Commissioner, to the extent that they are not inconsistent with the requirements of this clause 22.1; and
 - (ix) to ensure that any employee of the Contractor who is required to deal with personal information for the purposes of the Agreement is made aware of the obligations of the Contractor set out in this clause 22.1.
- (d) The Contractor must ensure that any subcontract entered into for the purpose of fulfilling its obligations under the Agreement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under this clause 22.1, including the requirement in relation to subcontracts.
- (e) The Contractor agrees to indemnify the Customer in respect of any Losses suffered or incurred by the Customer which arises directly or indirectly from a breach of any of the obligations of the Contractor under this clause 22.1, or a subcontractor under the subcontract provisions referred to in clause 22.1(d).

22.2 Employment requirements

The Contractor must comply with:

- (a) all obligations relating to the payment of employment related taxes or levies in respect of its employees in Australia which arise in respect of any of the amounts paid to the Contractor in accordance with the Agreement;

- (b) any judicial decision made against it in respect of its employees in Australia (not including a decision under appeal) relating to employee entitlements and pay or resolving the claim; and
- (c) all other requirements imposed on an employer by Law.

22.3 Workplace Gender Equality Act 2012 (Cth)

- (a) This clause 22.3 applies only to the extent that the Contractor is a “relevant employer” for the purposes of the *Workplace Gender Equality Act 2012 (Cth)* (**WGE Act**).
- (b) The Contractor must comply with its obligations, if any, under the WGE Act.
- (c) If the Contractor becomes non-compliant with the WGE Act during the Deed Period, the Contractor must notify the Finance Representative.
- (d) The Contractor must provide a letter of compliance with the WGE Act to the Finance Representative 18 months from the Deed Commencement Date and annually thereafter.

22.4 Illegal workers

- (a) The Contractor must ensure that its Personnel are at all times:
 - (i) Australian citizens; or
 - (ii) in the case of persons who are not Australian citizens, not illegal workers.
- (b) The Contractor must remove or cause to be removed any illegal worker from any involvement in the carrying out of Services and arrange for their replacement at no cost to the Customer immediately upon becoming aware of the involvement of the illegal worker. The Contractor must immediately notify the Customer of the involvement of the illegal worker and of the removal.
- (c) For the avoidance of doubt, compliance with the Contractor’s obligations under this clause 22.4 will not constitute a force majeure event, give rise to an entitlement to claim any delay or otherwise excuse the Contractor from compliance with its obligations under the Agreement.
- (d) When requested by Finance, the Contractor must promptly provide evidence that it has taken all reasonable steps to ensure that it has complied and is complying with its obligations under this clause 22.4, including in relation to any subcontractors or other suppliers.
- (e) For the purposes of this clause, an “**illegal worker**” is a person who:
 - (i) has unlawfully entered and remains in Australia;
 - (ii) has lawfully entered Australia, but remains in Australia after his/her visa has expired; or
 - (iii) is working in breach of his or her visa conditions.

22.5 Anti-Competitive Conduct

- (a) The Contractor must comply with the provisions of the *Competition and Consumer Act 2010 (Cth)* and must not engage in any collusive conduct, anti-competitive conduct or other similar conduct in relation to performing their obligations under the Agreement.

- (b) If the Customer suspects that the Contractor or its Personnel have engaged in conduct contrary to the *Competition and Consumer Act 2010* (Cth), the Customer may notify the appropriate regulatory authority and provide the authority with information regarding the conduct. The provision of such information will not be taken to be an infringement of any obligation of confidentiality from the Customer to the Contractor.
- (c) The Customer may terminate the Agreement if:
 - (i) the Contractor or its Personnel contravene the *Competition and Consumer Act 2010* (Cth) or equivalent laws in Australia or overseas; or
 - (ii) full disclosure of any or all previous contraventions of the *Competition and Consumer Act 2010* (Cth), or equivalent laws in Australia or overseas, by the Contractor, was not made to Finance in the Contractor's response to the Approach to Market, in accordance with the Approach to Market.

22.6 Commonwealth criminal code

- (a) The Contractor acknowledges that giving false or misleading information to the Commonwealth is a serious offence under the *Criminal Code Act 1995* (Cth).

22.7 Compliance with other Commonwealth Legislation and Policies

- (a) The Contractor must comply with all Laws and policies relevant to the Services (in addition to those listed in this clause 22) in carrying out the Services and performing its obligations under the Agreement.

22.8 Environmental policy and procurement

- (a) The Commonwealth is seeking to be at the forefront of sustainable procurement practices by:
 - (i) purchasing goods and services that minimise possible environmental impacts;
 - (ii) working with industry to encourage continuous reduction in adverse environmental impacts of the goods and services it purchases; and
 - (iii) assessing environmental impacts against Australian and International Standards and methods.
- (b) The Contractor must use its best endeavours, in the provision of the Services, to assist the Commonwealth to comply with these principles.

22.9 Lobbying Code of Conduct

- (a) In providing the Services, the Contractor must, and must ensure that its Personnel, comply with the Lobbying Code of Conduct and the Australian Public Service Commission's requirements relating to the Lobbying Code of Conduct and Post Separation Contact with Government, where their activities fall within the scope of the Lobbying Code of Conduct.
- (b) A copy of the Lobbying Code of Conduct is available at:
<http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=contactwithLobbyistsCode>.

22.10 Indigenous Procurement Policy

- (a) It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see Indigenous Procurement Policy, 1 July 2015 for further information). This policy was included in the Approach to Market.
- (b) The Contractor must use its reasonable endeavours to increase its:
 - (i) purchasing from Indigenous enterprises; and
 - (ii) employment of Indigenous Australians,in the delivery of the Services, including as specified in Schedule 1.
- (c) Purchases from Indigenous enterprises may be in the form of engagement of an Indigenous enterprise as a subcontractor, and use of Indigenous suppliers in the Contractor's supply chain.

23. Australian Industry Participation Plan (AIP Plan)

Note to Tenderer:

A User Guide for Australian Industry Participation Plans in Australian Government procurement published by the Department of Industry, Innovation and Science a copy of which can be obtained from the internet site

<http://www.industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Pages/AIP-Plans-for-Commonwealth-Government-Procurement.aspx>.

23.1 AIP Plan Delivery

- (a) The Contractor must provide Finance a copy of its AIP Plan, as approved by the Department of Industry, Innovation and Science, within 30 days of the date of execution of this Deed.
- (b) The Contractor must comply with the AIP Plan in performing this Deed.
- (c) The Contractor must include appropriate provisions in its contracts with subcontractors to ensure that the Contractor is able to meet its obligations under clause 23(b).
- (d) The AIP Plan must not be construed as limiting the Contractor's responsibility to provide the Deliverables in accordance with, and otherwise to comply with, the requirements of this Deed.
- (e) If the AIP Plan has a validity period that expires before the end of the Deed Period of this Deed, the Contractor must ensure that a replacement AIP Plan is approved by the Department of Industry, Innovation and Science before the expiry of the validity period.
- (f) The Contractor must provide a copy of the replacement AIP Plan upon request from Finance or any Customer.

23.2 AIP Plan Reporting

- (a) The Contractor must provide to Finance an AIP Plan Implementation Report that meets the AIP Plan Implementation Report Requirements within 60 days after the anniversary of the Commencement Date of this Deed.
- (b) If Finance considers that an AIP Plan Implementation Report does not meet the AIP Plan Implementation Report Requirements, Finance may, by written Notice to the Contractor, reject the AIP Plan Implementation Report. If Finance rejects the AIP Plan Implementation Report, Finance will provide to the Contractor reasons for the rejection.
- (c) If Finance rejects the AIP Plan Implementation Report pursuant to clause 23(b), the Contractor must provide to Finance the AIP Plan Implementation Report, amended to address the reasons advised by Finance and that otherwise meets the AIP Plan Implementation Report Requirements, within ten (10) Business Days of the date of the Notice issued under clause 23(b).
- (d) The Contractor acknowledges that Finance may publicise or report on:
 - (i) the Contractor's performance in relation to and level of compliance with the AIP Plan; and
 - (ii) any information contained in the AIP Plan or an AIP Plan Implementation Report provided pursuant to this Head Agreement, any Entity Deed or any Order.

24. Intellectual Property Rights

24.1 Ownership of Pre-Existing Contractor Material, Customer Material and Third Party Material

- (a) This clause 24 does not affect the ownership of the Intellectual Property Rights in any Pre-Existing Contractor Material, Customer Material or Third Party Material.

24.2 Third party consents

- (a) The Contractor must obtain all necessary copyright and other Intellectual Property Rights permissions before making any Third Party Material available for the purpose of the Agreement.

24.3 Ownership of Agreement Material

- (a) Upon its creation all Intellectual Property Rights in the Agreement Material vest in the Customer.

24.4 Licences

- (a) The Contractor grants to, or must obtain for, the Customer a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate the Pre-Existing Material or Third Party Material used in conjunction with the Agreement Material.
- (b) To the extent that the Contractor needs to use any of the:
 - (i) the Customer Material; or
 - (ii) Agreement Material,

for the purpose of performing its obligations under the Agreement, the Customer grants to the Contractor for the term of the Agreement, subject to any direction by the Customer, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.

24.5 Documents

- (a) The Contractor must, at its own cost, do all things and execute all documents necessary or convenient to give effect to this clause 24.
- (b) The Contractor must, if requested by the Customer, establish and maintain a register that records the Intellectual Property Rights in any Agreement Material, Pre-Existing Contractor Material, Third Party Material and Licences as relevant to that Customer (Intellectual Property Register).

24.6 Trademarks

- (a) The Customer retains all right, title and interest to any Customer trade mark incorporated in the Customer Material and any use of any Customer trade mark by or under the authority of the Contractor will not create in the Contractor or in any other person (other than the Customer) any right, title or interest in or to either that trade mark or any registration or application for registration of it.
- (b) The Contractor must not do any act or thing in relation to any Customer trade mark without the prior consent of the Customer.

24.7 Warranty

The Contractor warrants that:

- (a) the Warranted Materials and the Customer's use of the Warranted Materials will not infringe the Intellectual Property Rights of any person; and
- (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided for in this clause 24.

24.8 Remedy for breach of warranty

If someone claims, or the Customer reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights, the Contractor must, in addition to the indemnity under clause 30.1 and to any other rights that the Customer may have against it, promptly, at the Contractor's expense:

- (a) use its best efforts to secure the rights for the Customer to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property Rights of any other person without any degradation of the performance or quality of the affected Warranted Materials.

24.9 Delivery of Agreement Material

- (a) On the expiry or termination of the Agreement or on such date as may be specified by the Customer, the Contractor must deliver to Finance all Agreement Material.

25. Moral Rights

25.1 Obtaining consents

To the extent permitted by applicable Laws and for the benefit of the Customer, the Contractor must:

- (a) give, where the Contractor is an individual, in a form acceptable to the Customer;
- (b) use its best endeavours to ensure that each of the Personnel used by the Contractor in the production or creation of the Agreement Material gives, in a form acceptable to the Customer; and
- (c) use its best endeavours to ensure that any holder of Moral Rights in Third Party Material included in the Agreement Material gives,

genuine consent in writing to the use of the Agreement Material for the Specified Acts, even if such use would otherwise be an infringement of its or their Moral Rights.

25.2 Specified Acts

In this clause 25:

- (a) Specified Acts means:
 - (i) mistakenly attributing the authorship of any Agreement Material, or any content in the Agreement Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
 - (ii) materially altering the style, format, colours, content or layout of the Agreement Material and dealing in any way with the altered Agreement Material;
 - (iii) reproducing, communicating, adapting, publishing or exhibiting any Agreement Material; and
 - (iv) adding any additional content or information to the Agreement Material; and
- (b) **Agreement Material** includes any Pre-Existing Contractor Material and Third Party Material to the extent that it is included in, forms part of or is attached to the Agreement Material.

26. Confidentiality

26.1 Confidential Information not to be disclosed

- (a) Subject to clause 26.3, a party must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.
- (b) In giving written consent to the disclosure of:
 - (i) Commonwealth Confidential Information; or
 - (ii) Customer Confidential Information,

the Customer may impose such conditions as it thinks fit, and the Contractor will comply with those conditions.

26.2 Written undertakings

- (a) The Customer may at any time require the Contractor to arrange for:
 - (i) its Advisers; or
 - (ii) any other third party,to give a written undertaking in the form of a deed relating to the use and non-disclosure of the Customer's Confidential Information, in the form set out in Schedule 8, unless otherwise agreed by the Customer.
- (b) If the Contractor receives a request under clause 26.2(a), it must promptly arrange for all such undertakings to be given.

26.3 Exceptions to obligations

The obligations on the parties under this clause 26 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by the party to its Advisers or Personnel solely in order to comply with obligations, or to exercise rights, under the Agreement;
- (b) is disclosed to the party's internal management personnel, solely to enable effective management or auditing of Agreement-related activities;
- (c) is disclosed by Finance to the Minister for Finance, the Cabinet or a responsible Minister;
- (d) is disclosed by a Customer to the responsible Minister for that Customer;
- (e) is disclosed by Finance or a Customer to another Commonwealth Entity or with another Commonwealth, State or Territory agency or department, if this serves the Commonwealth's legitimate interests;
- (f) is disclosed by a Customer within that Customer, if this serves the legitimate interests of that Customer;
- (g) is disclosed by Finance or a Customer in response to a request from a House or a Committee of the Parliament of the Commonwealth, or from a State or Territory Parliament or Assembly if the relevant Customer is a State or Territory body;
- (h) is authorised or required by law, including under the Agreement, under a licence or otherwise, to be disclosed; or
- (i) is in the public domain other than due to a breach of this clause 26.

26.4 Obligation on disclosure

Where the Contractor discloses Confidential Information to another Person pursuant to clauses 26.3(a) or 26.3(b), the Contractor must:

- (a) notify the receiving Person that the information is Confidential Information; and
- (b) not provide the information unless the receiving Person agrees to keep the information confidential.

26.5 Additional Confidential Information

- (a) The Customer and the Contractor may agree in writing after the commencement date of the Agreement that certain additional information is to constitute Confidential Information for the purposes of the Agreement.

26.6 Period of confidentiality

The obligations under this clause 26 continue, notwithstanding the expiry or termination of the Agreement:

- (a) in relation to an item of information described in Schedule 9, for the period set out in Schedule 9 in respect of that item; and
- (b) in relation to any information which the Customer and the Contractor agree in writing after the date of the Agreement is to constitute Confidential Information for the purposes of the Agreement, for the period agreed by the Customer and the Contractor in writing in respect of that information.

26.7 No reduction in privacy obligations

- (a) Nothing in this clause 26 derogates from any obligation which the Customer or the Contractor may have either under the *Privacy Act 1988* (Cth) as amended from time to time, or under the Agreement, in relation to the protection of personal information.

26.8 Delivery of Customer Confidential Information and Customer Material

- (a) On the expiry or termination of the Agreement or on such earlier date as may be specified by the Customer, the Contractor must deliver to the Customer all Customer Confidential Information and Customer Material.

27. Security

27.1 Interpretation

In this clause 27, the term "**security incident**" has the meaning given in the Protective Security Policy Framework Australian Government protective security policy framework – glossary of security terms.

27.2 Compliance with Customer security requirements

- (a) The Contractor must, and must ensure that Contractor Personnel, including its subcontractors, comply with:
 - (i) any security requirements specified in Schedule 1, the Media Instruction and the Media Booking Authority;
 - (ii) the Australian Government Protective Security Policy Framework (outlined at www.protectivesecurity.gov.au) and the Australian Government Information Security Manual (outlined at www.asd.gov.au), as updated from time to time (as applicable to the Services); and
 - (iii) any other security procedures or requirements notified, in writing, by the Customer to the Contractor. The Contractor must comply with such a security procedure or requirement, from the date specified in the Notice, or if none is specified, within five Business Days after receipt of the Notice.

- (b) The Contractor must promptly notify the Customer of any security incident that occurs in connection with Customer Data.
- (c) The Contractor must promptly comply with any additional security requirements notified by the Customer to the Contractor from time to time. The Customer will give the Contractor as much notice as reasonably practicable of any additional security requirements.

27.3 Security clearance

- (a) The Customer may, from time to time, notify the Contractor of the level of security or access clearance applicable to Contractor Personnel, and the date from which, or the period during which, that clearance will be effective and the Contractor must comply with and ensure that Contractor Personnel act in accordance with that Notice.
- (b) The Contractor is responsible for all costs associated with obtaining security clearances.

27.4 Removal of Customer Data

The Contractor must not, and must ensure that Contractor Personnel do not:

- (a) remove Customer Data or allow Customer Data to be removed from the Customer's premises; or
- (b) take Customer Data or allow Customer Data to be taken outside of Australia, without the Customer's prior written consent.

28. GST

28.1 Interpretation

- (a) Words or expressions used in this clause which are defined in the GST Act have the same meaning in this clause 28.

28.2 Consideration is GST exclusive

- (a) Any consideration to be paid or provided for a supply made under or in connection with the Agreement, unless specifically described in the Agreement as 'GST inclusive', does not include an amount on account of GST.

28.3 Gross up of consideration

Despite any other provision in the Agreement, if a party ('**Supplier**') makes a supply under or in connection with the Agreement on which GST is imposed (not being a supply the consideration for which is specifically described in this Agreement as 'GST inclusive'):

- (a) the consideration payable or to be provided for that supply under the Agreement but for the application of this clause 28.3 ('**GST exclusive consideration**') is increased by, and the recipient of the supply ('**Recipient**') must also pay to the Supplier, an amount equal to the GST payable on the supply ('**GST Amount**'); and
- (b) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

28.4 Tax invoices

- (a) The Recipient need not make a payment for a taxable supply made under or in connection with the Agreement until the Supplier has given the Recipient a Tax Invoice for the supply to which the payment relates.

28.5 Reimbursements (net down)

- (a) If a payment to a party under the Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party, or the representative member of a GST group of which that party is a member, is entitled for that loss, cost or expense.
- (b) For the purposes of this clause 28.5:
 - (i) the Contractor must take all reasonable steps necessary to ensure it claims input tax credits for any costs or expenses to which this clause 28.5 applies; and
 - (ii) the Contractor will be deemed to be entitled to a full input tax credit for any GST payable on any cost or expense for which it is reimbursed or indemnified, unless it can demonstrate to the Customer's reasonable satisfaction why this is not the case.

28.6 GST excluded from payment calculations

- (a) Except where indicated to the contrary, if a payment to a party under or in connection with the Agreement is calculated by reference to or as a percentage of another amount, cost or revenue stream, that payment must be calculated by reference to or as a percentage of that other amount, cost or revenue stream excluding any GST component.

29. Insurance and Risk Management

29.1 Obligation to maintain insurance

- (a) In connection with the provision of the Services, the Contractor must have and maintain:
 - (i) for the term of the Agreement, valid and enforceable insurance policies for:
 - (A) public liability in an amount of not less than \$10 million per claim;
 - (B) either professional indemnity or errors or omissions in an amount of not less than \$20 million in aggregate per year; and
 - (C) workers' compensation as required by Law; and
- for seven years following the expiry or termination of the Agreement, valid and enforceable insurance policies for either professional indemnity or errors or omissions, in an amount of not less than \$20 million in aggregate per year.

29.2 Confirmation of insurance

- (a) The Contractor must provide to Finance evidence of current, relevant insurance from its insurers or insurance brokers certifying that it has insurance as required by this clause 29:

- (i) on the Commencement Date; and
- (ii) at any other time, promptly on request by Finance.

29.3 Risk Management

- (a) The Contractor must have a formal process for identifying, evaluating and managing both operational and strategic risks in relation to the provision of the Services and the Contractor's obligations under this Agreement and must provide the Services and perform the Contractor's obligations under this Agreement to manage any risks identified in accordance with the plans identified at clause 29.3(b).
- (b) As a minimum, the Contractor must prepare and provide the following plans and documents to Finance within 60 Business Days after the Service Commencement Date:
 - (i) a risk management plan that is aligned with AS/NZS ISO 31000:2009;
 - (ii) a risk register relating to the provision of the Services and the Contractor's obligations under this Agreement;
 - (iii) an issue management strategy, which may be a component of the risk management plan, and ensures that significant issues are addressed in a timely manner;
 - (iv) a business continuity plan for its operations; and
 - (v) a disaster recovery plan for its operations.
- (c) The Contractor must maintain and update the plans and documents referred to in clause 29.3(b) to reflect any changes, but as a minimum, on an annual basis.
- (d) The Contractor must report on risks in relation to the provision of the Services and the Contractor's obligations under the Agreement at each Contract Management meeting.
- (e) On request from Finance, the Contractor must provide any plan or document identified in this clause 29.3, for review by Finance.

30. Indemnity

30.1 Indemnity

- (a) The Contractor will at all times indemnify, hold harmless and defend the Customer, its officers and employees (referred to in this clause 30 as those indemnified) from and against any Losses they directly or indirectly sustain or incur, including:
 - (i) loss of, or damage to, property of the Customer;
 - (ii) claims by any person in respect of personal injury or death;
 - (iii) claims by any person in respect of loss of, or damage to, any property; and
 - (iv) costs and expenses including the costs of defending or settling any claim referred to in clauses 30.1(a)(ii) or 30.1(a)(iii),
arising out of or as a consequence of:
- (v) any infringement, or any alleged infringement, of the Intellectual Property Rights of any person, which occurred by reason of an act done by the Contractor in relation to any part of the Services;

- (vi) any actual, likely or threatened breach of the Contractor's or subcontractor's obligations relating to Confidential Information or personal information;
 - (vii) without limiting any other paragraphs of this clause 30.1, any material breach of the Agreement by the Contractor;
 - (viii) any negligence on the part of the Contractor, its Personnel or subcontractors;
 - (ix) any wrongful or unlawful act or omission on the part of the Contractor, its Personnel or subcontractors; or
 - (x) any breach by the Contractor of its warranties under the Agreement.
- (b) The Contractor's liability to indemnify those indemnified under clause 30.1(a) will be reduced proportionally to the extent that any negligent act or omission of those indemnified contributed to the loss.

31. Variations

31.1 Variation process

- (a) The Agreement may only be varied by the Customer and the Contractor in accordance with clause 31.2 or 31.3.
- (b) Any variation to the Agreement will not be effective unless it is in accordance with clause 31.2 or 31.3.

31.2 Minor variations

- (a) Finance and the Contractor may vary the following provisions of this Deed by Notice in writing signed by the representatives referred to in clause 31.2(b):
 - (i) clause 22 (Compliance with Laws and Policies);
 - (ii) clause 27 (Security);
 - (iii) clause 33.9 (Transition out);
 - (iv) clause 35 (Subcontracting);
 - (v) clause 36 (Conflict of Interest);
 - (vi) clause 38 (Books and records);
 - (vii) clause 39 (Audit and access);
 - (viii) clause 40 (Freedom of information);
 - (ix) clause 42 (Notices and other communications);
 - (x) clause 44 (Miscellaneous);
 - (xi) Appendix 1 of Schedule 1;
 - (xii) Appendix 2 of Schedule 1;
 - (xiii) Schedule 5 (Media Brief);
 - (xiv) Schedule 6 (Media Plan);
 - (xv) Schedule 7 (Media Booking Authority).

- (b) The Notice in writing referred to in clause 31.2(a) must be signed by the following representatives:
- Finance: Finance Representative
- Contractor: Contractor Representative
- (c) A Customer of Advertising Services and the Contractor may vary the following provisions of the Customer Contract by Notice in writing signed by the representatives referred to in clause 31.2(d):
- (i) clause 22 (Compliance with Laws and Policies);
 - (ii) clause 27 (Security);
 - (iii) clause 36 (Conflict of Interest);
 - (iv) clause 38 (Books and records);
 - (v) clause 39 (Audit and access);
 - (vi) clause 40 (Freedom of information);
 - (vii) clause 42 (Notices and other communications); and
 - (viii) clause 44 (Miscellaneous).
- (d) The Notice in writing referred to in clause 31.2(c) must be signed by the following representatives:
- Customer: as notified in the Media Brief or the Service Delivery Plan specified in clause 2.3(b) of Schedule 1.
- Contractor: as notified by the Contractor
- (e) The list of Contractor Personnel contained in Schedule 4 may be varied in accordance with clause 18.3 (Replacement of Personnel).

31.3 Formal variations

The parties may vary provisions of the Agreement other than those referred to in clause 31.2 by executing a change order, based on the template contained in Schedule 10.

31.4 Effect of variations

- (a) If Finance and the Contractor vary this Deed in accordance with clause 31.2 or 31.3, the variation will automatically be incorporated into any Customer Contracts (to the extent relevant) and take effect from the date of the variation to this Deed, as identified in a written Notice or a change order.
- (b) If a Customer of Advertising Services and the Contractor vary a Customer Contract in accordance with clause 31.2 or 31.3, the variation will only apply to that particular Customer Contract.
- (c) The Contractor must not agree to a variation to a Customer Contract which is inconsistent with any of the provisions of this Deed, unless Finance has given prior approval in writing.

32. Termination and reduction

32.1 Termination and reduction for convenience

- (a) The Customer may, at any time, by Notice in writing to the Contractor, immediately terminate the Agreement or reduce the scope of the Services, for any reason including, but not limited to, a machinery of government change or an election being called.
- (b) On receipt of a Notice of termination or reduction the Contractor must:
 - (i) immediately stop work as specified in the Notice;
 - (ii) take all available steps to minimise loss resulting from that termination or reduction and to protect Customer Material and Agreement Material; and
 - (iii) if the scope of the Services is reduced, continue work on any part of the Services not affected by the Notice.
- (c) If the Agreement is terminated under this clause 32.1, the Customer is liable only for:
 - (i) the Remuneration Amounts or Service Charges (if any) due from the Customer to the Contractor for Services rendered in accordance with the Agreement before the effective date of termination; and
 - (ii) substantiated reasonable costs actually incurred by the Contractor and directly attributable to the termination of the Agreement.
- (d) If the scope of the Services is reduced, the Customer's liability to pay the Remuneration Amounts or Service Charges or provide the Customer Material abates in accordance with the reduction in the Services.
- (e) The Customer is not liable to pay compensation under clause 32.1(c)(ii) for an amount which would, in addition to any amounts paid or due, or becoming due, to the Contractor under the Agreement, exceed the total Remuneration Amounts or Service Charges payable under the Agreement.
- (f) The Contractor is not entitled to compensation for Consequential Loss.

32.2 Termination for default

- (a) Without limiting any other rights or remedies the Customer may have against the Contractor arising out of or in connection with the Agreement, the Customer may terminate the Agreement effective immediately by giving Notice to the Contractor if:
 - (i) the Contractor breaches a material provision of the Agreement which, in the opinion of the Customer, is not capable of remedy;
 - (ii) the Contractor breaches any provision of the Agreement and fails to remedy the breach to the satisfaction of the Customer within 14 days or a timeframe as agreed in writing between the parties, after receiving Notice from the Customer requiring it to do so;
 - (iii) in the opinion of the Customer, a Conflict of Interest exists which would prevent the Contractor from performing its obligations under the Agreement;
 - (iv) the Contractor repudiates all or any part of the Agreement;

- (v) the Contractor commits any act or does anything which is regarded by the Customer (acting reasonably) as unacceptable or which brings the reputation of the Contractor into disrepute and as a consequence the Customer (acting reasonably) believes that its continued association with the Contractor will be prejudicial or otherwise detrimental to the reputation of the Customer; or
 - (vi) an event specified in clause 32.2(c) happens to the Contractor.
- (b) Without limitation, for the purposes of clause 32.2(a)(i), each of the following constitutes a breach of a material provision of the Agreement
- (i) a failure to comply with clause 7 (Remuneration Charge back Amount and WoAG Administration Fee);
 - (ii) the event described at clause 11.5 has occurred (Right to terminate, Service Levels);
 - (iii) breach of warranty under clause 37 (Contractor warranties);
 - (iv) a failure to comply with clause 18 (Contractor Personnel);
 - (v) a failure to comply with clause 24 (Intellectual Property Rights);
 - (vi) a failure to comply with clause 26 (Confidentiality);
 - (vii) a failure to comply with clause 22.1 (Protection of personal information); and
 - (viii) a failure to notify the Customer of a Conflict of Interest under clause 36 (Conflict of Interest).
- (c) The Contractor must notify the Customer immediately if:
- (i) the Contractor is a corporation, there is any change in the direct or indirect beneficial ownership or control of the Contractor;
 - (ii) the Contractor disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
 - (iii) the Contractor ceases to carry on business;
 - (iv) the Contractor ceases to be able to pay its debts as they become due;
 - (v) the Contractor is a corporation, the Contractor enters into liquidation or has a controller or managing controller or liquidator or administrator appointed;
 - (vi) the Contractor is a natural person, the Contractor is declared bankrupt or assigns his or her estate for the benefit of creditors; or
 - (vii) the Contractor is a partnership, any step is taken to dissolve that partnership.
- In this clause 32.2, **controller**, **managing controller**, **liquidator** and **administrator** have the same meanings as in the *Corporations Act 2001* (Cth).
- (d) The Customer is not liable to pay any compensation to the Contractor if the Agreement is terminated under this clause 32.2.

32.3 Effect of termination or expiration of Deed on Customer Contract

- (a) If Finance terminates this Deed, any Customer Contract terminates automatically with effect from the termination of this Deed, unless otherwise approved by Finance before this Deed is terminated.
- (b) If this Deed expires, any Customer Contract terminates automatically with effect from the expiration of this Deed, unless otherwise approved by Finance before this Deed expires.
- (c) If a Customer Contract terminates because Finance terminates this Deed under clause 32.1, the Customer is liable only for Service Charges due from the Customer for Advertising Services rendered in accordance with the Customer Contract before the effective date of termination.

32.4 Effect of termination of Customer Contract on Deed

- (a) Termination of a Customer Contract does not affect the continuance of this Deed, unless Finance also terminates this Deed.

32.5 Termination does not affect accrued rights

- (a) Termination of the Agreement does not affect any accrued rights or remedies of the Customer or the Contractor.

32.6 Consequences of termination

On termination of the Agreement, the Contractor must:

- (a) stop work on the Services as specified in the Notice;
- (b) cease using all of the Customer's Confidential Information and Customer Data;
- (c) return to the Customer (or at the Customer's request, destroy), at no additional cost to the Customer, all Materials (whether in written or electronic form) that contain or encapsulate any of the Customer's Confidential Information or Customer Data; and
- (d) cooperate with and provide all reasonable assistance and make available all information reasonably requested by the Customer to the Customer and any new provider in support of the transition out of the Contractor and the transition in of the Customer or the new provider.

32.7 Consequences of reduction in scope

If the Customer removes Services from scope under clause 32.1, the Contractor must:

- (a) cease using all of the Customer's Confidential Information and Customer Data that relates to the affected Services; and
- (b) return to the Customer (or at the Customer's request, destroy), at no additional cost to the Customer, all Materials (whether in written or electronic form) that contain or encapsulate any of the Customer's Confidential Information or Customer Data, to the extent that the Material relates to the affected Services.

33. Dispute resolution

33.1 Dispute resolution process

- (a) If a Dispute arises in relation to the conduct of the Agreement, a party must comply with this clause 32.7 before starting court proceedings (except proceedings for urgent interlocutory relief).

33.2 Dispute involving a Customer

- (a) A Dispute between the Contractor and a Customer (other than Finance) must first be dealt with in accordance with clause 2.2 of Schedule 1 before following the procedures set out in this clause 32.7.

33.3 Application of procedure

A party claiming that a Dispute has arisen (**Complainant**) must, as soon as practicable after:

- (a) the claimed Dispute arises, if the Dispute is not required to be referred to Finance under clause 2.2 of Schedule 1; or
- (b) the Complainant forms the view that the Dispute cannot be resolved under clause 2.2 of Schedule 1, if the Dispute has been referred to Finance under clause 2.2 of Schedule 1,

give written Notice to the other party (**Dispute Notice**), containing the following:

- (c) a statement that it is a Notice under this clause 33.3;
- (d) the nature of the Dispute, including reasonable particulars of the facts and circumstances giving rise to the Dispute and, where possible or relevant, the amount the subject of the Dispute; and
- (e) the way in which the Complainant considers the Dispute should be resolved.

33.4 Dispute escalation

- (a) If the Dispute is not required to be referred to Finance under clause 2.2 of Schedule 1, within fifteen (15) Business Days after of receipt of the Dispute Notice, a representative of the Customer and the Contractor must meet and use their best endeavours to resolve the Dispute (**First Level Discussions**).

- (b) If:
 - (i) the Dispute has not been resolved through First Level Discussions under clause 33.4(a) within 25 Business Days of receipt of the Dispute Notice or
 - (ii) the Dispute has been referred to Finance under clause 2.2 of Schedule 1, within fifteen (15) Business Days of receipt of the Dispute Notice,

(**Referral Date**),

the Dispute must be referred to nominated representatives of the Customer and the Contractor (more senior than the representatives for the First Level Discussions), who must meet within ten (10) Business Days of the Referral Date and use their best endeavours to resolve the Dispute (**Second Level Discussions**).

33.5 Mediation

If the Dispute has not been resolved within twenty (20) Business Days after the Referral Date (**Initial Period**), the Dispute may be referred to mediation at the request of either party within a further ten (10) Business Days after the Initial Period, as follows:

- (a) the mediation is to commence ten (10) Business Days after the expiry of the Initial Period and end within thirty (30) Business Days after the expiry of the Initial Period unless the Customer and the Contractor agree to a another period (**Mediation Period**);
- (b) a mediator is:
 - (i) to be agreed on by the Customer and the Contractor within five (5) Business Days after the end of the Initial Period; or
 - (ii) if the Customer and the Contractor fail to agree within that period, to be nominated by the Australian Commercial Disputes Centre Ltd acting on the request of either the Customer or the Contractor;
- (c) the Customer and the Contractor agree that the role of any mediator is to assist in negotiating a resolution of the Dispute and the mediator may not make a decision that is binding on a party unless that party has so agreed in writing;
- (d) any mediation must be conducted in accordance with Australian Commercial Disputes Centre Ltd Commercial Mediation Guidelines (or such other procedures as Finance and the Contractor may agree);
- (e) the Customer or the Contractor may be represented by a qualified legal practitioner or other representative;
- (f) any information or documents disclosed by the Customer or the Contractor at a mediation must be kept confidential and may not themselves be utilised except to attempt to resolve the Dispute in accordance with this clause 33.5; and
- (g) the Customer and the Contractor will bear their own legal and other costs of preparation for, and participation in, any mediation and must share equally the cost of the mediator and any related costs of the mediation such as room hire.

33.6 Performance

- (a) The Customer and the Contractor must continue performing their respective obligations under the Agreement while a Dispute is being resolved, unless the nature of the Dispute renders it impossible to do so.

33.7 Confidentiality

Any information or documents disclosed by the Customer or the Contractor under this clause 32.7:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute.

33.8 Costs

- (a) The Customer and the Contractor must pay their own costs of complying with this clause 32.7.

33.9 No limitation

- (a) Nothing in this clause 32.7 limits, prevents or otherwise affects the Customer's rights to terminate the Agreement or remove Services from scope under clause 32.1.

34. Transition out

34.1 Transition Out Plan

- (a) Within six (6) months after the Commencement Date, the Contractor must provide Finance with a draft Transition Out Plan which sets out the activities to be performed by each party in relation to the transition of the Services from the Contractor to Finance or a new provider on the expiration or termination of this Deed.
- (b) As and when requested by Finance, the Contractor must provide Finance with an updated version of the Transition Out Plan within ten (10) Business Days after any written request by Finance.
- (c) Finance may:
 - (i) approve in writing the draft Transition Out Plan or updated version of the Transition Out Plan; or
 - (ii) require the Contractor to make changes to the draft transition out plan or updated version of the Transition Out Plan before Finance approves it.
- (d) Finance may disclose the Transition Out Plan as part of any procurement process to engage a new provider.

34.2 Transition Out Services

- (a) Unless this Deed is terminated, the Contractor must, at least one (1) month before the start of the Transition Out Period, notify Finance that the Contractor intends to commence Transition Out Services.
- (b) During the Transition Out Period (and until the Contractor completes all transition out activities to the satisfaction of Finance), the Contractor must:
 - (i) provide the Transition Out Services;
 - (ii) comply with the Transition Out Plan;
 - (iii) continue to provide the Services as required by Finance and other Participants;
 - (iv) cooperate with and provide all reasonable assistance and make available all required information (including reports and data) to Finance, Participants and any new provider in support of the transition out of the Contractor and the transition in of Finance or a new provider;
 - (v) do all acts and things and execute all documents as are reasonably necessary or desirable in support of the transition out of the Contractor and the transition in of Finance or a new provider; and
 - (vi) provide Finance and other Participants with access to the Contractor's information technology systems, as required to continue the provision of the Services and to support the transition out of the Contractor and the transition in of Finance or a new provider.

34.3 Contractor's expense

- (a) The Contractor must bear the cost of any steps, actions, obligations or activities required of the Contractor, arising from or in connection with this clause 33.9 (including after the Transition Out Period). The Contractor is not entitled to any reimbursement of expenses, payment or compensation for any such steps, actions, obligations or activities.

35. Subcontracting

- (a) The Contractor must:
 - (i) not subcontract, other than to those entities (if any) set out in Schedule 4, any aspect of the provision of the Services without the prior written approval of Finance, which will not be unreasonably withheld;
 - (ii) not, in any event, enter into a subcontract under the Agreement with a subcontractor, or use a Media Supplier, named by the Director of the Workplace Gender Equality Agency in a report to the responsible Minister as an employer currently not complying with the reporting requirements of the *Workplace Gender Equality Act 2012* (Cth);
 - (iii) not enter into a subcontract under the Agreement with a subcontractor, or use a supplier, who has any court judgments against it relating to employee entitlements that have not been paid in full by the subcontractor or supplier (other than judgments that are under appeal); and
 - (iv) ensure that there are written subcontracts in existence and that any subcontract contains provisions that are equivalent to the terms of the Agreement, including but not limited to the following:
 - (A) clause 22 (Compliance with Laws and Policies);
 - (B) clause 24 (Intellectual Property Rights)
 - (C) clause 26 (Confidentiality);
 - (D) clause 27 (Security);
 - (E) clause 29 (Insurance);
 - (F) clause 36 (Conflict of Interest);
 - (G) clause 38 (Books and Records);
 - (H) clause 39 (Audit and access);
 - (I) clause 40 (Freedom of Information); and
 - (J) clause 44.10 (Announcements).
- (b) The Contractor is not relieved from any liability under the Agreement and remains fully responsible for the performance of the Services even if the Contractor subcontracts any aspect of the provision of the Services.
- (c) The Contractor:
 - (i) must on request by the Customer provide the Customer with the names of any of the Contractor's subcontractors and copies of the associated subcontracts;

- (ii) agrees that the Customer may disclose publicly the names of any of the Contractor's subcontractors; and
 - (iii) must ensure that any subcontractor agrees that the Customer may disclose the subcontractor's name publicly.
- (d) The Customer may, without incurring liability, withdraw its approval of a subcontractor if in its reasonable opinion the subcontractor is not complying with the requirements of the Agreement. In this case, the Customer will notify the Contractor in writing that its approval is withdrawn and the Contractor must immediately terminate its arrangements with the subcontractor.

36. Conflict of Interest

36.1 Warranty

- (a) The Contractor warrants that, to the best of its knowledge after making diligent inquiry, at the date of the Agreement no Conflict of Interest exists or is likely to arise in the performance of its obligations under the Agreement, except as disclosed in writing to the Customer.

36.2 Conflict of Interest

- (a) The Contractor will not (and will ensure that Holding Company Members do not) enter into any arrangements (whether directly or indirectly) which would or could lead to any Conflicts of Interest. This includes any consulting, research or other services agreement between the Contractor or a Holding Company Member and a Media Supplier or Vendor, unless the Customer has authorised such arrangement in writing.
- (b) For each Media Plan, the Contractor Representative or their representative must confirm in writing that the Media Plan is free of undisclosed Conflicts of Interest.
- (c) If, during the performance of the Services a Conflict of Interest arises, or appears likely to arise, the Contractor must:
 - (i) notify the Customer immediately in writing;
 - (ii) make full disclosure of all relevant information relating to the Conflict of Interest; and
 - (iii) take such steps as the Customer requires to resolve or otherwise deal with the Conflict of Interest.
- (d) If the Customer provided any authorisation of a Conflict of Interest (whether on conditions or unconditionally), the Customer may withdraw its authorisation of the Conflict of Interest provided under clause 36.2(a) where, in the opinion of both the Customer and Finance, circumstances concerning the Conflict of Interest change.

36.3 Activities and interests

- (a) The Contractor must not, and must use its best endeavours to ensure that Contractor Personnel do not, engage in any activity or obtain any interest during the term of the Agreement that is likely to raise either a Conflict of Interest, or a risk of a Conflict of Interest, or otherwise conflict with or restrict the Contractor in providing the Services fairly and independently.

37. Warranties

37.1 Contractor warranties

The Contractor represents and warrants that:

- (a) it has the right to enter into the Agreement;
- (b) it has all rights, title, licences, interests and property necessary to lawfully perform the Services;
- (c) it and its Personnel have the necessary experience, skill, knowledge, expertise and competence to perform the Services and (where appropriate) will hold such licences, permits or registrations as are required under any State, Territory or Commonwealth legislation to perform the Services;
- (d) the Services will be fit for the purpose as set out in Schedule 1, the Media Instruction or any Media Booking Authority;
- (e) the Services will be complete and accurate;
- (f) any materials that the Contractor incorporates in the Services will be free from defects in design, performance and workmanship;
- (g) all work performed under the Agreement will be carried out and completed in a proper and professional manner and in the most cost-effective manner and using materials suitable for the purpose; and
- (h) if the Contractor is a trustee, it enters the Agreement personally and in its capacity as trustee and has the power to perform its obligations under the Agreement.

37.2 Commonwealth policy warranties

The Contractor represents and warrants that it is not and will not do anything to cause it to:

- (a) be named by the Director of the Workplace Gender Equality Agency in a report to the responsible Minister as an employer not complying with the *Workplace Gender Equality Act 2012* (Cth);
- (b) be named on the list of persons designated as terrorists for the purposes of the *Charter of United Nations (Dealing with Assets) Regulations 2008* (available at http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html); or
- (c) have any court judgments against it relating to employee entitlements that have not been paid in full by the Contractor (other than judgments that are under appeal).

38. Books and records

38.1 Contractor to keep books and records

The Contractor must:

- (a) keep and require its subcontractors to keep adequate books and records, in accordance with Accounting Standards, in sufficient detail to enable the amounts payable by the Customer under the Agreement to be determined; and
- (b) retain and require its subcontractors to retain for a period of seven years after the expiry or termination of the Agreement all books and records relating to the Services.

38.2 Archives requirements

- (a) The Contractor must, in the performance of its obligations under the Agreement, at all times comply with the requirements of the *Archives Act 1983* (**Archives Act**) and any Records Disposal Authority in respect of Commonwealth Records which are under the custody or control of the Contractor.
- (b) The Archives Act sets out the legislative requirements for access, preservation and transfer or proper destruction of Commonwealth Records. The Archives Act provides (among other things) that:
 - (i) a person must not transfer, or be a party to the transfer of a Commonwealth Record unless the transfer is authorised by the National Archives of Australia or is required under a mandatory provision of Law or is otherwise permitted under the Archives Act; and
 - (ii) the prior records of an organisation which are subsequently removed from the application of the Archives Act, remain subject to the Archives Act, unless specifically excluded from its operation.
- (c) The Contractor must:
 - (i) comply with any reasonable direction given by the Customer or the National Archives of Australia for the purpose of transferring Commonwealth Records to the National Archives of Australia or providing the National Archives of Australia with full and free access to those records; and
 - (ii) without limiting the other provisions of the Agreement, at all times:
 - (A) permit the Customer to access all Commonwealth Records in the Contractor's custody; and
 - (B) assist the Customer to comply with Laws providing for public access to Commonwealth Records. To avoid doubt, the Contractor will not be the entity providing public access to the Commonwealth Records.
- (d) In this clause, "**Commonwealth Records**" and "**Records Disposal Authority**" have the same meanings as in the Archives Act.

38.3 Costs

- (a) The Contractor must bear its own costs of complying with this clause 38.

38.4 Survival

- (a) This clause 38 applies for the term of the Agreement and for a period of seven years from the date of the conclusion of the delivery of the Services under this Agreement.

39. Audit and access

39.1 Right to conduct audits

- (a) The Customer or a representative may conduct audits relevant to the performance of the Contractor's obligations under the Agreement. Audits may be conducted of, but not limited to:
 - (i) the Contractor's operational practices and procedures as they relate to the Agreement, including security procedures;

- (ii) the accuracy and timeliness of the Contractor's invoices and reports in relation to the provision of the Services;
- (iii) the Contractor's compliance with its confidentiality, privacy and security obligations under the Agreement;
- (iv) Material (including books and records) in the possession of the Contractor relevant to the Services or the Agreement; and
- (v) any other matters determined by the Customer to be relevant to the Services or the Agreement.

39.2 Access by the Customer

- (a) The Customer may, at reasonable times and on giving reasonable notice to the Contractor:
 - (i) access the premises of the Contractor to the extent relevant to the performance of the Agreement;
 - (ii) require the provision by the Contractor, its employees, agents or subcontractors, of records and information in a data format and storage medium accessible by the Customer by use of the Customer's existing computer hardware and software;
 - (iii) inspect and copy documentation, books and records, however stored, in the custody or under the control of the Contractor, its employees, agents or subcontractors; and
 - (iv) require assistance in respect of any inquiry into or concerning the Services or the Agreement. For these purposes, an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to the Customer), any request for information directed to the Customer, and any inquiry conducted by the Australian Parliament or any Parliamentary Committee.
- (b) The Contractor must provide access to its computer hardware and software, including third party technologies and tools used to buy Biddable Digital Media and programmatic media, to the extent necessary for the Customer to exercise its rights under this clause 39, and provide the Customer with any reasonable assistance and training requested by the Customer to use that hardware and software.

39.3 Conduct of audit and access

The Customer must use reasonable endeavours to ensure that:

- (a) audits performed pursuant to clause 39.1; and
- (b) the exercise of the general rights granted by clause 39.2 by the Customer,

do not unreasonably delay or disrupt in any material respect the Contractor's performance of its obligations under the Agreement.

39.4 Costs

- (a) Except as set out in clause 39.4(b), each party must bear its own costs of any reviews and/or audits.

- (b) If an audit or review conducted pursuant to this clause 39 identifies a breach by the Contractor of the Agreement, the Customer may recover its costs of conducting that review or audit as a debt due from the Contractor.

39.5 Auditor-General, Information Commissioner and Privacy Commissioner

- (a) The rights of the Customer under clause 39.2(a)(i) to 39.2(a)(iii) apply equally to the Auditor-General or a delegate of the Auditor-General, the Information Commissioner or a delegate of the Information Commissioner or the Privacy Commissioner or a delegate of the Privacy Commissioner, for the purpose of performing the Auditor-General's, the Information Commissioner's or the Privacy Commissioner's respective functions or activities.

39.6 Contractor to comply with Auditor-General's, Information Commissioner's and Privacy Commissioner's requirements

- (a) The Contractor must do all things necessary to comply with the Auditor-General's, or Information Commissioner's or Privacy Commissioner's or his or her delegate's requirements, notified under clause 39.2, provided such requirements are legally enforceable and within the power of the Auditor-General, Information Commissioner or Privacy Commissioner's or his or her respective delegate.

39.7 No reduction in responsibility

- (a) The requirement for, and participation in, audits does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with the Agreement.

39.8 Subcontractor requirements

- (a) The Contractor must ensure that any subcontract entered into for the purpose of the Agreement contains an equivalent clause granting the rights specified in this clause 39.

39.9 No restriction

- (a) Nothing in the Agreement reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor-General or a delegate of the Auditor-General, the Information Commissioner or a delegate of the Information Commissioner or the Privacy Commissioner's or a delegate of the Privacy Commissioner. The rights of the Customer under the Agreement are in addition to any other power, right or entitlement of the Auditor-General or a delegate of the Auditor-General, the Information Commissioner or a delegate of the Information Commissioner or the Privacy Commissioner's or a delegate of the Privacy Commissioner.

39.10 Survival

- (a) This clause 39 applies for the term of the Agreement and for a period of seven years from the expiry or termination of the Agreement.

40. Freedom of information

- (a) If the Customer receives a request for access to a document created by, or in the possession of, the Contractor or any of its Personnel, the Customer may at any time by written Notice require the Contractor to provide the document to the Customer and the Contractor must, at no additional cost, promptly comply with the Notice.

- (b) The Contractor must include in any subcontract relating to the performance of the Agreement provisions that will enable the Contractor to comply with its obligations under this clause.
- (c) In this clause, “**document**” has the same meaning as in the *Freedom of Information Act 1982* (Cth).

41. No reliance

The Contractor:

- (a) acknowledges and agrees that there is no guaranteed amount of Services that will be ordered or required under this Deed;
- (b) acknowledges and agrees that any information or material made available by Finance to the Contractor for the purposes of the Approach to Market process or by the Customer to the Contractor for the purposes of entering into the Agreement (**Information**) may not be accurate or complete and that the Contractor is responsible for making its own enquiries for those purposes;
- (c) acknowledges and agrees that, in relation to any Information which relates to future matters, the Customer has taken no steps to verify that the Information is based on reasonable grounds, and no representation or warranty, expressed or implied, is made by the Customer or any of its Personnel that the Information in relation to those future matters is accurate or complete;
- (d) warrants that it has not, in deciding whether or not to enter into the Agreement, relied on any Information or representation (whether oral or in writing), other than as expressly set out in the Agreement, or any other conduct of the Customer or any of its Personnel; and
- (e) waives any right to make any claims in relation to any loss or damage suffered or incurred, whether directly or indirectly, arising out of or in connection with any use of or reliance on the Information.

42. Financial Undertaking and Parent Company Guarantee

42.1 Financial Undertaking

- (a) If required by Finance, the Contractor must provide an unconditional, irrevocable financial undertaking in the amount of \$750,000 (**Financial Undertaking**) within ten (10) Business Days of a request from Finance at any time during the Deed Period.
- (b) The Financial Undertaking must be:
 - (i) executed by a financial institution approved by Finance;
 - (ii) stamped (if required); and
 - (iii) materially in the form of the undertaking appearing at Schedule 14.
- (c) The purpose of a Financial Undertaking provided pursuant to clause 42.21 is to assist Finance in ensuring the due and proper performance by the Contractor of its obligations under this Deed and any Customer Contract.

- (d) Finance may (without reference to the Contractor) demand any sum under that Financial Undertaking from the financial institution referred to in the Financial Undertaking in respect of one or more of the following:
 - (i) amounts owed to Finance or any Customer by the Contractor;
 - (ii) damages suffered by Finance or any Customer (or Finance Personnel or Customer Personnel) as a result of a breach of this Deed or a Customer Contract by the Contractor (including termination of this Deed or a Customer Contract; and
 - (iii) any Loss suffered by Finance or any Customer (or Finance Personnel or Customer Personnel) in relation to this Deed or a Customer Contract (including under an indemnity).
- (e) The Financial Undertaking will be released by Finance when the Contractor has fulfilled all its obligations under this Deed and all Customer Contracts. For the avoidance of doubt, the Financial Undertaking will survive termination of this Deed for so long as Customer Contract is still in effect.

42.2 Parent Company Guarantee

- (a) Prior to the Commencement Date, on request from Finance, the Contractor must provide an undertaking from a parent company approved in writing by Finance, to be lodged with Finance, guaranteeing the performance of the Contractor's obligations under this Deed for the benefit of Finance and Participants. The guarantee provided must be substantially in the form appearing in Schedule 15.

Note to Tenderer:

Clause 42 will be drafted in more detail based on Finance's evaluation of the risk profile of the Preferred Tenderer's response to the RFT.

43. Notices and other communications

43.1 Service of Notices

- (a) A Notice must be in writing and given by:
 - (i) in the case of a Notice from the Contractor, the Contractor Representative or the Contractor's Contract Manager specified in clause 2.1(g) of Schedule 1;
 - (ii) in the case of a Notice from Finance, the Finance Representative or a person duly authorised by the Finance Representative; and
 - (iii) Customers other than Finance: the address notified by the Customer to the Contractor.

- (b) A Notice or other communication is properly given or served by a party if that party:
 - (i) delivers it by hand;
 - (ii) posts it; or
 - (iii) transmits it by electronic mail,

to the recipient's address for Notices specified in this clause 43.1(a) and as updated in accordance with clause 31.3 and marked for the attention of the person who at that

time is the Representative, in accordance with this Agreement or a Customer Contract, of the party intended to receive it.

43.2 Address for Notices

- (a) Finance's address for Notices is:

Method	Address
Hand	Department of Finance Assistant Secretary Procurement Management Branch Procurement and Insurance Division Commercial and Government Services Group 1 Canberra Avenue Forrest ACT 2603
Post	Department of Finance Assistant Secretary Procurement Management Branch Procurement and Insurance Division Commercial and Government Services Group 3 rd Floor North 1 Canberra Avenue Forrest ACT 2603
Electronic mail	advertising@finance.gov.au

- (i) The Contractor's address for Notices is:

Method	[Address XXXX]
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- (ii) The Customer's address for Notices will be as set out in the relevant Customer Contract, Media Booking Authority or Media Instruction.

43.3 Change of Address

- (a) Each party must notify the other party of any change in its address for Notices, or in the identity of its Representative.

43.4 Deemed Receipt

- (a) A Notice or other communication is deemed to be received:
- (i) if delivered by hand, on the date upon which it is delivered;
 - (ii) if correctly addressed to the address specified in this clause 41 and sent by post from and to an address within Australia, after three (3) Business Days;
 - (iii) if correctly addressed to the address specified in this clause 41 and sent by post from or to an address outside Australia, after ten (10) Business Days; or
 - (iv) if sent by electronic mail, only in the event that the other party acknowledges receipt by means other than an automated response.

44. Miscellaneous

44.1 Survival

The following clauses survive the expiry or termination of the Agreement:

- (a) clause 22 (Compliance with Laws and Policies);
- (b) clause 24 (Intellectual Property Rights);
- (c) clause 25 (Moral Rights);
- (d) clause 26 (Confidentiality);
- (e) clause 29 (Insurance and Risk Management);
- (f) clause 30 (Indemnity);
- (g) clause 32.6 (After termination);
- (h) clause 33.9 (Transition out);
- (i) clause 38 (Books and records); and
- (j) clause 39 (Audit and access).

44.2 Approvals and consents

- (a) Except where the Agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally, or withhold, any approval or consent under the Agreement.

44.3 Assignment and novation

- (a) The Contractor must not assign or novate its rights or obligations under the Agreement without the prior written consent of Finance.

44.4 No merger

- (a) The rights and obligations of the parties under the Agreement do not merge on completion of any transaction contemplated by the Agreement.

44.5 Entire agreement

- (a) The Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

44.6 Further action

- (a) Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to the Agreement and any transaction contemplated by it.

44.7 Severability

- (a) A term or part of a term of the Agreement that is illegal or unenforceable may be severed from the Agreement and the remaining terms or parts of the terms of the Agreement continue in force.

44.8 Waiver

Waiver of any provision of or right under the Agreement:

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

44.9 Relationship

- (a) The Contractor must not represent itself, and must ensure that its officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the Customer, or as otherwise able to bind or represent the Customer.
- (b) The Agreement does not create a relationship of employment, agency or partnership between the Contractor and the Customer.

44.10 Announcements

- (a) The Contractor or a Holding Company Member, together with their respective Personnel, must not make a public announcement, public disclosure or media release relating to or in connection with the Agreement or any transaction contemplated by it, without obtaining the Customer's prior written agreement to the announcement, public disclosure or media release, except if required by Law or a regulatory body (including a relevant stock exchange).
- (b) If the Contractor or a Holding Company Member is required by Law or a regulatory body to make a public announcement in connection with the Agreement or any transaction contemplated by the Agreement, the Contractor or a Holding Company Member must, to the extent practicable, first consult with and take into account the reasonable requirements of the Customer.

44.11 Governing law and jurisdiction

- (a) The Agreement is governed by the law of the Australian Capital Territory and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that jurisdiction.

44.12 Costs, duties and taxes

- (a) Each party must pay its own costs of negotiating, preparing and executing the Agreement.
- (b) The Contractor must pay:
 - (i) all stamp duty (including penalties and interest) assessed or payable in respect of the Agreement and the undertaking of the Services; and
 - (ii) subject to clause 28, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of the Agreement.

44.13 Counterparts

- (a) The Agreement may be executed in counterparts. All executed counterparts constitute one document.

44.14 Ownership of Deed

- (a) All copyright and other intellectual property rights contained in the Agreement remain the property of Finance.

DRAFT

Signing page

EXECUTED as a deed.

Signed for and on behalf of the
**Commonwealth of Australia, as
represented by the Department of
Finance** by its duly authorised
representative in the presence of

←	←
_____ Signature of witness	_____ Signature of representative
_____ Name of witness (print)	_____ Name of representative (print)
	_____ Position of representative (print)

Date:

Executed by [insert Contractor name] in
accordance with section 127 of the
Corporations Act 2001

←	←
_____ Signature of director	_____ Signature of director / company secretary
_____ Name of director	_____ Name of director / company secretary

Date:

Schedule 1 – Statement of Requirement

Note to Tenderer:

In accordance with clause 13.3 of this Deed, Finance does not guarantee or make any assurance that any Advertising Services or any particular volume of Advertising Services will be required from the Contractor under the Deed.

This Statement of Requirement (**SOR**) will form Schedule 1 to this draft Deed. Unless otherwise indicated, defined terms in the SOR have the same meaning as the definitions in clause 1.1 of the Deed.

Notwithstanding the use of "must" in this SOR, none of the requirements in this SOR are conditions for participation or mandatory requirements for the purposes of the RFT.

The term "Participant" refers to the organisations that are eligible to request Advertising Services (as defined in the Deed), and also includes any Customers who have requested Advertising Services from the Contractor.

This Schedule may be updated and changed based on a Tenderer's response to the RFT.

1. INTRODUCTION

1.1 Objectives

- (a) The Australian Government's objectives for the WoAG advertising arrangement are to:
 - (i) establish a dynamic, innovative and flexible arrangement that provides the Australian Government with, and meets the business needs of Participants for, highly effective, value for money advertising services;
 - (ii) secure optimal media discounts on Commonwealth-wide media rates by consolidating government advertising expenditure and buying power;
 - (iii) incorporate media planning and placement, and media industry knowledge and expertise to the Australian Government advertising activities through the Deed;
 - (iv) reduce Participants' procurement costs by having one Master Media Agency Services Deed and avoiding the need for Participants to set up and manage their own media procurement processes;
 - (v) drive efficiencies through the implementation of evidence based Campaign and Non-Campaign policies, by using advertising data to inform Government's decisions; and
 - (vi) establish an arrangement that facilitates compliance with government laws and policy by the Contractor and Participants.
- (b) The Contractor must contribute to these objectives throughout the Deed Period by:
 - (i) recognising the need for consistent delivery of high quality Services across all Participants, and tailoring the Services where appropriate (and in accordance with the Deed) to suit the specific needs of particular Participants;
 - (ii) providing Finance full transparency of pricing, including any Rebates and Incentives received by the Contractor as part of the Australian Government's advertising arrangement;
 - (iii) maintaining open and effective communication with Finance, as the contract manager, and with Participants as the prospective recipients of the Advertising Services; and
 - (iv) representing the Australian Government's interests and objectives when performing the Services.
- (c) The Contractor must support Finance and Participant initiatives in relation to the Services, in respect of:
 - (i) improving and streamlining its business processes;
 - (ii) maintaining the Services relevant throughout the Deed Period;
 - (iii) adopting and adapting emerging technologies to drive Service improvements and efficiencies; and
 - (iv) providing real time, accurate, consistent, complete and reliable reports and data on advertising expenditure and other requirements as set out in this SOR.

1.2 Acting in the Commonwealth's Interest

- (a) The Contractor must act free from improper influence and in the best interests of Finance, Participants and the Commonwealth in performing the Services. For avoidance of doubt, in performing the Services, the Contractor must not give preference to the interests of any party other than Finance or Participants.
- (b) The Contractor must disclose to Finance, on an ongoing basis, any Rebates and Incentives received by the Contractor, in accordance with clause 10 of the Deed.
- (c) The Contractor must annually review the Additional Advertising Fee for Services on the anniversary of the Services Commencement Date to ensure these continue to represent value for money over the Deed Period.
- (d) In addition to the Contractor's obligations under clauses 9.1(d) and 9.1(e), the Contractor must disclose to Finance the outcome from its annual review of the Additional Advertising Fee for Services. Finance may independently benchmark Additional Advertising Fee for Services in determining whether these continue to represent value for money.

1.3 Relevant Services

- (a) The Contractor must work with Finance and Participants, and other providers to Finance and Participants, to ensure the Services remain current and relevant during the Deed Period. This includes adapting the Services to embrace and offer new Media and services to Finance and Participants.

1.4 Quality and Innovation

- (a) The Contractor must contribute to and support quality and innovation for the Services, by:
 - (i) maintaining and implementing appropriate quality assurance processes and practices to ensure:
 - (A) consistency of the quality of Advertising Services across all Participants; and
 - (B) the Contractor's processes reflect industry best practice.
 - (ii) identifying, recommending and implementing process improvements to achieve effectiveness and efficiencies in Service delivery;
 - (iii) adopting current and emerging technologies to increase efficiencies and effectiveness, and quality reporting;
 - (iv) adopting the use of performance measurement techniques and tools to maximise advertising efficiencies and improve effectiveness;
 - (v) adopting technology to deliver communication, training and seminars to Participants;
 - (vi) adopting technology to deliver accurate, complete, consistent, transparent and, where possible, independent data on Services to Finance and Participants, and reduce Contractor's rework and resource inefficiencies;
 - (vii) bringing innovative approaches and products relevant to the continuous improvement of the Advertising Services; and

- (viii) reducing the cost of advertising by advising Participants and Finance where potential for better practice exists or is identified in relation to the Advertising Services.
- (b) The Contractor must consider any suggestions or recommendations it receives from Finance or a Participant in relation to how the Services may be improved and that it will use its best efforts to effect any changes if it is reasonable and practicable to do so.

1.5 Facilitating Compliance with Government Policy

- (a) In addition to the Contractor's obligations under clause 22 of the Deed, Contractor Personnel (including subcontractors) must be familiar with, legislation and government policies related to the delivery of the Services.
- (b) The Contractor must assist Finance in administering, and assist relevant Customers in complying with, legislation and government policies related to the delivery of the Services, including the:
 - (i) *Guidelines on Information and Advertising Campaigns by non-corporate Commonwealth Entities* (as published by Finance at www.finance.gov.au/advertising/campaign-advertising/guidelines/);
 - (ii) *Recruitment Advertising Policy (November 2016)* (as published by Finance at <http://www.finance.gov.au/advertising/recruitment-advertising-policy/>);
 - (iii) *Restrictions on Advertising for Open Approaches to Market (ATMs) in the Media Policy (November 2016)* (as published by Finance at <http://www.finance.gov.au/advertising/tender-advertising-policy/>);
 - (iv) *Commonwealth Electoral Act 1918 (Cth)*;
 - (v) *Broadcasting Services Act 1992 (Cth)*; and
 - (vi) any other relevant legislation, policy, guidelines, guidance or requirements advised by Finance.

Note to Tenderer:

Appendix D - Due Diligence Information contains additional information on the policies listed above.

- (a) To assist Participants' compliance with relevant policy and guidelines, the Contractor must, where the Contractor becomes aware of an issue of concern regarding compliance with policy or guidelines, advise the Participant of the compliance issue and request that the Participant seek advice from Finance.
- (b) If and as required by Finance, the Contractor must assist Finance in refining user guides or policies relating to Campaign, Recruitment, Public Notice and Tender Notice advertising.

1.6 Categories of Service

- (a) The Services to be provided by the Contractor are broadly categorised as:
 - (i) Management Services as described in clause 2 of this Schedule 1;
 - (ii) Advertising Services (if required by a Participant in accordance with clause 13 of the Deed), which may include the following:

- (A) Core Advertising Services as described in clause 3.3 to clause 3.12 of this Schedule 1; and
 - (B) Additional Advertising Services as described in clause 4 of this Schedule 1 (at a Participant's request).
- (b) The Contractor acknowledges that the description of the activities, products, materials, items and services in this Schedule 1 may not be a complete list of activities, products, materials, items and services required for the Contractor to properly provide the Services. The Contractor agrees that it will carry out and provide such other activities, products, materials, items and services that are incidental to the provision of the Services or that are necessary to effect the proper provision of the Services.

2. MANAGEMENT SERVICES

2.1 Account and Contract Management Service Team

- (a) In addition to clause 18.4 of the Deed, the Contractor must ensure that its Personnel (including any subcontractors) providing Services:
 - (i) are fully acquainted with the relevant provisions of the Deed;
 - (ii) are adequately trained; and
 - (iii) have the requisite skills and experience.
- (b) The Contractor must make available a dedicated account and contract management service team to Finance and Participants, in accordance with Schedule 4. The Contractor's account and contract management service team must be familiar with the Services available under the Deed as well as the guidelines and policies governing Australian Government advertising (including those policies set out at clause (a) of this Schedule 1).
- (c) The Contractor must establish and maintain processes and procedures to ensure the efficient and effective delivery of the Services, including identifying points of contact for delivering Advertising Services during Business Hours and for actioning urgent Customer requests outside Business Hours (e.g. pausing or cancelling a media booking).
- (d) The Contractor must, wherever possible, ensure the account and contract management service team works exclusively on Australian Government advertising.
- (e) The Contractor must disclose to Finance whether any of the account and contract management service team servicing the Australian Government advertising, also services other clients of the Contractor and the reasons for this.
- (f) The Contractor must deliver a report to Finance (**Contractor's Resourcing Report**) identifying:
 - (i) the time and effort spent by the account and contract management service team to delivering the Services; and
 - (ii) whether any of the account and contract management service team servicing the Australian Government advertising also services other clients of the Contractor.
- (g) The Contractor's nominated principal contact for contract management (**Contractor's Contract Manager**) responsible for the day-to-day operations of this Agreement is identified in Schedule 4.

Note to Tenderer:

It is not a requirement for all or the majority of Contractor Personnel to be located in Canberra to deliver the Services. Tenderers must ensure that, in developing a Service delivery model, there are sufficiently skilled and experienced Contractor Personnel available to deliver the Services for the large number of Participants placing their advertising through the Central Advertising System, including those identified in Appendix D to the RFT (Due Diligence Information).

2.2 Issues Resolution

- (a) If a Customer makes a complaint or raises an operational issue with the Contractor, in the first instance, the Contractor must work to resolve the complaint or operational

- issue with that Customer, promptly and without delay, and within a reasonable timeframe as agreed between the parties.
- (b) If the Contractor is unable to resolve a complaint or operational dispute with a Customer, the Contractor or the Customer may request that Finance intervenes to assist in resolving the complaint.
 - (c) Finance may request that the Contractor take such steps as are reasonably necessary to resolve the issue with the Customer. Finance will have appropriate regard to any issues or concerns raised by the Contractor and the Customer.
 - (d) Where Finance raises concerns with the Contractor as to the quality or application of Services under this Deed, the Contractor must take all reasonable measures necessary to resolve the concerns to Finance's satisfaction, promptly and without delay.
 - (e) Where an issue cannot be resolved by the Customer Representative, the Finance Representative and the Contractor Representative, the Customer, Finance or the Contractor may refer the issue to the dispute resolution process outlined in clause 32.7.

2.3 General Liaison

- (a) The Contractor must ensure that the Contractor's Personnel, as reasonably required by Finance or a Customer, are available to attend meetings and answer any queries relating to the provision of the Services.
- (b) If requested, the Contractor must provide (and update, where relevant) a Service Delivery Plan for individual Customers, detailing the Contractor Personnel partially or wholly allocated to the Customer, the agreed meeting and reporting requirements for the Customer, the tools, processes and standards to be used for the Customer and any other information relevant to the delivery of Services to the Customer. The Service Delivery Plan will be in the form of Schedule 16 with a current copy of each Service Delivery Plan provided to Finance by the Contractor.
- (c) The Contractor must establish and maintain procedures to receive complaints from Customers and resolve complaints to Finance or a Customer's satisfaction, within agreed timeframes. These procedures must be accessible to Customers via the Online Management System specified in clause 2.18 and through any other online means agreed with Finance.
- (d) The Contractor must maintain a complaints and compliments register in a format agreed with Finance (**Feedback Register**), and deliver the Feedback Register to Finance monthly or as requested by Finance.

2.4 Service Request System

- (a) The Contractor must have suitable facilities and process in place to enable Participants to order Services via:
 - (i) an Online Management System;
 - (ii) a dedicated telephone number;
 - (iii) a dedicated email-based system; and
 - (iv) Contractor Personnel available outside Business Hours for urgent Service requests.

- (b) The dedicated telephone and email ordering facilities must be available during Business Hours.
- (c) In accordance with clause 13.1, the Contractor must provide the Participant with written acknowledgement of a request for Service within one (1) Business Day of receipt of the request.

2.5 Training for Participants

- (a) The Contractor must develop and maintain a user guide for Participants outlining the Contractor's role as the master media agency for Advertising Services, how Participants can engage the Contractor for Advertising Services, and describing the Contractor's processes for delivering the Advertising Services.
- (b) The Contractor must provide regular induction training to Participants, or as requested by a Participant. This may include a presentation/discussion/video outlining the Contractor's role as the master media agency for Advertising Services and how to engage the Contractor for Advertising Services (including educating new Participant staff, following a reasonable requests from the Participant), supported by Contractor's developed user guide and published resources as appropriate.
- (c) The Contractor must provide updates on the Advertising Services, through the use of forums and meetings, to Participants on relevant issues, including market intelligence, and developments and trends in the media industry.

Note to Tenderer:

Clause 2.4 will be drafted in more detail based on the Tenderer's response to the RFT.

2.6 Media Seminars

- (a) The Contractor must provide a seminar program comprising between four (4) to six (6) seminars per year (or as otherwise agreed by Finance), typically in Canberra, covering media-related topics relevant to all types of Advertising Services, including:
 - (i) media consumption trends;
 - (ii) government media case studies;
 - (iii) media updates, including new and emerging media; and
 - (iv) new performance measurement technologies.
- (b) The Contractor must make available seminar information to Participants based in cities other than Canberra by electronic means (e.g. via webinar, video recording, telepresence or distribution of the Contractor's presentation with comprehensive notes).

2.7 Campaign Work In Progress Report and Meetings

- (c) Unless otherwise advised by Finance, the Contractor must provide Finance with a fortnightly report on the status of government campaign advertisements over the past fortnight, including action items and issues related to Customers (**Campaign Status Report**).
- (d) The Contractor must participate in fortnightly meetings (**Campaign Status Meetings**) with Finance to discuss Campaigns in progress, including the:
 - (i) Campaign Status Report (clause 15 of Appendix 2 to this Schedule 1);
 - (ii) reporting required under the Deed;

- (iii) report on any delete and charge amounts (if applicable);
 - (iv) seminar program; and
 - (v) other emerging Campaign delivery issues.
- (e) Unless otherwise agreed by Finance, the Contractor must ensure that relevant Contractor Personnel participate in Campaign Status Meetings.

2.8 Contract Management Meetings

- (a) Unless otherwise advised by Finance, the Contractor must participate in:
- (i) fortnightly contract management meetings to progress contract management aspects of the Deed of an operational nature; and
 - (ii) quarterly (3 monthly) deed management meetings (**Deed Management Meetings**). During the first six (6) months of the Initial Deed Period, Finance may require the Contractor to attend and participate in monthly Deed Management Meetings.
- (b) At the Deed Management Meetings, the Contractor must provide a review of the Contractor's performance and operation of the Services under the Deed, including:
- (i) the extent to which the Contractor is contributing to the objectives, and meeting the requirements of the Deed;
 - (ii) the Contractor's performance against the Service Levels in Schedule 3;
 - (iii) an overview of unresolved complaints or issues raised by Customers, together with any actions taken by the Contractor to resolve those complaints and issue, including any actions taken to prevent the complaints and issues from reoccurring;
 - (iv) compliance issues that have arisen in relation to government advertising policy;
 - (v) opportunities to achieve cost and process efficiencies in the delivery of the Services;
 - (vi) Rebates and Incentives achieved during the reporting period;
 - (vii) reporting on Contractor's financial and operational performance including anticipated changes to Contractor Personnel;
 - (viii) a schedule of forums, seminars, and training for the upcoming quarter; and
 - (ix) any additional topics as requested by Finance.
- (c) The Contractor must, at least ten (10) Business Days prior to the date of each Deed Management Meeting, provide to Finance a report including data and analysis in respect of the requirements listed under clause 2.8(b).
- (d) The Contractor must prepare and provide to Finance, within three (3) Business Days after the Deed Management Meetings, a list of action items arising out of each Deed Management Meeting.
- (e) The Deed Management Meetings will take place face to face or via the use of technology such as teleconferencing or videoconferencing, at a time and location to be agreed between Finance and the Contractor. Unless otherwise agreed by Finance, the Contractor must ensure that relevant Contractor Personnel attend the Deed Management Meetings.

- (f) Finance may invite Customer(s) to Deed Management Meetings.

2.9 Review Body

- (a) The Contractor must attend meetings of, and provide expert advice to, any Review Body, as requested by Finance, on matters relating to the Contractor's scope of work. If required to attend, the Contractor must be represented by relevant Contractor Personnel as requested by Finance.

2.10 Parliamentary and Committee Requests

- (b) The Contractor must respond promptly, through Finance, to requests from:
 - (i) the Commonwealth Parliament;
 - (ii) a Committee of the Parliament;
 - (iii) a Commonwealth Minister;
 - (iv) the Commonwealth Auditor-General; or
 - (v) other person or body specified by Finance;

for information relating to the Services or the Agreement.

Customer Satisfaction Survey

2.11 Customer Satisfaction Survey

- (a) Finance will undertake Customer Satisfaction Surveys (designed in consultation with the Contractor) where Finance can assess the Contractor's performance of the Services during the previous financial year.
- (b) Finance may share the results of the Customer Satisfaction Survey with Participants.
- (c) The Contractor can undertake its own survey of Customers from time to time. If so, the Contractor must consult with Finance on the form and content of the survey and will accommodate any reasonable requests from Finance to gather feedback on any specific issues relevant to the provision of the Services.
- (d) The Contractor must provide the results of any surveys to Finance in full.
- (e) The Contractor may also provide feedback to Participants, where agreed by Finance, on the findings of surveys including through:
 - (i) forums;
 - (ii) newsletters;
 - (iii) the Online Management System;
 - (iv) reports or briefing papers;
 - (v) meetings between Finance or Participants and the Contractor Personnel specifically assigned to liaise with them; and
 - (vi) presentations.

Negotiation of Media Rates and Trading Terms

Note to Tenderer:

The Due Diligence Information contains an overview of the rates negotiation process.

2.12 Rates Negotiations

- (a) The Contractor must, on a yearly basis and in conjunction with Finance, negotiate media rates and trading terms for all forms of advertising in all Australian states and territories, with Media Suppliers, as requested by Finance.
- (b) In undertaking the rates negotiations, the Contractor must, among other things:
 - (i) detail, agree and manage the negotiation timeline and strategy with Finance, including provide evidence to support options and negotiation strategies;
 - (ii) conduct an industry briefing, in consultation with Finance, to establish expectations and detail the process for the rates negotiations with Media Suppliers;
 - (iii) conduct negotiations with Media Suppliers in a rigorous and transparent manner, with participation by Finance at Finance's absolute discretion; and
 - (iv) document and make available to Finance the outcome of negotiations with Media Suppliers, along with necessary documentation to support Finance's consideration and approval.
- (c) During rates negotiations, the Contractor must include necessary conditions in trading agreements with Media Suppliers to ensure that Media Suppliers:
 - (i) provide a full credit or remittance for any advertising that has been moved without prior notification;
 - (ii) provide an appropriate credit or remittance where advertising is moved with notification before appearance;
 - (iii) do not charge and provide compensation where incorrect material has been placed;
 - (iv) do not charge for placements which do not appear;
 - (v) do not provide invoices for advertising more than six (6) months after the end of the month in which the advertising appeared;
 - (vi) allow for the cancellation of booked media at any time in the case of a federal general election, referendum, plebiscite, by-election or state or territory general election without financial consequences; and
 - (vii) establish and maintain appropriate measures to ensure that Finance and Customers' requirements in relation to brand safety, viewability, ad fraud, geo-compliance and anything else deemed relevant by Finance are met.
- (d) The Contractor must ensure that any trading agreements established with Media Suppliers do not conflict with the terms and conditions of the Deed, including the need for transparent disclosure of Rebates and Incentives in accordance with clause 10 of this Agreement.
- (e) Finance may commission independent audits to verify the rate negotiation outcomes. If such an audit reveals that media rates negotiated by the Contractor for the benefit of the Commonwealth do not reflect expected discounts, Finance may direct the Contractor to enter into further negotiations with the Media Suppliers.

- (f) For the avoidance of doubt, the Contractor acknowledges that the negotiated media rates continue to remain for the benefit of the Commonwealth Government (acting through Finance) after the expiry or termination of the Deed.

2.13 Application of Media Rates

- (a) After finalisation of the rates negotiations, the Contractor must apply the Australian Government Media Rates, or lower media rates subject to clause 2.13(b), to all relevant Advertising Services in the timeframes agreed with Finance under clause 2.12 of this Schedule 1. The Contractor must ensure that its planning and booking systems and templates are updated to reflect the Australian Government Media Rates and must ensure the correct rates are applied to media costings, bookings and invoices.
- (b) The Contractor may undertake further negotiation with Media Suppliers at the time of placement.

2.14 Media Rate Cards

- (a) The Contractor must compile and issue to Finance complete and accurate copies of media rate cards, including circulation, readership, distribution, specifications, publication dates, booking and material deadlines, and other information, as appropriate.
- (b) These materials are to be updated and supplied at least five (5) Business Days prior to commencement of the relevant media rates period, or as agreed with Finance.

Information Management

2.15 Information Systems and Records

- (a) The Contractor must ensure that, where requested by Finance or a Customer, the Contractor is able to combine information from various systems dedicated to particular stages of an advertisement's life-cycle, including but not limited to placed, booked, placed and invoiced advertising.
- (b) The Contractor must establish and maintain appropriate records, transactions, information and invoice details to allow the reporting and invoicing of all activities and relevant issues related to the Services.
- (c) The Contractor must ensure the systems and data are kept up-to-date and accurate at all times. The Contractor must investigate and correct any errors in reports or underlying data promptly upon identification by the Contractor, Finance or a Customer.

2.16 Reporting and Data Specification

- (a) The Contractor must provide the reports and data specified in Appendix 2 to this Schedule 1, Reporting and Data Specification. The Contractor must also provide other specific reports reasonably requested by Finance or a Participant from time to time.
- (b) The Contractor must provide reports by electronic means and the Online Management System, unless reasonably requested otherwise by Finance or a Participant.

2.17 Online Management System: General Requirements

Note to Tenderer:

Clauses 2.17, 2.18 and 2.19 of this Schedule 1 will be drafted in more detail based on the successful Tenderer's response to the ATM.

Online Management System requirements in clauses 2.17 and 2.18 have a higher level of priority than those specified in clause 2.19 of Schedule 1.

- (c) The Contractor must provide and maintain a secure Online Management System that:
- (i) provides Finance and Participants with access to up-to-date and historical Campaign and complex Non-Campaign documents (Media Brief, Media Strategy, Media Plan, Media Booking Authority, Media Performance Report, etc.) and reports and data in accordance with Appendix 2 to this Schedule 1;
 - (ii) is assessed and certified against the Australian Government policies and guidelines described in clause 27.1 of the Deed by an Information Security Registered Assessors Program (IRAP) assessor (more information about IRAP assessments is available at www.asd.gov.au/infosec/irap);
 - (iii) remains IRAP-accredited during the Deed Period;
 - (iv) is made available to Finance and Participants 24 hours a day, seven days a week, with the exception of agreed scheduled maintenance periods, for the duration of the Deed Period and the Transition Out Period;
 - (v) provides access to an audit trail of system activity, including users that have logged on and downloaded files from the Online Management System; and
 - (vi) provides a search functionality that enables to easily search and retrieve documents and files uploaded by the Contractor on the Online Management System. The search functionality must be allowed by job number, advertising type, Customer's name, contact person, etc.

2.18 Online Management System: Participant's Access

- (a) In addition to the requirements in clause 2.17, the Online Management System must provide the following to Participants:
- (i) enable the end-to-end workflow management of the advertising process, from the placement of a Media Instruction, approval of the Media Strategy, Media Plan and Media Booking Authority, to the access of invoices and reports by Participants and Finance;
 - (ii) provides Participants access to up-to-date and historical reports and data in accordance with Appendix 2 to this Schedule 1;
 - (iii) the ability to create a request for a cost estimate without raising a booking or a job reference number, and maintain an audit trail of the Contractor's developed cost estimate;
 - (iv) enable the transmission of media briefs, media strategies, plans and media booking authorities and proposals as attachments back to the Participants allowing them to approve or request further revisions;
 - (v) the ability to attach files for the review, attention and action of the Contractor, such as media briefs and Customer's approved media booking authorities;
 - (vi) the ability to include Customer's feedback to the Contractor and make this feedback available within the Online Management System to all Customers authorised by the Customer Representative to access advertising information for their entity;
 - (vii) up-to-date Customers' media strategies, media plans and media booking authorities within [Note: Tenderer to confirm in their RFT response] hours of development;

- (viii) the ability to prompt Customers requiring purchase order numbers to supply this at various points in the process;
- (ix) access to update contact details (telephone, email addresses) of the Contractor's account and contract management service team and related account management service contact details (e.g. contacts for verification, billing/invoicing and remittance enquiries, complaint escalation, etc.);
- (x) access to invoices issued and summary/reconciliation statement(s) issued monthly to Customers;
- (xi) a single sign-on per Customer, allowing the Customer to access the full scope of functionality without logging out and needing to log back in;
- (xii) the ability to oversee the status of a request for Service and tasks (open, in progress and completed) and the Contractor's or Customer's Personnel responsible for actioning the request or task;
- (xiii) access to Contractor's developed educational materials including:
 - (A) an up to date Participant's user guide developed by the Contractor for Participants, in accordance with clause 2.5(a);
 - (B) an Online Management System's user guide (used by the Customer and containing information on how to use the Online Management System and protocols for obtaining levels of access);
 - (C) accurate and up-to-date media reference data where applicable stored with information on deadlines, specifications, circulation and distribution areas and other demographics
 - (D) a summary of the Additional Advertising Fees that may be applicable under clause 4 of Schedule 1;
 - (E) links to relevant policies and circulars as requested by Finance;
 - (F) seminar information developed by the Contractors as per clause 2.6;
 - (G) frequently asked questions;
 - (H) advertising and media terminology guide(s) developed by the Contractor; and
 - (I) advertising and templates to be used for the purposes of the Deed.
- (xiv) a description of the Contractor's complaint management process, and Contractor's contact details for complaint escalation;
- (xv) the ability to enable Customer Representatives to:
 - (A) oversee the status of a request for Service and tasks (open, in progress and completed) and the Contractor's or Customer's Personnel responsible for actioning the request or task;
 - (B) assign or reassign a request for Service and tasks to Customer's Personnel, and if reassigning a task, include commentary and/or files for users attention;
 - (C) approve or reject changes to a request for Service and tasks; and
 - (D) include additional approvers at the Customer's entity.

- (b) The Contractor must encourage Customers to use the Online Management System.

2.19 Online Management System: Transactional Non-Campaign Advertising

- (a) The Online Management System must:
 - (i) allow Customers to create Non-Campaign orders based on their requirements, including:
 - (A) template option - where Customers can build a Non-Campaign advertisement directly on the system themselves using pre-approved and created textual templates and artwork; or
 - (B) designed in studio option - where Customers can request a Non-Campaign advertisement be designed in-studio by the Contractor, for example where artwork needs to be created or to place a lineage placement, radio or online advertisement that is not readily available as a template;
 - (C) proofing and approval of the Non-Campaign template and designed in-studio typeset advertisements;
 - (D) online submission and approval of Non-Campaign proofs as part of the approval process; allowing approvers to view the proof and either confirm or reject the advertisement;
 - (E) storage of work in progress for Non-Campaign advertisements, should the Customer particularly complete work on an advertisement, log out of the system and then return wishing to continue work on the advertisement; and
 - (F) ability for Customers to search and retrieve deleted jobs or files and reinstate them; and
 - (G) storage and retrieval of tear sheets and other evidence that the advertisements appeared in the media as per the agreed costing and media plan.

3. ADVERTISING SERVICES

3.1 Overview of Advertising Services

- (a) The Contractor offers to supply the Advertising Services to Participants, on the terms and conditions set out in clause 13 of this Deed.
- (b) If requested by a Participant, the Contractor must supply the Advertising Services to the Participant in accordance with the Customer Specific Advertising Requirements and specific policies of that Participant (where provided by the Participant and to the extent that those policies are not inconsistent with the Deed).
- (c) The Contractor must provide advice to Participants as to the best value for money approach to effectively meet the Participants advertising requirements.
- (d) Finance may at any time elect to enter into direct arrangements with Third Party Suppliers for the delivery of certain Advertising Services, including without limitation, technology platforms (demand-side platforms, supply-side platforms, trading desks, ad exchanges, re-targeting companies, advertising networks), and technical service providers (providers of ad serving/delivery, ad tracking, listening and community management tools and other technology/technical services).
- (e) Finance may require the Contractor to cease delivery of certain Advertising Services where Finance has entered into direct arrangements pursuant to clause 3.1(d).

3.2 Types and Complexity of Advertising

- (a) The Contractor must provide Advertising Services when required by a Participant, for the following types of advertising:
 - (i) Campaign; and
 - (ii) Non-Campaign:
 - (A) Recruitment;
 - (B) Public Notice; and
 - (C) Tender Notice.
- (b) Definitions for the types of advertising outlined above, and the level of complexity for Recruitment and Public Notice are set out in Appendix 1 to this Schedule 1. The Contractor must seek advice from Finance where there is ambiguity about which definition applies.
- (c) Campaign and complex Non-Campaign advertising require the Contractor to implement the same advertising process and provide the same Deliverables. If a Customer issues the Contractor a Media Instruction in accordance with clause 13.1(b), the Contractor must deliver Services in accordance with clauses 3.3 and 3.12, including a Media Strategy, Media Plan and Media Performance Report, unless otherwise indicated in writing by the Customer.

3.3 Media Planning

Note to Tenderer:

Due to the nature of a Participant's policy development and implementation planning environment, the Contractor may be required to prepare multiple costings, media strategies, media plans, etc., for a proposed Campaign or complex Non-Campaign activity over a period of time.

- (a) The Contractor must provide media planning advice and services to Customers, for advertising to reach relevant target audiences, including any disadvantaged individuals or groups (**Special Audiences**).
- (b) Special Audiences include:
 - (i) people from culturally and linguistically diverse backgrounds;
 - (ii) Indigenous Australians;
 - (iii) people in regional, rural and remote Australia;
 - (iv) people with disability, including those who are blind or vision-impaired; and
 - (v) any other target audience specified by the Customer.
- (c) The Contractor must provide evidence-based advice to the Customer as to the best value for money approach to efficiently and effectively meet its objectives, including advice on relevant key performance indicators (**KPIs**) to be used to measure, optimise and report advertising performance. The Contractor's advice should be informed, wherever possible, by contemporary analysis and/or research.
- (d) In the formative stages of advertising development, the Contractor must, if requested by a Customer, provide expert advice and a cost estimate to inform the establishment of Customers' media budgets.
- (e) The Contractor must deliver subsequent media planning services required by Customers. For Campaign and complex Non-Campaign advertising, the Contractor must deliver:
 - (i) media strategies, informed by the analysis of target audience and detailing the Contractor's recommended strategic approach and media rationale for achieving the communication objectives; and
 - (ii) Media Plans with an appropriate level of detail, including the split of recommended expenditure by media and media sub-types, proposed weights, flighting, commercial length and/or size, copy splits, environment and proposed costs by media and sub-type.
- (f) For less complex Non-Campaign Advertising, the Contractor must deliver quotations within one (1) Business Day of receiving a request by the Customer.
- (g) The Contractor must deliver media strategies, Media Plans and quotations within the timeframes specified in Table 1.

Table 1

Advertising Type	Deliverable	Delivery Timeframe
Campaign	Costing of Media	Within three (3) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.
	Media Strategy	Within ten (10) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.
	Media Plan	Within ten (10) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.
Complex Non-Campaign	Costing of Media	Within two (2) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.
	Media Strategy	Within three (3) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.
	Media Plan	Within three (3) Business Days after receiving a Media Instruction, or as otherwise agreed by the Customer.

- (h) The Contractor must not provide media planning services until the Contractor has received a Media Instruction from the Customer, which must be in the form of a Media Brief for Campaign or complex Non-Campaign advertising.
- (i) The Contractor must work with the Customer to refine the Media Brief, where necessary.
- (j) The Contractor must, having regard to audience movements or any other changes identified prior to finalisation of the Media Plan, revise its approach to meet the communication objectives of the Customer.
- (k) Media Plans must reflect the Australian Government Media Rates and, where relevant, account for potential increases as part of the annual rate negotiations with Media Suppliers. The Contractor must provide an updated Media Plan once those rate negotiations are completed.
- (l) Media Brief and Media Plan templates are included at Schedule 5 and Schedule 6 to this Deed.

3.4 Media Buying

- (a) The Contractor must not book any advertising until the Customer has provided an approved Media Booking Authority to the Contractor for the placement of that advertising. Any bookings made by the Contractor prior to receiving an approved Media Booking Authority are at the Contractor's own financial risk.

- (b) The Contractor must provide Media Placement services (including Job Posting and Promoted Posts) to the Customer in accordance with the Media Plan and the relevant Media Booking Authority approved by the Customer.
- (c) The Contractor must seek further approval from the Customer where changes to the Customer approved Media Plan or Media Booking Authority are recommended by the Contractor and are likely to significantly impact the performance or the end date of a Campaign or complex Non-Campaign activity.
- (d) For Campaign and complex Non-Campaign Advertising, immediately following the Contractor's booking and prior to the launch of Campaign and complex Non-Campaign advertising, the Contractor must provide to the Customer a buy summary which:
 - (i) details the key elements and expectations of the advertising;
 - (ii) clarifies the final anticipated cost of the booked advertising in comparison to the budget in the Media Brief or as subsequently revised in correspondence with the Contractor; and
 - (iii) identifies the buying highlights and market conditions that may affect the performance of the advertising.

Note to Tenderer:

Finance anticipates that the following services will be remunerated through the Retainer identified in clause 2.2 of Schedule 2 to the draft Deed: Job Posting, Promote Posts, search engine marketing, ad serving and the procurement of all digital media procured through programmatic trading.

Finance anticipates that any technology costs associated with the delivery of these services will be charged to Customers 'at cost'.

3.5 Rebates and Incentives (Added Value)

- (a) The Contractor must:
 - (i) negotiate with Media Suppliers to secure additional value for Customers beyond the paid Media Placement, which may include non-contractual bonus space, reduced costs, use of media talent, content integration, editorial coverage, event support and any other relevant value; and
 - (ii) monitor the added value secured and report to the Customer and Finance, in accordance with clauses 2.8(b) and 3.11 of Schedule 1.

3.6 Review and Optimisation of Media

- (a) The Contractor must use its best efforts to review and optimise relevant advertising in all Media on an ongoing basis while the advertising is in market.
- (b) In relation to the review and optimisation of digital advertising, the Contractor must:

- (i) use, and provide Customers with access to, relevant third party verification tools to assist with that review and optimisation while the advertising is in the market;
 - (ii) provide weekly interim Media Performance Reports to Customers, unless otherwise requested and agreed with the Customer; and
 - (iii) request and receive Customer's approval before implementing the Contractor's recommendations and implement approved changes within one (1) Business Day of receiving approval from the Customer.
- (c) The Contractor must actively engage with the Customer, including:
- (i) where the Contractor's review of the advertising activity indicates the Customer's target audience is not being reached;
 - (ii) to ensure that the Customer's approval is obtained prior to any significant changes to optimise advertising are implemented by the Contractor; or
 - (iii) where the anticipated expenditure differs significantly from the approved amounts in the relevant Media Booking Authority.

3.7 Media Performance Reports

- (a) For Campaigns and complex Non-Campaign Advertising, the Contractor must deliver to Customers interim Media Performance Reports to measure the effectiveness and efficiency of the advertising against its objectives and identify issues that require resolution or improvement by the Contractor. The timing of the delivery of interim Media Performance Reports is to be agreed between the Contractor and the Customer.
- (b) The Contractor must deliver a final Media Performance Report to the Customer within **[20 Business Days (Note: TBC)]** from the completion of major phases (including the end) of a Campaign or complex Non-Campaign advertising, or as otherwise requested by a Customer.
- (c) The final Media Performance Report must include the Contractor's analysis and strategic advice on the performance of the advertising, as per Appendix 2 of Schedule 1. Where requested by the Customer, the Contractor must present the final Media Performance Report to the Customer.
- (d) Where a Customer requests changes to a final Media Performance Report to rectify errors and/or data inaccuracies, the Contractor must deliver the updated final Media Performance Report within five (5) Business Days of receipt of the Customer's request, unless otherwise agreed with the Customer.
- (e) Unless otherwise agreed between the Contractor and the Customer, a Media Performance Report is not required for less complex Non-Campaign advertising. The Customer will notify the Contractor in writing if a Media Performance Report is required for less complex Non-Campaign advertising.

3.8 Verification of Advertising

- (a) The Contractor must monitor and verify the appearance and quality of advertising placed in all Media and provide the Customer with evidence:

- (i) within [20 Business Days (Note: TBC)] of appearance for Campaign and complex Non-Campaign advertising placed on Media other than digital media, or as agreed between the Contractor and the Customer;
 - (ii) through an online digital media dashboard or within [5 Business Days (Note: TBC)] of appearance for Campaign and complex Non-Campaign advertisement, or as agreed between the Customer and the Contractor; and
 - (iii) within [20 Business Days (Note: TBC)] of appearance for other types of advertising or at the time of invoicing.
- (b) The Contractor must provide Finance with direct access to data on the performance of digital advertising against relevant metrics, including, but not limited to, provisions relating to ad fraud, ad clutter, brand safety, geo-compliance, off-network placement and viewability.

3.9 Brand Safety

- (a) The Contractor must use its best efforts to mitigate the risk of advertising appearing alongside inappropriate content in any medium.
- (b) Unless otherwise instructed by the Customer, inappropriate content includes, but is not limited to, content featuring or promoting smoking, the use of alcohol or illegal drugs, gambling, hate speech, illegal downloading, offensive language, pornography, violence, or any illegal activities not specified. Political content must also be avoided, noting that the Commonwealth's advertising must be, and appear to be, objective and dissociated from any particular political party or party political interests.
- (c) The Contractor must monitor the appearance and quality of advertising, in accordance with clause 3.8 of Schedule 1, and advise the Customer and Finance immediately if advertising appears alongside inappropriate content.
- (d) The Contractor and any subcontractors, including those responsible for the placement of programmatic digital advertising, must establish, maintain and review, on an ongoing basis, a Whitelist and Blacklist of websites and apps where advertising may and may not appear.
- (e) If requested by a Customer, the Contractor must provide the Customer a copy Whitelist and Blacklist. The Contractor must provide a copy of the Whitelist and Blacklist to Finance quarterly.

Note to Tenderer:

Clauses 3.7, 3.8 and 3.9 will be drafted in more detail based on the Tenderer's response to the RFT.

Finance anticipates that:

- (a) any media verification and monitoring Third Party Costs will be charged 'at cost'; and
- (b) the successful Tenderer will negotiate optimal rates with any relevant Third Party Suppliers to reflect the volume of advertising.

Finance anticipates that verification and brand safety services will be remunerated through the Retainer identified in clause 2.2 of Schedule 2 to the draft Deed.

3.10 Cancellation of Booked Advertising

- (a) If a Customer cancels booked advertising, for whatever reason, the Contractor must use its best endeavours to minimise the financial implications for the Customer. This includes minimising 'delete and charge' amounts in negotiations with relevant Media Suppliers.
- (b) Where 'delete and charge' amounts are incurred, the Contractor must attempt to use the associated credit before its expiry with, in order of preference and following consultation with Finance:
 - (i) the same Customer for the same advertising activity;
 - (ii) the same Customer for different advertising activity; or
 - (iii) a different Customer for different advertising activity.
- (c) If the 'delete and charge' amounts have not been used in full before their nominal expiry, the Contractor must also negotiate with Media Suppliers to, where possible, secure an extension.

3.11 Reconciliation and Payment of Media Accounts

- (a) The Contractor must pay invoices from Media Suppliers within 45 days or within other such reasonable timeframes as may be required by the relevant Media Supplier.
- (b) Where a Customer requests the Contractor to rectify any third party payment of invoices, the Contractor must:
 - (i) resolve any identified payment issue(s) within five (5) Business Days of the Customer's request, unless otherwise agreed with the Customer; and
 - (ii) notify the Customer about how identified third party payment issue(s) were resolved.
- (c) The Contractor must undertake regular financial reconciliations of its accounts, including following up discrepancies with Media Suppliers, seeking compensation from the Media Supplier, where appropriate, and advising the Customer of its action and the outcome or any action required of the Customer in a timely manner.
- (d) The Contractor must negotiate with Media Suppliers to obtain credits, refunds and/or compensation, for the benefit of the Customer, where:
 - (i) the Media Placement was re-scheduled by the Media Supplier without prior notice to, and agreement from, the Contractor;
 - (ii) the Media Supplier has placed incorrect material;
 - (iii) the Media Placement did not appear; or
 - (iv) the Media Placement was otherwise inconsistent with trading agreements between the Contractor (on Finance's behalf) and Media Suppliers, including, but not limited to, provisions relating to ad

fraud, ad clutter, brand safety, geo-compliance, off-network placement and viewability.

- (e) The Contractor must:
 - (i) calculate and report to Finance any Unbilled Media no later than 45 days after the end of each financial year; and
 - (ii) provide credits for all Unbilled Media to relevant Customers within the next monthly invoicing cycle, or as otherwise agreed with Finance.

3.12 Liaison with Advertising Agencies and Other Relevant Suppliers

- (a) The Contractor must work efficiently and effectively with any advertising agencies and other relevant suppliers appointed by, or on behalf of, a Participant or Finance. This may be in addition to the core Advertising Services delivered by the Contractor, and include:
 - (i) attendance at briefings or presentations by Participants or Finance, advertising agencies, market and social research agencies, or other relevant suppliers;
 - (ii) participation in strategic planning sessions and work in progress meetings;
 - (iii) provision of production specifications and deadlines; and
 - (iv) provision of work in progress and contact reports.

3.13 Community Service Announcements

- (a) The Contractor must only place Community Service Announcements after consulting with, and receiving approval from, Finance and in accordance with any instructions from Finance.
- (b) If the Community Service Announcements are approved, the Contractor will be required to:
 - (i) seek support from Media Suppliers for the placement of the Community Service Announcements without charge; and
 - (ii) otherwise provide the Advertising Services in accordance with the requirements for Campaign and complex Non-Campaign advertising in this Schedule 1, including the requirements for Media Performance Reports detailed in clause 3.7.

3.14 Matters of National Importance

- (a) The Contractor must establish, provide and maintain the capacity for the creation and production of materials for urgent Media Placement to address Matters of National Importance, as and when required by Finance or a Participant. Generally, the placement of Media will follow the same processes as Campaigns, within compressed timeframes.

3.15 Caretaker and Blackout Periods

- (a) The Contractor must manage advertising by relevant Participants in compliance with relevant legislation, policy and any instruction from Finance during the caretaker and/or blackout periods prior to electoral events.

Finance may request that the Contractor verify the compliance of relevant advertising, including by commissioning a third party to undertake an audit or equivalent process.

3.16 Contractor's Despatch of Advertising Materials

- (a) The Contractor must arrange reproduction and despatch of materials, including closed captions where required, and co-ordinate all related tasks to ensure that all appropriate materials are delivered to the relevant Media.
- (b) Free TV Australia Ltd (ABN 76 101 842 184) clearances are to be arranged by the Customer's appointed creative advertising service provider, where relevant.

Note to Tenderer:

Finance anticipates that:

- (a) the Contractor's cost of transmitting/managing despatch services will be remunerated through the Retainer specified in clause 2.2 of Schedule 2; and
- (b) despatch Third Party Costs will be remunerated through Fee for Additional Advertising Services specified in clause 3.4 of Schedule 2.

4. ADDITIONAL ADVERTISING SERVICES

Note to Tenderer:

Finance anticipates that Additional Advertising Services may be required relatively infrequently and for a small number of Participants.

In some instances, the Contractor may have the option to deliver Additional Advertising Services in-house or through a Third Party Supplier (including through organisations owned by or otherwise commercially affiliated with the Contractor's Holding Company). The Contractor must recommend the most cost-effective and optimal approach to deliver Additional Advertising Services, consistent with clause 1.2.1 of Schedule 1. The Contractor should not rely on revenue from these Additional Advertising Services to supplement remuneration for delivery of the Management Services and Advertising Services.

Finance anticipates drafting clause 3.4 of Schedule 2, to include fees that may be payable to the Contractor for Additional Advertising Services, based on Tenderers' response to the Approach to Market, Appendix B8 – Price Schedule.

4.1 Overview of Additional Advertising Services to Participants

- (a) Subject to clauses 4.1(e) and (f) of this Schedule 1, and where requested, the Contractor must offer Additional Advertising Services to Customers, who are ordering Advertising Services from the Contractor. Customers are not required to engage the Contractor for Additional Advertising Services.
- (b) Additional Advertising Services may include:
 - (i) translation and sub-titling services;
 - (ii) creative content development and production services;
 - (iii) media extension services (events, sponsorships, and integration);
 - (iv) search engine optimisation;
 - (v) econometric modelling;
 - (vi) social media insights;
 - (vii) social media moderation; and
 - (viii) Third Party Supplier despatch services.
- (c) The Contractor must provide a Customer who has requested Additional Advertising Services with a detailed quotation that includes pricing, hours, deliverables, schedule, risks and any other agreed items for the Additional Advertising Services.
- (d) The Contractor must have due consideration for Customers that are non-corporate Commonwealth Entities under the PGPA Act, which are required to use the Campaign Advertising Supplier Register administered by Finance to procure communications suppliers for Campaign advertising with expenditure over \$250,000.
- (e) The Contractor must not provide the Additional Advertising Services unless and until the Customer agrees to the Contractor's quote in the form of a Media Booking Authority.

- (f) The provision of all Additional Advertising Services by the Contractor must be consistent with relevant guidelines, guidance, Customer Specific Advertising Requirements, other policies and, where relevant, instruction from Finance.

4.2 Translation and Sub-Titling Services

- (a) Customers may engage the Contractor to provide translation and sub-titling services, and the Contractor must ensure that those services are delivered by personnel accredited at a level of professional translator or higher (advanced translator or advanced senior translator) by the National Accreditation Authority for Translators and Interpreters (ABN 42 008 596 996).

4.3 Creative Content Development and Production Services

- (a) Customers may engage the Contractor to provide services for the development and/or production of creative content. In accordance with clause 4.1(d) of this Schedule 1, the provision of these services for Campaign advertising by the Contractor must only occur if the Contractor consults with and receives agreement from Finance.

4.4 Media Extension Services (Events, Sponsorships and Integration)

- (a) Customers may engage the Contractor to provide services for the development, implementation and management of media extensions, including events, sponsorships and content integration.

4.5 Search Engine Optimisation Services

- (a) Customers may engage the Contractor to provide search engine optimisation services.

4.6 Econometric Modelling Services

- (a) Customers may engage the Contractor to provide data analytics services and econometric modelling of the effectiveness of Campaign or complex Non-Campaign advertising.
- (b) If required, the Contractor must provide analytics services and econometric modelling, including:
 - (i) pre, during and post advertisement tracking;
 - (ii) in relation to media channel affinity and effectiveness;
 - (iii) media weighting threshold benchmarking;
 - (iv) advertisement planning metrics, based on actual awareness and effectiveness benchmarks; and
 - (v) in relation to media channel mix and optimisation.

4.7 Social Media Insights Services

- (a) Customers may engage the Contractor to provide social media insights services to inform the evaluation of advertising performance, including:
 - (i) tracking social media data to deliver an understanding of the sentiment, main conversation points, and where conversations about a Campaign are taking place; and

- (ii) preparing and delivering a report (or reports) that provide Customers with an understanding of the above.
- (b) In accordance with clause 4.1(d) of this Schedule 1, the provision of these services by the Contractor must only follow the Contractor consulting with and receiving agreement from Finance.

4.8 Social Media Moderation Services

- (a) Customers may engage the Contractor to provide social media moderation services, including:
 - (i) monitoring, classifying, replying to and, if necessary, removing content from Customer's owned and controlled social media platform(s) or site(s), in accordance with a traffic light moderation system agreed to by the Customer and the Contractor, and
 - (ii) preparing and delivering a report (or reports) summarising social media activity monitored.
- (b) In accordance with clause 4.1(d) of this Schedule 1, the provision of these services by the Contractor must only occur if the Contractor consults with and receives agreement from Finance.

4.9 Third Party Supplier Despatch Services

- (a) Customers may engage the Contractor to procure Third Party Supplier despatch technology to electronically despatch artwork to Media Suppliers [in a range of formats as identified in Schedule 2].

Appendix 1 to Schedule 1 – Advertising Definitions

Campaign

Campaign advertising is defined in:

- (a) the *Guidelines on Information and Advertising Campaigns by non-corporate Commonwealth Entities*, published by Finance on its website (www.finance.gov.au); or
- (b) other revised, replacement or additional guidelines published on Finance's website or otherwise notified by Finance to the Contractor from time to time.

To the extent of any inconsistency between these documents, they will be interpreted in the order stated above.

Recruitment

Recruitment advertising is for a specific or general job vacancy or employment opportunity, and can be for one or more positions advertised at the same level, generally identical in nature. Types of recruitment advertisements include, but are not limited to:

- (a) executive assistants;
- (b) Australian Public Service level 1–6 (or equivalent) positions;
- (c) Executive Level 1–2 (or equivalent) positions;
- (d) legal affairs officers;
- (e) senior executive service positions;
- (f) statutory office holder positions; and
- (g) ad hoc notices about recruitment positions and recruitment information sessions.

Complex Recruitment advertising is generally a block advertising program, similar to a recruitment drive, that encompasses many job vacancies or employment opportunities. As part of the recruitment process, this may require arranging of job/career fairs and information sessions (including web information sessions) to enhance media placement activity. Complex Recruitment advertising can be run once-off, once a year or over a specific period of time—over a six-month period, for example—and may include:

- (a) specialist recruitment (officers for the Military, Australian Federal Police or intelligence officers for the Australian Security Intelligence Organisation, for example);
- (b) graduate recruitment;
- (c) entry level recruitment/career starters;
- (d) traineeships; and
- (e) all other Australian Government cluster opportunities.

Public Notice

Public Notice advertising is generally one-off or short term in nature, and contain a clear, simple message or announcement. Types of Public Notice advertisements include:

- (a) public transport notices/road closures;
- (b) changes to Government services;
- (c) availability of Government funds, grants and awards programs;
- (d) details about community consultations, public hearings, seminars and other Government events;
- (e) Statutory/Regulatory notices: Agencies/Departments required by legislation or regulation to publicly disclose some information; and
- (f) urgent public health or safety announcements.

Complex Public Notice advertising would include a series of advertising placements to support an ongoing program or initiative.

Tender Notice

Tender Notice advertising is for the promotion of open approaches to market and may include:

- (a) requests for tenders;
- (b) requests for quote;
- (c) requests for information;
- (d) request for proposal;
- (e) request for expressions of interest; or
- (f) any other Australian Government procurement opportunities described in the Commonwealth Procurement Rules.

Note to Tenderer:

These definitions are indicative only and subject to change in line with Government policy and practice.

Appendix 2 to Schedule 1 – Reporting and Data Specification

Overview of Reporting and Data Requirements

1. The Contractor must comply with the reporting and data requirements outlined in this Appendix 1.
2. This Appendix 1 should be read in conjunction with Schedule 1 of this Deed.
3. The report and data fields listed in this appendix are not intended to be a complete or definitive list. The Contractor must provide reasonable additional reports or revise the format or content of existing reports. Finance may add, remove or change reporting and data specifications from time to time.

Note to Tenderer:

This appendix has been provided to give Tenderers an understanding of the information and data required by Finance and Customers at various times throughout the Deed. The intention is for the successful Tenderer to provide maximum detail and transparency in reporting.

Tenderers may also suggest additional data fields and/or reports in their response if they consider them useful to Finance or Customers.

Finance anticipates that the successful Tenderer will automate the preparation of reports to Finance or Customers, to the greatest extent possible, to minimise data errors and reduce Contractor's overheads.

Subject to any revisions agreed with the successful Tenderer, the data and reporting requirements set out below will be incorporated as an appendix to Schedule 1 of the Deed.

Formatting Standards

4. The formatting of all data and reports listed in this Appendix 1, except where the context otherwise requires, is to be:
 - 4.1 case sensitive, where values that are intended to be the same are truly identical and do not differ in case sensitivity or through abbreviation;
 - 4.2 in Australian currency, rounded to two decimal places (any further reference to A\$, \$A, AUD, dollar and \$ is in Australian currency); and
 - 4.3 in ACT Local Time, using DD/MM/YYYY (any further reference to time is in ACT Local Time).
5. Expenditure figures are to be exclusive of GST, with relevant GST separately identified.
6. American standard code for information interchange (ASCII) format is to be applied.
7. Files are to be provided as comma-separated values (CSV) using semi-colon text delimited format, or any other format reasonably requested by Finance. Files must be compatible with Microsoft Excel 2003 or as otherwise advised by Finance.
8. Reports are to be provided in a format which is compatible with Microsoft Excel, Microsoft Word or Adobe Reader.
9. Data and reports must not be locked in a manner that prevents the ability to review or analyse raw information or information being used to generate reports.

10. Where deemed necessary by Finance, data and reports may be password protected for security purposes. Where applicable, the Contractor will provide Finance with relevant passwords as requested from time to time.

Timing Requirements

11. The Contractor must provide reports according to the routine timing indicated in tables in clause 15 and 16 of this Appendix 1, or as requested on an ad hoc basis from time to time.
12. The Contractor must supply data to Finance on a monthly basis, or as requested on an ad hoc basis from time to time.

File Naming and File Transfer

13. The file naming conventions to be used when creating and saving files for distribution will be advised by Finance (for management reporting) or the Customer (for Customer reporting) to the Contractor.
14. The data and reporting transfer protocols will be agreed between Finance (for management reporting) or the Customer (for Customer reporting) and the Contractor.

Management Reporting Requirements

15. The Contractor must provide the management reporting requirements, outlined below, to Finance:

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
<p>Media Expenditure Report (Weekly)</p> <p>Note: A 'hard close' of the Media Expenditure Report is provided after the end of the calendar year and the end of the financial year. (Bi-annually)</p> <p>Due mid- February and mid-August i.e. 45 days following end of period.</p>	<p>The Media Expenditure Report provides Finance with a reliable outline of historical advertising activity and invoiced gross media expenditure. The report is used to inform high-level government decisions and <u>must be accurate</u>.</p> <p>The report is cumulative week-on-week and provides a year-to-date overview.</p> <p>The report provides a clear delineation of the different type of government entities, media and media outlets. This is achieved by using a 'top-down' and 'bottom-up' reporting hierarchy. The data underlying the report is presented in two ways:</p> <ul style="list-style-type: none"> • Client to Media; and • Media to Client. 	<p><i>Client to Media:</i></p> <p>Customer Type; Advertising Category; Customer Portfolio; Customer Name; Master Job Name; Job Name; Media Type; Media Sub-Type; Media Master Network; Media Network; Media Outlet; and Gross Media Spend ex GST • (by Month)</p> <p><i>Media to Client:</i></p> <p>Media Type; Media Sub-Type;</p>

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
		Media Master Network; Media Network; Media Outlet; Customer Type; Advertising Category; Customer Portfolio; Customer Name; Master Job Name; Job Name; and Gross Media Spend ex GST <ul style="list-style-type: none"> • <i>(by Month)</i>
Activity Overview Report (Weekly)	<p>Provides Finance with an overview of current Campaigns at their various stages of development (pre-planned, planned, approved, booked or completed).</p> <p>It focuses on spend to-date and includes projected expenditure by Media.</p>	Master Job Name; Job Name; Customer Type; Customer Name; Progress; Governance Status; Appearance Start Date; <ul style="list-style-type: none"> • <i>(actual or projected)</i> Appearance End Date; <ul style="list-style-type: none"> • <i>(actual or projected)</i> Media Type; Media Sub-Type (where applicable); Media Buying Demographic; Gross Media Spend ex GST; <ul style="list-style-type: none"> • <i>by Media Type;</i> • <i>by Media Sub-Type;</i> • <i>by Month; and</i> • <i>Total or Total-to-Date</i> Projected Spend ex GST; <ul style="list-style-type: none"> • <i>by Media Type;</i> • <i>by Media Sub-Type;</i> • <i>by Month; and</i>

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
		Contact Officer for Contractor; and Contact Officer for Customer.
<p>WoAG Administration Fee & Remuneration Charge Back Amount Reports (Monthly)</p> <p>Due on the 2nd and 5th Business Days of a month.</p>	<p>Used by Finance to track payments collected by the Contractor on behalf of Finance. The report is provided on a monthly basis, broken down by Customer and Advertising Category.</p> <p>It includes all transactions which attracted a WoAG Administration Fee and/or Remuneration Charge Back Amount and have been invoiced over the past month (since the last report was provided to Finance).</p> <p>Any fees still outstanding or credit to Customers are clearly identified in the report to Finance.</p>	<p>Customer ABN;</p> <p>Customer Type;</p> <p>Customer Portfolio;</p> <p>Customer Name;</p> <p>Advertising Category;</p> <p>Job Number;</p> <p>Job Name;</p> <p>Invoice Number;</p> <p>Invoice Date;</p> <p>Gross Media Spend ex GST;</p> <p>WoAG Admin Fee (paid and to be paid to Finance); and</p> <p>Remuneration Charge Back Amount (paid and to be paid to Finance).</p>
<p>Campaign Status Report</p> <p>(Fortnightly and one Business Day prior to the Campaign Status Review Meeting, if possible)</p> <p>Generally a Thursday, unless otherwise advised by Finance.</p>	<p>Informs fortnightly meetings between Finance and the Contractor to discuss current Campaigns in various stages of development and any emerging campaign operational issues.</p> <p>It should also detail all action items for the current Campaigns including;</p> <ul style="list-style-type: none"> a brief description of work to be completed (action items) or emerging Campaign delivery issues; responsibility for the action item; due date for the action item; an up to date list of the seminar program; and 	<p>Job Name;</p> <p>Customer Name;</p> <p>Contact Officer for Contractor;</p> <p>Finance Officer;</p> <p>Contact Officer for Customer;</p> <p>Media Budget;</p> <ul style="list-style-type: none"> <i>Based on latest media brief provided to the Contractor or plan provided to the Customer.</i> <p>Progress;</p> <ul style="list-style-type: none"> <i>Timing;</i> <i>Creative Agency.</i>

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
	<ul style="list-style-type: none"> an update on any delete and charge amounts available and allocated. <p>Where key projects (for example, Media Rates Negotiations and the media seminars program) are being worked on by the Contractor action items and progress updates will also be provided as part of the Report.</p>	
<p>Special Audiences Media Expenditure Report</p> <p>(Bi-annually, coinciding with the 'hard close' of the Media Expenditure Report).</p> <p>Due mid-February and mid-August i.e. 45 days following the end of the period.</p>	<p>Provides Finance with oversight of expenditure on media for Special Audiences, specifically people from culturally and linguistically diverse backgrounds and Indigenous Australians.</p> <p><i>Note: Requirement to be confirmed prior the release of the ATM.</i></p>	<p>Community; Language; Media; Media Sub-Type; Media Master Network; Media Network; Media Outlet; Customer Type; Advertising Category; Customer Portfolio; Customer Name; Master Job Name; Job Name; and Gross Media Spend ex GST (by month).</p>
<p>Outstanding Debtors/Creditors Report</p> <p>(Monthly)</p> <p>Due on the 5th Business Day of a month.</p>	<p>Used by Finance to monitor the account balances on behalf of Customers and verify invoiced amounts. Finance will assist the Contractor to reconcile outstanding accounts and accounts owed to Customers.</p> <p>The report details credits/debts at a Customer level and highlights 'period outstanding' using the following categories:</p> <ul style="list-style-type: none"> <30 days; 31-60 days; 61-90 days; 91-120 days; 	<p>Customer ABN; Customer Type; Customer Portfolio; Customer Name; Advertising Category; Job Number; Media Type; Invoice Number; Invoice Date; Gross Media Spend ex GST;</p>

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
	<ul style="list-style-type: none"> • 121-150 days; • 151-180 days; • 181-210 days; • 210 days + 	Total Debits and Credits by Customer Name; and Total Debits and Credits by 'period outstanding'.
Non-Campaign Active Customer Report (Bi-annually, January and July to coincide with the Customer Satisfaction Survey)	<p>Provides a summary to Finance of the Customers who have placed advertising through the Contractor in the July-December and January-June periods.</p> <p>It should also detail the Advertising Category that the Customer placed and the Customers contact details (name, role, telephone and email).</p>	Advertising Category; Job Name; Customer Type; Customer Portfolio; Customer Name, Telephone and Email.
Raw Data File (Monthly) Due on the 15 th Business Day of the following month.	Raw data files are provided to Finance to give transparency of the information underlying all reporting.	<p>All data fields in the Invoiced Data Specification must be provided in the raw data files, except:</p> <ul style="list-style-type: none"> • <i>Media Buying Demographic;</i> • <i>Progress;</i> • <i>Projected Start Date;</i> • <i>Projected End date; and</i> • <i>Projected Spend.</i>
Service Level Reports (Monthly) Due on the 10 th Business Day of the following month.	<p>Used by Finance and the Contractor to report on the Contractor's performance against each Service Level as per Schedule 3.</p> <p>The Contractor must report any non-compliance(s) against the Service Levels.</p>	Not Applicable.
Deed Management Meetings Report (Quarterly) Due at least 10 th Business Day prior to the date of each Contract Management Meeting	<p>Used by Finance to inform the review of the Contractor's performance and operation under the Deed, as per Schedule 1, Clause 2.8. The report will include the following:</p> <ul style="list-style-type: none"> • Feedback Register • Delete and Charge amounts • Rebates and Incentives amounts. 	Not Applicable.

Report Title (routine timing)	Purpose of the Report	Data Fields used in Report
Deed Management Meeting Action Items List (Quarterly) Due within five (3) Business Days of the Contract Management Meeting	To capture and manage action items arising out of Contract Management Meetings.	Not Applicable.
Rebates and Incentives Audit Report (Quarterly) Due at the Contract Management Meeting	As per the Deed Part B – Management Services, Clause 10.1.	Not Applicable.
Contractor's Resourcing Report (Bi-annually) Due at least on 10 th Business Day prior to the date of the October–December and April–May Deed Management Meetings	<p>The report summarises the monthly time/effort spent by the Contractor's Personnel (in percentage) to the delivery of Services during July-December and January-June periods.</p> <p>Used to inform Finance's review the Contractor's performance of the Services</p>	<p>Staff member's name (NAME); Position (ROLE); Contracted allocation (full time equivalent (FTE)); Actual FTE allocation (by month) to the delivery of the following Deed Services:</p> <ul style="list-style-type: none"> Advertising and Management Services (CORE); Additional Advertising Services (ADD SER), if applicable; and <p>Percentage allocation (by month) servicing other clients of the Contractor.</p>

Ad Hoc Reports

- In addition to the Management Reports detailed in clause 15 of this Schedule 1, Finance may also request on an ad hoc basis that the Contractor provides additional Management Reports, including to address Parliamentary or Committee enquiries. These reports must be provided within 2 hours on the same Business Day or as otherwise agreed by Finance.

Customer Reporting Requirements

17. The Contractor must provide the customer reporting requirements, outlined below, to Customers (and Finance, as requested):

Report Title (Routine Timing)	Purpose of the Report	Data Fields used in Report
Spot Schedule (Supplied to Customers prior to Campaign launch and as requested by Customers following a Campaign launch)	<p>Outlines the Campaign or complex Non-Campaign advertising advertisements scheduled for media booking or appearance during the campaign – television media only.</p> <p>Provided to each Customer for their respective Campaign or complex Non-Campaign advertising, with Finance receiving an overview of all Campaigns and complex Non-Campaign advertising on request.</p> <p>It should be provided no later than Thursday each week (unless otherwise agreed by the Customer or Finance) outlining activity occurring in the next week.</p> <p><i>Note: the field 'Customer Name' is used to tailor each report to the Customer with media scheduled or planned to appear in the next week.</i></p>	<p>Customer Name;</p> <p>Job Name;</p> <p>Media - Television</p> <p>Media Sub-Type;</p> <p>Media Master Network;</p> <p>Media Network;</p> <p>Media Outlet; and</p> <p>Appearance Date.</p>

Report Title (Routine Timing)	Purpose of the Report	Data Fields used in Report
<p>Customer Expenditure Report</p> <p>(Monthly if requested by the Customer)</p>	<p>Provides each Customer with a reliable outline of their historical advertising activity and expenditure.</p> <p>The report is cumulative month-on-month and provides a year-to-date overview.</p> <p>It provides a clear delineation of the different type of advertising media and media outlets.</p>	<p>Customer Name;</p> <p>Advertising Category;</p> <p>Booking Type;</p> <p>Media Type;</p> <p>Media Sub-Type;</p> <p>Media Master Network;</p> <p>Media Network;</p> <p>Media Outlet;</p> <p>Cost Centre;</p> <p>Quantity of Placements</p> <ul style="list-style-type: none"> • (by Month); <p>Gross Media Spend ex GST</p> <ul style="list-style-type: none"> • (by Month); <p>Media Commission ex GST</p> <ul style="list-style-type: none"> • (by Month); <p>WoAG Administration Fee ex GST</p> <ul style="list-style-type: none"> • (by Month); <p>Remuneration Charge Back Amount</p> <ul style="list-style-type: none"> • (by Month); <p>Fee for Service ex GST</p> <ul style="list-style-type: none"> • (by Month); <p>Fee for Additional Service ex GST</p> <ul style="list-style-type: none"> • (by Month); <p>Total Net Cost ex GST;</p> <p>GST; and</p> <p>Final Cost to Customer (FINAL COST).</p>
Buy Summaries	<p>In accordance with Schedule 1 clause 3.4(d) and to be provided to Customers immediately following a booking and prior to launch of a Campaign or a complex Non-Campaign advertising.</p>	

Report Title (Routine Timing)	Purpose of the Report	Data Fields used in Report
Media Performance Reports (As per clause 3.7(b) of Schedule 1)	<p>Details the actual media achievement against objectives for the Campaign or complex Non-Campaign advertising. This report enables the Customer and the Contractor to measure media performance, identify lessons and inform future phases of, or a new, advertising activity, as applicable.</p> <p>As a minimum, the report must:</p> <ul style="list-style-type: none"> • focus on and explicitly highlight the relevant metrics for assessing advertising performance based on the advertising's specific objectives; • include analysis, insights and explanations when there has been a significant underspend/overspend on a media channel or media outlet and steps taken to mitigate this during the advertising activity; • for digital media, incorporate analysis, insights and explanations when delivered Impressions, clicks or cost per clicks, relevant to KPIs, have been significantly lower or higher than identified in the approved Media Plan • any applicable Rebates and Incentives achieved; and • include recommendations for future phases of a planned advertising activity or a future similar advertising activity targeted to the same audience. 	Note: Requirement to be confirmed prior to the release of the ATM.
Presentations and key learnings from Seminars, within 15 Business Days of the Seminar	Provide Finance and Customers with a short document outlining the key learnings from each seminar delivered, together with the presentation notes from the Seminar.	

Data Specifications

18. The Contractor is required to provide data to Finance with the underlying information contained behind the management and customer reporting requirements.
19. The data specifications are designed to provide Finance with absolute transparency of advertising expenditure, volume and performance.
20. The Contractor is required to provide data files on a monthly basis to Finance with data broken down to a per placement level. (i.e. if a single invoice has multiple placements in different mediums then the data is required to be broken down to the per placement level, not rounded up to a per invoice level).
21. The specifications for invoiced system data, to be provided by the Contractor to Finance in Excel format on a monthly basis, are below:

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
Advertising Category (CAMPAIGN NAME)	Used to identify whether the advertisement is: <ul style="list-style-type: none"> • Campaign; • Recruitment; • Public Notice; or • Tender Notice. 	<ul style="list-style-type: none"> • Alpha values. • In the form of the options outlined in the Description of the Data Field.
Appearance Date (BOOKING DATE)	The date when the advertisement appeared in media.	<ul style="list-style-type: none"> • Restricted to DD/MM/YYYY. • Minimum date must be 1 July 2014.
Customer ABN (GOVABN)	The ABN of the government entity. This field acts as the 'parent' billing account.	<ul style="list-style-type: none"> • Numeric values. • 11 digits, with spacing between the second/third, fifth/sixth and eight/ninth digits. Example: 12 345 678 901.
Customer Name (CLIENT NAME)	The full registered business name of the government entity purchasing advertising.	<ul style="list-style-type: none"> • Alpha values. • Restricted to the values provided by Finance and as updated from time to time.
Customer Portfolio (MASTER CLIENT)	The portfolio of the government entity purchasing advertising.	<ul style="list-style-type: none"> • Alpha values. • Restricted to the values provided by Finance and as updated from time to time.
Customer Type (BRANCH TYPE)	The financial type of the entity purchasing advertising. Must be either: <ul style="list-style-type: none"> • Non-corporate Commonwealth entity; • Corporate Commonwealth entity/Commonwealth company • ACT Government; 	<ul style="list-style-type: none"> • Alpha values. • Restricted to the Customer Types provided by Finance and as updated from time to time.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
	<ul style="list-style-type: none"> NT Government; or Authorised Organisation. 	
Ethnic Language (LANGUAGE)	To be used when an advertisement is Ethnic flagged. Otherwise, the value must be 'none'.	<ul style="list-style-type: none"> Alpha values. Restricted to the Customer Types provided by Finance and as updated from time to time.
Final Cost to Customer (FINAL COST)	<p>The sum of the Total Net Cost and GST. This is the final amount for payment, charged to the Customer.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> Numeric values, rounded to two decimal places. <p>Formula:</p> <p>TOTAL NET COST + GST</p>
Finance's Fees ex GST (FINANCE FEE)	<p>The total fees collected by the Contractor and returned to Finance, exclusive of GST.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> Numeric values, rounded to two decimal places. <p>Formula:</p> <p>WoAG FEE + RCBA FEE</p>
Gross Media Spend ex GST (TOTAL COST)	<p>As per clause 1.1 of the Deed, Definitions and interpretation.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> Numeric values, rounded to two decimal places.
Goods and Services Tax (GST)	<p>The GST component of the cost charged to the Customer for the Net Service Charge.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> Numeric values, rounded to two decimal places.
Governance Status (GOVSTA)	Where the Customer Type is a non-corporate Commonwealth entity, a flag denoting whether Campaigns are above an expenditure threshold (advised by Finance) and, as such, subject to review under the Government's governance arrangements.	<ul style="list-style-type: none"> Alpha values.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
Invoice Date (INVDATE)	The date which the invoice was raised by the Contractor.	<ul style="list-style-type: none"> Minimum date must be 1 July 2014.
Invoice Number (INVNBR)	<p>A unique number generated by the Contractor for each invoice.</p> <p><i>Note: A single Invoice Number may contain multiple Row Numbers.</i></p>	<ul style="list-style-type: none"> Alpha and/or numeric values Unique to each transaction. Limited to 14 digits/characters.
Invoice Type (INVTYPE)	<p>Used to identify whether a transaction is:</p> <ul style="list-style-type: none"> Invoice (for actual costs incurred by Customers); or Credit (for credits issued to Customers reverse a transaction). 	<ul style="list-style-type: none"> Alpha values. In the form of the options outlined in the Description of the Data Field.
Job Name (SCHEDULE NAME)	A unique name assigned to each Job Number to identify the activity, regardless of the Advertising Category. The value may be identical to the related Master Job Name or different where further identification of complex activity is required. This field acts as a 'child' to Master Job Name.	<ul style="list-style-type: none"> Alpha values. Limited to 100 characters.
Job Number (SCHEDULE CODE)	<p>A unique number generated by the Contractor for each advertisement job.</p> <p><i>Note: A single Job Number may contain multiple Row Numbers and/or Invoice Numbers.</i></p>	<ul style="list-style-type: none"> Alpha and/or numeric values. Unique to each advertisement job. Limited to 12 digits/characters. The same in the booking system data and invoicing system data.
Location (LOCATION)	<p>Used to identify whether the advertisement is placed:</p> <ul style="list-style-type: none"> ACT; NSW; VIC; QLD; WA; SA; NT; TAS; 	<ul style="list-style-type: none"> Alpha values. In the form of the options outlined in the Description of the Data Field.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
	<ul style="list-style-type: none"> National; or Overseas. 	
Master Job Name (MASTER PRODUCT NAME)	A name assigned to each Job Number to identify the activity, regardless of the Category of Advertising. This field acts as a 'parent' to Job Name.	<ul style="list-style-type: none"> Alpha values.
Media Buying Demographic (TARGET AUDIENCE)	Provided by the Contractor outlining the demographic or target audience for the advertisement.	<ul style="list-style-type: none"> Alpha values Industry standard demographic grouping terms
Media Commission ex GST (COMMISSION REBATE)	<p>The commission associated with the advertisement, exclusive of GST.</p> <p><i>Note: The value must be negative in an invoice.</i></p>	<ul style="list-style-type: none"> Numeric values, rounded to two decimal places.
Media Master Network (MASTER NETWORK)	<p>The media network that invoiced for the media placement (for example, Seven West Media). This field acts as the 'parent' outlet to Media Network.</p> <p><i>Note: Where the Media Outlet is independent of any affiliate or network, insert 'Independent'.</i></p>	<ul style="list-style-type: none"> Alpha values. Limited to 100 characters.
Media Network (NETWORK)	<p>The media network where the advertisement appeared (e.g. Seven Network, West Australian Newspapers, Pacific Publications). This field acts as the 'child' to Media Master Network and to 'Media Outlet'.</p> <p><i>Note: Where the Media Outlet is independent of any affiliate or network insert 'Independent'.</i></p>	<ul style="list-style-type: none"> Alpha values. Limited to 100 characters.
Media Outlet (MEDIUM)	The full registered business name of the specific media outlet where the advertisement appeared. This field acts as the 'child' outlet.	<ul style="list-style-type: none"> Alpha values. Limited to 100 characters.
Media Type	Used to identify whether the advertisement is:	<ul style="list-style-type: none"> Alpha values.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
(MEDIA TYPE)	<ul style="list-style-type: none"> • Cinema; • Digital Display (including Affiliate Marketing platforms); • Digital Search; • Magazine; • Out-of-home; • Press; • Radio; or • Television. 	<ul style="list-style-type: none"> • In the form of the options outlined in the Description of the Data Field.
Media Sub-Type (SUBTYPE & ADCATEGORY)	<p>Subtype identifies the breakdown of a media type, by either a geographical location, platform or device.</p> <p>Where the Media is 'Cinema'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> • Metropolitan; or • Regional. <p>Where the Media is 'Digital Display'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> • Display; • Mobile; • Video; • Social; or • Performance. <p>Where the Media is 'Digital Search'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> • Display; • Mobile; • Video; • Paid Search; • Social; or • Performance. <p>Where the Media is 'Magazine'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> • International; • Consumer; • Newspaper Inserted; • Street Press; • CALD; • Trade; or 	<ul style="list-style-type: none"> • Alpha values. • In the form of the options outlined in the Description of the Data Field.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
	<ul style="list-style-type: none"> Indigenous. <p>Where the Media is 'Out-of-home'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> Ambient; Place Based; Retail; Roadside; or Transport. <p>Where the Media is 'Press'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> International; National; Metropolitan; Primary Regional; Regional; Community - Metropolitan; Community - Regional; Rural; Trade; CALD; or Indigenous. <p>Where the Media is 'Radio'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> National; Metropolitan; Regional; Community; CALD; Indigenous; or Print Handicapped. <p>Where the Media is 'Television'; used to identify whether the advertisement is:</p> <ul style="list-style-type: none"> National - Subscription; Metropolitan - FTA; or Regional – FTA; and Community; CALD; or Indigenous. 	
Progress (PROGR)	<p>Must be one of the following:</p> <ul style="list-style-type: none"> Pre-planned; Planned; 	<ul style="list-style-type: none"> Alpha values In the form of the options outlined in the Description of the Data Field

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
	<ul style="list-style-type: none"> • Approved; • Booked; or • Completed 	
Projected Start Date (PROJLIVE)	The date when the advertisement is projected to first appear in the media.	<ul style="list-style-type: none"> • Restricted to DD/MM/YYYY. • Minimum date must be 1 July 2014
Projected End Date (PROJEND)	The date when the advertisement is projected to final appear in the media.	<ul style="list-style-type: none"> • Restricted to DD/MM/YYYY. • Minimum date must be 1 July 2014
Projected Spend (PROJSPEND)	The total projected Total Net Cost (as defined above).	<ul style="list-style-type: none"> • Numeric values rounded to two decimal places.
Quantity of Placements (SPOT COUNT)	The total number of times the advertisement was planned or appeared by media sub-type and/or the total number of times a Fee for Services item has been delivered by the Contractor.	<ul style="list-style-type: none"> • Numeric values.
Remuneration Charge Back Amount (RCBA FEE)	<p>The fee collected by the Contractor and returned to Finance, exclusive of GST.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> • Numeric values, rounded to two decimal places.
Total Net Cost (TOTAL NET COST)	<p>The sum of the Gross Media Spend ex GST, Fee for Service ex GST, WoAG Administration Fee ex GST and Remuneration Charge-Back Amount, minus Media Commission ex GST.</p> <p><i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i></p>	<ul style="list-style-type: none"> • Numeric values, rounded to two decimal places. <p>Formula:</p> <p>(TOTAL COST + Fees for Services + WoAG FEE + RCBA FEE) – COMMISSION REBATE = TOTAL NET COST</p>
WoAG Administration Fee ex GST (WoAG FEE)	The fee collected by the Contractor and returned to Finance, exclusive of GST.	<ul style="list-style-type: none"> • Numeric values, rounded to two decimal places.

Data Field (Indicative Field Name)	Description of the Data Field	Specification of the Data Field
	<i>Note: Where the Invoice Type is 'Credit' the value must be negative.</i>	

Schedule 2 – Service Charges, Fees and Payments

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Note to Tenderer:

This Schedule will form a Schedule to the Deed. Unless otherwise indicated, defined terms in Schedule 2 have the same meaning as the definitions in the Deed.

Notwithstanding the use of "must" in this Schedule 2, none of the requirements in this Schedule 2 are conditions for participation or mandatory requirements for the purposes of the RFT.

This Schedule may be updated and changed based on a Tenderer's response to the RFT.

1. Amounts Payable under the Deed

1.1 Service Charges, Fees and Payments

- (a) This Schedule 2 sets out the amounts the Contractor may be entitled to invoice to Finance and Customers.

1.2 Amounts

- (a) Amounts payable under the Deed are categorised as:
 - (i) Remuneration Amounts (see clause 2); and
 - (ii) Service Charges (see clause 3).
- (b) All Remuneration Amounts and Service Charges are calculated and payable in Australian dollars and are not subject to adjustment due to currency fluctuations.
- (c) Unless expressly set out in this Schedule 2 and the Media Booking Authority, the Contractor must not charge the Customer or Finance for fees costs, charges or expenses that the Contractor incurs in providing the Services, including without limitation such expenses as transition in services, transition out services, training, document production, photocopying, travel, rent, accommodation, development or reformatting of reports, per diem (per day charges), lodging, telecommunications, postage, software, licensing, ad serving, verification, monitoring, research, ratings and tools, express post and other freight, shipping or delivery services.

1.3 GST

- (a) All amounts specified in or calculated in accordance with this Schedule 2, or otherwise set out in the Deed, are exclusive of GST, unless specified otherwise.

1.4 Invoicing

- (a) The Contractor must invoice the Remuneration Amounts and Service Charges in accordance with clause 4 of this Schedule 2.

1.5 Rebates and Incentives

- (a) The Contractor and Finance acknowledge that a Media Commission is payable by media suppliers in return for the Contractor placing an advertisement with that Media Supplier.
- (b) Media Commission is generally calculated at the rate of ten percent (10%) of the Gross Media Spend, when applicable. The rate of 10% may fluctuate (up or down) for some media depending on the location (e.g. overseas media) and medium (e.g. digital).
- (c) The Contractor must pass on the benefit of the Media Commission in full to the Customer in accordance with clause 3.3 of this Schedule 2.

1.6 Examples

- (a) Examples shown in this document are for illustrative purposes only and are not intended to be exhaustive lists or the only method of calculation. All examples are shown in italics.

This is an example. This is an example. This is an example. This is an example.

2. Remuneration Amounts

Note to Tenderer:

Finance is seeking to implement a MMA Services Deed that appropriately remunerates the Contractor for the delivery of high-quality Services to Customers and Finance, and represents value for money. To enable this objective, the relationship between the Contractor and Finance is to be underpinned by a strong transparency ethos and a continuous service improvement culture.

Finance anticipates implementing a best practice remuneration model based on a Retainer and Performance Payment as depicted at Figure 2.

Contractor's FTE information will be incorporated in the Deed, Schedule 4 – Contractor Personnel, based on responses to the RFT (Appendix B8 – Price Schedule).

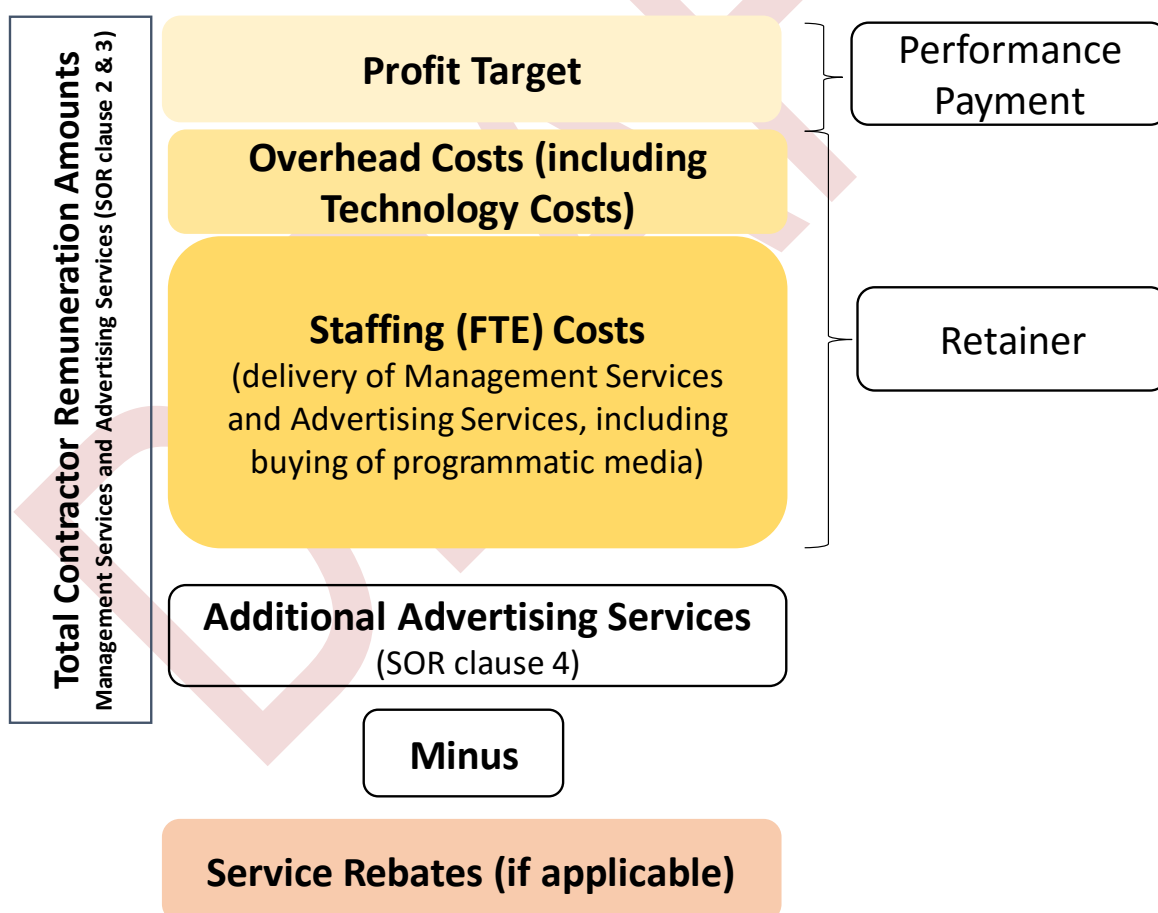


Figure 2: Remuneration Amounts

2.1 Remuneration Amounts

- (a) The Remuneration Amounts payable by Finance are the:
- (i) Retainer, determined in accordance with clause 2.2 of this Schedule 2;
 - and

- (ii) Performance Payment, determined in accordance with clause 2.3 of this Schedule 2.

2.2 Retainer

Note to Tenderer:

The Retainer will remunerate the Contractor for the delivery of Management Services and Advertising Services for all Media, including all Digital Media procured through biddable and/or programmatic processes and technologies. No additional fees will be paid to trading desks, for example.

Clauses for this section will be drafted based on the Tenderer's response to the RFT.

- (a) For each month during the Deed Period, the Contractor must invoice Finance the Retainer, detailed in Table 2, subject to clause 2.2(b) of this Schedule 2.

Table 2

	Annual (GST exclusive)	Per Month (GST exclusive)
Retainer	\$ xx,xxx.xx [to be populated based on Tenderer's response]	\$ xx,xxx.xx [to be populated based on Tenderer's response]

- (b) The Retainer payable by Finance may be reduced (offset) if a Service Rebate is enforced in accordance with clause 3.3 of Schedule 3.
- (c) The Contractor must invoice Finance in accordance with the requirements of clause 4.1 of this Schedule 2.

Performance Payment

Note to Tenderer:

Finance anticipates refining the Performance Payment identified in Figure 2, based on Customers' and Finance's evaluation of the Contractor's performance as depicted in Figure 3.

Finance anticipates the Performance Payment will represent the Contractor's profit target of the total Remuneration Amounts available.

Clauses for this section will be drafted based on the Tenderer's response to the RFT.

- (a) The Contractor will be entitled to receive a Performance Payment corresponding to the period between the Services Commencement Date and 31 December 2018. Finance's evaluation of the Contractor's performance in relation to the Performance Payment process will commence from 1 January 2019.

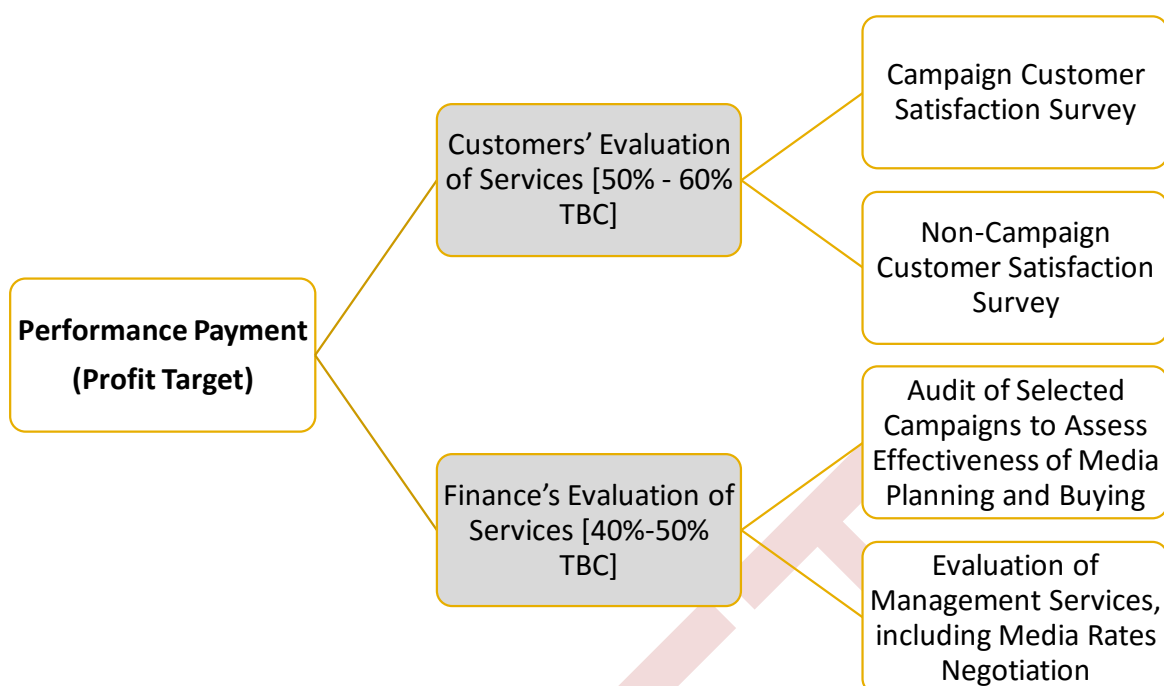


Figure 3: Structure of the Performance Payment

2.3 Customer Satisfaction Performance

- (a) Without limiting clause 2.11 of Schedule 1, Finance will assess, on a six-monthly basis, the Contractor's performance of the Services through Customer Satisfaction Surveys in order to determine satisfaction, expressed as a percentage to one decimal place.
- (b) If Finance notifies the Contractor that part of the Performance Payment relating to Customer satisfaction is to be paid, the Contractor may invoice Finance, in accordance with clause 4.1 of this Schedule 2, the corresponding amount set out in Table 3:

Table 3

Customer Satisfaction Survey Performance	Part of the Performance Payment amount payable (GST exclusive)
If the Contractor achieves an overall satisfaction rating of [90.0% - TBC] in the Customer Satisfaction Survey.	\$XX [to be informed by Tenderer's response]
If the Contractor achieves an overall satisfaction rating of [75% or higher but lower than 90.0% - TBC] in the Customer Satisfaction Survey.	\$XX [to be informed by Tenderer's response]
If the Contractor achieves a satisfaction rating of less than 75% in the Customer Satisfaction Surveys, the Contractor is not entitled to receive that part of the Performance Payment and must develop and implement a plan to remedy any identified Service failures within fifteen (15) Business Days after receiving notification from Finance.	\$0.00

2.4 Finance Satisfaction Performance

- (a) Finance, as the contract manager for the Deed, will at the end of each six-month period from the Services Commencement Date, except for clause 2.4(a)(iv), which will be assessed following Finance's evaluation of the Contractor's annual media rates negotiation performance as per clause 2.12 of Schedule 1, assess the Contractor's performance of the Services, taking into consideration:
- (i) the overall quality of Services provided;
 - (ii) the Contractor's performance against the Service Levels in Schedule 3;
 - (iii) the Contractor's performance in delivering Advertising Services for Campaign and complex Non-Campaign advertising, including the effectiveness of media planning and media buying;
 - (iv) the Contractor's performance against any media rates targets set by Finance for Media Rates Negotiations in accordance with clause 2.12 of Schedule 1;
 - (v) the Contractor's performance against any targets set during Contract Management Meetings conducted in accordance with clause 2.8 of Schedule 1); and
 - (vi) overall performance against the objectives and requirements outlined in clauses 1.1, 1.2, 1.4, and 1.5 of Schedule 1.
- (b) Subject to consultation with the Contractor, Finance will, at its absolute discretion, determine an appropriate methodology to calculate the amount (if any) to pay the Contractor in recognition of their performance against the points noted in clause 2.4(a) of this Schedule 2. The amount may be any amount up to, but not exceeding, the part of the Performance Payment set out in Table 4 below:

Table 4

Finance Satisfaction Performance	Part of the Performance Payment amount payable (GST exclusive)
Finance Satisfaction Performance	\$XX [to be informed by Tenderer's response]

- (c) The Finance Satisfaction Performance Payment payable by Finance may be reduced if a Service Rebate is enforced in accordance with clause 3.3 of Schedule 3.
- (d) Finance will notify the Contractor of the Finance Satisfaction Performance Payment amount to be invoiced.
- (e) Following notification from Finance, the Contractor may invoice Finance, in accordance clause 4.1 of this Schedule 2, the amount determined by Finance in accordance with clause 2.4(c) of this Schedule 2.

2.5 Adjustments to Remuneration Amounts

Note to Tenderer:

Clauses for this section will be drafted based on the Tenderer's response to the RFT.

(a) [To be drafted based on Tenderer's response to the RFT].

3. Service Charges

3.1 Service Charges

- (a) The Service Charges payable by a Customer for Advertising Services are:
 - (i) Gross Media Spend, determined in accordance with clause 3.2 of this Schedule 2; **less**
 - (ii) Media Commission, determined in accordance with clause 3.3 of this Schedule 2; **plus**
 - (iii) Fees for Additional Advertising Service, determined in accordance with clause 3.4 of this Schedule 2; **plus**
 - (iv) the WoAG Administration Fee, determined in accordance with clause 3.6 of this Schedule 2; **plus**
 - (v) the Remuneration Charge Back Amount, determined in accordance with clause 3.7 of this Schedule 2; **plus**
 - (vi) GST.
- (b) The Contractor is not entitled to payment of any Service Charges connected with Advertising Services unless the Customer has approved the Media Booking Authority for the Service Charges.
- (c) The Contractor must invoice the Customer for the Service Charges in accordance with clause 4.2 of this Schedule 2.
- (d) The total Service Charges invoiced to a Customer must not exceed the total Service Charges specified in the Media Booking Authority.

3.2 Gross Media Spend

- (a) Gross Media Spend, as defined in the Deed, may include charges that facilitate the placement as charged by the Media Supplier.
- (b) The Contractor must not use media rates which are higher than the Australian Government Media Rates applicable at the time when calculating the Gross Media Spend.
- (c) When calculating the Gross Media Spend, the Contractor must pass on any applicable Rebates and Incentives that the Contractor has been able to secure as required by clause 10 of Schedule 1.
- (d) The total Gross Media Spend invoiced to a Customer must not exceed the total Gross Media Spend specified in the Media Booking Authority.
- (e) The Contractor may invoice the Customer for Gross Media Spend, prior to verification, which is required under clause 3.8 of Schedule 1.
- (f) Where any adjustments are necessary to the Gross Media Spend, as a result of verification, the Contractor must make adjustments in accordance with clause 4.9 and 4.10 of this Schedule 2.
- (g) The Contractor must pay Media Suppliers as specified in clause 3.11 of Schedule 1.

3.3 Media Commission

- (a) The Contractor must pass on the full benefit of any available Media Commission to the Customer.
- (b) The Contractor is to identify on Tax invoices which advertising placements are commissionable (Media Commission is payable) and which advertising placements are non-commissionable (no Media Commission is payable).
- (c) The Contractor must maintain transparency of Media Commissions throughout the advertising cycle by outlining the Media Commissions to the Customer in the Media Booking Authority, on Tax Invoices supplied to the Customer and in the reporting provided by the Contractor.

3.4 Fees for Additional Advertising Service

Note to Tenderer:

Fees for Additional Advertising Service that the Contractor is entitled to invoice to the Customer, and which are not covered by the Retainer, are detailed in clause Schedule 14 of Schedule 1.

Table 5 will be populated based on the Tenderers response to the ATM, Appendix B8 – Price Schedule.

Table 5: Fee for Additional Advertising Services

No.	Name	Details/Description	Fee for Service (GST exclusive)
1.	[to be informed by Tenderer's response]	[to be informed by Tenderer's response]	\$XX [to be informed by Tenderer's response]
2.	[to be informed by Tenderer's response]	[to be informed by Tenderer's response]	\$XX [to be informed by Tenderer's response]

- (a) The total Fees for Additional Advertising Service invoiced to a Customer must not exceed the total Fees for Additional Advertising Service specified in the Media Booking Authority.
- (b) The Contractor must maintain transparency of Fees for Additional Advertising Service throughout the advertising cycle by outlining the Fees for Advertising Service to the Customer in the Media Booking Authority, on Tax Invoices supplied to the Customer and in the reporting provided by the Contractor.
- (c) [Insert timeframe (e.g. yearly)], the Contractor must:
 - (i) review all Fees for Additional Advertising Service including external third party charges with a view to improve these charges where possible;
 - (ii) outline steps taken by the Contractor to improve pricing; and
 - (iii) provide Finance with a copy of the standard rate card it has with Third Party suppliers and the rate card that has been negotiated for the Australian Government to allow Finance to compare the pricing.

- (d) Finance may, at any time, review the invoices provided to the Contractor by its suppliers to ensure that services provided to Customers are charged at cost.

3.5 Benchmarking

- (a) Finance may benchmark the cost of the Services or any part of the Services (including the Fees for Additional Advertising Services and third party advertising related Charges) (**Benchmark Review**).
- (b) If a Benchmark Review shows that the Fees, third party Media Placement Charges or other charges are not equal to or less than the lowest pricing established by the Benchmark Review report, then the Fees for Additional Advertising Services and Third Party advertising related Service Charges shall be reduced by an amount agreed by the parties. In the absence of agreement, the matter will be referred to the dispute resolution process in clause 32.7.

3.6 WoAG Administration Fee

- (a) The Contractor must calculate and invoice to the Customer the WoAG Administration Fee, for all types of advertising.
- (b) The WoAG Administration Fee is calculated as a percentage of the Gross Media Spend. The WoAG Administration Fee must not be applied to Fees for Additional Advertising Services.
- (c) The percentage to be applied by the Contractor is identified at Table 6:

Table 6

Term	Description	Percentage of Gross Media Spend
WoAG Administration Fee	Collected to fund establishment and administration of the Deed by Finance	_._%

Note to Tenderer:

The WoAG Administration Fee will be advised to the successful Tenderer.

- (d) The Contractor must maintain transparency of the WoAG Administration Fee throughout the advertising cycle by outlining the WoAG Administration Fee to the Customer in the Media Booking Authority, on Tax Invoices supplied to the Customer and in the reporting provided by the Contractor.
- (e) The Contractor must remit the WoAG Administration Fee to Finance in accordance with clause 7 of the Deed.

3.7 Remuneration Charge Back Amount

- (a) The Contractor must calculate and invoice the Remuneration Charge Back Amount to the Customer, for all types of advertising.
- (b) The Remuneration Charge Back Amount is calculated as a percentage of the Gross Media Spend. The Remuneration Charge Back Amount must not be applied to Fees for Additional Advertising Services.
- (c) The percentage to be applied by the Contractor is identified at Table 7.

Table 7

Term	Description	Percentage of Gross Media Spend
Remuneration Charge Back Amount	Collected to fund Remuneration Amounts paid to the Contractor by Finance	..%

Note to Tenderer:

The Remuneration Charge Back Amount will be advised to the successful Tenderer.

- (d) The Contractor must maintain transparency of the Remuneration Charge Back Amount throughout the advertising cycle by outlining the Remuneration Charge Back Amount to the Customer in the Media Booking Authority, on Tax Invoices supplied to the Customer and in the reporting provided by the Contractor.
- (e) The Contractor must remit the Remuneration Charge Back Amount to Finance in accordance with clause 7 of the Deed.

4. Invoicing

4.1 Provision of Invoices to Finance

- (a) The Contractor must prepare and provide to Finance, in arrears, a monthly Tax Invoice for the Management Services, which sets out the Remuneration Amounts payable in accordance with clause 2 of this Schedule 2.
- (b) The Tax Invoice must detail amounts payable including:
 - (i) the monthly Retainer; **less**
 - (ii) any applicable Service Rebate; **plus**
 - (iii) any applicable Performance Payment; **plus**
 - (iv) GST.
- (c) Tax Invoices prepared by the Contractor in accordance with this clause 4.1 of this Schedule 2 must include:
 - (i) information required by law;
 - (ii) payment terms and payment details;
 - (iii) a description of the Services to which the invoice relates;
 - (iv) itemised amounts payable (broken down by type); and
 - (v) any other information as reasonably requested by Finance.
- (d) Invoices should be sent electronically to the Finance Representative set out in the Deed.

4.2 Provision of Invoices to Customers

- (a) The Contractor must provide Tax Invoices to Customers, in arrears, for Advertising Services delivered under the Deed, in accordance with the following timeframes:
 - (i) for Campaign and complex Non-Campaign advertising, at the end of each calendar month; and

- (ii) for all other advertising types, at the end of each week;
- or on such other basis as agreed with the Customer and Finance.
- (b) The Contractor must prepare Tax Invoices for each Customer billing point, for the work performed under the Deed, setting out the Service Charges payable in accordance with clause 3 of this Schedule 2.
- (c) Tax Invoices must detail amounts payable including:
 - (i) Gross Media Spend; **less**
 - (ii) any applicable Media Commission; **plus**
 - (iii) any applicable Fees for Service; **plus**
 - (iv) the WoAG Administration Fee, **plus**
 - (v) the Remuneration Charge Back Amount; **plus**
 - (vi) GST.
- (d) Tax Invoices prepared by the Contractor in accordance with this clause 4.2 of this Schedule 2 must include at a minimum:
 - (i) information required by law;
 - (ii) payment terms and payment details;
 - (iii) Customer details;
 - (iv) description of the advertisement and Advertising Services to which the Tax Invoice relates;
 - (v) itemised amounts payable (broken down by type), including any adjustments for media that was not placed; and
 - (vi) any other information as reasonably requested by Finance or the Customer.
- (e) Invoices must be provided **through the Online Management System or sent electronically** to the billing points identified in the Media Booking Authority, or a place, as reasonably specified by the Customer in a Service Delivery Plan.

4.3 Additional Invoice Details

- (a) Further to clauses 4.1 and 4.2 of this Schedule 2, the Contractor must:
 - (i) present all Tax Invoices in a .CSV or .PDF format or both (at the election of the Customer), and/or another format as reasonably requested by the Customer;
 - (ii) as required by the Customer, include a detailed breakdown of the amounts identified in clause (c) of this Schedule 2 in order to provide transparency and visibility of charges and volumes to the Customer;
 - (iii) as required by the Customer, attach separate component invoice data by sub-unit (which in total make up the primary Tax Invoice) applicable to each, business unit, geographic area or other categorisation applicable to the Customer; and

- (iv) endeavour to reduce administrative burden on the Customer by providing one invoice per invoicing period for each billing point identified by the Customer.

4.4 Substantiation of Invoices

- (a) The Contractor must ensure all Tax Invoices and statements are accompanied by documentation and information, or grant the Customer access to such documentation and information, necessary to verify the accuracy of the Tax Invoice or statement.
- (b) The Contractor must within seven (7) Business Days of a written request from the Customer, provide to the Customer, in a form reasonably requested by the Customer, full details of the methodologies and supporting materials used in calculating the Tax Invoice.

4.5 Payment of Invoices

- (a) If the Customer fails to pay a correctly rendered Tax Invoice within 30 days from the date on which that invoice is received from the Contractor, the Contractor is entitled to charge interest in accordance with the clause 4.7 of this Schedule 2.
- (b) If a correctly rendered Tax Invoice has not been received by the Customer more than six (6) months after it was required to be provided in accordance with clause (a), the Customer is not required to pay that invoice.

4.6 Payment by Credit Card

- (a) The Contractor must allow the payment of Tax Invoices by Credit Card.
- (b) Furthermore, if requested by the Customer, or where directed by Finance, the Contractor must retain payment card details to facilitate automatic payment of Tax Invoices of up to \$20,000 (inclusive of GST).
- (c) In circumstances where clause 4.6(b) is applicable, the Contractor must action the payment prior to the production of the relevant Tax Invoice(s), so that the Customer receives a Tax Invoice or statement with a nil balance owing to the Contractor.
- (d) Any other credit card limits or payment arrangement proposed by a Customer must not be implemented by the Contractor, unless otherwise approved by Finance.

4.7 Interest

- (a) The Contractor may calculate and charge interest to the Customer for any amounts which are overdue for payment.
- (b) Amounts in dispute are not considered to be overdue.
- (c) Interest payable under this clause 4.7, will be simple interest on the unpaid amount at the General Interest Charge Rate, calculated in respect of each day from the day after the amount was due and payable, up to and including the day that the Customer effects payment as represented by the following formula:

$$SI = UA \times GIC \times D$$

Where:

SI = simple interest amount;

UA = the unpaid amount;

GIC = General Interest Charge Rate (daily rate); and

D = the number of days from the day after payment was due up to and including the day that payment is made.

Equation 1 - Simple Interest Formula

4.8 Dispute of an Invoice

- (a) If there is a dispute as to the liability to pay an amount or amounts referred to in a Tax Invoice issued by the Contractor:
 - (i) the relevant Customer must notify the Contractor of that dispute within 10 Business Days of the identification of the amount in dispute by the Customer;
 - (ii) the Contractor will be entitled to receive the remainder (if any) of the Tax Invoice not in dispute in accordance with this clause 4.8; and
 - (iii) The Customer is not liable to pay to the Contractor the amount in dispute until the Dispute is resolved.

4.9 Managing Under/Over Payments

- (a) If a Tax Invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by (or from) the Contractor, as the case may be, and, without limiting recourse to other available means, may be offset or credited against any amount subsequently payable by the Customer to the Contractor under any Customer Contract between the Customer and the Contractor. Alternatively, if the amount of the overpayment or underpayment is in dispute, the parties will follow the process in clause 4.8 as though the Tax Invoice had not been paid.
- (b) The Contractor must promptly notify the Customer if the Contractor identifies any such overpayment/underpayment.

4.10 Refunds

Note to Tenderer:

Finance is seeking to implement an arrangement which simplifies and facilitates Customers reconciliation of invoices, and enables prompt payment to the Contractor, by reducing the number of credit notes/adjustments issued to Customers.

- (a) If the Contractor is unable to credit or offset any amount owing to a Customer, for whatever reason, the Contractor must offer the Customer a refund.
- (b) Where a Tax Invoice has been paid through a Customer's credit card (pursuant to clause 4.6 of this Schedule 2) and a refund becomes owing to that Customer, the Contractor must refund the amount through the Customer's credit card. In doing so, the Contractor must provide sufficient details to enable the Customer to identify the transaction to which the refund relates.
- (c) Where a Tax Invoice has not been paid for through a Customer's credit card (pursuant to clause 4.6 of this Schedule 2) and a refund becomes owing to that Customer, the Contractor must give the Customer a minimum of 30 days to accept the refund offered.
- (d) If the Customer notifies the Contractor that it does not want to accept the refund, the Contractor must provide the refund to Finance. The Contractor must notify the Customer of this clause 4.10(d) when offering a refund.

- (e) Where the Customer has not responded to the Contractor's offer in accordance with clause 4.10(c) of this Schedule 2, the Contractor must notify Finance within 10 days.
- (a) Further to clause 4.10(e) of this Schedule 2, and after consultation with the Customer, Finance may instruct the Contractor to pay the owed amount to Finance instead of to the relevant Customer.

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Schedule 3 – Service Level Agreement

Note to Tenderer:

The Service Level Agreement (SLA) will form Schedule 3 to the Deed.

Defined terms in the SLA have the same meaning as the definitions in the Deed.

Service Levels will be developed further based on the response received in Appendix B of the ATM and will be agreed with the successful Tenderer.

Notwithstanding the use of "must" in this SLA, none of the requirements in this SLA are conditions for participation or mandatory requirements for the purposes of the ATM.

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1. Introduction

1.1 Administration

- (a) The Contractor and Finance will meet to discuss the Contractor's performance against the Service Levels at the Deed Management Meeting, in accordance with the requirements set out in clause of 2.8 of Schedule 1.
- (b) The Contractor and Finance, both acting reasonably, may agree to adjust, remove or include new Service Levels, from time to time, if:
 - (i) a Service Level requires periodic adjustment;
 - (ii) an additional Service Level is required; or
 - (iii) a Service Level is no longer considered appropriate.
- (c) Any changes to the Service Levels must be made in writing and agreed between the Contractor and Finance.
- (d) Each Service Level is defined in the format identified in Table 8.

Table 8: Description of Service Level Definition Elements

Description	
Metric Definition	Definition of the Service Level.
Measurement Methodology	
Period of Calculation	The period over which the Service Level is calculated (e.g. monthly, quarterly, annually, etc).
Measurement Point	Identifies when the measurement is carried out.
Calculation	How the Service Level is calculated.
Calculation Notes	Additional information on what is included or excluded from the calculation, including whether the Service Level is to be measured continuously or at certain intervals.
Data Source	Identifies the source of the information used to calculate the Service Level (i.e. named tools or data sources).
Verification Responsibility	Identifies whether a Contractor, Finance or Customer is responsible for verifying performance against the Service Level. It is expected that in most cases, the Contractor will be responsible for monitoring, measuring and managing its performance.
Reporting Frequency	Details of how often the Service Level is reported.
Service Rebate for Service Level Failure	
Tolerance	The permissible deviation from a Minimum Service Level, if applicable.
Service Rebate	As defined for each of Service Level.

2. Service Levels

- (a) Table 9 outlines the Service Levels used to measure the performance of the Contractor during the Deed Period, and these are described in detail in Table 10 to Table 19.

Table 9: Service Level Summary

Service Level No.	Table Reference	Description
1.	Table 10	Account and Contract Management Services Team (Schedule 1, clause 2.1 and Schedule 4)
2.	Table 11	Responsiveness to Customers' Request for Service (Schedule 1, clause 2.4)
3.	Table 12	Campaign and complex Non-Campaign Media Costing, Media Strategy and Media Plan (Schedule 1, clause 3.3)
4.	Table 13	Media Buying for Customers (Schedule 1, clause 3.4)
5.	Table 14	Accuracy and Timely Delivery of Reports to Customers (Schedule 1, clause 2.16 and Appendix 2 to Schedule 1)
6.	Table 15	Accuracy of Invoices (Schedule 2, clause 4)
7.	Table 16	Management Reports and Data Accuracy and Timeliness (Schedule 1, clause 2.16)
8.	Table 17	Online Management System Functionality and Availability (Schedule 1, clauses 2.17, 2.18 and 2.19)
9.	Table 18	Caretaker and Blackout Periods (Schedule 1, clause 3.15)
10.	Table 19	Brand Safety (Schedule 1, clause 3.9)

Table 10

Service Level No. 1 – Account and Contract Management Services Team (Schedule 1, clause 2.1 and Schedule 4)	
Metric Definition	90% of the Contractor Personnel specified in clause 2.1 of Schedule 1 is available to deliver the Services during the reporting period.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	Following the Contractor's delivery of the Contractor's Resourcing Report specified in clause 2.1(f), which reports on monthly FTE availability.
Calculation	$\frac{100 - 100 \times (\text{total number Contracted FTE} - \text{Actual FTE})}{(\text{total number of Contracted FTE})}$
Calculation Notes	Finance's assessment will disregard any reasonable and/or unforeseen leave by Contractor Personnel.

Service Level No. 1 – Account and Contract Management Services Team (Schedule 1, clause 2.1 and Schedule 4)	
Data Source	Periodic Contractor's Resourcing Report delivered to Finance by the Contractor, Contractor's Notices in accordance with clause 18, Customers' feedback, etc.
Verification Responsibility	Contractor.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	<p>In assessing this Service Level, Finance will take into account:</p> <ul style="list-style-type: none"> (a) steps taken by the Contractor to fill vacant positions (e.g. engaging personnel on a temporary basis); (b) the time taken by the Contractor to fill vacant positions; and (c) any workforce retention plans developed to minimise impact on Service delivery due to staff churn.
Service Rebate	<p>Up to \$5,000 per each instance where an FTE is not available to perform a role (e.g. temporarily or permanently) in two consecutive months.</p> <p>Example: 90% of FTE (or any other figure below 95%) were available during the reporting period, and over two consecutive months, with 6 FTE positions being the source of the failure. The Service Rebate payable for this failure is \$30,000 (6 x \$5,000).</p>

Table 11

Service Level No. 2 – Responsiveness to Customers' Request for Service (Schedule 1, clause 2.4)	
Metric Definition	At least 75% of Customers surveyed are satisfied that the Contractor has acknowledged their request for Service within 1 Business Day of receipt of their request.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	At the time Customer Satisfaction Surveys are conducted.
Calculation	N/A.
Calculation Notes	<p>A request for Service must be responded to within 1 Business Day of receipt of the request for service, irrespective of how the request was submitted to the Contractor.</p> <p>Survey data is unweighted.</p>
Data Source	Customer Satisfaction Surveys, Customer's feedback, Finance's audits, etc.

Service Level No. 2 – Responsiveness to Customers' Request for Service (Schedule 1, clause 2.4)	
Verification Responsibility	Customer and Finance.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	Cumulative Service Level Failure. A Service Rebate may apply if the Contractor fails to achieve the metric definition over two or more consecutive periods of calculation.
Category	Critical
Service Rebate	<p>\$1,000 for each 1% of Customer Satisfaction below the metric definition for the Service Level in the reporting period.</p> <p>Example 1: During the reporting period Customer Satisfaction against the Service Level was 60% instead of 75% (a gap of 15%). Then, the following reporting period Customer Satisfaction against the Service Level was 65% instead of 75% (a gap of 10%). Finance may be entitled to apply a Service Rebate of \$25,000 ((15+10) x \$1,000).</p> <p>Example 2: During the reporting period Customer Satisfaction against Service Level 2 was 72% instead of 75% (or 3% below the metric definition). Then, the following reporting period Customer Satisfaction against the Service Level was 80% (or 5% above the metric definition). No Service Rebate is applicable.</p>

Table 12

Service Level No. 3 – Campaign and complex Non-Campaign Media Costing, Media Strategy and Media Plan (Schedule 1, clause 3.3)	
Metric Definition	At least 75% of Customers surveyed during the reporting period are satisfied with the timeframes of the Contractor's delivery of Campaign and complex Non-Campaign Deliverables specified in clause 3.3 of Schedule 1.
Recipient	Finance.
Measurement Methodology	
Period of Calculation	Quarterly.
Calculation	N/A.
Measurement Point	At the time Customer Satisfaction Surveys are conducted.
Calculation Notes	Survey data is unweighted.
Data Source	Customer Satisfaction Surveys and Customers' feedback.

Service Level No. 3 – Campaign and complex Non-Campaign Media Costing, Media Strategy and Media Plan (Schedule 1, clause 3.3)	
Verification Responsibility	Finance.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	Cumulative Service Level Failure.
Category	Non-critical
Service Rebate	<p>Cumulative Service Failure for each of the six metrics defined above.</p> <p>Up to \$5,000 per each defined metric achieving a satisfaction score of less than 75%.</p> <p>Example: During the reporting period, the Contractor achieved a Customer satisfaction rating of 60% against metric number 2 (a gap of 15%) and 50% against metric number 5 (a gap of 20%). The Service Rebate payable is \$10,000 (2 x \$5,000).</p>

Table 13

Service Level No. 4 – Media Buying for Customers (Schedule 1, clause 3.4)	
Metric Definition	<p>100% of advertising is booked and Additional Advertising Services are delivered:</p> <ul style="list-style-type: none"> (a) only when the Contractor has received an approved Media Booking Authority (MBA) from the Customer; (b) in accordance with that MBA and accompanying Media Plan or subsequent iterations of the Media Plan approved by the Customer in instances where a new MBA is not required; and (c) at costs no higher than the Australian Government Media Rates and the Fees for Additional Advertising Service specified in clause 3.4 of Schedule 2.
Recipient	Customers.
Measurement Methodology	
Period of Calculation	Ongoing.
Measurement Point	Following the delivery of Advertising Services and Additional Advertising Services by the Contractor.
Calculation	N/A.
Calculation Notes	N/A.
Data Sources	Contractor's notifications, feedback from Customers, audits by Finance or third parties.
Verification Responsibility	Contractor, Customers and Finance.
Reporting Frequency	Ongoing.
Service Rebate for Service Level Failure	
Tolerance	<p>In assessing this Service Level, Finance will take into account:</p> <ul style="list-style-type: none"> (a) any act or event Finance considers to be outside the Contractor's control and to have caused or contributed to the failure; and (b) the extent to which the failure affected the Customer's or Finance's advertising objectives and decisions.
	<p>Note to Tenderer:</p> <p>Tolerance levels for delivery against objectives for individual Media will be subject to confirmation with the successful Tenderer.</p>
	<p>In accordance with Schedule 1, clause 3.4(a), the Customer is not required to pay the Contractor for Services delivered without having an approved MBA.</p>
Service Rebate	Cumulative Service Level with a Service Rebate of \$10,000 per each failure, subject to the considerations identified in the Tolerance section for this Service Level.

Table 14

Service Level No. 5 – Accuracy and Timely Delivery of Reports to Customers (Schedule 1, clause 2.16 and Appendix 2 to Schedule 1)	
Metric Definition	At least 75% of Customers are satisfied with the accuracy and timely delivery of Customer Reports delivered in accordance with Schedule 1, clause 2.16 and Appendix 2 to Schedule 1.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	Following the Contractor's delivery of Customer Reports.
Calculation	N/A.
Calculation Notes	Survey data is unweighted.
Data Source	Customer Satisfaction Surveys, Customer's feedback, audits, etc.
Verification Responsibility	Customer and Finance.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	Cumulative Service Level Failure. A Service Rebate may apply if the Contractor fails to achieve the metric definition over two or more consecutive calculation periods.
Service Rebate	<p>\$1,000 for each 1% of Customer Satisfaction below the Minimum Service Level in the reporting period.</p> <p>During the reporting period Customer Satisfaction against the Service Level was 60% instead of 70% (a gap of 10%). Then, the following reporting period Customer Satisfaction against the Service Level was 65% instead of 70% (a gap of 5%).</p> <p>Finance may be entitled to apply a Service Rebate of \$15,000 $((10+5) \times \\$1,000)$.</p>

Table 15

Service Level No. 6 – Accuracy of Invoices (Schedule 2, clause 4)	
Metric Definition	Invoices contain accurate data, using media rates which are no higher than the Australian Government Media Rates applicable at the time, and using Fees for Services rates which are no higher than those specified in the Deed, and the total is not more than the amount approved in the Media Booking Authority.
Minimum Service Level	100% of invoices are delivered to Finance and Customers: (a) in accordance with the timeframes and requirements detailed in clauses 4.1 and 4.2 of Schedule 2; (b) in accordance with the relevant MBA and accompanying Media Plan or subsequent iterations of the Media Plan approved by the Customer in instances where a new MBA is not required; and (c) at costs no higher than the Australian Government Media Rates and the Fees for Additional Advertising Service specified in clause 3.4 of Schedule 2.
Recipient	Customer and Finance.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	At the time of delivery of invoices by the Contractor.
Calculation	N/A.
Calculation Notes	N/A.
Data Source	Customer Satisfaction Surveys, Customer's feedback, Finance's audits, etc.
Verification Responsibility	Contractor, Customer and Finance.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	N/A.
Service Rebate	N/A. In accordance with clauses 4.9 and 4.10 of Schedule 2, the Contractor must provide a refund in the event of an over payment by the Customer. Finance may take into account any Service Level Failure(s) against this Service Level when determining if the Contractor may be entitled to receive a Finance Satisfaction Performance Payment, in accordance with clause 2.4 of Schedule 2, and the amount of the Performance Payment.

Table 16

Service Level No. 7 – Management Reports and Data Accuracy and Timeliness (Schedule 1, clause 2.16)	
Metric Definition	95% of Management Reports and data is delivered in accordance with the timeframes specified in Appendix 2 to Schedule 1, and data in reports is accurate.
Recipient	Finance.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	Following the Contractor's delivery of Management Reports and data.
Calculation	$100 - \frac{100 \times (\text{total number of incorrect or late reports})}{(\text{total number of required reports})}$
Calculation Notes	The delivery of the reports will be measured from close of business on the day of the end of relevant reporting period to the time the reports are sent to the Finance Representative.
Data Source	Reports delivered to Finance by the Contractor in accordance with the SOR.
Verification Responsibility	Finance.
Reporting Frequency	Quarterly.
Service Rebate for Service Level Failure	
Tolerance	<p>In assessing this Service Level, Finance will take into account:</p> <ul style="list-style-type: none"> (a) any act or event Finance considers to be outside the Contractor's control and to have caused the failure; and (b) the extent to which the failure affected Finance's reporting and WoAG arrangement management obligations. This will include an assessment as to whether substantive or material errors in report and data are identified; that is, if any identified errors have a material impact on Finance's conclusions, decisions or recommendations.
Service Rebate	<p>N/A.</p> <p>Finance may take into account any Service Level failures against this Service Level when determining if the Contractor may be entitled to receive a Finance Satisfaction Performance Payment, in accordance with clause 2.4 of Schedule 2, and the amount of the Performance Payment.</p>

Table 17

Service Level No. 8 – Online Management System Functionality and Availability (Schedule 1, clauses 2.17, 2.18 and 2.19)	
Metric Definition	<p>The Online Ordering System is delivered in accordance with clauses 2.17, 2.18 and 2.19 of Schedule 1.</p> <p>Note to Tenderer: This Service Level will be finalised by Finance based on the successful Tenderer's response to the RFT.</p>
Recipient	Customer and Finance.
Measurement Methodology	
Period of Calculation	Quarterly.
Measurement Point	Ongoing.
Calculation	<p>Online Management System Availability: $100 - 100 * ((\text{total number of hours of unplanned outages of the online ordering system}) / (\text{total number of Business Hours in the reporting month}))$</p> <p>Online Management System Functionality and Content: [To be completed based on the successful Tenderer's response to the RFT].</p>
Calculation Notes	<p>Finance will assess whether the Online Management System:</p> <ul style="list-style-type: none"> (a) is available to Finance and Customers; and (b) is easy to use; and (c) contains Management and Advertising Services related Deliverables. <p>Unplanned outages are outages for which Customers and Finance were not given notice of at least five (5) Business Days.</p>
Data Source	Customer Satisfaction Survey, Finance's audits, outage log, Customer's feedback.
Verification Responsibility	Contractor.
Reporting Frequency	Monthly.
Service Rebate for Service Level Failure	
Tolerance	[To be completed based on the successful Tenderer's response to the RFT].
Service Rebate	<p>N/A.</p> <p>Finance may take into account any Service Level failures against this Service Level when determining if the Contractor may be entitled to receive a Finance Satisfaction Performance Payment, in accordance with clause 2.4 of Schedule 2, and the amount of the Performance Payment.</p>

Table 18

Service Level No. 9 – Caretaker and Blackout Periods (Schedule 1, clause 3.15)	
Metric Definition	All advertising by relevant Participants in all media is placed or cancelled, as appropriate, in accordance with the legislative and policy requirements for electoral events (including federal general elections, federal by-elections, state elections and referendums).
Recipient	Finance.
Measurement Methodology	
Period of Calculation	From the initial instruction from Finance to the Contractor to withdraw and/or place media to support the electoral event to the electoral event itself.
Measurement Point	Within four weeks following the electoral event.
Calculation	N/A.
Calculation Notes	N/A.
Data Source	Advice from Contractor and/or Customer to Finance, spot schedules or their equivalent from Media Suppliers, reports from relevant third party suppliers.
Verification Responsibility	Contractor, consistent with clause 3.15 of Schedule 1.
Reporting Frequency	As required.
Service Rebate for Service Level Failure	
Tolerance	<p>The significance of any lapses will be determined by Finance at its absolute discretion. In determining whether to consider whether lapses constitute a Service Level Failure, Finance will, in consultation with the relevant Customer(s), consider the:</p> <ul style="list-style-type: none"> (a) scope of advertising that appeared that was not in accordance with the legislative and policy requirements; (b) potential for damage to the reputation of the Customer and/or the Commonwealth; and (c) extent to which Media Suppliers have complied with relevant trading agreements and/or instructions from the Contractor.
	<p>N/A.</p> <p>Finance may take into account any Service Level Failure(s) against this Service Level when determining if the Contractor may be entitled to receive a Finance Satisfaction Performance Payment, in accordance with clause 2.4 of Schedule 2, and the amount of the Performance Payment.</p>

Table 19

Service Level No. 10 – Brand Safety (Schedule 1, clause 3.9)	
Metric Definition	There are no significant or material instances of advertising appearing alongside inappropriate content, in accordance with Finance's and/or the Customer's brand safety requirements.
Recipient	Finance.
Measurement Methodology	
Period of Calculation	Monthly.
Measurement Point	During and immediately following the advertising appearing in the media.
Calculation	Pass/Fail.
Calculation Notes	Brand safety requirements are detailed in clause 3.9 of Schedule 1 and/or supplementary instruction by the Customer.
Data Sources	Advice from Contractor and/or the Customer to Finance, reports from relevant Third Party Suppliers.
Verification Responsibility	Contractor, consistent with clause 3.9 of Schedule 1.
Reporting Frequency	As required.
Service Rebate for Service Level Failure	
Tolerance	<p>In determining whether a Service Level Failure(s) has been incurred, Finance will, in consultation with the relevant Customer, consider:</p> <ul style="list-style-type: none"> (a) the nature of the inappropriate content; (b) the potential for damage to the reputation of the Customer and/or the Commonwealth; and (c) the extent to which Media Suppliers have complied with relevant trading agreements and/or instructions from the Contractor.
Service Rebate	<p>N/A.</p> <p>Finance may take into account any Service Level Failure(s) against this Service Level when determining if the Contractor may be entitled to receive a Finance Satisfaction Performance Payment, in accordance with clause 2.4 of Schedule 2, and the amount of the Performance Payment.</p>

2.1 Performance Reporting Timing

- (a) The Contractor must provide a consolidated report to Finance, in writing, and by exception on their performance against each Service Level on a monthly basis, unless otherwise requested by Finance.
- (b) Finance will measure the Contractor's performance against each Service Level in accordance with the periods identified Table 9 to **Table 19**, or as otherwise determined by Finance.

3. Service Level Failure

3.1 Service Level Failure

- (a) A Service Level Failure occurs if the Contractor does not comply with a Service Level outlined in clause 2 of this Schedule 3.
- (b) The Contractor must notify Finance of each Service Level Failure in writing and rectify each failure in a timely manner, in accordance with clause 3.2.
- (c) Where the Contractor does not comply with more than one Service Level in the same month, multiple Service Level Failures will be recorded and may be considered together for the purpose of clause 3.3.
- (d) Where a Service Level Failure occurs in a reporting period and the failure has not been rectified and carries over to a new reporting period, then the failure will be deemed a new Service Level Failure in the next reporting period and re-evaluated as per clause 3.3.
- (e) A requirement to meet a Service Level will not apply to the extent that a failure is caused by an event which at Finance's absolute discretion is outside the Contractor's control or is contributed to by an act of omission by Finance or a Participant.

3.2 Contractor's Responsibilities for Service Level Failure

- (a) Except for Service Levels No. **[TBC]**, in the event of a Service Level Failure the Contractor must:
 - (i) immediately notify Finance of that Service Level Failure;
 - (ii) provide Finance with a plan to remedy the failure and prevent future failures;
 - (iii) take all necessary steps to ensure that the Service Level Failure is corrected, following the detail provided in the plan;
 - (iv) give notice to Finance when the failure has been corrected; and
 - (v) allow Finance to assess the effectiveness of the remedy to prevent future failures.
- (b) In the event of a Service Level Failure for Service Levels **[TBC]**, the Contractor must within five (5) Business Days, or as otherwise agreed with Finance, of becoming aware of the failure:
 - (i) notify Finance of the Service Level Failure;
 - (ii) rectify that Service Level Failure in a timely manner; and
 - (iii) notify Finance when the failure has been corrected.

- (c) Where the Contractor develops a plan to remedy a Service Level Failure the Contractor must provide a due date for correcting the failure and implement the plan in a timely manner.

3.3 Service Rebates

- (a) Finance will notify the Contractor in writing if a Service Rebate is enforced.
- (b) If a Service Rebate is enforced by Finance, the Contractor must reduce the next Tax Invoice sent to Finance by the amount of the Service Rebate (or Service Rebates), in accordance with Schedule 2, clauses 2.2(b) and 2.4(c).
- (c) Finance may, at its sole discretion, elect to waive, defer or apply part or all of a Service Rebate during the Deed Period.
- (d) Temporary deferral of the enforcement of a Service Rebate does not constitute a waiver of Finance's right to claim the Service Rebate

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Schedule 4 – Contractor Personnel and Approved Subcontractors

Contractor Personnel

[To be completed based on the successful Tenderer's response to the Approach to Market].

Approved Subcontractors

[To be completed based on the successful Tenderer's response to the Approach to Market].

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Schedule 5 – Media Brief

MEDIA BRIEF

TYPE OF ADVERTISING REQUIRED	MMA SERVICES REQUIRED (Media Specific)	ADDITIONAL ADVERTISING SERVICES REQUIRED (Fee for Service)
(Appendix 1 to Schedule 1 of the Deed)	(Clause 3 to Schedule 1 of the Deed)	(Clause 4 to Schedule 1 of the Deed)
<input type="checkbox"/> Campaign <input type="checkbox"/> Complex Recruitment <input type="checkbox"/> Recruitment ^(a) <input type="checkbox"/> Complex Public Notice <input type="checkbox"/> Public Notice <input type="checkbox"/> Tender ^(a)	<input type="checkbox"/> Media Strategy Development <input type="checkbox"/> Media Planning <input type="checkbox"/> Media Buying (only)	<input type="checkbox"/> Translations and Sub-Titling (Captioning) <input type="checkbox"/> Creative Content Development <input type="checkbox"/> Production Services <input type="checkbox"/> Media Extension (Event, Sponsorship, Integration) <input type="checkbox"/> Econometric Modelling <input type="checkbox"/> Third Party Despatch Services
(a) Note - an advertising exemption is required for recruitment advertising in major metropolitan newspapers, and tender advertising outside of AusTender by non-corporate Commonwealth entities. An exemption letter should be supplied with this brief.		ADDITIONAL DIGITAL SERVICES: <input type="checkbox"/> Search Engine Optimisation

ENTITY/ORGANISATION:	
PRODUCT/BRAND/INITIATIVE:	
BUDGET (excl. GST):	
DATES OF ACTIVITY <i>Start:</i>	<i>End:</i>
BRIEF DATE:	RESPONSE DUE^(b):
CLIENT CONTACT:	CREATIVE AGENCY (CA):
CLIENT EMAIL:	CA CONTACT
CLIENT PHONE:	CA EMAIL:
	CA PHONE:

(b) Following the provision of a final and complete Media Brief from the Customer, media strategies and media plans will be provided by the Contractor:

(a) Campaign advertising: within ten (10) Business Days, unless otherwise agreed with the Customer.

(b) Complex Non-Campaign advertising: within three (3) Business Days; unless otherwise agreed with the Customer.

Please discuss your needs with your client service manager or director.

Purpose

- *Why are we advertising?*
- *What is the challenge, opportunity or imperative?*

Overall Objectives

- *What are the objectives?*
- *Do you have measurable, realistic KPIs, evaluation goals, or volume targets?*
- *Over what time frame?*

History

If relevant:

- *What is the brand or initiative's history and current awareness?*
- *What is the recent advertising history?*
- *Are there any problems facing the brand or initiative?*

Geographical location and exposure

Metropolitan? Regional? Rural? Interstate? International? Be specific if possible.

Environment

If relevant, are there any groups, opinions, or voices that compete directly with your message or initiative?

Audience

- *Do you already have a contract with a multicultural consultant for this campaign?*
- *Who do you need to talk to achieve the objective? Provide any insights on the audience we are talking to.*
- *What does your audience currently think, feel, or do about the brand, issue or initiative? How does it affect their behaviour towards it?*
- *What is the desired audience response? What do we need them to think, feel, or do instead to achieve our objective?*
- *Is there an Indigenous component?*
- *Is there a CALD (Culturally & Linguistically Diverse) component? Provide insights on the CALD audience we are talking to, or would you like the Contractor to make a recommendation?*

Creative Assets

- *Is there existing material i.e. TVC, press ad, digital material. Please specify sizes/durations. Please supply copies if possible.*
- *Do you already have a contract with a creative agency or other consultancy for this campaign?*

Television: CAD Approval

Please note that all proposed television commercials must be approved by the Commercial Acceptance Division (CAD) of Free TV Australia. Please ensure that your creative agency liaises with Free TV at the concept development stage to ensure approval is granted. The Contractor is not allowed to place TV commercials which do not have a CAD approval number. Lack of CAD approval can result in lengthy delays.

Tone of Voice

If relevant - what is the tone, mood, or tone of voice of the campaign you will produce?

Timing / Seasonality

- If relevant, are there any seasonal or other timing constraints affecting your campaign? Please note any key dates which need to be observed or that may affect the campaign.*
- Will there be a ministerial launch that we need to be aware of?*

Other communications activities

What other activities (e.g. event marketing, direct marketing, media launches) are you conducting to complement your advertising, and when?

Evaluation/Tracking

- What does success look like?*
- How will the results be measured? Link these back to the objectives you outlined above.*

Brand Safety

Are there particular environments that you would not want your advertising to appear in? As a starting point, the Contractor will mitigate the risks of your advertising appearing alongside content featuring or promoting gambling, hate speech, illegal downloading, offensive language, pornography, violence, the use of alcohol, illegal drugs or smoking, or any illegal activities not otherwise specified. Please detail if and, if appropriate, how you would like this approach tailored for your campaign

Additional Information (if required)

Attach any research reports, communication and marketing strategies, etc.

Customer Approver signature:

Customer Approver name (print):

Customer Approver Position/Role:

Date of approval:

SHORT FORM MEDIA BRIEF

Note: this short form template is only to be used in limited circumstances. See the notes under 'Master Media Agency (MMA) Services Required' below.

TYPE OF ADVERTISING REQUIRED	MMA SERVICES REQUIRED (Media Specific)	ADDITIONAL ADVERTISING SERVICES REQUIRED (Fee for Service)
<p>(Appendix 1 to Schedule 1 of the Deed)</p> <p><input type="checkbox"/> Campaign</p> <p><input type="checkbox"/> Complex Recruitment</p> <p><input type="checkbox"/> Recruitment^(a)</p> <p><input type="checkbox"/> Complex Public Notice</p> <p><input type="checkbox"/> Public Notice</p> <p><input type="checkbox"/> Tender*</p> <p>(a) Note – an advertising exemption is required for recruitment advertising in major metropolitan newspapers, and tender advertising outside of AusTender by non-corporate Commonwealth entities. An exemption letter should be supplied with this brief.</p>	<p>(Clause 3 to Schedule 1 of the Deed)</p> <p><input type="checkbox"/> Overview Media Costing^(b)</p> <p><i>(b) This option is for an urgent costing for the purpose of developing a communication plan or ministerial briefing. This is indicative only.</i></p> <p><input type="checkbox"/> Media Planning (BASIC^(c))</p> <p><input type="checkbox"/> Media Buying (ONLY^(c))</p> <p><i>(c) These options are for basic or prescribed media planning or buying.</i></p>	<p>(Clause 4 to Schedule 1 of the Deed)</p> <p><input type="checkbox"/> Translations and Sub-Titling (Captioning)</p> <p><input type="checkbox"/> Creative Content Development</p> <p><input type="checkbox"/> Production Services</p> <p><input type="checkbox"/> Media Extension (Event, Sponsorship, Integration)</p> <p><input type="checkbox"/> Econometric Modelling</p> <p><input type="checkbox"/> Third Party Despatch Services</p> <p>Additional Digital Services:</p> <p><input type="checkbox"/> Search Engine Optimisation</p>

ENTITY/ORGANISATION:	
PRODUCT/BRAND/INITIATIVE:	
BUDGET (excl. GST):	
DATES OF ACTIVITY Start: End:	
BRIEF DATE:	RESPONSE DUE^(d):
CLIENT CONTACT:	CREATIVE AGENCY (CA):
CLIENT EMAIL:	CA CONTACT
CLIENT PHONE:	CA EMAIL:
	CA PHONE:

Overview Media Costing:

Indicative only and based on the information provided at the time. The contractor reserves the right to amend costing's upon the provision of information which will alter any costing.

The supplied costing does not constitute an informed media recommendation or approach from the Contractor. This should only be used as a guide based on the information provided at the time to the Contractor. The Contractor may require a more comprehensive brief at a later stage.

(d) Basic Media Planning/Buying

Following the provision of a final and complete Media Brief from the Customers, media strategies and plans will be provided by the Contractor:

- (a) Campaign advertising: within ten (10) Business Days, unless otherwise agreed.
- (b) Complex Non-Campaign advertising: within three (3) Business Days; unless otherwise agreed with the Customer.

Please discuss your needs with your client service manager or director.

These options are for when a participant does not require the Contractor to undertake any analysis. The Customer may have undertaken or is in possession of audience and media related diagnostics informing selections provided below.

If you require a more comprehensive response, please discuss your needs with your client service manager or director.

The red sections are a minimum for costings.

Basic media planning & buying requires all sections to be filled out (where possible).

Summary & Objectives

- Why are we advertising? / Reason for costing?
- What are your overall objectives (if set)
- Do you have any measurable, realistic KPIs, evaluation goals or targets?

Audience

- Who do you need to talk to achieve the objective? Provide any insights on the audience we are talking to.
- What does your audience currently think, feel, or do about the brand, issue or initiative? How does it affect their behaviour towards it?
- What is the desired audience response? What do we need them to think, feel, or do instead to achieve our objective?
- Is there an Indigenous component?
- Is there a CALD (Culturally & Linguistically Diverse) component? Provide insights on the CALD audience we are talking to, or would you like the Contractor to make a recommendation?
- Do you already have a contract with a multicultural consultant for this campaign?

Geographical location and exposure (If required)

Metropolitan? Regional? Rural? Interstate? International? Be specific if possible.

Media Selection

- *What channels have you pre-selected*
- *Are there any specific environments required i.e. Aviation sections, to be placed near sports related content etc...*

Creative Assets

- *Is there existing material i.e. TVC, press ad, digital material. Please specify sizes/durations. Please supply copies if possible.*
- *Do you already have a contract with a creative agency or other consultancy for this campaign?*

Television: CAD Approval

Please note that all proposed television commercials must be approved by the Commercial Acceptance Division (CAD) of Free TV Australia. Please ensure that your creative agency liaises with Free TV at the concept development stage to ensure approval is granted. The Contractor is not allowed to place TV commercials which do not have a CAD approval number. Lack of CAD approval can result in lengthy delays.

Brand Safety

Are there particular environments that you would not want your advertising to appear in? As a starting point, the Contractor will mitigate the risks of your advertising appearing alongside content featuring or promoting gambling, hate speech, illegal downloading, offensive language, pornography, violence, the use of alcohol, illegal drugs or smoking, or any illegal activities not otherwise specified. Please detail if and, if appropriate, how you would like this approach tailored for your campaign

Additional Information (if required)

Attach any research reports, communication and marketing strategies, etc.

Customer Approver signature:

Customer Approver name (print):

Customer Approver Position/Role:

Date of approval:

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Schedule 6 – Media Plan

[To be Inserted]

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Schedule 7 – Media Booking Authority

Australian Government MEDIA BOOKING AUTHORITY

MBA NO:

Cancels & Supersedes MBA NO:

DATE:

FROM:

CLIENT CONTACT NAME:

Client Address:

Client Email Address:

Client Phone Number:

BILLING CONTACT for Invoicing:

Billing Contact Name:

Billing Address:

Billing Email Address:

Billing Phone Number:

Authority is hereby given to the Contractor to book the following Media and deliver Additional Advertising Services in accordance with the Media Plan

ENTITY / ORGANISATION

ADVERTISING ACTIVITY:

PLAN NO./DATED:

CREATIVE AGENCY:

PERIOD OF ADVERTISING/CAMPAIGN:

*

*

*

MEDIA	DESCRIPTION	TOTAL
Television		
Online Television Commissionable		
Online Television Non-Commissionable		
Mobile Commissionable		
Mobile Non-Commissionable		
Digital Display Commissionable		

MEDIA	DESCRIPTION	TOTAL
Digital Display Non-Commissionable Social - Commissionable Social - Non-Commissionable Search - Commissionable Search - Non-Commissionable Magazines (Inc NIMs & street press) - Commissionable Magazines (Inc NIMs & street press) - Non-Commissionable Press Radio Indigenous Indigenous Digital Display Commissionable Indigenous Digital Display Non-Commissionable Indigenous Search - Commissionable Indigenous Search - Non-Commissionable CALD CALD Digital Display Commissionable CALD Digital Display Non-Commissionable CALD Search - Commissionable CALD Search - Non-Commissionable Cinema Out of Home		
GROSS MEDIA SPEND Less Commission 10% of Gross Media (if applicable) Plus: Whole of Australian Government Administration Fee (WoAG) [XX%] of Gross Media Plus: Remuneration Charge Back Amount [XX%] of Gross Media Plus: Additional Advertising Service Charges: <i>Translation Services (Third Party Supplier)</i> <i>Sub-Titling (Captioning) Services (Third Party Supplier)</i>		

MEDIA	DESCRIPTION	TOTAL
<i>Creative Content Development (Contractor)</i> <i>Production Services (Contractor)</i> <i>Despatch (Third Party Supplier)</i> <i>Media Production & Installation (Third Party Supplier)</i> <i>Media Extensions (Events, Sponsorships, Integration, etc)</i> <i>Econometric Modelling (Third Party Supplier)</i> <i>Search Engine Optimisation (Contractor)</i> <i>Social Media Insights (Third Party Supplier)</i> <i>Social Media Moderation (Third Party Supplier)</i>		
Net Cost		
GST		
Total		

Do you require print Tear Sheets? ☐ **Yes**

Contractor
(Production/Creative):

Special Comments

MEDIA	DESCRIPTION	TOTAL
<p><u>Terms & Conditions:</u></p> <p>The Contractor has offered under clause 13.1(a) of the Deed in relation to Master Media Agency Services for the Commonwealth Government (the Deed) to provide the Advertising Services to Participants.</p> <p>When the 'Participant' issues a Media Instruction to the 'Contractor', a contract is formed as follows:</p> <p>(a) for Campaign or complex Non-Campaign advertising, when a Media Brief (Schedule 5) is signed; or</p> <p>(b) for non-complex Non-Campaign (Recruitment, Public Notice or Tender Notice) advertising, when an initial request from the Participant is received by the Contractor, whether oral or in writing.</p> <p>For the purposes of the Deed, the 'Participant' becomes a 'Customer' once a contract is formed. When a Customer approves a Media Booking Authority, the Customer is authorising the Contractor to book media on their behalf under a Customer Contract and is required to pay any resulting Service Charges in accordance with the terms of the Deed.</p> <p>Should the Customer withdraw any advertisement after the Media Booking Authority has been approved and signed, the Customer may be required to reimburse the Contractor for any costs incurred in providing Advertising Services that are not covered in the Remuneration Amounts for the campaign or other advertising (in accordance with clause 13.3(b) of the Deed.</p> <p>By signing this Media Booking Authority, you are confirming that you:</p> <p>(1) have complied with Commonwealth Government policies and guidance in relation to advertising (where applicable);</p> <p>(2) are satisfied that this expenditure represents proper use of Commonwealth resources, and</p> <p>(3) have taken into account your obligation under Section 23 of the Public Governance, Performance and Accountability Act 2013.</p>		

Customer Approval: (Signature)

Customer Approval Name: (Print Name)

Customer Approval Position/Role:

Approval Date:

Purchase Order Number (if applicable):

MEDIA	DESCRIPTION	TOTAL
Return to Contractor:	Scan and email to the relevant <Contractor> Client Service Director or Manager	

<i>Office Use Only</i>						
ENTITY TYPE						
Non-Corporate Commonwealth Entity		Corporate Commonwealth Entity		ACT Gov't / NT Gov't		Authorised Organisation
ADVERTISING TYPE						
Campaign	Complex Recruitment	Recruitment*	Complex Public Notice	Public Notice	Tender Notice*	
*(with exemption letter attached if applicable)						

Schedule 8 – Deed of Confidentiality

Date [insert date]

Parties

Name Commonwealth of Australia as represented by the Department of Finance

Short form name **Commonwealth**

Name [insert name of Confidant]

Short form name **Confidant, I, me and my**

Address [insert]

Background

- The Commonwealth requires the provision of certain services.
- [Insert Company Name] (**Contractor**) has agreed to supply services to the Commonwealth under the deed in relation to provision of Australian Government Master Media Agency Services between the Contractor and Finance dated [insert date] (**Deed**).
- The Confidant provides the undertakings set out below in respect of work to be performed, and information to be acquired, directly or indirectly, in connection with the Deed.

Agreed terms

1. Definitions

Confidential Information means information that is by its nature confidential; and

- (a) is described as confidential in the Deed; or
- (b) a party knows or ought to know is confidential, but does not include:
- (c) information which is or becomes public knowledge other than by breach of this Deed or any other confidentiality obligation.

Personal Information has the meaning it has in section 6 of the *Privacy Act 1988* (Cth).

2. Access

- (a) I understand that in the course of performing duties under the Deed, I may have access to Personal Information and Confidential Information.

3. Non-disclosure

- (a) I will treat as strictly private and confidential all Personal Information and Confidential Information to which I have access or which is disclosed to me.
- (b) If Finance grants its consent for me to disclose Personal Information or Confidential Information, it may impose conditions on that consent. In particular, Finance may require that I obtain the execution of a deed in these terms by the

person to whom I propose to disclose the Personal Information or Confidential Information.

- (c) My obligations under this deed will not be taken to have been breached where I am legally required to disclose the Personal Information or Confidential Information.

4. Restriction on use

- (a) I will use the Personal Information or Confidential Information only for the purpose of my dealings with Finance or the Commonwealth in another capacity, in connection with the Deed (whether directly or indirectly).
- (b) I will not copy or reproduce the Personal Information or Confidential Information without the approval of Finance, will not allow any other person outside the Commonwealth access to the Personal Information or Confidential Information and will take all necessary precautions to prevent unauthorised access to or copying of the Personal Information or Confidential Information in my control.

5. Powers of Finance

- (a) Immediately on request by Finance, I must deliver to the Commonwealth all documents in my possession or control containing Personal Information or Confidential Information.
- (b) If at the time of such a request, I am aware that documents containing Personal Information or Confidential Information are beyond my possession or control, then I must supply full details of where the documents containing the Personal Information or Confidential Information are, and the identity of the person who has control of them.

6. Privacy Act obligations

- (a) I agree to abide by the provisions of the *Privacy Act 1988* (Cth), including the Information Privacy Principles and National Privacy Principles set out in that Act, in respect of both Personal Information and Confidential Information, whether or not I am legally bound to comply with that Act and as if the definition of personal information in that Act includes Confidential Information.

7. Survival

- (a) This deed will survive the termination or expiry of any contract between the Contractor and me providing for the performance of services or the provision of goods by me (whether directly or indirectly).

8. Applicable law

- (a) This deed will be governed by, and construed in all respects in accordance with, the law of the Australian Capital Territory and I agree to submit to the applicable jurisdiction of the Courts of that Territory in respect of all matters arising under, or in relation to, this deed.

Executed as a deed

Signed sealed and delivered by **[name of representative]** *as the authorised representative of the Department of Finance representing the Commonwealth of Australia, in the presence of*

Signature of witness

← _____
Signature

Name of witness (print)

Signed sealed and delivered by **[name of Confidant]** *in the presence of*

Signature of witness

← _____
Signature

Name of witness (print)

Schedule 9 – Confidential Information

[To be confirmed based on the successful Tenderer's response to the Approach to Market].

DRAFT

Schedule 10 – Change Order

Parties

[Commonwealth of Australia as represented by the Department of Finance ABN 61 970 632 495 / OR insert Participant details] (**Customer**)

and

Contractor Name (**Contractor**)

Recitals

A. The Customer and the Contractor are party to an agreement dated [insert] for the provision of [management services/ OR advertising services] (**Agreement**).

B. The parties wish to vary the Agreement as provided by this change order.

The parties agree as follows:

The Agreement is varied in accordance with the terms set out below. Unless specifically stated in this change order, all terms and conditions of the Agreement continue unaffected.

1.	Change order number	
2.	Raised by	
3.	Details of change (use attachments if required)	
4.	Implementation date of variation	
5.	Effect on services	
6.	Plan for implementing the change [if any]	
7.	Effect on Remuneration Amounts or Service Charges [if any]	
8.	Effect on service levels [if any]	
9.	Other relevant matters (e.g. transitional impacts)	

Variation to Agreement:

[Insert description of variation]

Signed by the authorised representatives:

Finance/Customer

Name (print)

Position

Signature

Date

Contractor

Name (print)

Position

Signature

Date

Schedule 11 – Transition In Plan

Finance and the Contractor will work together during the Transition In Period and work to an operational Transition In Plan that tracks tasks and progress.

The Contractor's transition team will include the key people nominated to service the operations of this Deed along with senior decision makers to ensure agency resources are allocated appropriately to ensure the smooth transition of the account.

DRAFT

Schedule 12 - Holding Company Acknowledgement and Agreement

The Department of Finance

1 Canberra Avenue

Forrest, ACT 2603

Attention:

[Date]

To Whom it May Concern:

Reference is hereby drawn to a certain Master Media Agency Services Agreement by and between [Contractor Name] ("Contractor") and the Department of Finance ("Finance") effective as of [Month] [Day], 20 (the "Agreement").

Wherever in this letter references appear in capital letters, such references shall be as defined in the Agreement.

For good and valuable consideration, the receipt whereof is hereby acknowledged and as an inducement for the Customer to enter into the Agreement with the Contractor, the undersigned, on behalf of [Holding Company] ("Holding Company"), acknowledges and agrees as follows:

- a) Holding Company fully understands the Agreement;
- b) Transparency in all financial matters relating to payments made by the Customer to the Contractor for the Services is of utmost importance;
- c) To verify the accuracy and transparency of the Contractor's Services under the Agreement, the Customer requires the right to audit contracts, documents and information relating to the Contractor, the Holding Company, and Holding Company Members;
- d) The Customer is entitled to and will receive all Rebates or Incentives allocated to the Customer as provided in the Agreement;
- e) Holding Company will and will ensure that it and the Holding Company Members comply with Section 18 (Audit and Access to Records) of the Agreement should the Customer request that they do so;
- f) In all other respects where the Agreement imposes obligations or duties on the Holding Company or Holding Company Members, the Holding Company agrees and will cause the Holding Company Members to comply with such obligations and duties;
- g) Holding Company will take all reasonable efforts to ensure that it and Holding Company Members do not engage in activities that constitute Conflicts of Interest.

[Holding Company]

By: _____

Name: _____

Title: _____

Schedule 13 – Holding Company and Holding Company Members

[Insert Holding Company corporate tree.]

DRAFT

Schedule 14— Financial Undertaking

THIS DEED is made on [*insert date*]

BETWEEN

COMMONWEALTH OF AUSTRALIA represented by the Department of Finance (“Finance”)

AND

[...INSERT NAME AND ACN OF FINANCIAL INSTITUTION ...] (“the Bank”)

OPERATIVE PROVISIONS”

At the request of (“Contractor”) and the Bank and in consideration of Finance accepting this undertaking:

1. The Bank unconditionally undertakes and covenants to pay to Finance on demand without reference to the Contractor and notwithstanding any notice given by the Contractor to the Bank not to pay same, any sum or sums which may from time to time be demanded in writing by Finance to a maximum aggregate sum of \$750,000 (“Maximum Sum”).
2. The Guarantor may at any time without being required to do so pay to Finance the Maximum Sum less any amount or amounts it may previously have paid under this undertaking and the liability of the Guarantor will then immediately cease and determine.
2. To make a demand, Finance will give the Guarantor a written notice setting out the amount demanded and the time within which it is to be paid.
3. This undertaking continues in force until the earlier of:
 - (a) the Guarantor has received written notice from Finance that the undertaking is no longer required; and
 - (b) Finance has received from the Guarantor the whole of the sum, or the balance after any part payment,

provided that notwithstanding any other provision of this undertaking unless otherwise determined, this undertaking expires at 4.00pm on [*insert expiry date*] at which date, the Guarantor’s liability will cease and determine, and no demands served or received after that date are payable by the Guarantor.

4. This undertaking cannot be varied or waived under any circumstances. To avoid doubt, this undertaking is not affected if the Contract is varied, the Contractor is granted an extension

of time to perform the Contract, or Finance waives a breach, failure or default of the Contractor.

5. This undertaking is governed by and construed in accordance with the laws for the time being of the Australian Capital Territory.

[*insert execution clauses*]

DRAFT

Schedule 15– Parent Company Guarantee

Dated

[Insert name and ABN of parent] (“Guarantor”)

Commonwealth of Australia as represented by the Department of Finance (“Beneficiary”)

[Insert name and ABN of Contractor] (“Supplier”)

Details

Parties	Guarantor, Beneficiary and Supplier	
Guarantor	Name	
	ABN	
	Address	
	Telephone	
	Fax	
	Email	
	Attention	
Beneficiary	Name	Commonwealth of Australia as represented by the Department of Finance
	ABN	61 970 632 495
	Address	One Canberra Avenue, Forrest, ACT 2603
	Telephone	
	Fax	
	Email	
	Attention	
Supplier	Name	
	ABN	

Address

Recitals	A	Supplier wishes to enter into the Agreement with the Beneficiary.
	B	The Guarantor is the parent company of Supplier.
	C	The Guarantor agrees to provide the guarantees and indemnities contained in this deed.

Governing law	Australian Capital Territory
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Date of this deed	See Signing page
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DRAFT

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Agreement means the [insert details of Deed as signed].

Authorised Officer means, in respect of a party, a director or secretary of the party or another person appointed by the party to act as an Authorised Officer under this deed.

Beneficiary means the person or persons so described in the Details.

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

Costs includes charges and expenses, including those incurred in connection with advisers.

Details means the section of this deed headed "Details".

Guarantor means the person or persons so described in the Details. If there are more than one, the Guarantor means each of them individually and every two or more of them jointly.

Taxes means taxes, levies, imposts, charges and duties imposed by any authority (including stamp and transaction duties) together with any related interest, penalties, fines and expenses in connection with them, except if imposed on, or calculated having regard to, the net income of the Beneficiary.

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this deed to:

- (a) **(variations or replacement)** a document (including this deed) includes any variation or replacement of it;
- (b) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (d) **(singular includes plural)** the singular includes the plural and vice versa;
- (e) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (f) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) **(calculation of time)** a period of time dating from a given day or the day of an act or event it is to be calculated exclusive of that day;

- (h) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) **(meaning not limited)** the words “include”, “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (j) **(time of day)** time is a reference to Canberra time;
- (k) **(reference to any thing)** any thing (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed.

1.4 Sunset clause

This deed expires once the Beneficiary is satisfied that Supplier has complied with all obligations under the Agreement (the **Sunset Date**). The Beneficiary will notify the Guarantor of the Sunset Date and the Guarantor is released from any liability under this deed effective from the Sunset Date.

2 Guarantee and indemnity

2.1 Consideration

The Guarantor acknowledges that the Beneficiary is acting in reliance on the Guarantor incurring obligations and giving rights under this deed.

2.2 Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Beneficiary Supplier's compliance with Supplier's obligations in connection with the Agreement, including each obligation to pay money.

If Supplier does not comply with those obligations on time and in accordance with the Agreement, then the Guarantor agrees to comply with those obligations on demand from the Beneficiary. A demand may be made whether or not the Beneficiary has made demand on Supplier.

2.3 Indemnity

The Guarantor indemnifies the Beneficiary against any liability or loss arising from, and any Costs it incurs, if:

- (a) Supplier does not, or is unable to, comply with an obligation it has (including an obligation to pay money) in connection with the Agreement; or
- (b) an obligation Supplier would otherwise have under the Agreement (including an obligation to pay money) is found to be void, voidable or unenforceable; or
- (c) an obligation the Guarantor would otherwise have under clause 2.2 (“Guarantee”) is found to be void, voidable or unenforceable; or
- (d) a representation or warranty by Supplier in the Agreement is found to have been incorrect or misleading when made or taken to be made.

The Guarantor agrees to pay amounts due under this clause on demand from the Beneficiary.

The Beneficiary need not incur expense or make payment before enforcing this right of indemnity.

2.4 Guarantor entitled to defences

The Guarantor is entitled to the benefit of all provisions in the Agreement which apply for the benefit of Supplier. The Guarantor's liability under this deed is capped to the extent of Supplier's liability under the Agreement.

2.5 Extent of guarantee and indemnity

Each of the guarantee in clause 2.2 ("Guarantee") and the indemnity in clause 2.3 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of Supplier's obligations in connection with the Agreement. The Guarantor waives any right it has of first requiring the Beneficiary to commence proceedings or enforce any other right against Supplier or any other person before claiming from the Guarantor under this deed.

2.6 Variations and replacements

The Guarantor acknowledges that the Agreement may be varied or replaced from time to time.

The Guarantor confirms that the obligations guaranteed under clause 2.2 ("Guarantee") include any obligations under the Agreement as varied or replaced. The Guarantor confirms that this applies regardless of:

- (a) how the Agreement is varied or replaced; and
- (b) the reasons for the variation or replacement; and
- (c) whether the obligations decrease or increase or the Agreement is otherwise more onerous as a result of the variation or replacement.

This clause does not limit clause 5 ("Rights of the Beneficiary are protected").

2.7 Acknowledgment

The Guarantor acknowledges that, before entering into this Deed, it:

- (a) was given a copy of the Agreement (and all documents giving rise to an obligation of Supplier in connection with the Agreement) and had full opportunity to consider their provisions; and
- (b) is responsible for making itself aware of the financial position of Supplier and any other person who guarantees any of Supplier's obligations in connection with the Agreement.

3 Payments

The Guarantor agrees to make payments under this deed:

- (a) in full without set-off or counterclaim, and without any deduction in respect of Taxes unless prohibited by law; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

4 No merger

This deed does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, mortgage, charge or other encumbrance, or other right or remedy to which the Beneficiary is entitled; or
- (b) a judgment which the Beneficiary obtains against the Guarantor, Supplier or any other person in connection with the Agreement.

The Beneficiary may still exercise its rights under this deed as well as under the judgment, mortgage, charge or other encumbrance or the right or remedy.

5 Rights of the Beneficiary are protected

The rights given to the Beneficiary under this deed, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 2.2 ("Guarantee") are expressed to be owing;
 - (ii) releasing Supplier or giving Supplier a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of Supplier's obligations;
 - (iv) by which a person becomes a Guarantor after the date of this deed;
 - (v) by which the obligations of any person who guarantees any of Supplier's obligations (including obligations under this deed) may become unenforceable;
 - (vi) by which any person who was intended to guarantee any of Supplier's obligations does not do so, or does not do so effectively;
 - (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with the Agreement or this deed;
- (c) the death, mental or physical disability, or liquidation, administration or insolvency of any person including the Guarantor or Supplier;
- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by the Beneficiary or any other person.

6 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this deed, the Guarantor may not, without the Beneficiary's consent:

- (a) reduce its liability under this deed by claiming that it or Supplier or any other person has a right of set-off or counterclaim against the Beneficiary; or
- (b) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity, mortgage, charge or other encumbrance:
 - (i) in connection with the Agreement or any other amount payable under this deed; or
 - (ii) in favour of a person other than the Beneficiary in connection with any obligations of, or any other amounts payable, by Supplier to, or for the account of, that other person; or
- (c) claim an amount from Supplier, or another guarantor (including a person who has signed this deed as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the liquidation, administration or insolvency of Supplier or of another guarantor of any of Supplier's obligations (including a person who has signed this deed as a "Guarantor").

If the Beneficiary asks, the Guarantor agrees to notify any relevant person of the terms of this clause and other parts of this deed that may be relevant. The Guarantor also authorises the Beneficiary to do so at any time in its discretion and without first asking the Guarantor to do it. This applies despite anything else in this deed.

This clause continues after this deed ends.

7 Reinstatement of rights

Under law relating to liquidation, administration, insolvency or the protection of creditors, a person may claim that a transaction (including a payment) in connection with this deed or the Agreement is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Beneficiary is immediately entitled as against the Guarantor to the rights in connection with this deed or the Agreement to which it was entitled immediately before the transaction; and
- (b) on request from the Beneficiary, the Guarantor agrees to do anything (including signing any document) to restore to the Beneficiary any mortgage, charge or other encumbrance (including this deed) held by it from the Guarantor immediately before the transaction.

The Guarantor's obligations under this clause are continuing obligations, independent of the Guarantor's other obligations under this deed and continue after this deed ends.

8 Costs

The Guarantor agrees to pay or reimburse the Beneficiary on demand for:

- (a) the Beneficiary's Costs in making, enforcing and doing anything in connection with this deed including legal Costs in accordance with any written agreement as to legal costs or, if no agreement, on whichever is the higher of a full indemnity basis or solicitor and own client basis; and
- (b) all duties, fees, Taxes and charges which are payable in connection with this deed or a payment or receipt or other transaction contemplated by it.

Money paid to the Beneficiary by the Guarantor must be applied first against payment of Costs under this clause then against other obligations under this deed in any way the Beneficiary considers appropriate.

9 Dealing with interests

The Beneficiary may assign or otherwise deal with its rights under this deed in any way it considers appropriate. If the Beneficiary does this, the Guarantor may not claim against any assignee (or any other person who has an interest in this deed) any right of set-off or other rights the Guarantor has against the Beneficiary.

10 Notices and other communications

10.1 Form - all communications

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

10.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
- (c) sent by fax to the fax number set out or referred to in the Details.

However, if the intended recipient has notified a changed address or fax number, then communications must be to that address or number.

10.3 When effective

Communications take effect from the time they are received or taken to be received under clause 10.4 ("When taken to be received") (whichever happens first) unless a later time is specified.

10.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another); or

- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent,

whichever happens first.

11 General

11.1 Set-off

The Beneficiary may set off any amount due for payment by the Beneficiary to the Guarantor against any amount due for payment by the Guarantor to the Beneficiary under this deed.

11.2 Indemnities

The indemnities in this deed are continuing obligations, independent of the Guarantor's other obligations under this deed and continue after this deed ends.

11.3 Partial exercising of rights

If the Beneficiary does not exercise a right or remedy fully or at a given time, the Beneficiary may still exercise it later.

11.4 Remedies cumulative

The Beneficiary's rights and remedies under this deed are in addition to other rights and remedies given by law independently of this deed.

11.5 Each signatory bound

This deed binds each person who signs as Guarantor even if another person who was intended to sign does not sign it or is not bound by it.

11.6 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the deed. If so, the signed copies are treated as making up the one document.

11.7 Governing law

This deed is governed by the law in force in the place specified in the Details. The Guarantor and the Beneficiary submit to the exclusive jurisdiction of the courts of that place.

EXECUTED as a deed

[*insert execution clauses*]

Signing page

DATED:_____

Schedule 16– Service Delivery Plan Template

BETWEEN

CONTRACTOR: [insert company name]

And

CUSTOMER: [insert Customer]

Commencement Date: [insert date]

The Customer and the Contractor have developed this Service Delivery Plan (SDP) to articulate the delivery and receipt of Services to the Customer in accordance with the requirements of clause 2.3 of Schedule 1 of the Deed.

Should there be any inconsistency between this SDP and the Deed, the terms of the Deed prevail.

Item Number	Description	Deed clause reference (if applicable)	Details
1.	Period of the Services		[Insert the SDP operative timeframe] <i>Note: The Initial Deed Period is three years. The Service Delivery Plan must not extend beyond the end of the Term of the Deed Period.</i>
2.	Customer Representative		[Insert the Customer Representative]
3.	Contractor Representative		[Insert the Contractor Representative]
4.	Customer's contact details, including email and phone numbers		[Insert the Customer's address and contact details for Notices and day-to-day operations]
5.	Contractor Personnel, including email addresses and direct phone numbers		[Insert Contractor's Personnel that the Customer requires for this SDP and Service requests placed by the Participant]
6.	Manner of payment	Schedule 2, clause 4	[Where manner of payment differs to the requirements of the Deed]

Item Number	Description	Deed clause reference (if applicable)	Details
7.	Electronic funds transfer	Schedule 2, clause 4	<i>[Insert details for EFT]</i>
8.	Invoicing	Schedule 2, clause 4	<i>[Insert invoicing requirements]</i>
9.	Reporting Requirements	Appendix 2, to Schedule 1	<i>[Identify any reports from Appendix 2 to the Deed that are not required or identify if any tailoring to specified reports is required]</i>
10.	Management meetings	Schedule 1, clause 2.3	<i>[insert details of any management meetings (e.g. frequency, venue, attendees, etc.)]</i>
11.	Online Management System – required login accounts	Schedule 1, clauses 2.17, 2.18 and 2.19	<i>[Insert required number of online ordering system accounts and insert details of account holders]</i>
12.	Records	Clause 20	<i>[Detail any Customer-specific record keeping requirements]</i>
13.	Site Access	Clause 19	<i>[Detail any site access that the Customer will provide, if applicable]</i>
14.	Security Requirements	Clause 27	<i>[Detail any Customer specific security requirements, if applicable]</i>
15.	Security Clearances	Clause 18.4 and 27	<i>[Detail any Entity specific security clearance requirements, if applicable]</i>
16.	Customer Data and/or Material	Definitions	<i>[Insert any Customer Supplied Data and/or Material, or state that there are no Customer Data and/or Material]</i>
17.	Intellectual Property	Clause 24	<i>[Insert any Customer specific Intellectual Property requirements]</i>
18.	Tools and Processes	In accordance with this SDP	<i>[Detail any tools and processes that the Contractor must provide]</i>
19.	Customer assistance	In accordance with this SDP	<i>[Detail any assistance that the Customer will provide]</i>
20.	Transition in	In accordance with this SDP	<i>[insert whether Transition In activities are required (e.g. training requirements) and detail these requirements or reference document]</i>

Item Number	Description	Deed clause reference (if applicable)	Details
			<i>setting out Transition In requirements and any required Milestones]</i>
21.	Transition Out	In accordance with this SDP	<i>[insert whether Transition Out activities are required and detail these requirements or reference document setting out Transition Out requirements and any required Milestones]</i>