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**NSW Procurement – Contracting Services is a Business Unit of the NSW Department of Commerce**

**NSW Procurement – Contracting Services invites this tender for and on behalf of the NSW Government State Contracts Control Board**

## PARTS A AND B

Request for Tender 0701773

- Operation of Car Parking Facilities at Sydney Olympic Park

Period: 1 March 2008 to 28 February 2011  
with two x one year optional extension periods

Tender Issue Date: Wednesday 31 October 2007

Closing Date: Wednesday 21 November 2007

Closing Time: 9:30 am Sydney Time

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For the purposes of this RFT, inquiries should be directed to the Contact Officer nominated in Part A of this RFT.

Other matters should be directed to:

Group General Manager  
NSW Procurement – Contracting Services  
NSW Department of Commerce  
McKell Building  
2-24 Rawson Place  
Sydney NSW 2000  
Tel: (02) 9372 7511  
Fax: (02) 9372 7599

# *Operation of Car Parking Facilities at Sydney Olympic Park*

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## TABLE OF CONTENTS

|               |   |           |
|---------------|---|-----------|
| <b>PART A</b> | <b>THE REQUIREMENT AND TENDER INFORMATION</b>         | <b>6</b>  |
| <b>1.</b>     | <b>OUTLINE DESCRIPTION OF THE REQUIREMENT</b>         | <b>6</b>  |
| 1.1           | Introduction .....                                    | 6         |
| 1.2           | Outline of the Requirement.....                       | 6         |
| 1.3.          | Background and Overview .....                         | 8         |
| 1.4           | Procurement Objective .....                           | 9         |
| <b>2.</b>     | <b>SUMMARY INFORMATION FOR TENDERERS</b>              | <b>9</b>  |
| 2.1           | Interpretation.....                                   | 9         |
| 2.2           | Structure of Request for Tender .....                 | 10        |
| 2.3           | Contact Officer.....                                  | 10        |
| 2.4           | Nature of agreement.....                              | 10        |
| 2.5           | Eligibility to tender .....                           | 10        |
| 2.6           | Other Eligibility Requirements .....                  | 11        |
| <b>3.</b>     | <b>WHERE TO OBTAIN THIS RFT</b>                       | <b>11</b> |
| 3.1           | RFT copies .....                                      | 11        |
| 3.2           | Hard copy .....                                       | 12        |
| 3.3           | Electronic copy .....                                 | 12        |
| 3.4           | RFT Purchase price.....                               | 13        |
|               | <b>ANNEXURE 1 TO PART A - SPECIFICATIONS</b>          | <b>14</b> |
| <b>1.</b>     | <b>SCOPE</b>  | <b>14</b> |
| <b>2.</b>     | <b>CAR PARKING FACILITIES MANAGEMENT SERVICES</b>     | <b>14</b> |
| 2.1           | Conduct Business.....                                 | 14        |
| 2.2           | Employment of Car Park Staff .....                    | 15        |
| 2.3           | Administration .....                                  | 16        |
| 2.4           | Financial Controls and Reconciliation .....           | 16        |
| <b>3.</b>     | <b>BUSINESS PLAN</b>                                  | <b>16</b> |
| <b>4.</b>     | <b>REPORTS</b>  | <b>17</b> |
| 4.1           | Additional Reporting Requirements.....                | 17        |
| 4.2           | General Reporting Requirements.....                   | 17        |
| <b>5.</b>     | <b>EQUIPMENT AND FACILITIES</b>                       | <b>20</b> |
| 5.1           | Provision of Equipment and Facilities .....           | 20        |
| 5.2           | General Maintenance and Operational Obligations ..... | 20        |

|               |  |           |
|---------------|--|-----------|
| <b>6.</b>     | <b>OPERATIONAL DUTIES OF THE CONTRACTOR</b>                    | <b>22</b> |
| 6.1           | Procedures and Operations Manual.....                          | 22        |
| 6.2           | Operating Hours .....  | 23        |
| 6.3           | Collection of Parking Fees.....                                | 23        |
| 6.4           | Accounting for Revenue .....                                   | 24        |
| 6.5           | Parking Charges .....  | 24        |
| 6.6           | Free Parking .....   | 24        |
| 6.7           | Comments & Complaints Register .....                           | 24        |
| 6.8           | Customer Satisfaction .....                                    | 25        |
| <b>7.</b>     | <b>OPERATING COSTS</b>   | <b>25</b> |
| 7.1           | Payable by the Contractor and Not Reimbursed by SOPA.....      | 25        |
| 7.2           | Payable by the Contractor and Reimbursed by SOPA.....          | 26        |
| <b>8.</b>     | <b>CAR PARK SECURITY</b>                                       | <b>26</b> |
| 8.1           | General Security .....   | 26        |
| 8.2           | Cash Collection Security .....                                 | 27        |
| 8.3           | Security Incident Register.....                                | 27        |
|               | <b>ANNEXURE 2 TO PART A - ATTACHMENTS</b>                      | <b>28</b> |
| <b>PART B</b> | <b>THE TENDER PROCESS</b>                                      | <b>29</b> |
| <b>4.</b>     | <b>DEFINITIONS OF TERMS USED IN PARTS A-C</b>                  | <b>29</b> |
| <b>5.</b>     | <b>PREPARATION OF TENDER - GENERAL</b>                         | <b>31</b> |
| 5.1           | Conformity of Tenders .....                                    | 31        |
| 5.2           | Prescribed form of Tender.....                                 | 32        |
| 5.3           | General instructions for completion of Tenders.....            | 32        |
| 5.4           | Addenda to this RFT before close of Tenders.....               | 32        |
| 5.5           | Pre-Tender briefing and Site Inspection.....                   | 33        |
| 5.6           | Tenderers to inform themselves .....                           | 33        |
| <b>6.</b>     | <b>PREPARATION OF TENDER – POLICY REQUIREMENTS</b>             | <b>34</b> |
| 6.1           | Procurement Policy – Introduction.....                         | 34        |
| 6.2           | NSW Government Code of Practice for Procurement.....           | 34        |
| 6.3           | Occupational Health Safety & Rehabilitation.....               | 34        |
| 6.4           | Environmental Management.....                                  | 34        |
| 6.5           | Value-added activity .....                                     | 35        |
| <b>7.</b>     | <b>PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN</b> | <b>35</b> |
| 7.1           | Price Schedule.....  | 35        |
| 7.2           | Calculating the Tender Price .....                             | 35        |
| 7.3           | Price Variation .....  | 35        |

|  |  |           |
|--|--|-----------|
| 7.4  | GST Free or Input Taxed Supplies.....  | 36        |
| 7.5  | Minimum Tender validity period.....  | 36        |
| <b>8.</b>  | <b>Submission OF TENDERS</b>   | <b>36</b> |
| 8.1  | General instructions for submission of Tenders .....                                 | 36        |
| 8.2  | Electronic Tenders to the NSW Department of Commerce <i>eTendering</i> website ..... | 38        |
| 8.3  | Custody of Tenders after receipt .....   | 39        |
| 8.4  | Late Tenders.....  | 39        |
| 8.5  | Extension of the Closing Date and Time .....   | 39        |
| <b>9.</b>  | <b>Evaluation OF TENDERS</b>   | <b>40</b> |
| 9.1  | General .....  | 40        |
| 9.2  | Selection criteria .....   | 40        |
| 9.3  | Variation of Tenders .....   | 40        |
| 9.4  | Exchange of information between government agencies .....                            | 41        |
| 9.5  | Corrupt or unethical conduct .....   | 42        |
| <b>10.</b>   | <b>OUTCOMES</b>  | <b>42</b> |
| 10.1   | Negotiations before determination of outcome.....                                    | 42        |
| 10.2   | Acceptance or rejection of Tenders.....  | 42        |
| 10.3   | Discontinuance of the Tender process .....   | 43        |
| 10.4   | Notification of outcome .....  | 43        |
| 10.5   | Entry into agreement .....   | 43        |
| 10.6   | Post Tender negotiations in the event all Tenders are rejected.....                  | 43        |
| 10.7   | Complaints.....  | 43        |
| 10.8   | Disclosure of information concerning tenderers and outcome of the tender process     | 44        |
| 10.9   | Ownership of Tenders .....   | 44        |
| 10.10  | Monitoring of Contractor Performance .....   | 44        |
| <b>ANNEXURE 1 TO PART B - DISCLOSURE OF INFORMATION CONCERNING<br/>TENDERERS AND OUTCOME OF THE TENDER PROCESS</b> |  | <b>45</b> |

## **PART A THE REQUIREMENT AND TENDER INFORMATION**

### **1. OUTLINE DESCRIPTION OF THE REQUIREMENT**

#### **1.1 Introduction**

This Request For Tender ("RFT") is made by the State Contracts Control Board ("the Board") for the supply of the Deliverables defined in this RFT and detailed in the Specification.

The Board is responsible for the conduct of the tender process, assisted by the NSW Procurement – Contracting Services.

#### **1.2 Outline of the Requirement**

##### **1.2.1 Scope**

This RFT covers the Sydney Olympic Park Authority's (SOPA's) requirement for a suitable, financially sound organisation, which specialises in the operation of a variety of car parking facilities to manage its car parking infrastructure and operations at Sydney Olympic Park.

The scope of the Services required include:

- car parking facilities management services for on-street parking and off-street at grade and multi-level structures;
- coordination of parking of Coaches and Buses for major events in its Coach and Bus Bays for approximately four (4) occasions each year;
- provision of some equipment and facilities;
- general maintenance and operation;
- collection of parking fees;
- accounting for revenue; and
- cash collection and general security.

The Contractor may be required to operate non Sydney Olympic Park owned Car Park facilities which would be negotiated during the term of the Agreement.

1.2.2 The services required are detailed in Annexure 1 to Part A – Specification.

1.2.3 Tenderers should ensure that a contact person is available during the period 21 November 2007 to 15 December 2007 to provide further information if required. Failure by a Tenderer to provide further information on the Board's request may result in its Tender being passed over.

##### **1.2.4 Fee Structure**

Each Tenderer will as a part of its Tender submit a proposed management fee based on:

- a fixed fee; and
- an incentive fee based on a percentage of the Net Operating Profit.

The Contractor will be paid a fixed fee plus incentive payments (if key performance indicators are met) and will be reimbursed by SOPA for specified operating costs. SOPA is entitled to the gross revenue received from the operation of the car parks.

The fixed fee will be payable monthly in arrears. For the first year of the Contract, the incentive fee will be paid within 60 days of the expiry of that year. In each subsequent year of the Contract, the estimated incentive fee will be paid monthly in arrears during that year, based on the amount of the incentive fee for the immediately preceding year. Within 60 days of the expiry of each such year, the actual incentive fee will be determined and the appropriate adjustments made between the parties.

The fixed fee component of the management fee will increase on an annual basis over the term of the Contract by an amount equivalent to increases in the CPI. SOPA will consider other annual increases on the basis of submissions received from the Contractor, although is not required to approve any other changes.

The actual incentive fee to be applied each year of the Contract will be based on the tendered percentage of the Net Operating Profit and the application of Key Performance Indicators relating to budget performance (BKPI), client satisfaction (CKPI) and patron satisfaction (PKPI).

***Budget Key Performance Indicator (BKPI)***

The BKPI will contribute 50% of the assessment of the incentive fee. If, in the relevant year of the Contract an actual net loss of up to 5% against the budgeted Net Operating Profit is incurred, there will be a deduction of 10% of the incentive fee; for a loss between 6% and 10%, a deduction of 20% will apply; and for a loss in excess of 10%, a deduction of 50% will apply. The budgeted Net Operating Profit will be determined by SOPA in consultation with the Contractor after receipt of the Business Plan for the relevant year (see Section 5.4).

***Client Satisfaction Key Performance Indicator (CKPI)***

The CKPI will contribute 30% of the assessment of the incentive fee. It shall be measured by assessing the level of satisfaction reported by SOPA in regard to the performance by the Contractor during the relevant year of the Contract. There will be no deduction in the incentive fee if SOPA is completely satisfied with the performance of the Contractor. The percentage of deduction, if required, will be determined by SOPA in its absolute discretion.

***Patron Satisfaction Key Performance Indicator (PKPI)***

The PKPI will contribute 20% of the assessment of the incentive fee.

The PKPI shall be scored as a 10% deduction to the agreed incentive rate if the rate of overall satisfaction of the level of service (as determined by Customer Satisfaction Surveys) is less than 90% but more than 85% during the relevant year of the Contract.

The PKPI shall be scored as 20% deduction if the rate of overall satisfaction of the level of service (as determined by Customer Satisfaction Surveys) is equal to or less than 85% during the relevant year of the Contract.

***Example:***

Agreed Incentive Fee = 2% of net operating profit.

Key Performance Indicators:

BKPI. Actual net operating result is 3% below budgeted figure, therefore there would be a deduction of 10% of 2% i.e. 0.2%.



CKPI. Judged moderate performance. Deduction 15% of 2% i.e. 0.25%

PKPI. Overall satisfaction 87 %. Deduction 10% of 2% i.e. 0.2%

Total deduction = (BKPI – 0.2% + CKPI – 0.25% + PKPI – 0.2%) = 0.65%

Incentive Fee payable = Agreed Incentive Fee 2% – deduction 0.65% = 1.35% of Net Operating Profit

### 1.3. Background and Overview

SOPA currently manages its car parking infrastructure and operations through a specialised car park operator. The relationship between SOPA and the operator is governed by Sydney Olympic Park Car Park Operator's Agreement. The existing Operator's Agreement expires at the end of February 2008.

#### 1.3.1 Sydney Olympic Park Authority

SOPA is a statutory authority of the New South Wales Government, which has been established to take responsibility for:

- the orderly and economic development of Sydney Olympic Park;
- the day to day management of Sydney Olympic Park and its infrastructure;
- the promotion of Sydney Olympic Park as a destination of choice for entertainment, sport and leisure and the support of events and activities;
- the management and supervision of development of Sydney Olympic Park consistent with SOPA's Master Plan; and
- the protection and enhancement of Sydney Olympic Parklands.

SOPA is responsible to the Treasurer of New South Wales.

SOPA has a strong organisational commitment to the principles of ecologically sustainable development (ESD) with particular focus on the:

- Conservation of Species;
- Conservation of Resources;
- Pollution Control; and
- Protection and promotion of existing and future environmental legacies at Sydney Olympic Park.

#### 1.3.2 Sydney Olympic Park Facilities

Sydney Olympic Park was the main site for the holding of the 2000 Sydney Olympic Games and incorporates the following facilities:

- Royal Agricultural Society Showground and Exhibition Complex - site for the annual Royal Easter Show and various functions and exhibitions throughout the year;
- Acer Arena - 20,000 seat indoor stadium for major sporting and entertainment events;
- Telstra Stadium - 80,000 seat sports and entertainment facility;
- Sydney Olympic Park Aquatic Centre - leisure and competition swimming pools, gymnasium and various facilities;
- Sydney Olympic Park Athletic Centre - comprising one 10,000 spectator competition track and one warm up track;
- Sydney Olympic Park State Sports Centre - 3,000 seat indoor stadium sports and entertainment events and various indoor training facilities; two competition hockey pitches and administration facilities;

- Sydney Olympic Park Tennis Centre - 10,000 seat Tennis Stadium;
- Sydney Olympic Park Railway Station and adjoining retail/commercial precinct;
- Novotel Hotel - 320 bed hotel incorporating food and beverage facilities and function facilities;
- Golf Driving Range - 56 driving tees, short game practice area, mini golf range, café and golf shop;
- Australia Centre - commercial and industrial office, warehouse and manufacturing properties; and
- Sydney Olympic Parklands.

### 1.3.3 Description of Car Parks and Equipment

Currently, there are 10,000 car parking spaces at Sydney Olympic Park in a variety of at grade and multi-storey structured Car Parks. The exact location and configuration of each car park within Sydney Olympic Park is subject to change. The total number of car parking spaces is also subject to variation. Accordingly, each Tenderer will be required to tender on the basis that the number of car parking spaces may be either 8,000, 10,000 or 12,000.

SOPA will provide the following, to such specifications as it determines:

- Car Park access control and fee collection equipment (refer Attachment 3);
- CCTV equipment;
- Car Park security systems;
- Office accommodation in P1 and P3 and equipment to use such offices (Attachment 3 describes details of office equipment to be supplied by SOPA);
- Cashier stations in P1, P2, P3, P4, P5 and P6 (underground car park);
- Staff amenities facilities in P1, P2, P3, P4, and P5;
- Storage areas in P1 and P3; and
- Other small equipment including traffic cones, portable signs, traffic wands, torches and traffic barriers.

Attachment 3 outlines a brief summary of each of the Car Parks included in this RFT and a brief summary of the equipment provided by SOPA for the operation of the Car Parks. Also attached are drawings of each Car Park and a plan of Sydney Olympic Park (Attachment 4).

## 1.4 Procurement Objective

SOPA's objectives for the operation of its Car Parking Facilities at Sydney Olympic Park are as follows:

- to achieve optimum financial return to SOPA;
- to ensure that the Contractor, as the operator of the Car Parking Facilities, has a strong "customer focus" in the provision of services to all customers;
- to ensure a balance between the operation of the Car Parking Facilities and the Government's policy on the provision of public transport to Sydney Olympic Park;
- to ensure that the operation of the Car Parking Facilities meets SOPA's high operational expectations, particularly in relation to Major Events.

## 2. SUMMARY INFORMATION FOR TENDERERS

### 2.1 Interpretation

2.1.1 Definitions of terms used in Parts A-C are listed at the start of Part B.

## **2.2 Structure of Request for Tender**

- 2.2.1 This RFT is made up of Parts A to D. If submitting a Tender, retain Parts A, B and D. The completed Part C forms the Tender.
- 2.2.2 Submit Part C in accordance with instructions in Part B. Part C contains the following:
- Part C1 – Information supplied in response to Part B
  - Part C2 – Specification and Statement of Compliance
  - Part C3 -- Price Schedule
  - Part C4 – Operating Budget
  - Part C5 – Public Information Plan
  - Part C6 – Operational Plan
  - Part C7 – Marketing Plan
  - Part C8 – Insurance
  - Part C9 - Acknowledgment and confirmation of Tender.

## **2.3 Contact Officer**

- 2.3.1 Refer requests for information or advice regarding this RFT to:

Name: Sara Shamsai  
 Phone: (02) 9372 7581  
 Fax: (02) 9372 7799  
 Email: [sara.shamsai@commerce.nsw.gov.au](mailto:sara.shamsai@commerce.nsw.gov.au)

OR

Name: Gary Edwards  
 Phone: (02) 9372 7345  
 Fax: (02) 9372 7799  
 Email: [gary.edwards@commerce.nsw.gov.au](mailto:gary.edwards@commerce.nsw.gov.au)

- 2.3.2 Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenderers if in the Board's opinion the information would unfairly favour the inquiring tenderer.

## **2.4 Nature of agreement**

- 2.4.1 The Requirement is to be met by an agreement between the Principal and the successful tenderer on the terms of Part D.
- 2.4.2 The agreement will be for a term of three years and may be extended by a further two terms, each of 12 months.
- 2.4.3 If this RFT seeks Tenders to supply more than one Principal then, unless the context otherwise requires, a reference in Parts A-C to "Principal" shall be read as a reference to each "Principal" and a reference to "agreement" shall be read as a reference, as between the Contractor and each Principal, to an agreement between the Contractor and that Principal.

## **2.5 Eligibility to tender**

- 2.5.1 Tenders must be submitted by a legal entity or, if a joint Tender, by legal entities, with the capacity to contract. The Principal will only contract with the relevant legal entity or entities.

- 2.5.2 The Board may ask a tenderer to provide evidence of its legal status or capacity to contract. If Tenders from trustees are permitted this may include a copy of the relevant trust deed. Any evidence requested is to be provided within 3 working days of the request.
- 2.5.3 The Board may submit any financial information provided by the Tenderer for independent financial assessment of the Tenderer's business.
- 2.5.4 The Board reserves the right to reject any Tender if it judges the tenderer not to have appropriate financial assets.
- 2.5.5 If the Board judges the tenderer's financial position to be marginal, it reserves the right to make acceptance of any Tender conditional upon the tenderer entering into a bank or parent company guarantee, or an unconditional performance bond.
- 2.5.6 Tenderers must read, understand and comply with the requirements of the Commerce Business Ethics Statement, which is available at the link below. Tenderers must disclose any potential conflict of interests (including any relevant relationships) in the Tender Response.

The Board will consider any disclosure and will only enter into an agreement with tenderers that do not have improper conflict of interests. If the Board becomes aware of improper conflicts of interests by a successful tenderer at the time an agreement has already been entered into then the Board reserves the right to terminate the agreement.

<http://www.commerce.nsw.gov.au/About+Commerce/Business+ethics+statement/Business+ethics+statement.htm#commerce>

## **2.6 Other Eligibility Requirements**

- 2.6.1 The Board will not enter into an agreement with a company that does not have an Australian Business Number and is not registered for GST. Normally, Tenderers must be registered for GST and state their ABN in their Tender Response.

Tenders from Tenderers that do not have an ABN and/or are not registered for GST, such as Tenderers commencing business in Australia, may be considered at the Board's discretion if the Tenderer demonstrates that it will obtain an ABN and GST registration before entering into an agreement with the Board. Such Tenderers must state how and when they intend to obtain an ABN and register for GST in their Tender Response.

## **3. WHERE TO OBTAIN THIS RFT**

### **3.1 RFT copies**

- 3.1.1 A tenderer may obtain either a hard copy or electronic copy of this RFT.
- 3.1.2 NSW Department of Commerce has adopted an electronic tendering system using the internet, which has the capacity for viewing, downloading, or ordering the RFT and for the lodgement of Tenders.

### 3.2 Hard copy

#### 3.2.1 A hard copy of this RFT may be:

- (a) viewed and purchased between 8.30 am and 4.30 pm, Mondays to Fridays (except public holidays) by prior arrangement at:  
  
Mckell Building  
NSW Department of Commerce  
McKell Building  
2-24 Rawson Place  
Sydney, NSW 2000
- (b) purchased by telephoning (02) 9372 8900. An additional fee is charged for delivery by express post or by courier, as required.
- (c) viewed and purchased through the NSW Department of Commerce *eTendering* website at <https://tenders.nsw.gov.au/commerce>. Hard copy orders placed and paid for through the website will be filled by postal delivery.

#### 3.2.2 A copy of the Price Schedule in CD-ROM form or on a floppy disk may in some cases be provided with the hard copy.

### 3.3 Electronic copy

#### 3.3.1 An electronic copy of the RFT and any Addenda that may be issued up to the Closing Date and Time, may be viewed and downloaded from the internet at the NSW Department of Commerce *eTendering* website at <https://tenders.nsw.gov.au/commerce>.

#### 3.3.2 A tenderer is encouraged, although not required, to obtain the RFT and to lodge a Tender electronically through the NSW Department of Commerce *eTendering* website.

#### 3.3.3 In order to download an electronic copy of the RFT, a tenderer must first register as a site user.

#### 3.3.4 A tenderer should follow the instructions on the site to view an RFT. To locate and view an RFT and its RFT Summary, follow the instructions on the NSW Department of Commerce *eTendering* website:

- (a) First locate the RFT using the RFT Search, or by looking at the Current RFT listings screen where the additional search function may also be used.
- (b) You may see some details of the RFT by accessing them through the blue "Viewable Copy" button. This function is provided to assist in making a decision to obtain a "Responsible Copy" of the RFT.
- (c) Download the "Responsible Copy" files from the website by selecting the blue "Responsible Copy" button (if one appears for that RFT) and then follow the steps and the instructions on the NSW Department of Commerce *eTendering* website.

### **3.4 RFT Purchase price**

3.4.1 The non-refundable purchase price for a hard copy of this RFT is \$110.00 Inclusive of GST.

3.4.2 Payment may be made:

- (a) if purchasing from the Tenders Office, McKell Building, by cheque drawn in favour of the NSW Department of Commerce, or by credit card (MasterCard, Visa ). Cash will not be accepted; or
- (b) if ordering a hard copy through the NSW Department of Commerce *eTendering* website, by credit card (Mastercard, or Visa).

## **ANNEXURE 1 TO PART A - SPECIFICATIONS**

### **1. SCOPE**

- 1.1 This Request For Tender ("RFT") covers Sydney Olympic Park Authority's requirement for a suitable, financially sound organisation, which specialises in the operation of a variety of car parking facilities to manage its car parking infrastructure and operations at Sydney Olympic Park.

The scope of the Services required include:

- car parking facilities management services for on-street parking and off-street at grade and multi-level structures;
- coordination of parking of Coaches and Buses for major events in its Coach and Bus Bays for approximately four (4) occasions each year;
- provision of equipment and facilities;
- general maintenance and operation;
- collection of parking fees;
- accounting for revenue; and
- cash collection and general security.

### **2. CAR PARKING FACILITIES MANAGEMENT SERVICES**

The Contractor is responsible for the provision of the following services relating to the management of the Car Parking Facilities.

#### **2.1 Conduct Business**

At all times the Contractor shall manage the Car Parking Facilities in accordance with sound commercial and business practices, due diligence and efficiency so as to:

- meet SOPA's high operational expectations, particularly in relation to Major Events;
- provide quality service to the customers of the Car Parks;
- ensure that the Car Parking Facilities are managed effectively, efficiently and in strict accordance with the Contract and SOPA's Car Parking Policy (Attachment 1);
- optimise commercial opportunities that are available in respect of the Car Parking Facilities;
- process and handle all sales inquiries, and associated invoicing and handling of receipts, in respect of the operation of the Car Parking Facilities;
- in conjunction with SOPA, identify synergies (business and marketing opportunities) from its other business activities which may be applied to the car parking operations at Sydney Olympic Park;
- provide preventative and corrective maintenance for SOPA's car parking equipment in conjunction with SOPA's car park equipment and preventative maintenance contractor;
- provide cleaning and waste management services for the car parking facilities at P1, P3 and P6 (underground) Car Parks; and
- develop operational strategies for each Major Event (submitted for SOPA approval at least five (5) working days before the event).

## 2.2 Employment of Car Park Staff

The Contractor will engage sufficiently qualified and trained staff to operate the Car Parking Facilities, including but not limited to on site management, cashiers and maintenance staff. The Contractor must employ people of good character. The Contractor must undertake appropriate pre employment screening of potential employees prior to engaging them to work at any of the Car Parking Facilities. The Contractor may subcontract portions of the required services to suitably qualified sub contractors with the approval of SOPA.

The Contractor will provide management support to the on site staff in the areas of staff training, customer service systems, occupational health and safety procedures and human resources.

The Contractor shall:

- employ a competent site manager capable of managing a complex multi faceted car parking operation including at grade and multi level operations. The Contractor must notify SOPA of the details of each proposed site manager prior to engaging such person. SOPA reserves the right to veto the appointment of any individual it deems not suitable;
- employ sufficient and suitable staff to undertake the operation of the Car Parking Facilities and shall be responsible for the terms and conditions of their employment;
- ensure that sufficient staff are rostered to work at various times throughout the day to service the changing demands for parking in the Car Parks;
- ensure that at all times its employees are neatly and cleanly dressed and wear the Contractor's staff uniform;
- ensure that at all times its employees are fully trained in the tasks allocated to them prior to commencing duties and provide on going refresher training of each employee;
- keep detailed records of the training undertaken by each employee and provide SOPA with access to these records when requested (and comply with all laws including the Privacy Act 1988 (Commonwealth) in doing so);
- ensure that all employees undergo customer training to ensure that they are courteous and pleasant to patrons at all times and that they can communicate fluently in English;
- ensure that all employees are, prior to commencing duties for the first time, fully familiar with the location of all Sydney Olympic Park facilities (including venue facilities in Sydney Olympic Park) and can provide directions to those facilities as well as directions to major roadways in the vicinity of Sydney Olympic Park and that they are fully familiar with SOPA's site and emergency procedures and policies;
- ensure that all staff are properly trained to the relevant level on the use and, where appropriate, maintenance of Car Park access control and fee processing equipment;
- ensure that, in accordance with SOPA Policy, staff of the Contractor will not be permitted to smoke whilst on duty except in smoking areas in the Car Parks designated by SOPA and only at those times that it will not interfere with performance of their duties and the provision of the services under the Contract; and
- apply the following conditions for staff employment:



### **2.2.1 Application of Award**

The Contractor must ensure that staff working at the car parks are employed under the terms, conditions and rates of pay of the Sydney Olympic Park Authority Paid Parking (State) Award. A copy of this Award is available at the following website:

<http://www.industrialrelations.nsw.gov.au/awards/controller.jsp?awardCode=909&view=document>

No over award payments may be made without the prior approval of SOPA.

### **2.2.2 Salaried Staff**

The Contractor must ensure that all salary packages and terms of engagement for any salaried staff must be approved by SOPA and any annual salary reviews must have the prior approval of SOPA.

## **2.3 Administration**

The Contractor will undertake all administrative responsibilities for the operation of the Car Parks including but not limited to payroll, suppliers, sub contractors, consultants, banking and financial reporting.

## **2.4 Financial Controls and Reconciliation**

Prior to the Contractor commencing its services under the Contract, the Contractor must submit to SOPA copies of all documents it proposes to use in the control, reconciliation and auditing of financial transactions relating to the Car Parks.

The Contractor shall keep and maintain at all times proper records and books of accounts, original invoices and other documents relating to the operation of the Car Parks on the terms specified in the Contract. The Contractor will make all of these records available to SOPA at any time. All records and information remain the exclusive property of SOPA and the Contractor is to return all records and copies of records in its possession at termination of the Contract.

The Contractor will store all tickets catalogued by day and by shift in a suitable, safe and secure area on site in an area provided by SOPA. Tickets are to be stored in chronological order to ensure easy retrieval at any time.

Tickets and other records may only be destroyed or otherwise disposed of by the Contractor in a secure manner with the prior written approval of SOPA. It should be noted that it is an Australian Taxation Office (ATO) requirement that financial records be kept for seven years for tax purposes.

## **3. BUSINESS PLAN**

The Contractor will submit a Business Plan for all Car Parks to SOPA by 30 April 2008 for the period commencing 1 July 2008 and ending on 30 June 2009. By 30 April of each subsequent year during the term of the Contract, the Contractor must submit a Business Plan for the following year of the Contract (1 July to end 30 June). The Business Plan will include:

- A Financial Plan showing:
  - i) annual operating budgets (for recurrent expenditure);
  - ii) annual capital expenditure budgets;
  - iii) annual cash flow projections.

The Contractor should also refer to Part C1 Section 3.3 – financial details required.

- A Public Information Plan – See Part C5;
- A Marketing Plan - See Part C7;
- Policies (Policies for Industrial Relations, Equal Employment Opportunities, Occupational Health and Safety, Affirmative Action and Environmental Management) – See Part C1 Section 7;
- A Maintenance and Asset Management Plan;
- Recommendations for continuous improvement of the Car Parking Facilities operations and financial performance.

The Marketing Plan and the Public Information Plan, as contained in each Business Plan, must be consistent with SOPA's own public information policies and marketing plans.

SOPA will be entitled within 30 days of receipt of a Business Plan from the Contractor to comment on that Business Plan. The Contractor will be required to incorporate in each Business Plan the comments made by SOPA. The Contractor must not implement any marketing or public information plan without the prior written consent of SOPA.

## **4. REPORTS**

### **4.1 Additional Reporting Requirements**

The Contractor, when requested, will provide information to SOPA relating to the current or future operation, development or enhancement of the Car Parks.

The Contractor will promptly provide to SOPA copies of all audit management letters which it receives from its auditor from time to time relating to any audit of the operation of the Car Parking Facilities.

### **4.2 General Reporting Requirements**

The Contractor will provide the following reports:

#### **4.2.1 Daily**

No later than 1.00pm on each business day during the Term, the Contractor must provide to SOPA an exception report of the previous day (or, if the previous day was not a business day, all preceding days to and including the immediately preceding business day) of the following:

- any failure of an equipment forming part of the Car Parking Facilities including the Maintenance Register information referred to in Section 5.2.2;
- all customer complaints and comments (specifying the information required to be recorded in the Comments & Complaints Register referred to in Section 6.7); and
- all security related incidents (specifying the information required to be recorded in the Security Incident Register referred to in Section 8.3).

#### **4.2.2 Major Events**

No later than the close of business of the first business day following the completion of a Major Event, the Contractor must provide to SOPA a report consisting of the following:

- Details of the operational strategy for the Major Event, as implemented;
- Parking statistics and percentages (including pre-sold and casual tickets sold, peak and total car counts and casual capacity, all by individual Car Parks);
- Staffing summary;
- Ingress and egress statistics;

- Equipment and maintenance issues (including fault logs); and
- Operational issues (including any actions and outcomes).

#### **4.2.3 Weekly**

The Contractor shall provide a weekly report (Monday to Sunday) within 3 days of the end of each week consisting of the following information for each Car Park and a summary for all Car Parks, in each case, in respect of the relevant week:

- summary of the information provided on a daily basis (see Section 4.2.1);
- vehicle movements recorded by SOPA's access control and fee processing equipment;
- summary of information provided in relation to Major Events (see Section 4.2.2);
- summary of maintenance carried out (specifying the information required to be recorded in the Maintenance Register referred to in Section 5.2.2));
- number of casual tickets issued;
- number of new parking cards issued and details of to whom they were issued;
- number of casual tickets tendered for payment and dollar amounts;
- number of parking cards on issue and the dollar amounts invoiced / received;
- number of pre booked parking tickets collected and the dollar value invoiced/ received;
- number of pre booked parking tickets issued and dollar value invoiced/received including details of to whom tickets were issued and for which period;
- number of tickets tendered by general authorised non paying vehicles and dollar value;
- number of validated tickets tendered by Core Patrons (being certain patrons of the Sydney Aquatic Centre or Sydney Athletic Centre, to be further defined in the Contract) and Accredited Athletes (being certain athletes competing in competitions held at the Sydney Aquatic Centre, the Sydney Athletic Centre or the State Sports Centre, to be further defined in the Contract) competing in an event and dollar value;
- number of lost tickets and unreadable tickets and dollar value;
- number of any other tickets issued and description as well as dollar amounts;
- a breakdown of vehicle and gross revenue by time split i.e. each hour for the first five hours and each subsequent 24 hour period;
- occupancy rates by each time period;
- peak demand per day;
- a summary report of pre booked parking for the next two weeks of operation;
- reconciliation with payments received or receivable;
- length of stay statistics;
- average fee paid per vehicle per day;
- number of tickets processed and dollar value by automatic pay and display machines;
- venue crowd comparison to Car Park statistics each day (crowd statistics provided by SOPA);
- other statistics as required by SOPA from time to time.

All statistics are to be kept in a database, which is to be provided to SOPA as required.

A weekly meeting will be held, to review each weekly report, between SOPA and the Contractor. At these weekly meetings the Contractor is to be represented by the on site manager and, where required by SOPA acting reasonably, the executive manager of the Contractor having overall management responsibility for the Car Parking Facilities and the management of the Contract.

#### **4.2.4 Monthly**

Within seven days of the end of each calendar month the Contractor shall submit its monthly invoice for the fixed management fee and reimbursement of operating costs. Attached to this invoice the Contractor is to provide a report consisting of the following information:

- budget forecasts for the following month (and indications of discrepancies with the financial plan in the Business Plan);
- a detailed break down of operating costs to be reimbursed by SOPA (together with documentary evidence that such amounts were incurred);
- comparison of actual costs to budgeted costs as specified in the Business Plan, together with an explanation of variances;
- copies of all authorisations for expenditure items over \$500 in relation to capital expenditure or maintenance;
- monthly summary of the information provided in the Weekly Report as detailed above;
- report on staffing issues including training, leave taken and any industrial or Occupational Health and Safety issues;
- details of quality assurance program work and results;
- details of all customer service programs undertaken;
- details of any Public Information and Marketing initiatives; and
- an executive summary of the above items.

A monthly meeting will be held to review each monthly report between SOPA and the Contractor. At these monthly meetings the Contractor is to be represented by both the on site manager as well as the executive manager of the Contractor having overall management responsibility for the Car Parking Facilities and the management of the Contract.

#### **4.2.5 Quarterly**

Within 10 business days of the expiry of each quarter during the term of the Contract, the Contractor will provide to SOPA financial statements, prepared in accordance with generally accepted accounting principles and practices, specifying all revenues received from the operation of the Car Parking Facilities in the relevant quarter and all expenses incurred by the Contractor in operating the Car Parking Facilities during that quarter which it is entitled to be reimbursed by SOPA in accordance with the Contract. In addition, the Contractor must provide a budget re-forecast for the subsequent quarter and the remaining of the financial year, indicating discrepancies with the financial plan in the Business Plan and an explanation of those discrepancies.

#### **4.2.6 Annually**

The Contractor will submit the following additional reports annually:

- annual audited financial statements prepared pursuant to the Australian Stock Exchange requirements (if applicable), Australian Securities and Investment Commission requirements and any legislative requirements, as soon as practicable following the expiry of each financial year of the Contractor and in any event on or before 31 October in each year of the Contract; and
- a certificate from the auditor of the Contractor, within 30 days of each anniversary of the Contract, specifying the gross revenue and the Net Operating Profit for the 12 month period prior to the relevant anniversary, prepared in accordance with generally accepted accounting principles.

## **5. EQUIPMENT AND FACILITIES**

### **5.1 Provision of Equipment and Facilities**

The Contractor will be required to provide:

- A minimum of one (1) site vehicle; and
- A minimum of three (3) site mobile phones (for use in the management of the Contract by the Contractor).

Any additional equipment needs must be purchased by the Contractor (with SOPA prior written approval) for reimbursement by SOPA provided that SOPA will not be responsible for providing or meeting the cost of providing any vehicles or mobile telephones required by the Contractor in complying with its obligations under the Contract.

### **5.2 General Maintenance and Operational Obligations**

#### **5.2.1 Improvements**

Any improvements undertaken by the Contractor within the Car Parks requires the written approval of SOPA prior to commencement.

#### **5.2.2 Maintenance & Asset Registers**

The Contractor shall maintain a register of all maintenance work carried out including details of the date and time that the repair work was identified and by whom, and details of when the repair was undertaken and by whom.

This Maintenance Register will include copies of all inspection reports and a printout from the Car Park access control system detailing all faults and errors experienced with equipment, highlighting all items that have not been repaired:

- by the Contractor in accordance with the Contract; and
- by the sub contractor under the maintenance agreement as detailed below or any maintenance agreement entered into to replace such agreement.

The Contractor must maintain a register of all SOPA assets within each Car Park and must carry out quarterly checks confirming the location and state of repair of each asset a copy of which must be submitted to SOPA within seven days of the check being conducted.

The registers referred to above must be maintained using SOPA's standard documentation and/or computerised asset management systems, as notified to the Contractor from time to time during the term of the Contract.

#### **5.2.3 Access Control and Fee Processing Equipment and SOPA's Maintenance Agreement**

The Contractor will be responsible for equipment maintenance of the access control and fee processing equipment in the following areas:

- repair or clear equipment in instances of ticket or coin/note jam as required;
- replace broken boom gate arms as required;
- replenish ticket dispensers as required;
- clean ticket printers as per instruction from supplier; and
- clean reader throats, heads etc. as per instruction from supplier.

Prior to undertaking any individual maintenance item with a cost in excess of \$500 the Contractor will seek the approval of SOPA.

Maintenance Agreement - As part of its maintenance responsibilities, the Contractor shall oversee and implement SOPA's maintenance agreements for the maintenance of all Car Park access control and fee processing equipment and other equipment and systems. SOPA will provide a copy of each such agreement to the Contractor prior to the commencement of the Contract. The Contractor must, with the approval of SOPA, enter into a new maintenance agreement if any notified agreement terminates at any time during the term of the Contract.

The Contractor will be liable for and will not be reimbursed by SOPA for any charges incurred under the maintenance agreements as a result of any omission or neglectful act of its staff, including service call out charges where the item should have been dealt with by the Contractor.

#### **5.2.4 Car Parks - General**

The Contractor will comply with the following obligations in respect of each Car Park:

- providing waste management and cleaning services in P1, P3 and P6 (underground car park). As part of those responsibilities, the Contractor will also be responsible for monitoring the waste management and cleaning services provided in the Car Parks by a third party contractor appointed by SOPA, ensuring those services are carried out to a high standard. The Contractor is to conduct daily inspections and reporting of non-performance to SOPA. The Contractor must undertake regular reviews of the performance by SOPA's contractors of the provision of cleaning and waste management services with SOPA in order to identify methods of improving standards and / or reducing costs to SOPA. SOPA will provide a copy of each relevant waste management and cleaning contract to the Contractor prior to commencement of the Contract. The Contractor must, with the approval of SOPA, enter into new waste management and cleaning agreements if any existing SOPA agreements terminate at any time during the term of the Contract;
- the Contractor will be responsible for the programmed maintenance and renewal of all paint work and line marking within the Car Parks (details of the proposed program to be used and costs to be included in the Business Plan and approved by SOPA before work commences;
- the Contractor will be responsible for the maintenance and repair of all access doors within the Car Parks;
- the Contractor shall monitor and report to SOPA any maintenance issues relating to all lifts and escalators (provided that the Contractor will not be required to carry out any maintenance in respect of lifts and escalators);
- the Contractor must repair and/or replace any damaged or broken glazing within the Car Parks itself or using a sub-contractor approved by SOPA; and
- the Contractor must keep all SOPA owned equipment provided for the operation of the Car Parks in good operating condition. The Contractor must immediately repair any damage to such equipment.

#### **5.2.5 Signage**

The Contractor shall maintain all Car Park signage in good working order. Any new signage must be approved by SOPA prior to purchase and installation. The use of the Contractor's brand, logos, livery or advertisements of any kind may appear on any signage only with the prior written consent of SOPA. This restriction in terms of signage applies to the Contractor's vehicles and equipment used in connection with the services provided under the Contract.

### **5.2.6 Structural repairs and maintenance**

The Contractor is responsible for the reporting of all structural faults or repair requirements to SOPA in writing within two hours of becoming aware of the item through either the Daily Inspections (detailed in 5.2.7 below) or by separate notice in writing. The items include, but are not limited to:

- lighting;
- landscaping;
- potholes;
- damaged/broken fencing; and
- structural damage/defects to buildings and Car Park structures.

Once a fault or repair requirement has been identified the Contractor must make the area safe by restricting public access to the area by using SOPA supplied barricades.

### **5.2.7 Daily Inspection of Car Parks**

The Contractor shall undertake a daily inspection of all areas of the Car Parks. A competent person shall carry out these inspections with the assistance of a checklist of items to be inspected.

The Contractor shall maintain a file containing the results of each daily inspection and any items of repair are to be entered into the Maintenance Register (see Section 5.2.2).

## **6. OPERATIONAL DUTIES OF THE CONTRACTOR**

### **6.1 Procedures and Operations Manual**

Within 60 days of commencement of the Contract, the Contractor must provide a detailed Procedures and Operations Manual for the approval of SOPA. The Manual will be developed to be site specific to the operation of the Car Parks. The Manual will consist of the following information:

- a) Procedures and Operations including:
  - staff rosters and job descriptions for each Car Park;
  - operating procedures for each staff, supervisory and management position;
  - details of all standard forms, reports and registers required to be completed and maintained in accordance with the Contract including details of how to complete and distribute them;
  - procedures for cash handling and security;
  - procedures for Car Park and vehicle security;
  - procedures for the provision of cleaning and waste management services; and
  - procedures, specifications and work schedules for all maintenance requirements required to be performed by the Contractor in accordance with the Contract.
- b) Quality Assurance and Staff Training including:
  - details of the Contractor's quality assurance program (or if the Contractor does not propose to implement its own quality assurance program, confirmation that it has and will comply with relevant ISO 9001 accreditation) including procedures and forms for implementation and reporting;
  - details of minimum training requirements for all staff, including training program;
  - details and training attendance registers; and
  - details of customer service programs including procedures and forms for implementation and reporting.

- c) The Contractor must incorporate into the Procedures and Operations Manual site and emergency procedures as advised by SOPA.

Any intellectual property associated with the Procedures and Operations Manual will be owned by SOPA.

## 6.2 Operating Hours

The Contractor shall ensure that each of the Car Parks is appropriately staffed to ensure each Car Park is operational and functioning at the following standard times (though opening and closing times for any or all of the Car Parks may be varied by SOPA by notifying the Contractor from time to time during the term of the Contract):

| Car Park | Weekdays*          | Weekends & Public Holidays* | "Major Event" that will result in car parking in each Car Park *   |
|----------|--------------------|-----------------------------|--|
| P1       | 0800 to 1800 hours | 0900 to 1900 hours          | 3 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is the earlier) |
| P2       | 0500 to 2200 hours | 0500 to 2200 hours          | 1.5 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)   |
| P3       | 0600 to 1830 hours | 0900 to 1700 hours          | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P4       | N/A                | N/A                         | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P5       | N/A                | N/A                         | 3 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P6       | 0600 to 1830 hours | N/A                         | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P7       | N/A                | N/A                         | 2 hours prior to and 2 hours after the Major Event   |

\* Note: Opening and closing times may be adjusted by SOPA at any time.

## 6.3 Collection of Parking Fees

The Contractor shall collect from each of the customers who use the Car Parks all monies payable for parking within the Car Parks, calculated in accordance the SOPA Car Parking Policy, as varied from time to time by notice to the Contractor, including as follows:

- casual public customers paying in cash or by acceptable charge/credit card; and
- staff access cards issued to an authorised employer who pays by cheque on receipt of an invoice issued by the Contractor.



## **6.4 Accounting for Revenue**

6.4.1. The Contractor shall account to SOPA for all revenue received from the operation of the Car Parking Facilities on the following basis:

- daily Monday to Friday - any cheque payments and invoice requisitions;
- weekly, or as required - all cash takings (See Section 8.2); and
- daily Monday to Sunday including Public Holidays - all credit and charge card (batched once daily) transactions will be processed by the Contractor through SOPA's Bank to SOPA's Bank Account (as notified from time to time).

6.4.2. The Contractor will achieve a maximum cash short/banking variance of 0.05% for all revenue received.

## **6.5 Parking Charges**

SOPA will determine Parking Charges at all times. The Contractor may at any time make recommendations to SOPA regarding the level of Parking Charges.

The Contractor is responsible for ensuring that all Car Park fee processing equipment is set to collect the appropriate Parking Charges on the nominated day and the nominated time of day.

For the purpose of the Tender the current charges for parking in each Car Park are set out in SOPA's Car Parking Policy (Attachment 1). These charges are indicative only and are to be used solely for the purpose of this Tender process. SOPA will confirm the charges that will apply from time to time during the Contract period.

SOPA reserves the right to vary the SOPA's Car Parking Policy, including the Parking Charges, at any time without notice.

## **6.6 Free Parking**

### **6.6.1 General**

The Contractor shall provide parking accommodation free of charge in the Car Parks for the following vehicles on provision of suitable identification:

- Vice Regal Cars;
- Emergency Service vehicles (Ambulance/Fire/Police/Emergency Services);
- Vehicles in possession of a valid official SOPA pass for the relevant day(s) and authorised by the CEO of SOPA or his delegate;
- Vehicles owned by the New South Wales Police (on official business); and
- Other vehicles as determined by SOPA.

The Contractor must maintain a register of all vehicles exiting the Car Parks for free. This register will be available to be audited by SOPA from time to time during the term of the Contract.

### **6.6.2 Venue Patrons**

SOPA's Car Parking Policy outlines the arrangements, which must be made for use of Car Parks by patrons of the Sydney Olympic Park State Sports Centre and the Sydney Olympic Park Aquatic and Athletic Centres free of charge.

## **6.7 Comments & Complaints Register**

The Contractor shall maintain a register for each Car Park of all comments and complaints from customers. The Contractor shall ensure that all comments and complaints are reported by staff.

## 6.8 Customer Satisfaction

The Contractor is to undertake customer satisfaction surveys in respect of the Car Parks at least once annually. These surveys will assess and quantify customer satisfaction in a number of areas including but not limited to the following:

- casual payment processing delays (excluding during Major Events) - maximum four (4) minute wait per customer
- casual payment processing delays during Major Events - maximum 15 minute wait per customer
- boom gate arm replacement - within 20 minutes of failure in operation occurring;
- repairing or clearing of ticket or coin/note jam in equipment - within 20 minutes of failure in operation occurring;
- replenish ticket/receipt dispensers - dispensers should never run out of tickets / receipts;
- ease of finding entry point and ease of entry;
- ease of finding a parking space;
- ease of finding venue entrance;
- ease of finding car on return;
- ease of finding exit point;
- exit promptness;
- personal security;
- vehicle security;
- staff courtesy/politeness; and
- new products and services.

In addition to the above information, surveys may include questions to customers deemed to be beneficial by SOPA in identifying the customer demographics, associated market segments and to elicit general comments concerning the Car Parks and their operation. These additional questions will be developed in consultation with SOPA.

The results of all surveys undertaken by the Contractor will be provided to SOPA.

## 7. OPERATING COSTS

Operating costs are to be divided into two components:

- Payable by the Contractor and not reimbursed by SOPA; and
- Payable by the Contractor and reimbursed by SOPA.

### 7.1 Payable by the Contractor and Not Reimbursed by SOPA

The following operating costs are payable by the Contractor and will not be reimbursed by SOPA:

- contract administration and management costs incurred by Contractor associated with the management of the Car Parks and the Contract;
- employee entitlements accrued up to the commencement date of the Contract;
- all costs associated with the training and motivation of the Contractor's staff working in the Car Parks (note: SOPA will provide the Contractor and its staff with initial training by the Car Park equipment supplier to the required level in the use and, where appropriate, the maintenance of the Car Park equipment. After this initial training the cost of any additional training will be borne by the Contractor);
- staff uniform costs;
- all costs associated with the implementation, monitoring and reporting of quality assurance programs or compliance with the relevant ISO 9001 accreditation;
- audit expenses;

- industrial relations costs;
- costs associated with the provision, maintenance and replacement of the Contractor's property;
- insurance of Contractor's property and all other insurance required to be maintained by the Contractor in accordance with the Contract (other than workers compensation insurance);
- Contractor's equipment depreciation/amortisation expenses;
- contractor's legal costs and stamp duty;
- travel and entertainment;
- motor vehicle and mobile telephone purchase expenses;
- any losses due to theft, fraud or financial discrepancies, relating to Car Park revenue where this occurs (in the opinion of SOPA acting reasonably) as a result of any omission or neglect by the Contractor or its staff;
- maintenance costs of Car Park equipment, Car Parks and signage which is, in the opinion of SOPA acting reasonably, due to the negligence, omissions or default of the Contractor, its Staff or sub contractors;
- Business Plan development costs; and
- such other costs as expressly referred to in any provision of the Contract.

## **7.2 Payable by the Contractor and Reimbursed by SOPA**

SOPA will reimburse the Contractor for the following costs directly incurred by the Contractor for the operation of the Car Parks in accordance with the Contract:

- wages and allowances for on site management and operations staff;
- on costs - Payroll Tax, Superannuation, Workers' Compensation insurance and rehabilitation costs, Annual Leave (when paid), Annual Leave Loading (when paid), Long Service Leave (provisioning of appropriate pro-rata long service leave allowance when paid) and Sick Leave (when paid);
- cash security services;
- petrol and vehicle maintenance and repair costs;
- other operating supplies;
- office supplies;
- ticket and access card stock;
- printed signs;
- landline and mobile telephone calls (local and mobile only) and facsimile calls;
- repairs and maintenance costs;
- water, sewage and electricity;
- equipment and signage replacement costs;
- waste management and cleaning costs; and
- cost of implementing public information and marketing plans forming part of any Business Plan.

## **8. CAR PARK SECURITY**

### **8.1 General Security**

The Contractor shall monitor the scheduled security patrols of the Car Parks undertaken by SOPA's security contractor. The Contractor must undertake regular reviews of the security services with SOPA in order to identify methods of improving effectiveness and/or reducing costs to SOPA.

The Contractor must ensure that any Car Park staff not required for traffic direction or cash collection duties are utilised to undertake additional inspections of the Car Parks.

## **8.2 Cash Collection Security**

The Contractor shall enter into a service agreement, approved by SOPA, with a suitably qualified security sub contractor, approved by SOPA for the collection and processing of all cash takings from the Car Parks or will perform such service itself. This service is to consist of the following:

### **8.2.1 P1, P2, P3, P4, P5, P6 & P7 car parks**

- provision of a two key (one key held by the sub contractor and one key held by the Contractor's Car Park site manager or shift supervisor) drop safe in each of the Car Park offices where cash takings are processed;
- insurance of cash takings once deposited in drop safe/s;
- collection of cash takings;
- payment by a cheque made payable to SOPA, handed to the Contractor on each occasion of cash collection from the Car Parks; and
- provision of change as required by the Contractor to service the needs of the Contractor's cashier staff and the pay on foot automatic fee processing machines.

### **8.2.2 P6 series car parks and On-Street – Pay and Display Machines**

- obtain print out of cash takings from each pay and display machine;
- collection of cash from each pay and display machine;
- payment by a cheque made payable to SOPA, handed to the Contractor on each occasion of cash collection from pay and display machines; and
- provision of change as required by the Contractor to service the needs of the pay and display machines.

## **8.3 Security Incident Register**

The Contractor shall maintain a Security Incident Register in which all security related incidents (including without limitation all vehicle accidents, vehicle thefts/vandalism and dumped vehicles) are to be recorded, including details of remedial action taken on each incident.

## ANNEXURE 2 TO PART A - ATTACHMENTS

|              |  |
|--------------|--|
| Attachment A | SOPA Car Parking Policy  |
| Attachment B | SOPA Car Park Details And Equipment Supplied By SOPA For Use By Contractor     |
| Attachment C | Plan Of Sydney Olympic Park (Showing Location Of All Car Parks And Coach Bays) |
| Attachment D | Sydney Olympic Park Paid Parking (State) Award 2007                            |
| Attachment E | Car Park Revenue 2005, 2006 & 2007 Fiscal Years                                |
| Attachment F | Sydney Olympic Park Events Calendar 1 July 2006 - 30 June 2007                 |
| Attachment G | Sydney Olympic Park Events Calendar 1 January 2007 - 31 December 2007          |

## PART B THE TENDER PROCESS

### 4. DEFINITIONS OF TERMS USED IN PARTS A-C

- 4.1 Unless the context indicates otherwise, the following terms, where used in Parts A-C of this RFT, shall have the meanings set out below. Note that not all defined terms will appear in all RFTs.

**“Addendum”** means an addendum or addition to this RFT made by the Board before the Closing Date and Time.

**“Alternative Tender”** means a Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the Requirement.

**“Board”** means the State Contracts Control Board established under the *Public Sector Employment and Management Act 2002* whose responsibilities include:

- Inviting and accepting tenders;
- Determining the conditions under which tenders are invited or accepted;
- Entering into contracts on behalf of Departments and other public sector agencies; and
- On-going contract administration and management,

and includes the duly authorised delegates of the Board, including officers of NSW Procurement – Contracting Services.

**“Car Parks”** means the car parks located in the Sydney Olympic Park described as P1, P2, P3, P4, P5, P6, P7 and all on-street, ticketed parking. The locations of the Car Parks are shown in Attachment 4.

**“Car Parking Facilities”** means the Car Parks and any associated equipment (including the equipment described in Attachment 3).

**“Closing Date and Time”** means the Closing Date and Time for receipt of Tenders, specified on the cover sheet to this RFT.

**“Coach and Bus Bays”** means the coach/bus park bays located in the Sydney Olympic Park described as Coach Pods A, B and C. The locations of the Coach Bays are shown in Attachment 4.

**“Code”** means the NSW Government Code of Practice for Procurement as amended from time to time, together with any other codes of practice relating to procurement, including any amendments to such codes that may be applicable to the particular RFT. The code can be viewed and downloaded from:

[http://www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

**“Compliance with the Outworkers Code”** and **“Comply with the Outworkers Code”**, where used in clauses dealing with the Outworkers Code, mean that:

- (a) where Deliverables applicable to the Outworkers Code have been produced or are to be produced in New South Wales, the tenderer has acted in accordance with all of the requirements of the Outworkers Code.

- (b) where Deliverables applicable to the Outworkers Code have been produced or are about to be produced outside New South Wales, the tenderer has acted and will continue to act in accordance with all the requirements of the equivalent to the Outworkers Code in the place of manufacture. Where no equivalent to the Outworkers Code exists in that place of manufacture the tenderer has complied and will continue to comply with the Outworkers Code to the extent possible under the laws of that place.

**“Conforming Tender”** means a Tender that:

- (a) conforms to the Requirement;
- (b) is in the prescribed form;
- (c) conforms to the terms of Part D, and
- (d) conforms to all of the other stated requirements of this RFT.

**“Contractor”** means the tenderer as a party to the proposed agreement.

**“Deliverables”** means the goods and/or services sought under this RFT, as detailed in the Specification.

**“Government Businesses”** means in general, entities which: a) have some form of public sector ownership; b) are engaged in trading goods and/or services; c) have a large measure of self sufficiency; and d) are subject to Executive control. In this context, the term Government business includes Public Trading Enterprises, State Owned Corporations and General Government Businesses.

**“GST”** is a goods and services tax and has the same meaning as in the GST Law.

**“GST Free Supplies”** and **“Input Taxed Supplies”** have the same meaning as in the GST Law.

**“GST Law”** means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (Cth) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation made under those Acts.

**“Late Tender”** means a Tender received after the Closing Date and Time for tenders and includes a Tender which is only partly received by the Closing Date and Time.

**“Major Event”** means an event held in Sydney Olympic Park (including any venue in Sydney Olympic Park) with an attendance which is anticipated by the organiser or promoter of the event to be more than 5,000 persons on any one day of the event.

**“Net Operating Profit”** means, in respect of any period, the gross revenue received from the operation of the Car Parks during that period less expenses listed in Annexure 1 to Part A Section 7.2 which are paid in that period.

**“Non-Conforming Tender”** means a Tender that:

- (a) does not conform to the Requirement;
- (b) is not in the prescribed form;
- (c) does not conform to any one or more of the terms of Part D, including a Tender which seeks to qualify or amend these terms, or
- (d) does not conform to any of the other stated requirements of this RFT.

**“NSW Government Procurement Policy”** means the policy package outlined in this RFT.

**"NSW Procurement – Contracting Services"** means a business unit of the NSW Department of Commerce representing the Board and authorised to arrange and administer contracts on behalf of the Board.

**"OHS&R"** means occupational health, safety and rehabilitation.

**"On Request Items"** means any Deliverables nominated as On Request Items.

**"Operating Year"** means each 12 month period commencing 1 July and ending 30 June during the Term with the first period commencing on the Commencement Date and with each subsequent period commencing on 1 July and ending 30 June.

**"Outworkers Code"** means the NSW Government Code of Practice on Employment and Outwork Obligations for Textile Clothing and Footwear Suppliers 1998.

**"Price"** includes a price expressed as a lump sum or a rate per unit of quantity, calculated in accordance with this Part.

**"Price Schedule"** means the list of Deliverables offered by the tenderer, together with the corresponding pricing information.

**"Principal"** means the party named as Principal in the proposed agreement.

**"Requirement"** means the requirement for goods and/or services to be met by the tenderers and detailed in the Specification.

**"RFT"** means the Request for Tender.

**"Special Event Car Parks"** means car parks that are not normally used for public parking but may be arranged for special events (eg: Blaxland Riverside Parklands).

**"Specification"** means the detailed description of the required goods and/or services contained in Annexure 1 to Part A.

**"Sydney Olympic Park"** means the area as defined for the purposes of the Sydney Olympic Park Authority Act 2001 (NSW) and shown in Attachment 4.

**"Sydney Olympic Park Authority"** or **"SOPA"** means a statutory body constituted under the Sydney Olympic Park Authority Act 2001 (NSW).

**"Tender"** means the offer to supply the Deliverables submitted in response to the RFT.

**"Tender Price"** means, in respect of each Deliverable offered, the Price nominated in the Price Schedule for that Deliverable.

## **5. PREPARATION OF TENDER - GENERAL**

### **5.1 Conformity of Tenders**

5.1.1 The Board seeks Conforming Tenders.

5.1.2 Non-Conforming Tenders that do not include a fully completed Part C, in particular those Tenders which do not contain sufficient information to permit a proper evaluation to be conducted, or, in the case of electronic tenders, which cannot be effectively evaluated because the file has become corrupt, may be excluded from the tender process without further consideration at the Board's discretion.



- 5.1.3 Tenderers may, if they choose, submit an Alternative Tender but only in conjunction with a Conforming Tender. Tenderers are encouraged to offer options or solutions that contribute to the Principal's ability to carry out its business in a more cost-effective manner.
- 5.1.4 The Board may assess an Alternative Tender against the selection criteria where submitted with a Conforming Tender.
- 5.1.5 An Alternative Tender must be clearly marked "Alternative Tender".
- 5.1.6 The Board expressly reserves the right to accept, in its discretion, either or both of the following:
  - (a) Any Alternative Tender or part of an Alternative Tender, where submitted with a Conforming Tender; and
  - (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender that, in the Board's opinion, is substantially a Conforming Tender.

## **5.2 Prescribed form of Tender**

- 5.2.1 The Tender, including any Alternative Tender, must comprise a completed Part C and any attachments to Part C, as may be necessary. Any attachments should be labelled to identify those clauses of the RFT to which they relate.
- 5.2.2 The Tender will be taken to be for the supply of the Requirement on the terms and conditions stated in Part D except to the extent that these are amended by the Tender.

## **5.3 General instructions for completion of Tenders**

- 5.3.1 Prices, responses and other information provided in the Tender are to be in writing and in English.
- 5.3.2 Tenderers must initial and date any alterations to, and deletions from, a hard copy Tender.
- 5.3.3 Tenderers must complete ALL of Part C of this RFT, as directed.
- 5.3.4 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.

## **5.4 Addenda to this RFT before close of Tenders**

- 5.4.1 The Board, during the tender period may issue Addenda altering the RFT. In such cases, it is the obligation of the tenderer to verify if any addenda were issued prior to closing date, even if a tender has already been submitted. They must obtain a copy of all addenda as given in clause 5.4.2 or 5.4.3 as applicable.
- 5.4.2 Where a RFT has been acquired in a hard copy form, tenderers must contact the Contact Officer named under clause 2.3 of Part A or the Tenders Office (Level 8 McKell Building 2-24 Rawson Place Sydney, contact number: 9372-8900, e-mail: [Tenders@commerce.nsw.gov.au](mailto:Tenders@commerce.nsw.gov.au)).
- 5.4.3 Where a RFT has been acquired in an electronic form, tenderers must check the web site address, <https://tenders.nsw.gov.au/commerce> and download the Addendum.

- 5.4.4 It is mandatory for tender response 9.1 in Part C to be completed. Failure to complete tender response 9.1 in Part C will result in your tender not being considered.

## **5.5 Pre-Tender briefing and Site Inspection**

- 5.5.1 A pre-Tender briefing and inspection of the Car Park Facilities at Sydney Olympic Park will be held on the date, and at the time and place, nominated in the advertisement or listed below. The Contact Officer or another officer of NSW Procurement – Contracting Services will be available at that time to answer any queries regarding this RFT and the tender process generally.
- 5.5.2 Attendance at this pre-tender meeting is strongly recommended and at the prospective tenderers expense.
- 5.5.3 Also, it is expected that all tenderers will have thoroughly read this document prior to the briefing.

### **Briefing Details**

**Date:** Tuesday 6 November 2007

**Time:** 10:00am

**Place:** 7 Figtree Drive  
Sydney Olympic Park  
Sydney

- 5.5.4 Attendees will be required to pre-register for this briefing with the Contact Officer by email by no later than 2:00pm Monday 5 November 2007 to confirm your attendance.
- 5.5.5 Tenderers are advised that the number of attendees for the briefing session and site inspection is limited to two per organisation. A senior representative of the Tenderer should attend the pre-tender meeting and site inspection. Tenderers must sign in at the SOPA reception prior to the inspection.

## **5.6 Tenderers to inform themselves**

- 5.6.1 Before submitting its Tender, a tenderer must:
- (a) Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Tender; and
  - (b) Satisfy itself:
    - (i) that the Tender, including the Tender Price is correct; and
    - (ii) that it is financially and practically viable for it to enter into and perform the proposed agreement.

## **6. PREPARATION OF TENDER – POLICY REQUIREMENTS**

### **6.1 Procurement Policy – Introduction**

- 6.1.1 Tenderers should read the main policy document/s listed below. Other relevant policies and particular policy objectives to be implemented through this procurement are drawn to tenderers' attention in this cl.6. Their requirements are reflected in the selection criteria listed in cl.9.2 and in the responses required from tenderers in Part C.

a) NSW Government Procurement Policy:

[http://www.treasury.nsw.gov.au/\\_data/assets/pdf\\_file/0004/3955/tpp04-1.pdf](http://www.treasury.nsw.gov.au/_data/assets/pdf_file/0004/3955/tpp04-1.pdf)

### **6.2 NSW Government Code of Practice for Procurement**

- 6.2.1 Tenderers must comply with the NSW Government Code of Practice for Procurement, which is available at:

[http://www.treasury.nsw.gov.au/\\_data/assets/pdf\\_file/0015/1356/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/_data/assets/pdf_file/0015/1356/code_of_prac-curr.pdf)

- 6.2.2 Lodgement of a tender will itself be an acknowledgement and representation by the tenderer that it is aware of the requirements of the Code, that the tenderer will comply with the Code and that the tenderer agrees to provide periodic evidence of compliance with the Code and access to all relevant information to demonstrate compliance for the duration of any agreement that may be awarded.

- 6.2.3 If a tenderer has failed to comply with the Code, this failure will be taken into account by the Board when considering its tender or any subsequent tender and may result in this or any subsequent tender being passed over without prejudice to any other rights or action or remedies available to the Board.

### **6.3 Occupational Health Safety & Rehabilitation**

- 6.3.1 Tenderers must comply with the following OHS&R requirements in the performance of any agreement awarded:

- (a) The *Occupational Health and Safety Act 2000* (NSW) and any regulation made under this Act, including the OHS Regulation 2001;
- (b) Codes of Practice, approved and issued pursuant to the above Act and or regulations made under the Act

- 6.3.2 Tenderers must ensure that the Tenderer's Sub-Contractors will comply with the OHS&R requirements listed in 6.3.1 in the performance of any agreement awarded.

- 6.3.3 Tenderers must indicate compliance with OHS&R obligations in Part C.

### **6.4 Environmental Management**

- 6.4.1 The NSW Government seeks to promote ecologically sustainable development through procurement. The Tenderer is required in Part C to highlight how the provision of the Deliverables would promote this object if its Tender is accepted.

## **6.5 Value-added activity**

- 6.5.1 The NSW Government recognises the benefits to be gained from the growth of domestic, value-adding activities. Tenderers are required to indicate in Part C the level of value-added activity proposed to be undertaken in the event of award of any agreement. The evaluation will favour proposals with the highest level of local value-added activity.

## **7. PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN**

### **7.1 Price Schedule**

- 7.1.1 Complete the Price Schedule at Part C3.

### **7.2 Calculating the Tender Price**

- 7.2.1 The Tender Price must:

- (a) be in Australian dollars;
- (b) cover all costs of performing the agreement, including those relating to attendances in contract performance monitoring meetings;
- (c) include Goods and Services Tax if it is payable and all other applicable taxes, duties and charges at the rates applicable at the Closing Date and Time for Tenders;
- (d) include all costs associated with the preparation and submission of the Tender; and
- (e) be an all inclusive monthly rate which covers all costs of performing all Deliverables in accordance with the Specification.

### **7.3 Price Variation**

- 7.3.1 The tenderer should determine the Tender Price on the basis of Firm for the first twelve (12) months of the term of the agreement then subject to review at the end of that period and each twelve (12) months, including for any extension period following based on Consumer Price Index (CPI).
- 7.3.2 Variation will be on the basis of the following formulae.

$$A = R \times \frac{C2}{C1}$$

where:

- A is the revised Contractor's Fixed Fee;
- R is the Contractor's Fixed Fee for the year immediately preceding the relevant Review Date;
- C1 is the CPI for the financial year quarter ended 14 months prior to the relevant Review Date; and
- C2 is the CPI for the financial year quarter ending 2 months prior to the relevant Review Date.

#### **7.4 GST Free or Input Taxed Supplies**

Tenderers must identify and state the value of any GST Free or Input Taxed Supplies to be made under the agreement.

#### **7.5 Minimum Tender validity period**

- 7.5.1 Tenders must remain open for acceptance for a period of at least three months from the Closing Date and Time for Tenders. Tenderers must state in Part C if their Tenders will remain open for any longer period.

### **8. SUBMISSION OF TENDERS**

#### **8.1 General instructions for submission of Tenders**

- 8.1.1 A Tender must be received by the Closing Date and Time.

- 8.1.2 A Tender may be submitted by any of the following methods:

- (a) by delivery into the Tender Box:

- (1) It must be marked:

Tender Box  
Tenders Office,  
Level 3, McKell Building  
2-24 Rawson Place  
Sydney

- (2) If delivery personnel require a signature as evidence of delivery the Tender must be delivered between 8:30 am and 5:00 pm, Mondays to Fridays (except public holidays).

- (b) by post, addressed to

Tender Box  
Tenders Office,  
Level 3, McKell Building  
2-24 Rawson Place  
Sydney NSW 2000

- (c) by facsimile to (02) 9372 8974

- (d) by electronic lodgement through the NSW Department of Commerce, *eTendering* website at <https://tenders.nsw.gov.au/commerce>

- 8.1.3 If a tenderer intends to submit electronically through the NSW Department of Commerce *eTendering* website or by facsimile, the following must be considered:

- (a) The facsimile machine and NSW Department of Commerce *eTendering* website are at peak use on the morning when Tenders close.

- 1) Due to the limitations of these means of communication it may take longer to lodge a Tender near Closing Date and Closing Time than at other times.

- 2) When lodging by facsimile or through the NSW Department of Commerce *eTendering* website, it is recommended that a Tender be lodged well in advance of the Closing Date and Closing Time.
  - 3) A tenderer must determine whether lodgement of a Tender by facsimile or through the NSW Department of Commerce *eTendering* website is appropriate.
- (b) The facsimile machine and the NSW Department of Commerce *eTendering* website may experience difficulties in accepting a large Tender. A tender lodged via the NSW Department of Commerce *eTendering* website should ideally be below 7 megabytes (MB) in total file size. Responses totalling more than 7MB may experience difficulties in lodgement. A tenderer is referred to the clause governing electronic Tenders to the NSW Department of Commerce *eTendering* website for instructions as to compressing electronically submitted Tenders.
- 1) In order to comply with the above paragraph, an electronic Tender may be supported by documents in hard copy or on CD-ROM.
  - 2) Supporting documents, to be submitted in hard copy or on CD-ROM, may be designated throughout the RFT. Supporting documents may include, but are not limited to, statutory declarations, certificates, and company brochures.
  - 3) If submitting an electronic tender with supporting documents:
    - (a) The complete Tender, including the supporting documents, must be submitted by Closing Date and Closing Time, and
    - (b) Supporting documents should be clearly designated as "Supporting Documents to RFT...(Note: insert RFT No.)."

8.1.4 A tenderer is not required to provide multiple copies of a Tender.

- (a) If a tenderer provides multiple submissions, the tenderer should clearly state on the front page of the Tender whether it is:
  - (1) A "Copy." A copy must be identical to an earlier or simultaneous submission in every respect.
  - (2) A "Variation." A variation of an earlier Tender will be deemed as superseding a prior submission.
  - (3) An "Alternative Tender".
- (b) In the event that a Tenderer fails to designate whether a submission is a Copy or a Variation, the latest Tender received in the NSW Department of Commerce Tender Box will be deemed as the definitive submission.

8.1.5 If required, a tenderer must provide a copy of the Price Schedule on a CD-ROM or an IBM compatible 1.44MB floppy disk in a file format that can be read, formatted, displayed, manipulated and printed by Microsoft Excel 97.

## **8.2 Electronic Tenders to the NSW Department of Commerce *eTendering* website**

- 8.2.1 A tenderer is strongly encouraged, although not required, to lodge its Tender electronically through the NSW Department of Commerce *eTendering* website at <https://tenders.nsw.gov.au/commerce>. A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000* (NSW), and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
- 8.2.2 A tenderer, by electronically lodging a Tender, is taken to have accepted conditions shown in the Conditions of Tendering and on the NSW Department of Commerce *eTendering* website.
- 8.2.3 A tenderer must follow the following directions:
- (a) RFT for which electronic lodgement is available through the website can be identified by the blue "Lodge a Response" button on the web pages for the RFT.
  - (b) To lodge a Tender electronically, the files containing the Tender Response must be up-loaded through the website. Access to the up-loading process is through the blue "Lodge a Response" button, then follow the steps and instructions on the NSW Department of Commerce *eTendering* website and any instructions which may have been supplied with the RFT Summary and/or Respondable Copy.
- 8.2.4 A tenderer must observe the following format for submissions:
- (a) An electronically lodged Tender must be lodged in a file format which can be read, formatted, displayed and printed by Microsoft Word 97, or any format required by the RFT.
  - (b) If a tenderer compresses files, it must be possible to decompress them using WinZip. A tenderer must not submit self-extracting (\*.exe) zip files.
  - (c) A tenderer must not change pre-existing text in the RFT other than to insert the required information.
- 8.2.5 Signatures are not required for a Tender submitted to the NSW Department of Commerce *eTendering* website. A tenderer must ensure that a Tender is authorised by the person or persons who may do so on behalf of the Tenderer and appropriately identify the person and indicate the person's approval of the information communicated.
- 8.2.6 Electronically submitted Tenders may be made corrupt or incomplete, for example by computer viruses. The Board may decline to consider for acceptance a Tender that cannot be effectively evaluated because it is incomplete or corrupt. Note that:
- (a) To reduce the likelihood of viruses, a tenderer must not include any macros, applets, or executable code or files in a Tender.
  - (b) A tenderer should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.

8.2.7 If a tenderer experiences any persistent difficulty with the NSW Department of Commerce *eTendering* website in submitting a Tender or otherwise, it is encouraged to advise the Contract Officer. A tenderer should note:

- (a) There are usually alternative Tender lodgement methods described in the RFT. It is always the tenderer's responsibility to lodge the Tender by Closing Date and Closing Time.
- (b) If there is a defect or failure of the NSW Department of Commerce *eTendering* website and the Board is advised, the Tender Closing Date and Closing Time may be extended provided that, in the view of the Board, the tender process will not be compromised by such an extension.

### **8.3 Custody of Tenders after receipt**

8.3.1 All hard copy tenders submitted (and any accompanying CD-ROMS or floppy disks) are kept in the NSW Department of Commerce Tender Box, which is a locked tender box, until after Closing Date and Closing Time.

8.3.2 Tenders lodged electronically to the NSW Department of Commerce Tenders website will be treated in accordance with the *Electronic Transactions Act 2000* (NSW) and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.

- (a) On receipt of Tenders lodged electronically to the NSW Department of Commerce *eTendering website*, Tenders are encrypted and stored in a secure "electronic tender box."
- (b) For reasons of probity and security, NSW Department of Commerce is prevented from interrogating the electronic tender box to ascertain whether tenders have been received or for any reason, until after the Closing Date and Closing Time.
- (c) The e-mail receipt that is sent to the Tenderer after successfully up-loading the Tender is the only evidence of Tender lodgement provided.

### **8.4 Late Tenders**

8.4.1 In accordance with the requirements of the NSW Government Code of Tendering, Late Tenders will not be considered except when the Board is satisfied that the integrity and competitiveness of the tendering process will not be comprised.

8.4.2 Normally, Late Tenders will not be considered for acceptance if they are:

- (a) hand delivered, including hand delivered by courier; or
- (b) received through Australia Post unless the envelope is clearly postmarked before the Closing Date and Time; or
- (c) received through Australia Post with only the tenderer's own franking machine on the envelope; or
- (d) received by electronic communication (facsimile or over the internet) and the despatch of the electronic communication of the Tender has occurred after the Closing Date and Time, including where delay may be due to the receiving facsimile or internet facility being engaged, faulty or otherwise inoperative.

### **8.5 Extension of the Closing Date and Time**

8.5.1 The Board may, in its discretion, extend the Closing Date and Time.



## **9. EVALUATION OF TENDERS**

### **9.1 General**

- 9.1.1 Tenders will be assessed against the selection criteria listed below, which are not necessarily exhaustive, in order of significance or to be given equal weight.
- 9.1.2 Information supplied by the tenderer in Part C will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the selection criteria listed in this RFT.
- 9.1.3 If any criterion or sub-criterion is stated to be “mandatory” a failure by the Tender to fully comply with that criterion or sub-criterion will result in automatic exclusion of the Tender without further consideration.

### **9.2 Selection criteria**

(a) Capacity to perform the Agreement including:

- (i) Past Performance - organisational experience and achievements in general Car Park operations, similar Car Park operations and Venue Car Park operations including referee reports
- (ii) Skills and experience of key personnel who the Tenderer proposes will manage the Services;
- (iii) Financial capacity and stability (including years in business and security considerations);
- (iv) Operating Budget and Staffing and Management Structure;
- (iv) Operations - operational plans and staffing, staff training, availability of personnel (including qualified subcontractors and ability to access additional resources to meet demands at special events) and an outline of proposed public information and marketing strategies aimed at adding value to SOPA's car parking business;
- (v) Quality Assurance Program; and
- (viii) Value Adds (if any).

(b) Price including total operating and maintenance costs and margins

(c) Compliance with specification.

(d) Compliance with Part D.

### **9.3 Variation of Tenders**

9.3.1 At any time before the Board accepts any Tender received in response to this RFT, a tenderer may vary its Tender:

- (a) by providing the Board with further information by way of explanation or clarification (“provide an explanation”);

- (b) by correcting a mistake or anomaly ("correct a mistake"), or
- (c) by documenting agreed changes to the Tender negotiated under of this Part B.

9.3.2 Such a variation may be made either:

- (a) at the request of the Board, or
- (b) with the consent of the Board at the request of the tenderer but only if,
- (c) in the case of variation requested by the tenderer to provide an explanation or correct a mistake, it appears to the Board reasonable in the circumstances to allow the tenderer to provide the explanation or correct the mistake or anomaly, or
- (d) in the case of variation to document agreed changes, the Board has confirmed that the draft documented changes reflect what has been agreed.

9.3.3 If a Tender is varied to provide an explanation or correct a mistake, the Board will provide all other tenderers whose Tenders have similar characteristics with the opportunity of varying their Tenders in a similar way.

9.3.4 A variation of a Tender will not be permitted if in the Board's view:

- (a) it would substantially alter the original Tender; or
- (b) in the case of variation to provide an explanation or correct a mistake, it would result in the revising or expanding of a Tender in a way which would give a tenderer an unfair advantage over other tenderers.

#### **9.4 Exchange of information between government agencies**

9.4.1 Lodgement of a Tender will itself be an authorisation by the tenderer to the Board to make available, on request, to any NSW government agency information, including but not limited to, information dealing with the tenderer's performance for any agreement that may be awarded. Such information may be used by the recipient NSW Government agency for assessment of suitability for pre-qualification, selective tender lists, expressions of interest or the award of a contract or termination of contract.

9.4.2 The provision of the information by the Board to any other NSW Government agency is agreed by the tenderer to be a communication falling within section 22(1) of the *Defamation Act 2005* (NSW), and the tenderer shall have no claim against the Board and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the tenderer arising out of the communication.

9.4.3 In the evaluation of Tenders, the Board may take into account any information about the tenderer that the Board receives from any source.

9.4.4 To avoid doubt, information which may be collected, exchanged and used in accordance with this provision includes "personal information" about the tenderer for the purposes of the *Privacy and Personal Information Protection Act 1998*. Lodgement of a Tender will be an authorisation by the tenderer to the Board to collect such information from third parties, and to use and exchange such information in accordance with this clause.

9.4.5 The tenderer's attention is drawn to the *Freedom of Information Act 1989* which may confer rights, subject to the terms of that Act, to access, and to require the correction of, information held by certain agencies.

9.4.6 The successful tenderer's performance of the agreement may be monitored and assessed. Performance assessment reports, including substantiated reports of unsatisfactory performance, can be taken into account by NSW government agencies and may result in future opportunities for NSW government work being restricted or lost.

## **9.5 Corrupt or unethical conduct**

9.5.1 If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:

- (a) offered any inducement or reward to any public servant or employee, agent or subcontractor of the Board, the Client Agency, or the NSW Government in connection with this RFT or the submitted Tender;
- (b) engaged in corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988*, or
- (c) a record or alleged record of unethical behaviour,
- (d) not complied with the requirements of Commerce Business Ethics Statement found in the link below:

<http://www.commerce.nsw.gov.au/About+Commerce/Business+ethics+statement/Business+ethics+statement.htm#commerce>

this may result in the Tender not receiving further consideration.

9.5.2 The Board is under no obligation to do so, but may, in its discretion, invite a relevant tenderer to provide written comments within a specified time before the Board excludes the tenderer on this basis.

## **10. OUTCOMES**

### **10.1 Negotiations before determination of outcome**

10.1.1 Before making any determination as to acceptance or rejection of Tenders the Board may, at its discretion, elect to conduct limited negotiation with preferred tenderers or a preferred tenderer, including those who have submitted Alternative Tenders or who have submitted substantially Conforming Tenders, to mutually improve outcomes.

10.1.2 The Board will generally not enter into negotiations on the standard conditions of contract contained in Part D.

### **10.2 Acceptance or rejection of Tenders**

10.2.1 The Board may accept all or any part or parts of any Tender or Tenders, including, in accordance with this Part B, any Alternative Tender or other Non-Conforming Tender.

10.2.2 The Board is not bound to accept the lowest or any Tender.

10.2.3 If the Board rejects all the Tenders received it may:

- a) invite fresh Tenders based on the same or different criteria (specifications and details contained in Alternative Tenders will not be used as the basis for the calling of new Tenders), or
- b) conduct post tender negotiations in accordance with this Part B.

### **10.3 Discontinuance of the Tender process**

10.3.1 In addition to its rights in relation to acceptance and rejection of Tenders, the Board reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of Tenders.

10.3.2 The Board will not be liable for any losses suffered by a tenderer as a result of discontinuance of the tender process, including costs of tendering.

### **10.4 Notification of outcome**

10.4.1 Following the Board's decision, all tenderers will be notified in writing of the outcome of their Tenders.

### **10.5 Entry into agreement**

10.5.1 The Board may enter into an agreement with a successful tenderer either by letter of acceptance or by execution of a formal agreement in terms of Part D. If the Board chooses to proceed by way of formal agreement it will indicate in any notification of acceptance that such acceptance will be formalised by execution of a formal agreement.

### **10.6 Post Tender negotiations in the event all Tenders are rejected**

10.6.1 If the Board rejects all Tenders on the basis that they are all Non-Conforming, but considers that conformity with the requirements of this RFT is achievable, it may enter into negotiations with any tenderer with a view to achieving a Conforming Tender and entering into an agreement. If such negotiations are unsuccessful the Board may then enter negotiations with the next most acceptable tenderer. This process may be repeated with each of the rejected Tenders in order of potential acceptability. However, the Board is not obliged to enter into negotiations with any tenderer.

10.6.2 The purpose of the negotiations will be advised by the Board and made clear to the participants before the commencement of negotiation. Negotiations will not seek to play off tenderers' prices against other tenderers' prices.

### **10.7 Complaints**

10.7.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from tendering or unfairly disadvantaged by the conditions in Part D or the Requirement, it is invited to write to:

State Contracts Control Board  
Level 23, McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000

## **10.8 Disclosure of information concerning tenderers and outcome of the tender process**

- 10.8.1 Details of tenderers and the outcome of the tender process (including any contract entered into) will be disclosed in accordance with the NSW Government Tendering Guidelines, available at:

<http://www.dpws.nsw.gov.au/Government+Procurement/Procurement+Policy+Framework/NSW+Government+Tendering+Guidelines.htm>

An outline of these requirements can be found in Annexure 2 to Part B of this RFT.

## **10.9 Ownership of Tenders**

- 10.9.1 All Tenders become the property of the Board on submission.
- 10.9.2 The Board may make copies of the Tenders for any purpose related to this RFT.

## **10.10 Monitoring of Contractor Performance**

- 10.10.1 During the course of the agreement the Contractor's performance will be monitored and assessed. For details refer to the NSW Government Procurement Guidelines on service provider performance management which is available on request from the Contact Officer or the internet at:

[www.dpws.nsw.gov.au/NR/rdonlyres/ebwssn7k5yfsxvbbwly7mhpwmqec6elk2wb3hbuptlrypeir7otlr7ud7noad4jv6m5fdai5wy2566kasjlyfmwnoab/Service+Provider+Performance+Management.pdf](http://www.dpws.nsw.gov.au/NR/rdonlyres/ebwssn7k5yfsxvbbwly7mhpwmqec6elk2wb3hbuptlrypeir7otlr7ud7noad4jv6m5fdai5wy2566kasjlyfmwnoab/Service+Provider+Performance+Management.pdf)

- 10.10.2 The terms and conditions of the proposed agreement, set out in Part D, detail the performance criteria to be applied in the monitoring of Contractor performance.

## ANNEXURE 1 TO PART B - DISCLOSURE OF INFORMATION CONCERNING TENDERERS AND OUTCOME OF THE TENDER PROCESS

1, In accordance with the NSW Government Tendering Guidelines referred to in clause 10.8.1 and found at <http://www.dpws.nsw.gov.au/Government+Procurement/Procurement+Policy+Framework/NSW+Government+Tendering+Guidelines.htm>, the following **tender information** is required to be disclosed -

| <b>Tender Type</b>  | <b>Level of disclosure</b>  | <b>Basis of disclosure</b>   |
|---|---|--|
| For all public calls for tender, expressions of interest or other such public calls which may result in a contract with the private sector. | As a minimum:<br>a concise description of the proposed works, goods or services the subject of the tender call;<br>the date responses to the tender call close and where responses are lodged; and<br>location of the tender call documents.<br><br>The names and addresses of all entities which submit responses. | Routine public disclosure at the time tender calls are advertised.<br><br>Routine public disclosure within 7 days of the date tender calls closed. |
| In a multi-stage tender process.  | The names and addresses of the shortlisted entities, except where such disclosure is likely to compromise the competitiveness of the subsequent tender process.   | Routine public disclosure within 7 days of these entities being advised of their shortlisting.   |

2. In accordance with the NSW Government Tendering Guidelines referred to in clause 10.8.1 above, the following **contract** information is required to be disclosed -

| <b>Contract size and type</b>  | <b>Level of disclosure</b>   | <b>Basis of disclosure</b>   |
|--|--|--|
| <b>Class 1 contracts</b><br>All government contracts with estimated value \$150,000 or above). | (a) The name and business address of the contractor;<br>(b) Particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of the contractor, or any other private sector entity in which the contractor has an interest, that will be involved in carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract;<br>(c) The date on which the contract became effective and the duration of the contract;<br>(d) Particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract;<br>(e) The estimated amount payable to the contractor under the contract;<br>(f) A description of any provisions under which the amount payable to the contractor may be varied;<br>(g) A description of any provisions with respect to the renegotiation of the contract;<br>(h) In the case of a contract arising from a | Routine public disclosure within 60 days after the contract becomes effective. |

|  |   |  |
|--|---|--|
|  | tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed; and<br>(i) A description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services.  |  |
| <b>Class 2 contracts</b><br>Class 1 contracts (i.e government contracts with estimated value \$150,000 or above) which also: <ul style="list-style-type: none"> <li>- result from a direct negotiation where there has not been a tender process; or</li> <li>- have been the subject of a tender process and where the final contract terms and conditions are substantially negotiated with the successful tenderer (this includes alliance type contracts); or</li> <li>- involve operation or maintenance obligations for 10 years or longer; or</li> <li>- involve a privately financed project as defined by relevant Treasury guidelines; or</li> <li>- involve a transfer of land or other asset to a party in exchange for the transfer of land or other asset to an agency.</li> </ul> | The information required for class 1 contracts and <ul style="list-style-type: none"> <li>(a) Particulars of future transfers of significant assets to the State at zero, or nominal, cost to the State, including the date of their proposed transfer;</li> <li>(b) Particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer;</li> <li>(c) The results of any cost-benefit analysis of the contract conducted by the agency;</li> <li>(d) The components and quantum of the public sector comparator if used;</li> <li>(e) Where relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges);</li> <li>(f) Where relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved;</li> <li>(g) Particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan agreements entered into or proposed to be entered into; and</li> <li>(h) Particulars of any other key elements of the contract.</li> </ul> | Routine public disclosure within 60 days after the contract becomes effective. |
| <b>Class 3 contracts</b><br>Class 2 contracts where the estimated value of the government contract is \$5 million or more.   | The information for class 1 and 2 contracts and the complete contract, less confidential information.<br><br>Note: if some or all of a class 3 contract is not disclosed for reasons of confidentiality, the agency is to disclose: <ul style="list-style-type: none"> <li>the reasons for not publishing the contract or provisions;</li> <li>a statement as to whether the contract or provisions will be published and, if so, when; and</li> <li>where some but not all of the provisions of the contract have been disclosed, a general description of the types of provisions that have not been published.</li> </ul>  | Routine public disclosure within 60 days after the contract becomes effective. |

### 3. Requests for disclosure of additional contract information

Tenderers must acknowledge that any person may make a specific request to the State Contracts Control Board for any item of contract information contained in schedules 1 or 2, or for a copy of a contract, which is not required to be routinely disclosed under section 15A of the FOI Act. The State Contracts Control Board must provide the requested contract information or the requested copy of the contract to the requesting person (less any confidential information) within 60 days of receiving the request.

Where a copy of a contract has been requested and some or all of the contract is not provided for reasons of confidentiality, the State Contracts Control Board will disclose:

- the reasons for not providing;
- a statement as to whether the contract or provisions will be provided and, if so, when; and
- where some but not all of the provisions of the contract have been provided, a general description of the types of provisions that have not been provided.

#### **4. Disclosure of amendments or variations to contract information under the FOI Act**

The FOI Act requires that, if there is an amendment to the contract terms or a material variation made under the contract that changes information already routinely disclosed under the FOI Act, the State Contracts Control Board must ensure that the information concerning the change is routinely disclosed within 60 days after such amendment or variation becomes effective, less any confidential information. In the case of class 3 contracts, the full amendment or material variation, less any confidential information, must be disclosed within the 60 day timeframe.

#### **5. Confidential information**

None of the disclosure obligations contained in the FOI Act, or the requirements for disclosing tender information or a copy of a contract or information in relation to a contract under these guidelines, require the disclosure of:

- the commercial-in-confidence provisions of a contract (as defined in section 15A(14) of the Freedom of Information Act) (the contractor's financing arrangements; the contractor's cost structure or profit margins; the contractor's full base case financial model; any intellectual property in which the contractor has an interest; or any matter whose disclosure would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors, whether at present or in the future.);
- details of any unsuccessful tender;
- any matter that could reasonably be expected to affect public safety or security; or
- information which would be exempt from disclosure if it were the subject of an application under the Freedom of Information Act.

Where such confidential information is withheld, the State Contracts Control Board must inform the requesting person that access to that information may be sought in accordance with the Freedom of Information Act. This will enable a person seeking the information to have the appeal rights available under the Freedom of Information Act.

**6.** Tenderers are invited to nominate items they consider are confidential and why.





**NSW Procurement – Contracting Services is a Business Unit of the  
NSW Department of Commerce**

**NSW Procurement – Contracting Services invites this tender for and on behalf  
of the  
NSW Government State Contracts Control Board**

## **PART C**

### **TENDER RESPONSE**

#### **Operation of Car Parking Facilities at Sydney Olympic Park**

**RFT Number 0701773**

Your Company's Legal Name: <Insert Company name>

Your Company's Trading Name: <Insert Trading name>

Your Company's ABN number: <Insert ABN >

Contact Name: <Insert name of Contract Administration  
Officer>

Contact Phone: <insert telephone no>

**If submitting an electronic Tender, please answer the following and indicate Yes or No below:**

- Are you providing supporting documents in hard copy or on CD-ROM?  
**Yes/No**
- Did you clearly mark the supporting documents as "Supporting Documents to RFT No (Guide Note: please fill in the RFT No)?"  
**Yes/No**

# TABLE OF CONTENTS

|                |   |           |
|----------------|---|-----------|
| <b>PART C1</b> | <b>TENDER RESPONSE TO PART B</b>  | <b>4</b>  |
| <b>1.</b>      | <b>INTRODUCTION</b>   | <b>4</b>  |
| <b>2.</b>      | <b>DETAILS OF TENDERER IDENTITY AND STATUS</b>                                    | <b>4</b>  |
| 2.1            | Details of identity .....   | 4         |
| 2.2            | Details of ownership .....  | 5         |
| 2.3            | Contracting as agent/trustee .....  | 5         |
| <b>3.</b>      | <b>CAPACITY TO PERFORM AGREEMENT</b>  | <b>6</b>  |
| 3.1            | Not Used .....  | 6         |
| 3.2            | Human Resource Capacity, Staffing and Management Structure .....                  | 6         |
| 3.3            | Financial capacity and stability .....  | 7         |
| 3.4            | Not used .....  | 7         |
| 3.5            | Quality Assurance Systems and Staff Training .....                                | 7         |
| 3.6            | Sub-Contractors .....   | 8         |
| 3.7            | Previous contract experience and standard of contract performance .....           | 10        |
| 3.8            | Current Legal Proceedings .....   | 11        |
| 3.9            | Referees .....  | 11        |
| 3.10           | Value Adds .....  | 12        |
| 3.11           | Other comments on capacity or ability to perform the agreement .....              | 12        |
| <b>4.</b>      | <b>PRICING and related INFORMATION</b>  | <b>12</b> |
| 4.1            | Price Schedule .....  | 12        |
| 4.2            | Not Used .....  | 12        |
| 4.3            | Settlement discount .....   | 13        |
| <b>5.</b>      | <b>COMPLIANCE WITH SPECIFICATION</b>  | <b>13</b> |
| <b>6.</b>      | <b>COMPLIANCE WITH PART D</b>   | <b>13</b> |
| <b>7.</b>      | <b>COMPLIANCE WITH POLICY REQUIREMENTS</b>  | <b>13</b> |
| 7.1            | Code of Practice and Code of Tendering .....                                      | 13        |
| 7.2            | Occupational Health Safety & Rehabilitation .....                                 | 14        |
| 7.3            | Environmental Management .....  | 15        |
| 7.4            | Value-added activity .....  | 15        |
| 7.5            | Industrial Relations, Equal Employment Opportunities and Affirmative Action ..... | 15        |
| <b>8.</b>      | <b>NOT USED</b>   | <b>15</b> |
| <b>9.</b>      | <b>OTHER INFORMATION REQUIRED</b>   | <b>16</b> |
| 9.1            | Addenda to this RFT after issue .....   | 16        |
| 9.2            | Further information .....   | 16        |
| 9.3            | Tender validity period .....  | 16        |
| 9.4            | Supply of Australian Business Number .....  | 16        |
| 9.5            | Conflict of Interest .....  | 16        |

|                  |  |           |
|------------------|--|-----------|
| <b>PART C2</b>   | <b>SPECIFICATION AND STATEMENT OF COMPLIANCE</b>               | <b>18</b> |
| <b>PART C3</b>   | <b>PRICE SCHEDULE</b>  | <b>19</b> |
| <b>PART C4-</b>  | <b>OPERATING BUDGET</b>  | <b>20</b> |
| <b>PART C5-</b>  | <b>PUBLIC INFORMATION PLAN</b>                                 | <b>21</b> |
| <b>PART C6-</b>  | <b>OPERATIONAL PLAN</b>  | <b>22</b> |
| <b>PART C7-</b>  | <b>MARKETING PLAN</b>  | <b>23</b> |
| <b>PART C8 -</b> | <b>INSURANCE</b>   | <b>24</b> |
|                  | Employer's Liability and Worker's Compensation Insurance ..... | 24        |
|                  | Broad Form Public Liability Insurance .....                    | 24        |
|                  | Motor Vehicle Insurance .....                                  | 24        |
| <b>PART C9</b>   | <b>ACKNOWLEDGMENT AND CONFIRMATION OF TENDER</b>               | <b>25</b> |

## **PART C1 TENDER RESPONSE TO PART B**

### **1. INTRODUCTION**

The information provided in this Part will be used in the assessment of Tenders. Questions have been framed to ensure responses that are relevant to the selection criteria. Please provide attachments where necessary, clearly labelled and cross-referenced.

References to “you” in this Part means the tenderer and all responses given will be taken to be responses of the tenderer.

### **2. DETAILS OF TENDERER IDENTITY AND STATUS**

#### **2.1 Details of identity**

Type or write your identification details as required below.

|   |  |
|---|--|
| <b>If a company, Company Name</b>                         |  |
| <b>If a partnership, Partnership Name</b>                 |  |
| <b>If an individual, individual's name</b>                |  |
| <b>4) Trading Name</b>                                    |  |
| <b>5) Australian Business Number (ABN)</b>                |  |
| <b>6) Australian Company Number (ACN)</b>                 |  |
| <b>7) Registered Office (if a company)</b>                |  |
| <b>8) Site Address (principal place of business)</b>      |  |
| <b>9) Postal Address (principal place of business)</b>    |  |
| <b>10) Alternative Address</b>                            |  |
| <b>11) Contract Administration Contact Name</b>           |  |
| <b>12) Contract Administration Contact Telephone No.</b>  |  |
| <b>13) Contract Administration Contact E-mail Address</b> |  |
| <b>14) Contract Administration Contact Fax No.</b>        |  |
| <b>15) Chief Executive Officer's Name (CEO)</b>           |  |

|                                      |  |
|--------------------------------------|--|
| <b>16) Switchboard Telephone No:</b> |  |
| <b>17) Company email address</b>     |  |
| <b>18) Website address:</b>          |  |
| <b>19) Tenderer's Reference No:</b>  |  |

## 2.2 Details of ownership

If you are a company, please provide details of your ownership, that is, Australian, Overseas, name of each shareholder holding 20% or more of your issued share capital, paid-up capital and other relevant details.

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If you are a partnership, please provide a list of partners and details of the partnership financial arrangements.

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## 2.3 Contracting as agent/trustee

### Question 2.3.1

If awarded an agreement, do you intend to enter the agreement in your own right or as agent for some other entity or entities?

If an agent, identify your principal who will be bound by the agreement and any authority given by that principal to you to execute any such agreement as its agent. I

#### Answer 2.3.1

<type or write your answer here>

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### Question 2.3.2

If awarded the agreement, do you intend to enter the agreement in your own right or as a trustee for some entity or entities? If a trustee, provide a copy of the trust deed, set out the names of the trustees, and provide full details below of your capacity to enter any agreement as a result of this RFT.

#### Answer 2.3.2

<type or write your answer here>

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### **3. CAPACITY TO PERFORM AGREEMENT**

#### **3.1 Not Used**

#### **3.2 Human Resource Capacity, Staffing and Management Structure**

- 3.2.1 Provide details of qualifications and experience of key personnel to be involved in the operation of the proposed agreement.

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- 3.2.2 Provide a breakdown of the staffing to be used, including the following information, for each of the Car Parks:

- Tenderer management structure as it relates directly to the operation of the Car Parks (showing directly the reporting structure from the Car Parks operation to Tenderer management and details of the other management responsibilities held by nominated manager for this Contract);
- on site supervision;
- on site operations staff (example weekly rosters);
- procedures and resources for the provision of back up staff in the instance of either staff leave or surge demand for services; and
- details of procedures and contact details for after hours contact of senior management.

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- 3.2.3 Provide details of the proposed recruitment plan for recruiting sufficient management, supervisory and operational staff to deliver the required services at the commencement of the Contract. The plan must provide for recruitment which is non-discriminatory and which provides equal employment opportunity.

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- 3.2.4 Provide details of uniforms which staff would be required to wear during hours of operation.

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### 3.3 Financial capacity and stability

#### Question 3.3.1

Give the annual Australian turnover in Deliverables tendered

#### Answer 3.3.1

<type or write your answer here>

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#### Question 3.3.2

During the course of the tender process, it may be required that you submit a copy of your last three annual financial reports. Indicate below whether you will provide these reports if required.

#### Answer 3.3.2 Yes/No

If "No", comment below:

<type or write your answer here>

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#### Question 3.3.3

State the number of years you have been in business in the form in which you are presently constituted.

#### Answer 3.3.3

<type or write your answer here>

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### 3.4 Not used

### 3.5 Quality Assurance Systems and Staff Training

#### Question 3.5.1

Indicate whether your company has attained certification under AS/NZS ISO 9001:2000 (including if you are in the process of transition from AS/NZS ISO 9001:1994 or AS/NZS ISO 9002:1994 to AS/NZS ISO 9001:2000) or is proceeding towards getting certification.

#### Answer 3.5.1

**Yes/No**

<type or write your answer here>

#### Question 3.5.2

If you are in the process of attaining certification, provide evidence and a projected timetable and schedule for certification.

#### Answer 3.5.2

<type or write your answer here>

#### 3.5.3 The Tenderer must provide site specific details of the following:

- proposed quality assurance program or relevant ISO 9001 accreditation;
- staff training program; and
- customer service programs.

Submissions should outline how these will be implemented on site in the performance by the Tenderer of its obligations under the Contract, if appointed, specifying the following:

- the person responsible for implementing, monitoring and reporting the quality assurance program (or relevant ISO 9001 accreditation) and how it will be reported to SOPA;
- the person responsible for carrying out staff training and customer service programs and how it will be reported to SOPA; and
- the minimum training requirement for all staff prior to commencement of duties.

### 3.6 Sub-Contractors

#### Question 3.6.1

Is any part of the Services to be offered through a sub-contractor? In this context, suppliers of minor components to be incorporated into the Services supplied by the Contractor are not regarded as sub-contractors for the purpose of this question.

#### Answer 3.6.1

#### Yes/No

If “Yes”, in respect of each nominated sub-contractor, please provide the following information, so far as applicable. Copy this table and insert details if there is more than one nominated sub-contractor.

|  |  |
|--|--|
| <b>Sub-contractor</b>                            |  |
| <b>1) If a company,<br/>Company Name</b>         |  |
| <b>2) If a partnership,<br/>Partnership Name</b> |  |



|   |  |
|---|--|
| <b>3) If an individual, individual's name</b>             |  |
| <b>4) Trading Name</b>                                    |  |
| <b>5) Australian Business Number (ABN)</b>                |  |
| <b>6) Australian Company Number (ACN)</b>                 |  |
| <b>7) Registered Office (if a company)</b>                |  |
| <b>8) Site Address (principal place of business)</b>      |  |
| <b>9) Postal Address (principal place of business)</b>    |  |
| <b>10) Alternative Address</b>                            |  |
| <b>11) Contract Administration Contact Name</b>           |  |
| <b>12) Contract Administration Contact Telephone No.</b>  |  |
| <b>13) Contract Administration Contact E-mail Address</b> |  |
| <b>14) Contract Administration Contact Fax No.</b>        |  |
| <b>15) Chief Executive Officer's (CEO) name</b>           |  |
| <b>16) Switchboard Telephone No.</b>                      |  |
| <b>17) Company E-mail Address</b>                         |  |
| <b>18) Website address</b>                                |  |
| <b>19) Items able to be supplied</b>                      |  |

#### Question 3.6.2

For each nominated sub-contractor, provide details of their legal status (company, partnership, individual etc) and experience and qualifications in the provision of similar Deliverables.

#### Answer 3.6.2

<type or write your answer here>

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## Question 3.6.3

Sub-contractors are required to provide a letter of commitment to the Board that:

- (a) they are aware of the terms and conditions of the agreement between the Contractor and the Board, and
- (b) they will offer to supply under the terms and conditions of the agreement and otherwise on terms that enable Contractors to comply with the agreement.

Do you agree to attach to the completed Part C (or, if tendering electronically, to submit as a pre-condition of acceptance of your Tender) a letter of commitment from sub-contractors, and provide a letter of commitment from any sub-contractor approved during the term of the agreement?

## Answer 3.6.3

<type or write your answer here>

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### 3.7 Previous contract experience and standard of contract performance

3.7.1 Provide details of any previous agreement(s) with the client agency and or the Board that you have been involved in during the past four years in the table below:

<type or write your answer below>

| Contract No | Contract Name | Date commenced | Date finished (if applicable) |
|-------------|---------------|----------------|-------------------------------|
|             |               |                |                               |
|             |               |                |                               |
|             |               |                |                               |
|             |               |                |                               |

## Question 3.7.2

Demonstrated expertise and experience in the successful provision of services on a similar scale to the Requirement including with respect to management of general, at grade and multi-level structured Car Park Operations, Venue Car Park Operations and Other Venue Operations Experience (not for the provision of services to the Board). State the number of years in business providing these goods and/or services.

## Answer 3.7.2

<type or write your answer here>

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### 3.7.3 Question

If you have undertaken any previous agreements provide details of any assessment undertaken of your performance. If performance reports were prepared in respect of your performance, please provide copies.

#### Answer 3.7.3

<type or write your answer here>

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### 3.8 Current Legal Proceedings

Are you or any of your directors or close associates currently, or have you, or have your directors or close associates been at any time within the last five years, the subject of any or any pending:

- (a) legal proceedings, including winding up or bankruptcy proceedings,
- (b) insolvency administrations or investigations; and/or
- (c) investigations by ICAC or any other public body?

#### Yes/No

If “**Yes**”, please supply full details below:

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### 3.9 Referees

Please provide details required below for previous customers willing to act as referees to your standard of service and performance in relation to your ability as a provider of the required Service.

#### Referee No 1.

|   |                               |       |
|---|-------------------------------|-------|
| Name:   | <Please provide details here> |       |
| Position:   | <Please provide details here> |       |
| Company:  | <Please provide details here> |       |
| No. of Years tenderer has provided required Service to Referee: | < >                           | years |
| Telephone No:   | <Please provide details here> |       |
| Fax No:   | <Please provide details here> |       |
| Email Address:  | <Please provide details here> |       |

**Referee No 2.**

Name: <Please provide details here>  
 Position: <Please provide details here>  
 Company: <Please provide details here>  
 No. of Years tenderer has provided required Service to Referee: < > years  
 Telephone No: <Please provide details here>  
 Fax No: <Please provide details here>  
 Email Address: <Please provide details here>

**Referee No 3.**

Name: <Please provide details here>  
 Position: <Please provide details here>  
 Company: <Please provide details here>  
 No. of Years tenderer has provided required Service to Referee: < > years  
 Telephone No: <Please provide details here>  
 Fax No: <Please provide details here>  
 Email Address: <Please provide details here>

**3.10 Value Adds**

Outline your proposal for any value add services you may wish to provide.

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**3.11 Other comments on capacity or ability to perform the agreement**

State here any other details you may wish to add. Please also address your capacity to perform the agreement in the context of the current commitments of your organisation.

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**4. PRICING AND RELATED INFORMATION****4.1 Price Schedule**

Complete the Price Schedule at Part C3, as directed in Part B.

**4.2 Not Used**

#### 4.3 Settlement discount

The Tender Prices are subject to a settlement discount of:-

4.3(a)  % for payment within 14 days from the date of receipt of invoice.

4.3(b)  % for payment made during the month following that in which the invoice has been rendered.

4.3(c)  % for payment within  days from the date of receipt of invoice.

#### 5. COMPLIANCE WITH SPECIFICATION

Complete the Statement of Compliance with Specification at Part C2.

#### 6. COMPLIANCE WITH PART D

Do you agree to be bound by all the conditions contained in Part D of this RFT?

**Yes/No**

If “No”, provide a full statement of all amendments sought, giving reasons.

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Tenders may be considered non-conforming Tenders if they do not indicate significant compliance with Part D of this RFT.

#### 7. COMPLIANCE WITH POLICY REQUIREMENTS

##### 7.1 Code of Practice and Code of Tendering

Have you read the [NSW Government Code of Practice](#) and [Code of Tendering](#) and taken them into consideration in preparing and submitting your Tender?

**Yes/No**

Will you maintain compliance with the Codes for the purposes of the agreement, advise the Board of any breaches of the Codes for the duration of the agreement and provide evidence of compliance when requested by the Board during the course of the agreement?

**Yes/No**

Provide any other relevant information below

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## 7.2 Occupational Health Safety & Rehabilitation

- 7.2.1 Do you currently comply with your OHS&R statutory obligations and will you continue to do so for the duration of any agreement awarded?

**Yes/No**

If “**No**”, provide details below

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- 7.2.2 Does your enterprise have Safe Work Procedures or specific health and safety instructions in place relevant to its operations?

**Yes/No**

If “**Yes**”, provide below, or attach to the completed Part C, a summary listing of procedures or instructions.

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- 7.2.3 Does your enterprise have any permit to work systems?

**Yes/No**

If “**Yes**”, provide below, or attach to the completed Part C, a summary listing of permits.

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- 7.2.4 Are there documented accident, incident and hazard investigation reporting procedures in place?

**Yes/No**

If “**Yes**”, provide below, or attach to the completed Part C, an outline of these procedures.

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- 7.2.5 Set out below, or attach to the completed Part C, the Safe Work Procedures that you have developed for the agreement, if awarded. These procedures should include, as a minimum, the matters outlined in Part B.

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### **7.3 Environmental Management**

Describe in what way or ways your organisation promotes the development of Ecologically Sustainable Development.

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### **7.4 Value-added activity**

Indicate the level of local value-added activity proposed to be undertaken in the event of award of any agreement.

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### **7.5 Industrial Relations, Equal Employment Opportunities and Affirmative Action**

The Tenderer must provide full details of its policies for Industrial Relations, Equal Employment Opportunities and Affirmative Action. In addition to full details of these policies, Tenderers must provide the following additional information:

- details of the person responsible for applying and monitoring compliance with the policy;
- details of the mechanism of monitoring compliance with the policy; and
- examples of occasions when the procedures detailed in the policy have been used by the Tenderer in the past and the results achieved.

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### **8. NOT USED**

## 9. OTHER INFORMATION REQUIRED

### 9.1 Addenda to this RFT after issue

If there have been any Addenda by the Board to this RFT after the issue of this RFT, indicate below whether you have read and allowed for the Addenda in your Tender.

#### YES/NO/THERE HAVE BEEN NO ADDENDA BY THE BOARD

If **NO**, provide reasons below

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### 9.2 Further information

Provide below any further information you believe is relevant to your Tender, and cross-reference to any clauses of this RFT if applicable.

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### 9.3 Tender validity period

The Tender will remain valid for acceptance within \_\_\_\_ months from the deadline for lodgement of tenders, in accordance with Part B.

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**N.B.** The minimum validity period is as stated in Part B.

### 9.4 Supply of Australian Business Number

Question 9.5.1

If you do not currently have an ABN, state how and when you intend to obtain an ABN and register for GST.

**N.B.** Tenderers that do not have an ABN cannot enter into an agreement with the Board.

Answer 9.5.1

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### 9.5 Conflict of Interest

Question 9.6.1

In lodging a tender to this RFT, are you aware of any real or perceived conflict of interests (including any relevant relationships) existing, which require your disclosure.

Answer 9.6.1

**Yes/No**



## Question 9.6.2

If the answer is "Yes", disclose conflict of interests

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## PART C2 SPECIFICATION AND STATEMENT OF COMPLIANCE

Do the tendered Service/s fully comply with the Specification/s nominated at Part A?

**YES/NO** (delete whichever is inapplicable)

If **“No”** a full statement of deviations must be given, specifying the relevant clause/s or Service/s and the extent of non-compliance to each.

<Please insert your reply here>

[illegible]

## PART C3      PRICE SCHEDULE

Each Tenderer will as a part of its Tender submit a proposed management fee based on:

- a fixed fee; and
- an incentive fee based on a percentage of the Net Operating Profit.

1. The Tenderer is to provide a detailed breakdown and explanation of the contents of their tendered fixed management fee, a value and basis of calculation for each item, including but not limited to the following:
  - contract administration;
  - quality assurance, training and customer service;
  - overall management of the Car Parking Facilities (a breakdown of individuals who will be involved in the management of the Car Parking Facilities, their role, the time they will spend working on the management of the Car Parking Facilities and allocated cost of that time);
  - insurances;
  - Contractor equipment and vehicles; and
  - other costs (provide details).
2. The Tenderer is to detail its management fee (a fixed management fee and an incentive fee) for the term of the Contract and the option term:

| Item | Description  | Fixed Fee Per Month<br>\$ (inc. GST) | Incentive Fee<br>% |
|------|--|--------------------------------------|--------------------|
| 1    | Operation and Management of Car Parking at Sydney Olympic Park – maximum of 8,000 Car Park spaces  |                                      |                    |
| 2    | Operation and Management of Car Parking at Sydney Olympic Park – maximum of 10,000 Car Park spaces |                                      |                    |
| 3    | Operation and Management of Car Parking at Sydney Olympic Park – maximum of 12,000 Car Park spaces |                                      |                    |

## **PART C4- OPERATING BUDGET**

The Tenderer must lodge an annual operating budget for the operation of the Car Parking Facilities based on the event calendar for 1 January – 31 December 2007 at Attachment 7 and the budget details of recent events and car park usage and income at Attachment 5. Tenderers may also wish to refer to the event calendar for 1 July 2006 – 30 June 2007 at Attachment 6.

The budget must include the following costs, itemised as shown below:

- Gross Revenue from casual parking
- Vehicle numbers for casual parking
- Total Gross parking Revenue
- Total vehicle numbers
- On site Management Salaries
- On site staff wages (to be paid in accordance with the Sydney Olympic Park Authority Paid Parking (State) Award)
- Payroll Tax
- Superannuation
- Workers Compensation
- Annual Leave
- Long Service Leave
- Sick Leave
- Total Labour Costs
- Cash security services
- Maintenance costs
- Waste management and cleaning costs
- Equipment supply costs
- Vehicle supply costs
- Purchase of petrol, other operating stock, office supplies stock, and tickets and access card
- other costs

Development of the budget must be calculated on the basis that all Car Parks are fully operational and equipped in the manner detailed in Part A Section 1.3.3.

The Tenderer should also provide a separate detailed explanation of the individual items within the budget, including a description of what each item includes and the basis of calculation.

**PART C5- PUBLIC INFORMATION PLAN**

The Tenderer will submit an outline of proposed public information strategies which should address:

- general access to Car Parks;
- special access arrangements to Car Parks entered into with Venues;
- parking fees and payment facilities;
- appropriate information relating to any pre booking requirements; and
- use of the Parking Information Line (Ph: 1900 926 655)

The Contractor will be required to submit a public information plan as part of the Business Plan outlined in Annexure 1 to Part A Section 3.

## **PART C6- OPERATIONAL PLAN**

For each of the following, the Tenderer must provide details of their operational plan for the delivery of services in accordance with the Contract. This should include a description of how the plan operates, individual start and finishing times for staff and job descriptions for staff or groups of staff, as well as any tailored or example check lists, reports, accounting control sheets and general operating procedures.

- operation of P1;
- operation of P2;
- operation of P3;
- operation of P4;
- operation of P5;
- operation of P6 (including proposed underground car park);
- operation of P7;
- coordinating Coach and Bus parking for Major Events;
- financial controls and reporting;
- maintenance;
- waste management and cleaning; and
- procedures for cash handling and security.

As detailed in Annexure 1 to Part A Section 6.1, if successful, the Tenderer will then be required to turn this plan into a full Procedures and Operations Manual for the operation of the Car Parking Facilities within 60 days of the date of the Contract.

### **The Royal Easter Show (RES) Period**

The RES is the single biggest event held on an annual basis in Sydney Olympic Park, which runs annually over a two week period at Easter.

In 2007 approximately 117,000 cars parked at Sydney Olympic Park over the two week period of the RES. Approximately 900,000 people actually visited the show.

In addition a number of other concurrent events take place at Sydney Olympic Park (eg: *The Great Escape* festival at Newington Armoury), which necessitates parking event patron vehicles.

On several occasions the Car Parks were filled to capacity and a continual churn throughout the days was experienced.

Tenderers must show what they consider to be the specific requirements (if any) for Major Events such as the RES period.

**PART C7-        MARKETING PLAN**

The Tenderer will submit an outline of a proposed marketing plan which should include co-branding options and integrating marketing strategies, which will yield dividends for both SOPA and the Contractor.

The Contractor will be required to submit a marketing plan as part of the Business Plan outlined in Annexure 1 to Part A Section 3.

## **PART C8 - INSURANCE**

The Tenderer is required to supply details of proposed insurances which should include insurances specified in the Contract, namely, public liability insurance, workers' compensation and third party property damage for vehicles owned or leased by the Tenderer and to be used in the performance of its obligations under the Contract if appointed and other relevant insurance.

### **Employer's Liability and Worker's Compensation Insurance**

|                    |                               |
|--------------------|-------------------------------|
| Insurance Company: | <Please provide details here> |
| Address:           | <Please provide details here> |
| Phone number:      | <Please provide details here> |
| Policy number:     | <Please provide details here> |
| Expiry Date:       | <Please provide details here> |

### **Broad Form Public Liability Insurance**

|                     |                               |
|---------------------|-------------------------------|
| Insurance Company:  | <Please provide details here> |
| Address:            | <Please provide details here> |
| Phone number:       | <Please provide details here> |
| Policy number:      | <Please provide details here> |
| Expiry Date:        | <Please provide details here> |
| Limit of Liability: | <Please provide details here> |

### **Motor Vehicle Insurance**

|                     |                               |
|---------------------|-------------------------------|
| Insurance Company:  | <Please provide details here> |
| Address:            | <Please provide details here> |
| Phone number:       | <Please provide details here> |
| Policy number:      | <Please provide details here> |
| Expiry Date:        | <Please provide details here> |
| Limit of Liability: | <Please provide details here> |



## PART C9      ACKNOWLEDGMENT AND CONFIRMATION OF TENDER

Note to tenderers: If submitting a hard copy Tender, execute this page at clause 2. If submitting an electronic Tender, only respond to clauses 4 and 5.

1. Lodgement of a Tender will itself be an acknowledgment and representation by you that you are aware of the requirements of the Codes; that you will comply with the Codes; and that you agree to report to the Board any breaches of the Codes for the duration of the agreement.
2. I affirm that this is my Tender to supply the Deliverables sought in the RFT at the prices tendered, and in accordance with the conditions of the RFT except as expressly amended in my Tender, and that the information given in my Tender is correct.
3. I affirm that this is my Tender which will form part of my agreement if my Tender is successful:

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature of tenderer (if an individual, as identified in Part C1 (details of tenderer identity) )

OR

\_\_\_\_\_  
Signature of authorised officer of tenderer (as identified in Part C1 (details of tenderer identity))

OR

\_\_\_\_\_  
Signature of partner completing tender on behalf of partnership (as identified in Part C1 (details of tenderer identity))

4. If submitting an electronic Tender, do you acknowledge and accept that electronic submission in accordance with the requirements of the RFT and any conditions of the NSW Department of Commerce tenders website is sufficient to verify and affirm that this is your Tender to supply the Deliverables at the prices tendered on the conditions contained in Part D, except as expressly amended in your Tender and that the information contained in your Tender is correct?

Note that such acknowledgment and acceptance, by stating "Yes", is a necessary prerequisite to consideration of your Tender.

**Yes/No**

5. If submitting an electronic Tender, do you confirm that this Tender is submitted by the person named in the tenderer identification details as authorised to submit this Tender on your behalf?

**Yes/No**

\_\_\_\_\_  
Print Name and Title

---

## PART D

**Sydney Olympic Park Authority**  
SOPA

**XXXXXXXXXXXXXXXXXX**  
Contractor

**Sydney Olympic Park**  
**Car Park Operator's Agreement**

**Sydney Olympic Park Authority**  
7 Figtree Drive  
Sydney Olympic Park, NSW, 2127

## Table of Contents

|           |  |           |
|-----------|--|-----------|
| <b>1.</b> | <b>Definitions and interpretation.....</b>   | <b>4</b>  |
| 1.1       | Definitions .....  | 4         |
| 1.2       | Interpretation.....  | 10        |
| 1.3       | Contra Proferentem .....   | 11        |
| 1.4       | Certification .....  | 11        |
| 1.5       | Australian Currency .....  | 11        |
| 1.6       | Communications .....   | 11        |
| 1.7       | Measurements .....   | 11        |
| <b>2.</b> | <b>Relationship of SOPA and Contractor .....</b>   | <b>12</b> |
| 2.1       | Appointment of Contractor .....  | 12        |
| 2.2       | Fundamental Obligations .....  | 12        |
| 2.3       | Risk .....   | 12        |
| 2.4       | SOPA as an Authority .....   | 12        |
| 2.5       | No Partnership, Joint Venture or Other Fiduciary Relationship .....                      | 12        |
| 2.6       | No Representations By SOPA .....   | 13        |
| 2.7       | Review by SOPA .....   | 13        |
| 2.8       | No Interest in Car Parking Facilities or Land .....                                      | 13        |
| <b>3.</b> | <b>Plans and Manuals .....</b>   | <b>13</b> |
| 3.1       | Business Plan .....  | 13        |
| 3.2       | Contents of Business Plan .....  | 14        |
| 3.3       | Limitations on Plans .....   | 15        |
| 3.4       | Adjustments to Business Plans .....  | 15        |
| 3.5       | Procedures and Operations Manual .....   | 15        |
| <b>4.</b> | <b>Operation, Maintenance and Repair .....</b>   | <b>17</b> |
| 4.1       | General Obligations .....  | 17        |
| 4.2       | Approvals .....  | 17        |
| 4.3       | Maintenance and Repair .....   | 17        |
| 4.4       | Monitoring and Asset Register .....  | 18        |
| 4.5       | Cleaning and Waste Management .....  | 19        |
| 4.6       | Staff .....  | 19        |
| 4.7       | Daily and Quarterly Inspections .....  | 21        |
| 4.8       | Signage .....  | 21        |
| 4.9       | Hours of Operation .....   | 21        |
| 4.10      | Car Parking Tariffs .....  | 22        |
| 4.11      | Concessional Parking .....   | 22        |
| 4.12      | Reserved by Venue Operators .....  | 23        |
| 4.13      | Security .....   | 23        |
| 4.14      | SOPA Entitled to Carry Out Certain Work .....  | 23        |
| 4.15      | Major Events and Promotion of Sydney Olympic Park .....                                  | 24        |
| 4.16      | Changes to Car Parking Facilities .....  | 24        |
| 4.17      | No Interference .....  | 24        |
| 4.18      | Security Bond .....  | 25        |
| 4.19      | Customer Satisfaction Surveys and Complaints Register .....                              | 25        |
| 4.20      | Provision of Vehicles and Equipment .....  | 26        |
| 4.21      | Number of Car Parking Spaces .....   | 27        |
| 4.22      | Traffic Management .....   | 27        |
| <b>5.</b> | <b>SOPA Obligations .....</b>  | <b>27</b> |
| <b>6.</b> | <b>Reporting and Meetings .....</b>  | <b>27</b> |
| 6.1       | Accounting, Financial and Operation, Management,<br>Maintenance and Repair Records ..... | 27        |
| 6.2       | Other Reporting Obligations .....  | 28        |

|            |   |           |
|------------|---|-----------|
| 6.3        | SOPA may Request Reports .....                        | 30        |
| <b>7.</b>  | <b>Fees.....</b>                                      | <b>30</b> |
| 7.1        | Contractor's Fixed Fee.....                           | 30        |
| 7.2        | Adjustments of Contractor's Fixed Fee.....            | 30        |
| 7.3        | Incentive Fee .....                                   | 31        |
| 7.4        | Operating Costs.....                                  | 31        |
| 7.5        | Monthly Invoice.....                                  | 32        |
| 7.6        | Payment.....  | 32        |
| 7.7        | Suspension of Payments .....                          | 32        |
| 7.8        | Non-acceptance of Monthly Invoice.....                | 32        |
| 7.9        | Late Payments.....                                    | 32        |
| 7.10       | GST .....   | 32        |
| <b>8.</b>  | <b>Revenue .....</b>                                  | <b>33</b> |
| 8.1        | SOPA Entitled to Revenue .....                        | 33        |
| 8.2        | Handling of Revenue Collected .....                   | 33        |
| <b>9.</b>  | <b>Upgrade / Expansion .....</b>                      | <b>34</b> |
| <b>10.</b> | <b>Indemnity .....</b>                                | <b>35</b> |
| <b>11.</b> | <b>Insurance .....</b>                                | <b>35</b> |
| 11.1       | Insurances During the Term .....                      | 35        |
| 11.2       | General Requirements.....                             | 35        |
| 11.3       | Premiums.....   | 37        |
| <b>12.</b> | <b>Confidentiality and Publicity.....</b>             | <b>37</b> |
| 12.1       | General Restriction .....                             | 37        |
| 12.2       | Exceptions .....                                      | 37        |
| 12.3       | Publicity .....                                       | 37        |
| <b>13.</b> | <b>Termination .....</b>                              | <b>37</b> |
| 13.1       | Termination for Cause .....                           | 37        |
| 13.2       | Termination for convenience .....                     | 39        |
| 13.3       | Right to Damages .....                                | 39        |
| 13.4       | Completion of the Agreement by SOPA .....             | 39        |
| <b>14.</b> | <b>Dispute Resolution Committee.....</b>              | <b>40</b> |
| 14.1       | Disputes.....   | 40        |
| 14.2       | Dispute Resolution Committee .....                    | 40        |
| 14.3       | Resolutions .....                                     | 40        |
| 14.4       | Members .....   | 40        |
| 14.5       | Appointment.....                                      | 40        |
| 14.6       | Appointments in Writing.....                          | 40        |
| 14.7       | Meetings .....  | 40        |
| 14.8       | Failure to Agree .....                                | 40        |
| <b>15.</b> | <b>Performance Audits and Extension of Term .....</b> | <b>40</b> |
| 15.1       | Monitoring of Performance .....                       | 40        |
| 15.2       | SOPA's discretion .....                               | 41        |
| 15.3       | Terms of Extended Term .....                          | 41        |
| <b>16.</b> | <b>Expiration of Agreement .....</b>                  | <b>41</b> |
| <b>17.</b> | <b>Conduct of Agreement .....</b>                     | <b>42</b> |
| 17.1       | Sub-contractors .....                                 | 42        |
| 17.2       | Security of sub-contract payments .....               | 42        |
| 17.3       | Representations and Warranties by Contractor.....     | 43        |

|                   |   |           |
|-------------------|---|-----------|
| 17.4              | Performance Guarantee .....   | 43        |
| 17.5              | Conflict of Interest .....  | 44        |
| <b>18.</b>        | <b>Assignment .....</b>   | <b>44</b> |
| 18.1              | Entitlement to Assign .....   | 44        |
| 18.2              | Change in Substantial Shareholding .....                                      | 44        |
| 18.3              | No Merger or Change of Control Without Consent .....                          | 45        |
| <b>19.</b>        | <b>Expenses and Stamp Duties .....</b>  | <b>45</b> |
| 19.1              | Expenses .....  | 45        |
| 19.2              | Stamp Duties .....  | 45        |
| 19.3              | Governing Law .....   | 45        |
| <b>20.</b>        | <b>Miscellaneous .....</b>  | <b>45</b> |
| 20.1              | Notices .....   | 45        |
| 20.2              | Entire Agreement .....  | 46        |
| 20.3              | Variation .....   | 46        |
| 20.4              | Waiver .....  | 46        |
| 20.5              | Further Assurance .....   | 46        |
| 20.6              | Severability of Provisions .....  | 47        |
| 20.7              | Counterparts .....  | 47        |
| 20.8              | Set-Off .....   | 47        |
| 20.9              | Non-Merger .....  | 47        |
| 20.10             | Rights Cumulative .....   | 47        |
| 20.11             | Survival clause .....   | 47        |
|                   | <b>Schedule 1 O&amp;M Standards .....</b>                                     | <b>48</b> |
|                   | <b>Schedule 2 Hours of Operation .....</b>                                    | <b>49</b> |
|                   | <b>Schedule 3 Tariffs .....</b>   | <b>50</b> |
|                   | <b>Schedule 4 Operating Costs .....</b>                                       | <b>51</b> |
|                   | <b>Schedule 5 Weekly and Monthly Reporting Obligations .....</b>              | <b>53</b> |
|                   | <b>Schedule 6 Maintenance .....</b>   | <b>55</b> |
|                   | <b>Schedule 7 Cash Control and Revenue Handling .....</b>                     | <b>56</b> |
|                   | <b>Schedule 8 Equipment .....</b>   | <b>57</b> |
|                   | <b>Schedule 9 Incentive Payments .....</b>                                    | <b>62</b> |
|                   | <b>Schedule 10 List of Approved Sub-Contractors .....</b>                     | <b>64</b> |
|                   | <b>Schedule 11 Approved Sub-Contractors Information .....</b>                 | <b>65</b> |
|                   | <b>Schedule 12 Statutory Declaration by Sub-Contractor .....</b>              | <b>66</b> |
| <b>Exhibit 1:</b> | <b>Plans of Sydney Olympic Park (showing location of all Car Parks) .....</b> | <b>67</b> |
| <b>Exhibit 2:</b> | <b>SOPA's Car Parking Policy .....</b>  | <b>67</b> |

## Sydney Olympic Park Carpark Operator's Agreement made on X February 2008

**Parties**                      **Sydney Olympic Park Authority** of a statutory body constituted under the Sydney Olympic Park Authority Act 2001 (NSW) of 7 Figtree Drive, Sydney Olympic Park, New South Wales ("**SOPA**")

XXXXXXXXXXXXXXXXXXXX of XXXXXXXXXXXXXXXXXXXX Sydney, New South Wales ("**Contractor**")

### Recitals

- A. SOPA is a statutory body that is responsible for, amongst other matters, the orderly and economic development of Sydney Olympic Park, including the operation, management, maintenance and repair of the Car Parking Facilities.
- B. SOPA invited select tenderers to submit proposals to operate, manage, maintain and repair the Car Parking Facilities.
- C. Through the select tender process referred to in Recital B, SOPA has determined to appoint the Contractor to operate, manage, maintain and repair the Car Parking Facilities on the terms and conditions of this Agreement and the Contractor has agreed to accept this appointment.

### The parties agree

---

## 1. Definitions and interpretation

### 1.1 Definitions

In this Agreement:

**"Access Control and Fee Processing Equipment"** means the equipment described in Part A of Schedule 8.

**"Accredited Athlete"** means an athlete competing in an event or competition held at the Sydney Aquatic Centre, the Sydney Athletic Centre, the State Sports Centre or the Sydney International Hockey Stadium and who has a valid membership of a sports association which has been approved by SOPA, as notified by SOPA to the Contractor from time to time.

**"Approvals"** means all approvals, authorisations, permits, consents, licences, exemptions and the like which are required to be issued by or obtained from any Authority in connection with the operation of the Car Parking Facilities or the performance by the Contractor of its obligations under this Agreement.

**"Asset Register"** means the register prepared and updated by the Contractor during the Term in accordance with clause 4.4(b) which records (amongst other matters) details of all assets, facilities and equipment forming part of the Car Parking Facilities.

**"Australian Accounting Standards"** means the accounting principles and practices generally accepted in Australia from time to time.

**"Authority"** means any government department, local government council, government or statutory authority, or any other body, which has a right to impose a requirement or whose consent is required in connection with the operation, management, maintenance or repair of the Car Parking Facilities or the performance by the Contractor of its obligations under this Agreement.

**"Budget Key Performance Indicator" or "BKPI"** means the KPI used to measure the Contractor's performance in complying with Financial Plans in accordance with this Agreement.

**"Building Security Systems"** means the building security systems installed at any one or more of the Car Parks as at the date of this Agreement.

**"Business Day"** means a day (not being a Saturday, Sunday or a public holiday) on which banks are open for business generally in Sydney.

**"Business Plan"** means, for any Operating Year, the business plan prepared by the Contractor for that Operating Year in accordance with clause 3.1 of this Agreement as it may be updated from time to time in accordance with this Agreement.

**"Car Parks"** means:

- (a) the P1 Car Park;
- (b) the P2 Car Park;
- (c) the P3 Car Park;
- (d) the P3A Car Park (site subject to development);
- (e) the P4 Car Park;
- (f) the P5 Car Park;
- (g) the P6 Car Parks (sites subject to development); and
- (h) the P7 Car Park,

and any reference to a **"Car Park"** means each or any one of them as the context requires.

**"Car Parking Facilities"** means:

- (a) the Car Parks;
- (b) the Access Control and Fee Processing Equipment; and
- (c) all other facilities and equipment provided by SOPA in accordance with this Agreement including the Building Security Systems, the CCTV Equipment and the Office Equipment.

**"Car Parking Access Card"** means a card key issued by SOPA or by the Contractor with the prior written approval of SOPA and which operates the Access Control and Fee Processing Equipment to allow vehicular access to any one or more of the Car Parks.

**"Car Parking Access Ticket"** means a car parking access ticket issued by SOPA or by the Contractor with the prior written consent of SOPA and which entitles the holder to have access to any one or more of the Car Parks.

**"Car Parking Operating Account"** means an interest bearing account established by SOPA in its name with a bank or financial institution as determined by SOPA from time to time, details of which are provided to the Contractor by SOPA in writing from time to time during the Term.

**"Car Parking Space"** means a space in any Car Park designated for the parking of motor vehicles from time to time and in or on which it is possible to park a medium sized passenger motor vehicle.

**"CCTV Equipment"** means the closed circuit television equipment installed at any one or more of the Car Parks as at the date of this Agreement.

**"Client Satisfaction Key Performance Indicator" or "CKPI" by** means the KPI used to measure the satisfaction of SOPA in regard to the performance of the Contractor of its **obligations under this Agreement.**

**"Coach and Bus Bays"** means the coach/bus park bays located in Sydney Olympic Park described as Coach Pods A, B and C.

**"Commencement Date"** means 1 March 2008.

**"Comments and Complaints Register"** means the register prepared and updated by the Contractor during the Term in accordance with clause 4.19(f) which registers comments and complaints made by patrons of any of the Car Parks at any time.

**"Confidential Information"** means, information including any documents or correspondence provided by SOPA to the Contractor that:

- (a) is by its nature confidential;
- (b) is designated by SOPA as confidential; or
- (c) the Contractor knows or ought to know is confidential.

**"Contract Material"** means:

- (a) any material brought into existence as part of, or for the purpose of providing the Deliverables including records, documents and Information stored by any means ("New Contract Material");
- (b) any material which is existing at the date of this Agreement and which is incorporated with the New Contract Material ("Existing Contract Material").

**"Contractor's Fixed Fee"** means \$ XXXXXX per annum, as adjusted from time to time in accordance with clause 7.2.

**"Contractor's Incentive Fee Rate"** means 1.25 %.

**"Core Patrons"** means the following patrons of the Sydney Olympic Park Aquatic and Athletic Centres (SOPAAC):

- (a) casual swimmers;
- (b) members of the SOPAAC;
- (c) athletes and coaches attending training sessions at the SOPAAC;
- (d) swim school patrons; and
- (e) patrons of the gymnasium and physiotherapy services at the SOPAAC.

**"CPI"** means the Consumer Price Index (All Groups) for Sydney currently published from time to time by the Australian Bureau of Census and Statistics.

**"Deliverables"** means the goods and/or services to be supplied by the Contractor in accordance with this Agreement.

**"Dispute Resolution Committee"** means the committee established pursuant to clause 14.2.

**"Dispute Resolution Procedures"** means the procedures established under clause 14 to hear and resolve disputes between the parties.

**"Employer"** means any person which employs staff who work at Sydney Olympic Park.

**"Event of Insolvency"** means, in relation to the Contractor, any of the following events:

- (a) a Controller (as defined in the Corporations Act 2001 (Commonwealth)), manager, trustee, administrator or similar officer is appointed in respect of the Contractor or any asset of the Contractor;
- (b) a liquidator or provisional liquidator is appointed in respect of the Contractor;



- (c) any application (not being an application withdrawn or dismissed within 7 days) is made to a court for an order, or an order is made, or a meeting is convened by the Contractor, or a resolution is passed, for the purpose of:
  - (i) appointing a person referred to in paragraph (a) or (b);
  - (ii) winding up the Contractor; or
  - (iii) proposing or implementing a scheme of arrangement in respect of the Contractor;
- (d) a moratorium of any debts of the Contractor or an official assignment or a composition or an arrangement (formal or informal) with the Contractor's creditors or any similar proceeding or arrangement by which the assets of the Contractor are subjected conditionally or unconditionally to the control of the Contractor's creditors is ordered, declared or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days; or
- (e) the Contractor becomes, admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts.

**"Financial Plan"** means, in relation to any Business Plan, the financial plan for the Operating Year to which the Business Plan relates, as contained in such Business Plan, as such plan may be updated from time to time in accordance with this Agreement.

**"Government"** means the Government of the State of New South Wales.

**"Grade Car Parks"** means the P2 Car Park, the P3A Car Park, the P4 Car Park, the P5 Car Park, the P6 series of car parks and the P7 Car Park.

**"GST"** means any goods and services tax, consumption tax, value added tax or similar tax, impost or duty imposed by any law of the Commonwealth of Australia or any State or Territory of Australia.

**"Incentive Fee"** means, in respect of any Operating Year, the fee payable by SOPA to the Contractor in accordance with clause 7.3 for that Operating Year, calculated in accordance with Schedule 9.

**"Key Performance Indicator" or "KPI"** means an indicator of the performance of the Contractor under this Agreement as defined and determined in accordance with Schedule 9.

**"Land"** means the real property on which the Car Parking Facilities are located.

**"Law"** means all laws including principles of law established by decisions of courts and any legislation now or at any time in force of the Parliament of the Commonwealth of Australia or any State or Territory of Australia and any regulation, ordinance, by-law, statutory instrument, order or notice now or any time made under any such legislation.

**"Maintenance and Asset Management Plans"** means, in relation to any Business Plan, the maintenance and asset management plans as contained in such Business Plan, as those plans may be updated from time to time in accordance with this Agreement.

**"Maintenance and Repair Register"** means the register prepared and updated by the Contractor during the Term in accordance with clause 4.3(f) which records (amongst other matters) details of all maintenance work carried out to the Car Parking Facilities.

**"Maintenance Agreement"** means the maintenance agreement entered into by SOPA in relation to the provision of maintenance services for the Car Parking Facilities, a copy of which is provided by SOPA to the Contractor on or before the Commencement Date.

**"Major Event"** means an event held in Sydney Olympic Park (including any Venue) with an

attendance which is anticipated by the organiser or promoter of the event to be more than 5,000 persons on any one day of the event.

**"Marketing Plan"** means, in relation to any Business Plan, the marketing plan as contained in such Business Plan, as that plan may be updated from time to time in accordance with this Agreement.

**"Net Operating Profit"** means, in respect of any period, the gross revenue received from the operation of the Car Parking Facilities during that period less costs paid by the Contractor in that period which it is entitled to be reimbursed in accordance with clause 7.4(b).

**"O&M Standards"** means the range of standards to which the Car Parking Facilities must be operated and maintained in order to be a world class facility, including the standards specified in Schedule 1.

**"Office Equipment"** means the equipment listed in Part B of Schedule 8.

**"Official SOPA Pass"** means a card or other document issued by SOPA which entitles the holder to have access to any one or more of the Car Parks at no cost.

**"On Site Manager"** means a person employed by the Contractor from time to time during the Term to hold such position in accordance with clause 4.6(a).

**"Operating Year"** means each 12 month period commencing 1 July and ending 30 June during the Term with the first period commencing on the Commencement Date and with each subsequent period commencing on 1 July and ending 30 June.

**"P1 Car Park"** means the 3,323 car parking space multi-storey structured car park adjacent to the Acer Arena.

**"P2 Car Park"** means the 570 car parking space grade car park adjacent to the Sydney Aquatic Centre.

**"P3 Car Park"** means the 1,435 car parking space multi-storey structured car park adjacent to the Sydney Olympic Park Golf Centre.

**"P3A Car Park"** means the 55 car parking space grade car park adjacent to the Sydney Olympic Park Golf Centre. The P3A Car Park site is subject to development.

**"P4 Car Park"** means the 980 car parking space grade car park adjacent to the Sydney International Hockey Stadium.

**"P5 Car Park"** means the 2,515 car parking space grade car park on Hill Road, Sydney Olympic Park.

**"P6 Car Park"** means the following:

- (b) the 212 car parking space basement (ie: underground) car park off Herb Elliott Avenue, Sydney Olympic Park. This car park is currently under construction and due to be operational early 2009;
- (d) the 215 car parking space grade car park on Parkview Drive, Sydney Olympic Park. The P6D Car Park site is subject to development;
- (e) the 170 car parking space grade car park on Murray Rose Avenue, Sydney Olympic Park. The P6E Car Park site is subject to development;
- (f) the 604 car parking space grade car park on Australia Avenue, Sydney Olympic Park; and
- (h) the 112 car parking space grade car park on Herb Elliott Avenue, Sydney Olympic Park. The P6H Car Park site is subject to development.

**"P7 Car Park"** means the 256 car parking space grade car park adjacent to the State Sports Centre.

**"Patron Satisfaction Key Performance Indicator" or "PKPI"** means the KPI used to measure the Contractor's performance in regard to the satisfaction level of patrons using the Car Parking Facilities.

**"Permanent Spaces"** means non-specific parking spaces in any one or more of the Car Parks allocated to Employers.

**"Procedures and Operations Manual"** means the procedures and operations manual prepared by the Contractor in accordance with clause 3.5 setting out the policy, practices and procedures for the operation, management, maintenance and repair of the Car Parking Facilities as updated from time to time in accordance with this Agreement.

**"public holiday"** means any day on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day or Boxing Day is observed in New South Wales or any proclaimed day in lieu thereof for the State of New South Wales.

**"Public Information Plan"** means, in relation to any Business Plan, the public relations, information and communications initiative plan as contained in such Business Plan, as that plan may be updated from time to time in accordance with this Agreement.

**"Security Bond"** means the unconditional and irrevocable undertaking provided by a bank or other financial institution (or equivalent security as approved by SOPA) in favour of SOPA on terms satisfactory to SOPA for the amount of \$250,000.

**"Security Incidents Register"** means the register prepared and updated by the Contractor during the Term in accordance with clause 4.13(b) which records (amongst other matters) details of all security incidents which occur in any Car Park at any time during the Term.

**"SOPA Act"** means the Sydney Olympic Park Authority Act 2001 (NSW).

**"SOPA Car Parking Policy"** means the car parking policy for Sydney Olympic Park prepared by SOPA, a copy of which appears at Exhibit 2, together with such amendments made by SOPA to that policy from time to time during the Term which are notified to the Contractor.

**"SOPA Paid Parking Award"** means the Sydney Olympic Park Authority Paid Parking (State) Award 2007.

**"Specified Number"** means, as at the Commencement Date, 10,000 and after that date, such number of Car Parking Spaces available for use in accordance with this Agreement as are notified by SOPA to the Contractor from time to time during the Term in accordance with clause 9(b).

**"Structured Car Parks"** means the P1 Car Park, the P3 Car Park and the P6B Car Park.

**"Sydney Olympic Park"** has the same meaning as in the SOPA Act.

**"Tariff"** means the tariffs to be paid by patrons of the Car Parking Facilities for car parking as set out in Schedule 3 or such other tariffs as notified in writing by SOPA to the Contractor from time to time during the Term in accordance with clause 4.10(b).

**"Term"** means the period commencing on the Commencement Date and, unless terminated earlier in accordance with this Agreement, terminating on the Termination Date.

**"Termination Date"** means 28 February 2011, or such later date as may be determined in accordance with clause 15.2.

**"Venues"** means:

- (a) the Novotel and Ibis Hotels, Sydney Olympic Park;
- (b) the Sofitel Hotel, Sydney Olympic Park;
- (c) the Formule 1 Hotel, Sydney Olympic Park;
- (d) the Telstra Stadium;
- (e) the Acer Arena;
- (f) the Sydney Showground;
- (g) the Sydney Olympic Park Aquatic and Athletic Centres;
- (h) the Sydney International Tennis Centre;
- (i) the Sydney Olympic Park State Sports Centre;
- (j) the Sydney International Hockey Stadium;
- (k) the Sydney Indoor Sports Centre;
- (l) the Sydney International Archery Park;
- (m) the Sydney Olympic Park Golf Centre; and
- (n) all other sporting, entertainment or recreational venues and facilities located in Sydney Olympic Park at any time.

**"Waste Management and Cleaning Services Agreement"** means each agreement entered into by SOPA in relation to the provision of waste management and cleaning services at any part or all of the Car Parking Facilities, a copy of which is provided by SOPA to the Contractor on or before the Commencement Date (together, the **"Waste Management and Cleaning Services Agreements"**).

## **1.2 Interpretation**

In this Agreement unless the context otherwise requires:

- (a) the expression "person" includes an individual, body politic, a corporation and a statutory or other authority or association (incorporated or unincorporated);
- (b) the expressions including ", "includes" and "include" have the meaning as if followed by 'without limitation';
- (c) a reference to any party includes that party's executors, administrators, successors and permitted substitutes and assigns, including any person taking by way of novation;
- (d) a reference to any authority, institute, association or body is:
  - (i) if that authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
  - (ii) if that authority, institute, association or body ceases to exist, deemed to refer to the organisation as serves substantially the same purposes or object of that authority, institute, association or body;

- (e) a reference to this Agreement or to any other deed, agreement, document or instrument includes, respectively, this Agreement or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes any statutory modification or re-enactment or any statutory provision substituted for it and all ordinances, by-laws, regulations and other statutory instruments issued under it;
- (g) words importing the singular include the plural (and vice versa) and words denoting a given gender include all other genders;
- (h) headings are for convenience only and do not affect the interpretation of this Agreement;
- (i) a reference to a clause, Schedule or Exhibit is a reference to a clause, Schedule or Exhibit of or to this Agreement;
- (j) a reference to this Agreement includes all Schedules and Exhibits;
- (k) where any word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
- (l) where the day on or by which any sum is payable or any act, matter or thing is to be done is a day other than a Business Day in Sydney such sum must be paid and such act, matter or thing must be done on the immediately subsequent day;
- (m) a reference to a month is a reference to a calendar month and a reference to a quarter is a reference to a 3 month period ending on any last day of February, 31 May, 31 August or 30 November; and
- (n) the expressions "week" and "weekly" means the period commencing on Monday and ending on Sunday.

### **1.3 Contra Proferentem**

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

### **1.4 Certification**

For the purposes of this Agreement, a copy of a document will be regarded as duly certified by the Contractor if it is certified as a true copy by a director, secretary or general manager of the Contractor.

### **1.5 Australian Currency**

All sums of money referred to in, and payments required to be made under, this Agreement must be in Australian dollars and all payments must be made in Sydney.

### **1.6 Communications**

Every communication between SOPA and the Contractor must be in the English language.

### **1.7 Measurements**

All measurements of physical quantities will be in Australian legal units of measurements in accordance with the National Measurement Act 1960 (Commonwealth).

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## **2. Relationship of SOPA and Contractor**

### **2.1 Appointment of Contractor**

- (a) SOPA appoints the Contractor to operate, manage, maintain and repair the Car Parking Facilities in accordance with the terms and conditions of this Agreement for the Term. The Contractor accepts that appointment.
- (b) The Contractor expressly acknowledges that, in entering into this Agreement, SOPA relies on the skill, judgment and expertise of the Contractor to operate, manage, maintain and repair the Car Parking Facilities in accordance with this Agreement.

### **2.2 Fundamental Obligations**

- (a) The Contractor must operate, manage, maintain and repair the Car Parking Facilities in accordance with this Agreement and any instructions of SOPA.
- (b) The Contractor must, at all times during the Term, carry out its obligations under this Agreement in accordance with sound commercial and business practices, due diligence and in an efficient manner and must ensure that it operates, manages, maintains and repairs the Car Parking Facilities in such a manner that it:
  - (i) provides a high quality service for patrons of the Car Parking Facilities, particularly during periods in which Major Events are held;
  - (ii) ensures that it is responsive to the needs of patrons at the Car Parking Facilities;
  - (iii) optimises revenue on behalf of SOPA in relation to the Car Parking Facilities and optimises commercial opportunities that are available in respect of the Car Parking Facilities; and
  - (iv) ensures the effective management of the Car Parking Facilities to promote efficiency and patronage.

### **2.3 Risk**

The Contractor agrees to carry out all of its obligations under this Agreement in return for payment of the Contractor's Fixed Fee and the Incentive Fee. The Contractor accepts the risk that the cost to it of doing so may exceed its estimates and may not enable it to earn the rate of return which it had anticipated.

### **2.4 SOPA as an Authority**

This Agreement will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of SOPA to exercise any of its functions and powers pursuant to the SOPA Act or any other Law.

### **2.5 No Partnership, Joint Venture or Other Fiduciary Relationship**

The Contractor agrees that:

- (a) except as expressly provided in clauses 4.3(b), 4.5(a) and 8.1(b), nothing in this Agreement will be construed or interpreted as constituting a relationship between either or both of SOPA and the Government on one hand and the Contractor on the other hand as that of partners, joint venturers or any other fiduciary relationship.
- (b) the Contractor will not be taken to be, nor will it represent that it is, the employee, officer and/or agent of SOPA.

## **2.6 No Representations By SOPA**

The Contractor:

- (a) acknowledges that none of SOPA, the Government nor any agency of the Government have made any representation, and no warranty is or has been given, in respect of the events which may be held at Venues, the attendance of people at any events held there or any other matter in connection with the revenue of the Car Parking Facilities or the costs of operating the Car Parking Facilities;
- (b) to the extent permitted by Law, acknowledges that it will have no rights whatsoever to bring any action against SOPA (at law, in equity or otherwise) in connection with any matter referred to in clause 2.6(a);
- (c) warrants that it did not rely upon any representation, information or data made, or provided to it, by SOPA, the Government or any agency of the Government in entering this Agreement; and
- (d) acknowledges that it is aware that SOPA entered into this Agreement in reliance upon these acknowledgements and warranties.

## **2.7 Review by SOPA**

Notwithstanding any other provision of this Agreement:

- (a) any review or approval or both by SOPA of any material, documents or other information prepared or provided by the Contractor under or in connection with this Agreement;
- (b) any inspection by SOPA concerning the Car Parking Facilities; or
- (c) any information set out in any Schedule or Exhibit,

will not relieve the Contractor of its responsibility for such material, document or information or of its obligations or liabilities under this Agreement and a failure by SOPA to notify the Contractor of any defect in or concern associated with any such material, document or information or following any such inspection will not relieve the Contractor of its liabilities, or constitute a waiver of any of SOPA's rights, under this Agreement.

## **2.8 No Interest in Car Parking Facilities or Land**

- (a) The Contractor and its staff, contractors and subcontractors shall have access to the Car Parking Facilities for the purpose of the Contractor complying with its obligations under this Agreement.
- (b) This Agreement does not create any estate or interest in any of the Car Parking Facilities or the Land in favour of the Contractor.

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## **3. Plans and Manuals**

### **3.1 Business Plan**

- (a) The Contractor must submit a draft Business Plan to SOPA, on or before 30 April 2008 for the period commencing 1 July 2008 and ending on 30 June 2009.
- (b) On or before 30 April 2008 and each subsequent 30 April during the Term, the Contractor must submit to SOPA a draft Business Plan for the forthcoming Operating Year.
- (c) SOPA may, within 30 days of the date on which it receives a draft Business Plan under clause 3.1(a) or 3.1(b), advise the Contractor whether it considers that it is in

accordance with this Agreement and provide its comments (if any) to the Contractor.

- (d) The Contractor will be required to incorporate in each draft Business Plan all comments made by SOPA in relation to that draft Business Plan in accordance with clause 3.1(c) and must not, without the prior written consent of SOPA, make any other changes to any such Business Plan prior to its finalisation.
- (e) The Contractor must, within 10 days of receiving comments from SOPA in respect of any draft Business Plan in accordance with clause 3.1(c) or, if no such comments are received, within 35 days of providing the relevant draft Business Plan to SOPA in accordance with clause 3.1(a) or 3.1(b), finalise the draft Business Plan and provide a copy to SOPA.

## **3.2 Contents of Business Plan**

Each Business Plan prepared by the Contractor in accordance with clause 3.1 must include details of the following in relation to the operation, management, maintenance and repair of the Car Parking Facilities during the period to which that Business Plan relates:

- (a) a Financial Plan, including an operating budget for recurrent expenditure, a capital expenditure budget (including a cost benefit analysis of all proposed capital expenditure) and annual cash flow projections (including an estimate of the volume of vehicles anticipated to use the Car Parking Facilities);
- (b) a Public Information Plan, including details of the following:
  - (i) a description of the Contractor's public information strategies, including details of those issues which, in the Contractor's opinion, require greater focus, including but not limited to:
    - (a) general access to the Car Parks;
    - (b) special access arrangements to the Car Parks during Major Events;
    - (c) information relating to any pre-booking requirements; and
    - (d) use of the Sydney Olympic Park parking information telephone service;
  - (ii) any drafts of communications to the public; and
  - (iii) a cost benefit analysis of implementing the Contractor's proposed public information strategies;
- (c) a Marketing Plan, including details of the following:
  - (i) a description of the Contractor's marketing strategies, including details of those issues which, in the Contractor's opinion, require greater focus, such as:
    - (a) branding options;
    - (b) integrated marketing strategies which will yield benefits for both SOPA and the Contractor;
    - (c) service and product development;
    - (d) details of any recommended adjustments to the Tariffs;
    - (e) options to leverage off the Contractor's existing customer base; and



- (f) identifying potential synergies in business and marketing opportunities from the Contractor's other business activities which may be applied to the operation of the Car Parking Facilities; and
- (ii) a cost benefit analysis of implementing such marketing strategies;
- (d) operational policies for:
  - (i) industrial relations;
  - (ii) equal employment opportunities;
  - (iii) occupational health, safety and rehabilitation;
  - (iv) affirmative action; and
  - (v) environmental management;
- (e) a Maintenance and Asset Management Plan, which must be prepared in accordance with the O&M Standards, for the optimum operation, management, maintenance and repair of the Car Parking Facilities; and
- (f) any recommendations considered appropriate by the Contractor for improvement in the operation or management of the Car Parking Facilities or the financial performance of the Car Parking Facilities.

### **3.3 Limitations on Plans**

- (a) The Contractor must ensure that each Public Information Plan and Marketing Plan, as contained in any Business Plan, is consistent with SOPA's public information policies and marketing plans as notified to the Contractor by SOPA from time to time during the Term. Without limiting any other provision of this clause 3, the Contractor must not implement any Public Information Plan or Marketing Plan except with the prior written consent of SOPA.
- (b) In preparing each Business Plan, the Contractor must take into consideration SOPA's environmental management plan and the Government's transport policy as it relates to Sydney Olympic Park, in each case, as publicly available at any time and from time to time during the Term.

### **3.4 Adjustments to Business Plans**

The Contractor may, with the prior written approval of SOPA, adjust any part of any Business Plan at any time during the Term but only in circumstances where the adjustments are necessary as a result of circumstances beyond the reasonable control of the Contractor including a change in the SOPA Car Parking Policy or SOPA's obligations under clause 5.

### **3.5 Procedures and Operations Manual**

- (a) The Contractor must submit to SOPA within 60 days of the Commencement Date a draft Procedures and Operations Manual, prepared in accordance with the O&M Standards and this clause 3.5. The Procedures and Operations Manual must reflect any emergency procedures notified by SOPA to the Contractor on or prior to the Commencement Date.
- (b) The Contractor must, during the Term, update and maintain the Procedures and Operations Manual in accordance with the O&M Standards and to reflect any emergency procedures notified by SOPA to the Contractor from time to time. The Contractor must provide a draft of each updated version of the Procedures and Operations Manual to SOPA as soon as possible after it is prepared.

- (c) The Procedures and Operations Manual must include details of the following in relation to the operation, management, maintenance and repair of the Car Parking Facilities during the Term:
- (i) employee rosters and job descriptions for each Car Park;
  - (ii) operating procedures to be implemented by the Contractor for each staff, supervisory and management position;
  - (iii) details of all standard forms, reports and registers required to be completed by or on behalf of the Contractor in accordance with this Agreement including details of how to complete and distribute those forms, reports and registers;
  - (iv) procedures to be implemented by the Contractor for cash handling, security and banking in respect of revenue received from the operation of the Car Parks;
  - (v) procedures to be implemented by the Contractor for the security of the Car Parking Facilities and vehicles parked in the Car Parks;
  - (vi) procedures to be implemented by the Contractor for the provision of cleaning and waste management services;
  - (vii) procedures, specifications and work schedules for all maintenance requirements required to be performed by the Contractor;
  - (viii) the Contractor's quality assurance program for the performance of its obligations under this Agreement, or if the Contractor does not intend to implement its own quality assurance program, confirmation that it will comply with all relevant ISO 9001 accreditation, together with a description of all procedures and forms to be adopted by the Contractor for implementation and reporting compliance with the relevant program;
  - (ix) the minimum training requirements to be met by all employees engaged by the Contractor in connection with the performance of its obligations under this Agreement, including details of each training program that the Contractor will implement for such employees;
  - (x) training attendance register specifications; and
  - (xi) customer service programs to be implemented by the Contractor, including details of procedures and forms for implementation and reporting of compliance.
- (d) SOPA may, within 30 days of the date on which SOPA receives the draft Procedures and Operations Manual or any draft update of the Procedures and Operations Manual under clause 3.5(a) or 3.5(b), advise the Contractor whether it considers that it is in accordance with this Agreement and provide comments (if any) to the Contractor.
- (e) The Contractor will be required to incorporate in the draft Procedures and Operations Manual and each draft update of the Procedures and Operations Manual all comments made by SOPA in relation to the Procedures and Operations Manual or relevant update in accordance with clause 3.5(d) and must not, without the prior written consent of SOPA, make any other changes to the Procedures and Operations Manual or relevant update prior to its finalisation.
- (f) The Contractor must, within 10 days of receiving comments from SOPA in respect of the draft Procedures and Operations Manual or any update of it in accordance with clause 3.5(d) or, if no such comments are received, within 35 days of providing the draft Procedures and Operations Manual or any update to SOPA in accordance with

clause 3.5(a) or 3.5(b), finalise the Procedures and Operations Manual or the relevant update and provide a copy to SOPA.

- (g) All intellectual property rights in, or associated with, the Procedures and Operations Manual will be legally and beneficially owned by SOPA. To the extent that any such intellectual property rights are vested in the Contractor, the Contractor will, at its own cost, take all actions and execute all documents required by SOPA (acting reasonably) to transfer such intellectual property rights to SOPA.

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## **4. Operation, Maintenance and Repair**

### **4.1 General Obligations**

- (a) At all times, the Contractor must operate, manage, maintain and repair the Car Parking Facilities throughout the Term diligently, honestly and in a professional and competent manner, in accordance with the following:
  - (i) the then current Business Plan;
  - (ii) the Procedures and Operations Manual;
  - (iii) the O&M Standards;
  - (iv) the SOPA Car Parking Policy;
  - (v) all Laws;
  - (vi) any conditions imposed by the insurance policies effected and maintained in accordance with this Agreement; and
  - (vii) the directions of SOPA from time to time.
- (b) The Contractor must at all times during the Term carry out its obligations under this Agreement in a safe manner, so that no damage is caused to any person or property.
- (c) The Contractor must at all times during the Term undertake all administrative responsibilities for the operation, management, maintenance and repair of the Car Parking Facilities.
- (d) The Contractor shall not, without the prior written approval of SOPA, use, or allow to be used, the Car Parking Facilities for any purpose other than car parking.

### **4.2 Approvals**

The Contractor shall expeditiously and (if appropriate) progressively during the Term:

- (a) comply with the lawful requirements of each relevant Authority; and
- (b) obtain all Approvals required by Law to enable it to comply with its obligations pursuant to this Agreement and comply with all terms and conditions of the Approvals.

### **4.3 Maintenance and Repair**

The Contractor must:

- (a) maintain, repair, rehabilitate, rectify, replace and clean (and, in the case of ticket dispensers, replenish) each item listed in Schedule 6 as necessary to comply with clause 4.1 and in accordance with, where applicable, manufacturer or supplier instructions;
- (b) act as SOPA's agent to monitor compliance with the Maintenance Agreement and to

enforce SOPA's rights and comply with SOPA's obligations under the Maintenance Agreement;

- (c) if, at any time during the Term, the Maintenance Agreement is terminated, either:
  - (i) provide directly all of the services, of any nature, required to be provided by the contractor under the Maintenance Agreement for the remainder of the Term; or
  - (ii) appoint a new contractor on terms approved by SOPA, acting reasonably, for the remainder of the Term to provide all of the services, of any nature, required to be provided by the contractor under the Maintenance Agreement. If any agreement is entered into on the terms contemplated by this clause 4.3(c)(ii), the Contractor will monitor compliance with that agreement and enforce its rights and comply with its obligations under that agreement;
- (d) consult with and obtain the consent of SOPA in relation to any individual items of expenditure for maintenance, repair or other capital expenditure in respect of any part of the Car Parking Facilities with an estimated cost in excess of \$2,000. The Contractor must not carry out any maintenance, repair or other capital expenditure with an estimated cost in excess of \$2,000 except with the prior consent of SOPA;
- (e) carry out any improvements to the Car Parking Facilities authorised in writing by SOPA;
- (f) maintain a register, referred to as the Maintenance and Repair Register, using SOPA's Place Manager reporting system (or such other reporting system notified by SOPA to the Contractor from time to time during the Term) of all items of maintenance or repair work carried out by the Contractor or its contractors or subcontractors (including the contractor appointed pursuant to the Maintenance Agreement) in respect of the Car Parking Facilities, and other information relating to performance of the Contractor's repair and maintenance obligations under this Agreement, including:
  - (i) details of the time at which, and the day on which, the requirement for each item of maintenance or repair work was identified and by whom;
  - (ii) details of the time at which, and the day on which, the work was carried out;
  - (iii) the cost of carrying out the work;
  - (iv) the name of the contractor or subcontractor who performed the work (if applicable);
  - (v) all printouts from the Access Control and Fee Processing Equipment detailing faults and errors in respect of that equipment, and specifying faults and errors which have not, as at the date of the relevant printout, been repaired; and
  - (vi) the results of all inspections carried out by the Contractor in accordance with clause 4.7(a).

#### **4.4 Monitoring and Asset Register**

- (a) The Contractor must, at all times:
  - (i) monitor the maintenance, repair and replacement by SOPA's contractors of all lifts and escalators forming part of the Car Parking Facilities;
  - (ii) monitor and notify SOPA of any Car Park lighting which is in need of repair or replacement; and

- (iii) notify SOPA in writing of each structural fault in the Car Parking Facilities within 2 hours of becoming aware of such fault (which notification may, if practicable, be given in a report provided by the Contractor to SOPA in accordance with clause 6.2(a)), including but not limited to, landscaping, potholes, damaged fencing and defects in the Car Parking Facilities structure. Once any fault required to be notified in accordance with this clause 4.4(a)(iii) is identified by the Contractor or any of its staff, contractors or subcontractors, the Contractor must promptly make the relevant area safe by restricting public access using barricades supplied by SOPA from time to time.
- (b) The Contractor must maintain a register, referred to as the Asset Register, using SOPA's Place Manager reporting system (or such other reporting system notified by SOPA to the Contractor from time to time during the Term) of all assets, facilities and equipment forming part of the Car Parking Facilities and must also include in that register the results of all inspections carried out by the Contractor in accordance with clause 4.7(b), which results must be included as soon as practicable. The Contractor must provide a copy of the Asset Register to SOPA within 7 days of the date each inspection referred to in clause 4.7(b) is carried out.

## **4.5 Cleaning and Waste Management**

The Contractor must:

- (a) act as SOPA's agent to monitor compliance with the Waste Management and Cleaning Services Agreements (including by conducting daily inspections of compliance with those agreements) and to enforce SOPA's rights and comply with SOPA's obligations under the Waste Management and Cleaning Services Agreements;
- (b) if, at any time during the Term, any Waste Management and Cleaning Services Agreement is terminated, either:
  - (i) provide directly all of the services, of any nature, required to be provided by the contractor under the relevant Waste Management and Cleaning Services Agreement for the remainder of the Term; and
  - (ii) appoint a new contractor on terms approved by SOPA, acting reasonably, for the remainder of the Term to provide all of the services, of any nature, required to be provided by the contractor under the relevant Waste Management and Cleaning Services Agreement. If any agreement is entered into on the terms contemplated by this clause 4.5(b)(ii), the Contractor will monitor compliance with that agreement and enforce its rights and comply with its obligations under that agreement; and
- (c) undertake regular reviews of the provision of waste management and cleaning services at the Car Parking Facilities with SOPA in order to identify methods of improving standards and reducing costs in the provision of such services and must notify SOPA of any methods identified.

## **4.6 Staff**

- (a) (i) The Contractor will engage a full-time employee to perform the duties and responsibilities of On Site Manager and must ensure that this employee has all necessary skills to manage a complex multi faceted car parking operation, including at grade and multi level car parking facilities. The Contractor must authorise the On Site Manager to act on behalf of the Contractor in all matters concerning the operation, management, maintenance and repair of the Car Parking Facilities and must ensure that the On Site Manager performs these functions.

- (ii) The Contractor must notify SOPA at least 14 days prior to the Commencement Date of the person nominated as the initial On Site Manager. The Contractor must nominate an alternative appointee to perform this role (as approved by SOPA) if SOPA notifies the Contractor, within 7 days of receiving notice from the Contractor in accordance with this clause 4.6(a)(ii) that the Contractor's proposed appointee is not acceptable to SOPA.
  - (iii) The Contractor may with the prior written consent of SOPA, substitute any On Site Manager appointed under this clause with another person who has a similar degree of experience and skill from time to time during the Term.
- (b) Without limiting clause 4.6(a) the Contractor must:
  - (i) engage all necessary staff (including cashiers and maintenance staff), contractors and subcontractors to carry out its obligations under this Agreement; and
  - (ii) ensure that sufficient staff are rostered to work at the Car Parking Facilities at all times during each day of the Term to enable the Contractor to comply with clause 4.9.
- (c) The Contractor must ensure that all staff engaged under this clause 4.6 are of good character and are suitably qualified, experienced and trained to carry out their duties. Without limiting this obligation the Contractor will carry out appropriate pre-employment screening of all potential staff and will ensure all such staff are provided with all proper and adequate training, both prior to commencement of their employment and on an ongoing basis, in all relevant disciplines and activities in accordance with the Procedures and Operations Manual, including the following training:
  - (i) customer training to ensure such staff are courteous and pleasant to patrons of the Car Parking Facilities at all times and are able to communicate fluently in English;
  - (ii) training to ensure such staff are fully familiar with the locations of all Venues and all other facilities in Sydney Olympic Park and are able to provide directions to the Venues and facilities to patrons of the Car Parking Facilities as well as directions to major roadways in the vicinity of Sydney Olympic Park;
  - (iii) training to ensure such staff are fully familiar with SOPA's site and emergency procedures and policies, as notified by SOPA to the Contractor from time to time during the Term; and
  - (iv) (subject to clause 5.1(e)) training to ensure that such staff are able to operate and, if appropriate, maintain the Access Control and Fee Processing Equipment.
- (d) The Contractor must engage all staff under this clause 4.6 in accordance with the terms and conditions of the SOPA Paid Parking Award unless clause 4.6(e) applies. The Contractor must not, without the prior written consent of SOPA, provide to staff engaged under the SOPA Paid Parking Award terms and conditions which are more favourable than those provided under the SOPA Paid Parking Award or pay any remuneration or other employee entitlements to any such staff at levels higher than those specified in the SOPA Paid Parking Award.
- (e) The Contractor must not engage any permanent staff who are remunerated on the basis of an annual salary (including the On Site Manager), without the prior written approval of SOPA to each engagement and the terms of each engagement. The Contractor must seek SOPA's prior written approval of any proposed increases in the salary or proposed

changes to the terms of engagement of such staff.

- (f) The Contractor will ensure that each employee engaged under this clause 4.6 wears a uniform (complying with such specifications agreed between the parties prior to the Commencement Date, as modified by agreement during the Term) during the performance of his or her duties and responsibilities in accordance with this Agreement and is otherwise clean, neat and tidy at all such times.
- (g) The Contractor must ensure that no staff engaged in accordance with this clause 4.6 smoke at any time during the performance of their duties and responsibilities in accordance with this Agreement except in such areas of the Car Parking Facilities designated by SOPA by written notice to the Contractor from time to time and at such times that will not interfere with the performance by such staff of their duties and responsibilities.
- (h) SOPA will not be responsible for the employment of any staff engaged by the Contractor, whether on the terms contemplated by this clause 4.6 or otherwise. The Contractor will indemnify and keep harmless SOPA and the Government in respect of any claim made or proceedings brought against SOPA or the Government whether during the Term or at any time thereafter arising out of or in connection with the employment of such staff.

#### **4.7 Daily and Quarterly Inspections**

Without limiting any other provision of this clause 4, the Contractor must:

- (a) on each day during the Term, carry out an inspection of all the Car Parking Facilities in accordance with the Procedures and Operations Manual and a checklist in the form approved by SOPA from time to time;
- (b) not less often than once during each quarter during the Term carry out an inspection of the Car Parking Facilities confirming the location and state of repair of all assets, facilities and equipment forming part of the Car Parking Facilities.

#### **4.8 Signage**

- (a) At all times during the Term, the Contractor must maintain and display all signage necessary for the efficient and safe operation of the Car Parking Facilities. Such signage must display all Tariffs payable and conditions of entry in appropriate places in the Car Parking Facilities.
- (b) Prior to erecting or commissioning any signage to be made, the Contractor must seek SOPA's prior written approval of the proposed signage. The Contractor must not erect or commission any signage to be made except with the prior written consent of SOPA.
- (c) Without limiting its obligations under clause 4.3, the Contractor must maintain all signage in good working order during the Term.
- (d) The Contractor is not entitled to display its name or logo, or that of any other entity, or to display any advertising of any nature, on any signage at the Car Parking Facilities or in or on any part of the Car Parking Facilities or on any vehicles or equipment used by the Contractor in performing its obligations under this Agreement without the prior written agreement with SOPA. The prohibition in this clause 4.8(d) does not apply in relation to any standard manufacturer's branding appearing on any signage, vehicles or equipment.

#### **4.9 Hours of Operation**

The Contractor must ensure that the Car Parking Facilities are open, appropriately staffed and operational at all times during the hours set out in Schedule 2, or during such other hours and for such other periods as SOPA notifies the Contractor in writing from time to time during the Term.

#### **4.10 Car Parking Tariffs**

- (a) The Contractor must at all times:
  - (i) impose and collect Tariffs in accordance with the SOPA Car Parking Policy, or as otherwise advised in writing by SOPA;
  - (ii) ensure that Tariffs are collected by means of payment in cash or with credit or other payment cards or other collection systems which comply with any standards specified by SOPA, in accordance with the SOPA Car Parking Policy, to the extent the Access Control and Fee Processing Equipment permits; and
  - (iii) ensure that sufficient cashier stations at the Car Parking Facilities are manned at all times during the Term to enable the Contractor to comply with this clause 4.10(a).
- (b) SOPA may at any time, adjust the Tariffs payable for access to the Car Parking Facilities. Prior to adjusting the Tariffs, SOPA must notify the Contractor.
- (c) The Contractor must ensure that all Access Control and Fee Processing Equipment is adjusted to collect the appropriate Tariffs at all times during the Term.

#### **4.11 Concessional Parking**

- (a) The Contractor must, at all times, in carrying out its obligations under this Agreement provide to operators of Venues and other third parties the rights which are specified in the SOPA Car Parking Policy or as otherwise notified or directed by SOPA in writing.
- (b) At all times during the Term, the Contractor must provide access to the Car Parking Facilities, at no cost, for:
  - (i) vice regal vehicles;
  - (ii) all emergency service vehicles, including but not limited to, ambulance, fire and police vehicles whilst on official duty;
  - (iii) all vehicles for which a valid Official SOPA Pass has been issued (during the period the relevant Official SOPA Pass is valid); and
  - (iv) such other vehicles as are specified by SOPA, and notified in writing by SOPA to the Contractor from time to time during the Term,

provided that, in each case, suitable identification is provided by the driver of the relevant vehicle.
- (c) The Contractor acknowledges and agrees that Employers may purchase Car Parking Access Cards for access to Permanent Spaces. Upon receiving written notice from SOPA to do so the Contractor must issue Car Parking Access Cards to such Employers. The Contractor must:
  - (i) keep, in compliance with all applicable Laws, full and proper records in relation to such Car Parking Access Cards including details of each holder's name, title, vehicle registration, car description and telephone number;
  - (ii) advise SOPA of the amounts to be invoiced by SOPA to each Employer; and
  - (iii) monitor the use of Car Parking Access Cards and report any breaches of the conditions of use of such Car Parking Access Cards in the weekly reports required to be provided by the Contractor to SOPA in accordance with



clause 6.2(c).

- (d)
  - (i) The Contractor must, at all times during the Term, maintain a register, using SOPA's Place Manager reporting system (or such other reporting system notified by SOPA to the Contractor from time to time during the Term) of all vehicles leaving any Car Park which are, in accordance with this clause 4.11, entitled to park at such Car Park at no cost.
  - (ii) SOPA will have the right at any time during the Term, on reasonable prior notice to the Contractor, to appoint at its own cost an independent person to audit the register required to be maintained in accordance with clause 4.11(d)(i) and the Contractor must provide access to that register and all other books, records and data of the Contractor (including computer or electronically generated, stored or produced data) relating in any way to the parking of vehicles in any Car Park at any time during the Term at no cost.

#### **4.12 Reserved by Venue Operators**

- (a) The Contractor is responsible for the management and control of reservations by the operators of the Venues.
- (b) The Contractor must issue to each operator of a Venue which reserve Car Parking Spaces from time to time during the Term the required number of Car Parking Access Tickets and collect all amounts required to be paid by each such operator for those tickets.

#### **4.13 Security**

- (a) The Contractor must monitor the performance of SOPA's security service contractor at the Car Parking Facilities and in the vicinity of the Car Parking Facilities on a daily basis. The Contractor must ensure that any staff members who are not required for cash collection or traffic direction must inspect the Car Parking Facilities at regular intervals during operating hours.
- (b) The Contractor must maintain a register, referred to as the Security Incidents Register, using SOPA's Place Manager reporting system (or such other reporting system notified by SOPA to the Contractor from time to time during the Term), of all security related events relating in any way to the Car Parking Facilities of which it or any of its staff, contractors or subcontractors become aware at any time during the Term (including any details of remedial action taken by the Contractor).
- (c) The Contractor must undertake regular reviews of the provision of the security services referred to in this clause 4.13 with SOPA in order to identify methods of improving effectiveness and reducing costs to SOPA for the provision of such services and must notify SOPA of any methods identified.

#### **4.14 SOPA Entitled to Carry Out Certain Work**

If:

- (a) SOPA is of the view that the Car Parking Facilities and the Land are not being maintained in accordance with this Agreement; and
- (b) the Contractor has not within a reasonable time after the date of receipt of written notice from SOPA requiring such failure to be rectified taken steps to rectify the failure;

then:

- (c) SOPA is entitled to enter the Land and the Car Parking Facilities with all necessary labour, material and equipment at all reasonable times (except in the case of an

emergency, in which case SOPA may enter at any time) to execute any work required to remedy such failure.

#### **4.15 Major Events and Promotion of Sydney Olympic Park**

- (a) At least 5 Business Days prior to the occurrence of any Major Event, as notified by SOPA or any operator of any Venue to the Contractor at any time, the Contractor must prepare and provide to SOPA an operational strategy for the operation of the Car Parking Facilities during that Major Event. Unless directed otherwise by SOPA, the Contractor must implement each such operational strategy during the relevant Major Event.
- (b) The Contractor will liaise and co-operate with SOPA and the operators of the Venues and assist SOPA and the operators of the Venues in the promotion of Sydney Olympic Park.
- (c)
  - (i) SOPA reserves the right to promote Sydney Olympic Park, the Venues and other facilities within Sydney Olympic Park and any events or tours available within Sydney Olympic Park, at and within the Car Parks by displaying signage in the Car Parks, providing for the distribution of promotional information and by such similar methods of promotion as may be determined from time to time by SOPA acting reasonably.
  - (ii) The parties agree to work together, in good faith, to facilitate the promotion of Sydney Olympic Park, the Venues and other facilities within Sydney Olympic Park and any events or tours available within Sydney Olympic Park by SOPA in accordance with clause 4.15(c)(i) at and within the Car Parks at all times during the Term.
  - (iii) SOPA (including its agents and contractors) will be entitled to enter the Car Parks with all necessary materials and equipment at all times to:
    - (a) erect and display signs at, within or on the Car Parks for the purpose referred to in clause 4.15(c)(i); and
    - (b) carry out other promotional activities on the terms contemplated by clause 4.15(c)(i).

#### **4.16 Changes to Car Parking Facilities**

Subject to clause 4.3(e), the Contractor shall not make (or permit to be made) any structural changes to the Car Parking Facilities without SOPA's prior written approval.

#### **4.17 No Interference**

The Contractor undertakes that it, its contractors, subcontractors and staff will use the Car Parking Facilities and perform the Contractor's obligations under this Agreement in such a manner so as not to:

- (a) cause any inconvenience, nuisance, disruption or damage of any kind to the activities of any other persons having an interest in land within Sydney Olympic Park;
- (b) obstruct any other persons in Sydney Olympic Park or impede or infringe upon the rights of any other persons under any other agreement, arrangement or understanding with SOPA; and
- (c) have an adverse effect on the promotion of Sydney Olympic Park,

and the Contractor will indemnify and keep indemnified SOPA from and against all costs, actions, demands, proceedings whatsoever brought against SOPA by any other person as a result of a breach by the Contractor of this clause 4.17.

#### **4.18 Security Bond**

- (a) The Contractor must on or before the Commencement Date, provide to SOPA the Security Bond. The Security Bond must entitle SOPA to make a claim under that Security Bond at any time and from time to time during the Term.
- (b) The Security Bond is to be provided to SOPA to secure SOPA against any failure of the Contractor to perform and observe the terms and conditions of this Agreement.
- (c) If a failure described in clause 4.18(b) occurs, SOPA will be entitled without notice to the Contractor, to immediately call upon the Security Bond wholly or in part, and to apply any money paid under the Security Bond to any loss or damage sustained by or to SOPA arising from the relevant breach without prejudice to SOPA's other rights against the Contractor for any loss or damage sustained and SOPA's rights to claim payment for any deficiencies.
- (d) If the whole or part of the Security Bond provided by the Contractor in accordance with this clause 4.18 is appropriated by SOPA the Contractor will, on demand by SOPA and within 5 days from the date of the demand, ensure that the Security Bond is increased to make up the difference so that the Security Bond entitles SOPA to claim the amount of \$250,000.

#### **4.19 Customer Satisfaction Surveys and Complaints Register**

- (a) The Contractor acknowledges that one of the criteria in the assessment of the Contractor's performance of its obligations under this Agreement will be the perception by patrons of the Car Parking Facilities of the manner of the delivery of the services at the Car Parks by the Contractor.
- (b) The Contractor will conduct customer satisfaction surveys with patrons of the Car Parking Facilities at least once in each Operating Year at such times as agreed with SOPA. These surveys must be carried out on behalf of the Contractor by an independent and appropriately qualified third party appointed by the Contractor with the approval of SOPA.
- (c) The customer satisfaction surveys carried out in accordance with this clause 4.19 will assess patron satisfaction in a number of areas including but not limited to the following:
  - (i) the time taken to process payments made by casual patrons of the Car Parks at times other than during Major Events. As a guide, the maximum delay time which is expected at such times is four minutes per patron;
  - (ii) the time taken to process payments made by casual patrons of the Car Parks during any Major Event. As a guide, the maximum delay time that is expected in processing such payments during any Major Event is fifteen minutes per patron;
  - (iii) the time taken to repair or replace any boom gate arm at any time the boom gate arm is damaged or fails to operate. As a guide, SOPA expects a boom gate arm to be repaired or replaced within twenty minutes of the damage or failure of the boom gate arm occurring;
  - (iv) the time taken to repair malfunctions of any Access Control and Fee Processing Equipment. As a guide, SOPA expects any malfunction to the Access Control and Fee Processing Equipment to be repaired within twenty minutes of the malfunction occurring;
  - (v) the time taken to replenish ticket or receipt supplies for any ticket or receipt dispensers forming part of the Access Control and Fee Processing Equipment. These ticket and receipt dispensers must always be supplied

- with tickets or receipts;
- (vi) the effectiveness of the Contractor in directing the flow of traffic in the Car Parks including but not limited to:
  - (a) assisting the flow of traffic entering the Car Parks; and
  - (b) assisting the flow of traffic exiting the Car Parks;
- (vii) the effectiveness of the Contractor in providing assistance to patrons including but not limited to:
  - (a) general levels of staff courtesy and politeness;
  - (b) assisting patrons to locate the entrances to the Car Parks and to locate vacant Car Parking Spaces;
  - (c) directing patrons to Venues and their respective entrances;
  - (d) assisting patrons in locating their vehicles on return to the Car Parks;
  - (e) providing vehicle security in the Car Parks; and
  - (f) providing personal security to patrons in the Car Parks; and
- (viii) the provision of new products and services offered by the Contractor with respect to the Car Parking Facilities.
- (d) In addition to the matters referred to in clause 4.19(c) customer satisfaction surveys may include questions, as agreed between the parties, for the purposes of identifying patron demographics, associated market segments and to obtain general comments concerning the effectiveness of the operation of the Car Parks.
- (e) As soon as practicable after any customer satisfaction survey is carried out on the terms contemplated by this clause 4.19 the Contractor will provide to SOPA a summary of the results of that survey, in such form required by SOPA from time to time.
- (f) The Contractor must maintain a register, referred to as the Comments and Complaints Register, using SOPA's Place Manager reporting system (or such other reporting system notified by SOPA to the Contractor from time to time during the Term) of all comments and complaints received by any staff of the Contractor in relation to the operation of the Car Parking Facilities. The Contractor must ensure that its staff record all such comments and complaints.

## **4.20 Provision of Vehicles and Equipment**

- (a) The Contractor will provide not less than one vehicle and not less than 3 mobile telephones for use in complying with the Contractor's obligations pursuant to this Agreement.
- (b) The mobile telephones supplied by the Contractor in accordance with this clause 4.20 must be made available to management staff engaged in accordance with clause 4.6.
- (c) The Contractor must ensure that all vehicles and equipment provided in accordance with this clause 4.20 are:
  - (i) fit for their intended use;
  - (ii) at all times in a good state of repair and condition; and
  - (iii) not used for any purpose other than for complying with the Contractor's

obligations pursuant to this Agreement.

#### **4.21 Number of Car Parking Spaces**

The Contractor must to the extent that it is within its control, use its best endeavours to ensure that there are available at all times during the Term the Specified Number of Car Parking Spaces at Sydney Olympic Park. For the avoidance of doubt, the Contractor will not be obliged to provide replacement Car Parking Spaces if the Specified Number of Car Parking Spaces at Sydney Olympic Park are not available at any time during the Term.

#### **4.22 Traffic Management**

The Contractor must in respect of the Car Parking Facilities:

- (a) minimise traffic delays;
- (b) ensure the smooth and uninterrupted flow of traffic during normal operating conditions;
- (c) implement and control all signage and safety procedures and carry out any maintenance or repair work, in order to maintain at all times a reasonable and prudent safety level; and
- (d) organise the removal of any vehicles or things causing obstruction taking reasonable care at all times to avoid causing danger to any person or damage to any property, including setting up traffic control devices.

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### **5. SOPA Obligations**

SOPA undertakes to procure and supply to the Contractor, for use in performing the Contractor's obligations under this Agreement, at SOPA's cost the following to such specifications as determined by SOPA:

- (a) the Access Control and Fee Processing Equipment, Office Equipment, Building Security Systems and CCTV Equipment;
- (b) office accommodation in the P1 Car Park and the P3 Car Park;
- (c) other small items of equipment which SOPA determines, acting reasonably, required by the Contractor, including traffic cones, portable signage, barricades, traffic wands, torches and traffic barriers;
- (d) security services for the Car Parking Facilities and in the vicinity of the Car Parking Facilities;
- (e) initial training of the Contractor's staff in relation to the Access Control and Fee Processing Equipment, Building Security Systems and CCTV Equipment;
- (f) any other equipment (excluding vehicles and mobile telephones) which the parties agree from time to time; and
- (g) use of utilities at the Car Parking Facilities, including water and power.

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### **6. Reporting and Meetings**

#### **6.1 Accounting, Financial and Operation, Management, Maintenance and Repair Records**

- (a) Prior to the Commencement Date, the Contractor must provide to SOPA copies of all standard documents it proposes to use in the control, reconciliation and auditing of

financial transactions relating to the Car Parking Facilities, including for the purposes of complying with its obligations under this clause 6.1.

- (b) The Contractor shall keep proper books of account and all other records, including all original invoices, relating to the operation, management, maintenance and repair of the Car Parking Facilities at its office located in the P1 Car Park.
- (c) The Contractor shall at all times keep its books and detailed records and reports described in clause 6.1(b) in accordance with the Procedures and Operations Manual.
- (d) The Contractor will ensure that the books of account and records referred to in clause 6.1(b) are available to SOPA at all reasonable times during the Term for examination, audit, inspection, transcription and copying.
- (e) Without limiting its obligations under clause 15, on the Termination Date the Contractor shall provide to SOPA all books of account and records referred to in clause 6.1(b) and all copies of such books of account and records held by the Contractor.
- (f) The books and records referred to in clause 6.1(b) shall at all times remain the property of SOPA and SOPA shall give the Contractor access for a period of 7 years following the expiry of the Term to any such books of account or records given to it by the Contractor.
- (g) As soon as practicable and in any event not later than 31 October in each year during the Term, the Contractor shall give to SOPA its audited financial statements for the previous financial year prepared pursuant to Australian Securities and Investment Commission requirements, Australian Stock Exchange requirements (if applicable) and any legislative requirements.
- (h) As soon as practicable and in any event not later than 30 days after the expiry of each Operating Year, the Contractor shall give to SOPA a certificate from the Contractor's auditor certifying the gross revenue and the Net Operating Profit for that Operating Year, prepared in accordance with Australian Accounting Standards.
- (i) The Contractor will promptly provide to SOPA copies of all audit management letters which it receives from its auditors from time to time relating in any way to any audit carried out or to be carried out for the purposes of any certificate to be prepared in accordance with clause 6.1(h).
- (j) The Contractor will retain and store all tickets for use of any Car Parking Space issued by it, and returned to it, at any time during the Term, in such location at the Car Parking Facilities notified by SOPA to the Contractor from time to time during the Term. Such tickets are to be stored in chronological order, catalogued by date and by shift.
- (k) Books of account, records and tickets required to be kept in accordance with this clause 6.1 may only be destroyed or otherwise disposed of by the Contractor in a secure manner and with the prior written approval of SOPA.

## **6.2 Other Reporting Obligations**

### **(a) Daily**

No later than 1.00 pm on each Business Day during the Term, the Contractor must provide to SOPA an exception report of the previous day (or, if the previous day was not a Business Day, all preceding days to and including the immediately preceding Business Day) of the following:

- (i) any failure of any equipment forming part of the Car Parking Facilities, including information referred to in the Maintenance and Repair Register;

- (ii) any customer service issues, including details of complaints and comments recorded in the Comments and Complaints Register;
- (iii) all security related incidents occurring in or observed at the Car Parking Facilities, including details recorded in the Security Incidents Register; and
- (iv) any non-compliance by any contractor under any Waste Management and Cleaning Services Agreement observed as a result of the daily inspections carried out in accordance with clause 4.5(a).

(b) **Major Events**

No later than the close of business of the first Business Day following the completion of a Major Event, the Contractor must provide to SOPA a report consisting of the following relating to the Major Event:

- (i) details of the operational strategy for the Major Event, as implemented in accordance with clause 4.15(a);
- (ii) parking statistics and percentages (including pre-sold and casual tickets sold, peak and total car counts and casual capacity, in respect of each Car Park);
- (iii) a staffing summary;
- (iv) ingress and egress statistics in respect of each Car Park;
- (v) equipment and maintenance issues (including fault logs); and
- (vi) any operational issues (including any actions and outcomes).

(c) **Weekly Reports**

No later than 3 days after the end of each week during the Term, the Contractor must submit to SOPA a report for the previous week containing details of those items listed in Part A of Schedule 5 in respect of each Car Park individually and a summary for all Car Parks. No later than 2 days after each report is provided to SOPA in accordance with this clause, a representative of SOPA, the On Site Manager and, if required by SOPA acting reasonably, the executive manager of the Contractor having overall management responsibility for the Car Parking Facilities and the management of this Agreement must meet to discuss the relevant weekly report provided to SOPA. The Contractor must comply with any directions or instructions given by SOPA in relation to the report or as a result of the meeting referred to in this clause 6.2(c).

(d) **Monthly Reports**

No later than 7 days after the end of each month during the Term, the Contractor must submit to SOPA a report for the previous month containing details of those items listed in Part B of Schedule 5. No later than 3 days after each report is provided to SOPA in accordance with this clause, a representative of SOPA, the On Site Manager and the executive manager of the Contractor having overall management responsibility for the Car Parking Facilities and the management of this Agreement must meet to discuss relevant monthly report provided to SOPA. The Contractor must comply with any instructions or directions given by SOPA in relation to the report or as a result of the meeting referred to in this clause 6.2(d).

(e) **Quarterly Reports**

Within 10 Business Days of each last day of February, 31 May, 31 August and 30 November during the Term, the Contractor must submit to SOPA:

- (i) its financial statements for the Car Parking Facilities for the immediately preceding quarter specifying all revenues received from the operation of the Car Parking Facilities and all expenses incurred by the Contractor in operating the Car Parking Facilities which it is entitled to be reimbursed by SOPA in accordance with clause 7.4(b); and
- (ii) a budget re-forecast for the next quarter and the remainder of the then current financial year, indicating discrepancies with the Financial Plan as contained in the then current Business Plan and an explanation of those discrepancies.

The statements prepared for the purpose of this clause 6.2(e) must be prepared in accordance with the Australian Accounting Standards.

(f) **Retention of Reports**

Each report required to be provided in accordance with this clause 6.2 must be retained by the Contractor in a database, as provided by SOPA from time to time during the Term.

### 6.3 **SOPA may Request Reports**

Upon receiving a written request from SOPA to do so, the Contractor must submit to SOPA information relating to the current or future operation, development or enhancement of the Car Parks, in such format as SOPA requests.

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## 7. **Fees**

### 7.1 **Contractor's Fixed Fee**

SOPA will pay to the Contractor the Contractor's Fixed Fee by equal monthly instalments in arrears.

### 7.2 **Adjustments of Contractor's Fixed Fee**

- (a) The Contractor's Fixed Fee will be increased with effect on and from each anniversary of the Commencement Date (each a "**Review Date**") to become the amount determined in accordance with the following formula:

$$A = R \times \frac{C2}{C1},$$

where:

- A is the revised Contractor's Fixed Fee;
- R is the Contractor's Fixed Fee for the year immediately preceding the relevant Review Date;
- C1 is the CPI for the financial year quarter ended 14 months prior to the relevant Review Date; and
- C2 is the CPI for the financial year quarter ending 2 months prior to the relevant Review Date.

- (b) If there is any suspension or discontinuance in the publication of the CPI then until the publication of the CPI is resumed "CPI" for the purposes of this clause 7.2 will mean another index reflecting fluctuations in the cost of living in Sydney as determined by SOPA.



- (c) The Contractor may at any time during the Term request SOPA to consider any other proposal for the increase of the Contractor's Fixed Fee for any subsequent Review Date. SOPA may accept or reject any such proposal in its absolute discretion.
- (d) Notwithstanding anything contained in this Agreement, the Contractor's Fixed Fee payable for any year during the Term will in no case be less than the Contractor's Fixed Fee payable for the year immediately prior to the Review Date.

### **7.3 Incentive Fee**

The Incentive Fee is payable in the following manner:

- (a) for the first Operating Year:
  - (i) within 15 days after that date on which the Contractor provides a certificate to SOPA in accordance with clause 6.1(h) for that Operating Year, SOPA must notify the Contractor of the Incentive Fee for that Operating Year;
  - (ii) the Contractor must, after receiving a notice in accordance with clause 7.3(a)(i), promptly issue an invoice to SOPA for that Incentive Fee and SOPA will pay the amount of that invoice within 15 days of receipt; and
- (b) in each Operating Year after the first, SOPA must pay monthly instalments in arrears on account of the Incentive Fee for that Operating Year. Each instalment must be one twelfth of the Incentive Fee for the immediately preceding Operating Year (or if this has not been determined, such other amount as agreed between the parties acting reasonably);
- (c) within 15 days after the date on which the Contractor provides a certificate to SOPA in accordance with clause 6.1(h) for any Operating Year after the first, SOPA must notify the Contractor of the Incentive Fee for the relevant Operating Year; and
- (d) within 15 days of the provision of any notice in accordance with clause 7.3(c):
  - (i) SOPA must pay to the Contractor an amount equal to the shortfall in SOPA's payment of Incentive Fee for the relevant Operating Year; or
  - (ii) the Contractor must pay to SOPA an amount equal to the overpayment of Incentive Fee for that Operating Year,

in either case as determined by SOPA by reference to the relevant notice. The Contractor must also, within 10 days of receipt of a notice from SOPA in accordance with clause 7.3(c), provide an appropriate invoice to SOPA reflecting the payments required to be made in accordance with this clause 7.3(d).

### **7.4 Operating Costs**

- (a) The Contractor shall be responsible for the following costs associated with the operation, management, maintenance and repair of the Car Parking Facilities:
  - (i) those costs as set out in Part A of Schedule 4; and
  - (ii) all other costs other than those costs to be reimbursed by SOPA in accordance with clause 7.4(b).
- (b) SOPA shall reimburse the Contractor for all reasonable costs incurred by the Contractor associated with the operation, management, maintenance and repair of the Car Parking Facilities in relation to the items set out in Part B of Schedule 4, provided that the Contractor will be liable for and will not be reimbursed by SOPA for:
  - (i) any charges incurred under the Maintenance Agreement (or any agreement

entered into in accordance with clause 4.3(c)(ii) to replace such agreement) as a result of any wilful or negligent act or omission or default by the Contractor or any employee, contractor or subcontractor of the Contractor (including without limitation costs for service call out charges which SOPA determines, acting reasonably, were not necessary); and

- (ii) any costs in relation to any item set out in Part B of Schedule 4 where, pursuant to this Agreement, the Contractor was required to obtain SOPA's consent to incur such cost and that consent was not obtained.

## **7.5 Monthly Invoice**

At the end of each month during the Term the Contractor shall submit to SOPA, with the report required to be provided by the Contractor in accordance with clause 6.2(d), a monthly invoice itemising the following for that month:

- (a) the Contractor's Fixed Fee payable in accordance with clause 7.1;
- (b) if applicable, the Incentive Fee payable in accordance with clause 7.3; and
- (c) amounts for which reimbursement is sought under clause 7.4(b).

## **7.6 Payment**

If SOPA does not dispute any aspect of a monthly invoice issued by the Contractor in accordance with clause 7.5, it shall within 30 days after receipt of the monthly invoice pay to the Contractor the amount set out in the monthly invoice. If SOPA disputes any aspect of any such invoice, it shall within 30 days after receipt of the monthly invoice pay to the Contractor all undisputed amounts in respect of that monthly invoice.

## **7.7 Suspension of Payments**

Should the Contractor refuse or neglect to carry out the instructions or requirements of SOPA in regard to any matter connected with this Agreement, SOPA may suspend all payments to the Contractor without penalty until such instructions or requirements have been complied with by the Contractor.

## **7.8 Non-acceptance of Monthly Invoice**

If SOPA disputes any aspect of a monthly invoice it shall within 14 days after receipt notify the Contractor of the aspects which it disputes and, to the extent that it is able to calculate them, details of the adjustments it requires. SOPA may request the Contractor to provide to it such further information as it requires to determine the amounts in dispute and, if so, the Contractor shall provide such information as soon as practicable and in no event no later than 3 days after being so requested. Following resolution of the dispute (whether pursuant to the Dispute Resolution Procedures or otherwise), the Contractor will issue an invoice to SOPA for the agreed amount and SOPA will pay the amount of that invoice within 30 days of receipt.

## **7.9 Late Payments**

If SOPA does not dispute any aspect of a monthly invoice in accordance with clause 7.8 and fails to pay the amount owing in respect of that monthly invoice within 30 days after receipt or fails to pay any amount under clause 7.3 by the due date, SOPA shall pay interest on the amount owing under that monthly invoice at the rate of 4% from the date such payment was due until actual payment.

## **7.10 GST**

- (a) All amounts which are required to be paid by SOPA to the Contractor under this Agreement are calculated exclusive of GST. If the Contractor becomes liable to pay an amount of GST in respect of any supply it makes to SOPA under this Agreement

("GST Liability"), SOPA will pay to the Contractor an additional amount equal to the Contractor's GST Liability as reasonably calculated by the Contractor.

- (b) If the GST payable in relation to a supply made by the Contractor under or in connection with this Agreement varies from the calculated amount in respect of GST paid by SOPA under clause 7.10(a) such that:
  - (i) further GST is payable in relation to the supply; or
  - (ii) a refund or credit of GST is received in relation to the supply,then the Contractor will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, SOPA. Any payment, credit or refund under this clause is deemed to be a payment, credit or refund of the relevant amount payable under clause 7.10(a).
- (c) The Contractor agrees that if it is entitled to be reimbursed by SOPA for an amount paid by it to a third party, the amount reimbursed by SOPA will be the amount paid by it to the third party less any amounts in respect of GST included in any such payment.
- (d) "GST law" and other terms used in this clause 7.10 have the meanings used in the A New Tax System (Goods and Services Tax) Act 1999 (Commonwealth), except that "GST law" includes any applicable rulings issued by the Commissioner of Taxation.

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## **8. Revenue**

### **8.1 SOPA Entitled to Revenue**

- (a) SOPA will be entitled to all revenue from the operation and management of the Car Parking Facilities.
- (b) The Contractor shall perform its obligations in relation to Tariff collection and money handling under this Agreement as the agent of and trustee for SOPA. The Contractor acknowledges and agrees that it has no right of set off, counterclaim, deduction, holding, lien or other interest in respect of such revenues.
- (c) The Contractor is responsible for all discrepancies that result from fraud, misrepresentation, theft or other default by the Contractor or its employees, subcontractors or agents and must indemnify SOPA against any liability, cost, charge, expense, or damages it suffers or incurs as a result of such fraud, misrepresentation, theft or other default.

### **8.2 Handling of Revenue Collected**

- (a) The Contractor must engage the services of a suitably qualified and experienced cash security collector, which has been approved by SOPA, for the collection of all cash received by the Contractor and depositing of such cash in the Car Parking Operating Account and the provision of change required by the cashiers in each of the Car Parking Facilities or, with the approval of SOPA, must undertake those obligations itself. The obligations to be performed by the contractor appointed in accordance with this clause or the Contractor will consist of those services specified in Part B of Schedule 7.
- (b) The Contractor must handle all cash received and all credit card and other payments received in accordance with Part A Schedule 7.
- (c) The Contractor must use its best endeavours to collect any outstanding receivables in relation to the operation of the Car Parking Facilities. The Contractor must not, without the prior written approval of SOPA, write off bad debts as uncollectible. If any bad debts are written off, those amounts will not form part of the reported revenue of the

## Car Parking Facilities.

- (d) The Contractor must follow the procedures set out in Part A Schedule 7 in relation to the collection of Tariffs.
- (e) The Contractor must follow the procedures set out in Part A Schedule 7 in relation to the collection of Tariffs payable for Car Parking Spaces reserved under clause 4.12.
- (f) Without limiting clause 8.1(c), the Contractor will be liable for any variances greater than 0.05% between the amount of revenue which, as calculated by reference to the information obtained from the Access Control and Fee Processing Equipment, should have been received from the operation of the Car Parking Facilities in any period and the revenue which is actually received from the operation during that period and provided to SOPA by the Contractor.

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## 9. Upgrade / Expansion

- (a) The parties agree that SOPA may, by giving notice to the Contractor at any time during the Term, perform work, upgrade, expand or alter the Car Parking Facilities for any reason, including the availability of new proven technology within Australia or overseas relating to the operation of the Car Parking Facilities.
- (b) The Contractor must provide assistance to SOPA as required in relation to any such upgrade, expansion or alteration of the Car Parking Facilities. If any upgrade, expansion or alteration alters the number of Car Parking Spaces available for use in accordance with this Agreement, SOPA will notify the Contractor of the altered number of Car Parking Spaces.
- (c) Subject to clause 9(d), the parties agree that if either of them is of the view that the changes made in accordance with clause 9(a) reduce or increase the costs of operating, managing, maintaining or repairing the Car Parking Facilities, they will negotiate in good faith in relation to:
  - (i) amending this Agreement; or
  - (ii) taking such other action as may be appropriate in the circumstances.
- (d) The parties agree that if the changes made in accordance with clause 9(a):
  - (i) reduce the number of available Car Parking Spaces to 8,000 or less, then the following changes will be made with immediate effect:
    - (a) the Contractor's Fixed Fee will, from such time, be \$XXX,XXX per annum (adjusted on the terms specified in clause 7.2(a) for CPI increases since the Commencement Date); and
    - (b) such other changes will be made as the parties acting in good faith agree are necessary as a result of the change in the number of Car Parking Spaces; and
  - (ii) increase the number of available Car Parking Spaces to 13,000 or more then the following changes will be made with immediate effect:
    - (a) the Contractor's Fixed Fee will, from such time, be \$XXX,XXX per annum (adjusted on the terms specified in clause 7.2(a) for CPI increases since the Commencement Date); and
    - (b) such other changes will be made as the parties acting in good faith agree are necessary as a result of the change in the number of Car Parking Spaces.

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## **10. Indemnity**

Subject to sub-clause b), the Contractor must at all times indemnify SOPA, its officers, employees and agents (those indemnified) from and against all Loss incurred or suffered by any of those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified to the extent such Loss was caused or contributed by any wrongful (including negligent) act or omission of the Contractor or its officers, employees, agents, consultants or subcontractors arising from or in connection with the performance of the Services or with the Contract.

(a) SOPA's ability to enforce the indemnity

The Contractor agrees that SOPA may enforce the indemnity in Clause 10 in favour of the persons specified in Clause 10 for the benefit of each of such persons in the name of SOPA or of such persons.

(b) Limit to indemnity

The Contractor's liability to those indemnified under Clause 10 will be reduced proportionally to the extent that any unlawful, wrongful or negligent act or omission of those indemnified caused the Loss.

(c) Enforcement of indemnity

It is not necessary for SOPA to have incurred any expense or made any payment before enforcing an indemnity under the Contract.

(d) Indemnity to survive termination

This indemnity will survive the expiration or termination of the Contract.

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## **11. Insurance**

### **11.1 Insurances During the Term**

From the Commencement Date and during the Term, the Contractor shall effect and maintain in respect of the Car Parking Facilities the following:

- (a) a broad form contractual third party legal liability insurance policy covering claims in respect of damage to real or personal property and injury to, or death of, persons, arising out of or in connection with the performance for the Contractor's obligations under this Agreement for at least \$20,000,000 per occurrence and unlimited in the number of occurrences in any one period of insurance;
- (b) employer's liability and workers' compensation insurance; and
- (c) motor vehicle insurance covering third party property damage for all vehicles owned or leased by the Contractor and used in connection with the performance of the Contractor's obligations under this Agreement.

### **11.2 General Requirements**

- (a) All insurances which the Contractor is required to effect under this Agreement:
  - (i) shall be effected with insurers approved by SOPA (which approval will not be unreasonably withheld);
  - (ii) shall be on terms approved by SOPA;
  - (iii) shall not contain any exclusion, endorsement or alteration, unless it is first approved by SOPA;

- (iv) shall contain a term which requires the insurer to give SOPA 30 days notice in writing prior to the insurer giving the Contractor a notice of cancellation or any other notice in respect of the policy; and
- (v) in the case of the insurance referred to in clause 11.1(a):
  - (a) will be in the joint names of the Contractor and SOPA for their respective rights, interests and liabilities and contain a provision under which the insurer waives all rights of subrogation which it may have or acquire against all or any of the persons comprising the insured; and
  - (b) will contain a cross liability clause for the purposes of which the insurer accepts the term "insured" as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased as a result).
  - (c) will require the insurer to notify all named insured of any variation or cancellation of the policy, provided that a notice of claim given to the insurer by SOPA, the Contractor or the subcontractor will be accepted by the insurer as a notice of claim given by all of the insured.
- (b) The Contractor shall:
  - (i) give SOPA certified copies of all:
    - (a) policies;
    - (b) renewal certificates; and
    - (c) endorsement slips,

for all insurance policies which the Contractor is required to effect in accordance with this Agreement as soon as it receives them; and
  - (ii) (and shall ensure that subcontractors), as soon as practicable, inform SOPA in writing of the occurrence of an event that may give rise to a claim under a policy of insurance effected as required by the Agreement and must ensure that SOPA is kept fully informed of subsequent action and developments concerning the claim.
  - (iii) have each insurance policy which the Contractor is required to effect in accordance with this Agreement endorsed to the effect that the insurer waives its right to avoid the policy or any liability under the policy by reason of non-disclosure or inaccurate disclosure in the proposal relating to that policy.
- (c) If the Contractor fails to comply with clauses 11.1 and 11.2, SOPA
  - (i) may affect and maintain that insurance and pay the necessary premiums; and
  - (ii) may recover from the Contractor the cost of the premiums and SOPA's reasonable costs of effecting and maintaining the insurance.
- (d) Where the Contractor is insured under a foreign company's or holding company's insurance policy, that insurance policy must clearly indicate that it applies to and extends coverage to the Contractor.

- (e) The effecting of insurance shall not limit the liabilities or obligations of the Contractor under other provisions of this Agreement.

### **11.3 Premiums**

The Contractor shall punctually pay all premiums in respect of all insurance policies which the Contractor is required to effect in accordance with this Agreement and give SOPA copies of receipts for payment of premiums if, and when, requested by SOPA.

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## **12. Confidentiality and Publicity**

### **12.1 General Restriction**

Subject to clause 12.2, the Contractor shall not at any time, whether before or after the expiration or sooner determination of the Term, without the consent of SOPA (which shall not be unreasonably withheld or delayed) divulge or suffer or permit its servants, consultants or agents to divulge to any person (other than to any of its officers, employees, consultants, advisers and agents) any of the contents of this Agreement or any of the commercial bases thereof or any Confidential Information which may have come or comes to the Contractor's knowledge in the course of its carrying out its obligations under this Agreement.

### **12.2 Exceptions**

The restrictions imposed by clause 12.1 shall not apply to the disclosure of any information:

- (a) which is now or after the date of this Agreement comes into the public domain or which is obtainable with no more than reasonable diligence from sources other than the parties;
- (b) which is required to be disclosed by Law;
- (c) as lawfully required by any Authority for any legitimate Government purpose or process;
- (d) to a court, arbitrator or administrative tribunal in the course of proceedings before it or him to which the Contractor is a party or to an expert in the course of any determination by him to which the Contractor is a party;
- (e) which, in the opinion of the Contractor (acting reasonably), is required to be disclosed to any insurer in respect of the Car Parking Facilities;
- (f) where the disclosure of the Confidential Information to the Contractor's officers, employees and agents is essential to carrying out their duties for the purposes of this Agreement.

The Contractor must ensure that the Confidential Information is used solely in connection with, or for the purposes of, the provision of the Deliverables.

### **12.3 Publicity**

Subject to clause 4.1(a)(i), the Contractor must not release, authorise or publish any statements or announcements with respect to the Car Parking Facilities without the prior written consent of SOPA.

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## **13. Termination**

### **13.1 Termination for Cause**

- (a) Without prejudice to its rights at common law, SOPA may immediately terminate this Agreement, in whole or in part, by written notice to the Contractor ("Notice of

Termination for Cause”):

- (i) where this Agreement is or becomes wholly or partially void, voidable or unenforceable as against the Contractor;
  - (ii) where the Contractor makes any statement, fact, information, representation or provides material in the Tender which is false, untrue, or incorrect in a way which materially affects this Agreement;
  - (iii) where proceedings or investigations are commenced or threatened by the Independent Commission Against Corruption or similar public body against the Contractor including for corrupt conduct or for collusive pricing;
  - (iv) where, the Contractor commits a substantial breach of the Agreement that is not capable of remedy;
  - (v) where the Contractor fails to operate, manage, maintain and repair the Car Parking Facilities in accordance with this Agreement (committing a substantial breach of the Agreement that is capable of remedy) and does not remedy the breach within 7 days of receiving a notice from SOPA requiring it to do so (“Notice of Breach”), or such further time, having regard to the nature of the breach and a reasonable time to remedy it, as SOPA may reasonably allow;
  - (vi) where without the prior written consent of SOPA the Contractor assigns its rights and/or obligations to operate, manage, maintain and repair the Car Parking Facilities, sub-contracts or novates this Agreement other than in accordance with this Agreement;
  - (vii) where in the opinion of SOPA there is a material change in the ownership, management or control of the Contractor without the prior written consent of SOPA, and SOPA (acting reasonably) forms the opinion that, as a result, the Contractor is not likely to be able to perform its obligations under this Agreement;
  - (viii) where the Contractor defaults in a material respect in the due observance and performance of any of its obligations under this Agreement (whether as assessed in accordance with performance audits carried out in accordance with clause 15.1 or otherwise); or
  - (ix) in the case of the Contractor’s Insolvency;
  - (x) if in SOPA’s view a conflict of interest exists for the Contractor, which prevents the proper performance of the Agreement.
- (b) If SOPA terminates this Agreement for cause SOPA may:
- (i) at its option, for an appropriate part payment of the Contract Price (as agreed by the parties or failing agreement as determined by an agreed expert), require the Contractor to deliver to SOPA any Deliverables (for example, Deliverables that are components of other Deliverables) in the possession or under the control of the Contractor as at the date of termination
  - (ii) contract with any other person to complete the provision of the Deliverables;
  - (iii) deduct loss or damages arising from or in connection with the termination (which may be ascertained and certified by SOPA) from any money due, or which may become due to the Contractor (whether under this Agreement or otherwise) and/or from the Security (if any); and



- (iv) recover from the Contractor in an appropriate court the balance of any monies remaining unpaid as a debt due and payable by the Contractor to SOPA.

## **13.2 Termination for convenience**

- (a) SOPA may terminate this Agreement in whole or in part by giving written notice (“Notice of Termination for Convenience”) with effect from the date stated in the notice and without the need to give reasons.
- (b) Effect of Termination for convenience
  - (i) SOPA shall reimburse the Contractor its unavoidable costs directly incurred as a result of termination provided that any claim by the Contractor:
    - (a) must be supported by written evidence of the costs claimed;
    - (b) will be in total satisfaction of the liability of SOPA to the Contractor in respect of this Agreement and its termination.
  - (ii) SOPA shall not in any circumstances be liable for any consequential loss or loss of profits suffered by the Contractor as a result of the termination of this Agreement by SOPA.
  - (iii) The Contractor must, wherever possible, include in all sub-contracts and supply agreements an equivalent provision to this clause.
  - (iv) SOPA may at its option, for an appropriate part payment of the Contract Price (as agreed by the parties or failing agreement as determined by an agreed expert), require the Contractor to deliver to SOPA any Deliverables (for example, Deliverables that are components of other Deliverables) in the possession or under the control of the Contractor as at the date of termination

## **13.3 Right to Damages**

Termination of this Agreement by SOPA, under this clause 13 shall not in any way prejudice SOPA's rights to claim and recover damages under this Agreement or such other damages as SOPA may be entitled to at law or in equity.

## **13.4 Completion of the Agreement by SOPA**

- (a) If this Agreement is terminated, the Contractor must assist SOPA in transferring responsibility for the obligations under the Agreement either to an alternative supplier or to SOPA itself, and this will include:
  - (i) upon request by SOPA, the Contractor must produce and make available all Contract Material relating to this Agreement;
  - (ii) assignment to SOPA, or such other person as SOPA nominates, of any agreement entered into by the Contractor for the supply of any Components or Materials; and(c) if requested, offer to sell, at fair market value, to SOPA, or such other person as SOPA nominates, any equipment used by the Contractor in conjunction with and dedicated solely to the delivery of the Agreement.
- (b) The Contractor must continue to carry out obligations under this Agreement in full until termination of the Agreement.

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## **14. Dispute Resolution Committee**

### **14.1 Disputes**

- (a) If any dispute or difference arises between the parties as to any fact, matter or thing arising out of or in connection with this Agreement, then either party may give to the other party a notice adequately identifying the matters the subject of the dispute or difference together with detailed particulars of it and that dispute or difference shall be referred to the Dispute Resolution Committee.
- (b) Each party must immediately provide a copy of each notice issued by it in accordance with clause 14.1(a) to each member of the Dispute Resolution Committee.

### **14.2 Dispute Resolution Committee**

SOPA and the Contractor will establish the Dispute Resolution Committee, which shall meet as required to hear and attempt to resolve disputes referred to it in accordance with clause 14.1.

### **14.3 Resolutions**

Duly passed resolutions of the Dispute Resolution Committee shall be contractually binding upon SOPA and the Contractor.

### **14.4 Members**

The Dispute Resolution Committee shall comprise two members, one senior executive of SOPA and one senior executive of the Contractor.

### **14.5 Appointment**

SOPA and the Contractor shall each be entitled to terminate the appointment of a representative appointed by it to the Dispute Resolution Committee pursuant to clause 14.6 and to appoint another person in his or her place.

### **14.6 Appointments in Writing**

All appointments of members to the Dispute Resolution Committee and any termination thereof shall be in writing and shall be given to the other members of the Dispute Resolution Committee.

### **14.7 Meetings**

The Dispute Resolution Committee shall be required to meet to hear and attempt to resolve a dispute within 5 days after the dispute is referred to it under clause 14.1.

### **14.8 Failure to Agree**

If, within 30 Business Days of the date any dispute has been referred to the Dispute Resolution Committee in accordance with clause 14.1, that dispute has not been resolved, any party may commence litigation to resolve that dispute. Until such time, no party may commence or maintain any litigation in relation to that dispute.

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## **15. Performance Audits and Extension of Term**

### **15.1 Monitoring of Performance**

- (a) SOPA may at any time and from time to time during the Term carry out performance audits in accordance with this clause 15.1 in respect of the performance by the Contractor of its obligations under this Agreement. Performance audits may be carried out by SOPA in accordance with this clause 15.1 no more often than once in any 3 month period during the Term.

- (b) The Contractor will, upon receiving a notice from SOPA that it intends to undertake a performance audit in accordance with this clause 15.1, undertake a self assessment of the performance of the Contractor over the period specified in the notice. SOPA will consecutively undertake its audit of the Contractor's performance using the performance standards forms agreed between the parties from time to time.
- (c) Within 30 days of SOPA notifying the Contractor that it intends to undertake a performance audit, SOPA and the Contractor will meet to discuss the Contractor's self assessment and the results of SOPA's audit.
- (d) If the Contractor believes that SOPA's audit results are unfair or incorrect, it may appeal against SOPA's assessment within 2 Business Days of the date of the meeting held between SOPA and the Contractor in accordance with clause 15.1(c) and request SOPA to amend its assessment and provide any information based on which it believes SOPA should amend its assessment. The Contractor acknowledges that SOPA's final determination with respect to its audit results is binding.
- (e) The Contractor acknowledges that SOPA will take into consideration the results of all audits carried out by SOPA in determining whether to extend the Term in accordance with clause 15.2.
- (f) SOPA may also elect, in its discretion, to monitor performance of any sub-contracts under this Agreement.
- (g) If SOPA elects to monitor sub-contract performance the Contractor will do all things reasonably necessary to facilitate arrangements for such monitoring to take place.

## **15.2 SOPA's discretion**

SOPA may, within its absolute discretion, elect to extend the Term of this Agreement for two (2) periods of 12 months. If SOPA elects to extend the Term in accordance with this clause 15.2, it must give written notice of such election to the Contractor no later than 25 January 2011 and 25 January 2012 respectively.

## **15.3 Terms of Extended Term**

If SOPA elects to extend the Term in accordance with clause 15.2, the Contractor and SOPA agree to be bound by the terms and conditions of this Agreement for the extended period.

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## **16. Expiration of Agreement**

- (a) This Agreement will commence on the Commencement Date and shall, unless earlier terminated, terminate on the Termination Date.
- (b) Subject to the other provisions of this Agreement, upon the expiration of the Term or earlier termination of this Agreement, the Contractor must:
  - (i) immediately vacate the Car Parking Facilities and the Land, leaving the Car Parking Facilities and the Land in a fully functional condition which complies the O&M Standards and the then current Maintenance and Asset Management Plans;
  - (ii) deliver to SOPA:
    - (a) the then current version of the Procedures and Operations Manual; and
    - (b) all reports, statistics, files and other information and data held by the Contractor (in whatever form, including computer or electronically generated, stored or produced data) in relation to the operation, management, maintenance and repair of the Car

Parking Facilities including without limitation the information referred to in clauses 4.3(f), 4.4(b), 4.11(d), 4.13 (b), 4.19(f), 6.1 and 6.2(f);

- (iii) do all other acts and things to enable SOPA to operate the Car Parking Facilities at a level at least equal to that in effect immediately before the termination of this Agreement with minimum disruption to its use; and
- (iv) if requested by SOPA, novate in favour of SOPA any maintenance and waste management and cleaning contracts entered into by the Contractor in accordance with clause 4.3(c)(ii) or 4.5(b)(ii).

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## **17. Conduct of Agreement**

### **17.1 Sub-contractors**

- (a) The Contractor may sub-contract part or all of the Agreement to a sub-contractor approved by SOPA from time to time and/or identified in Schedule 10 (“approved sub-contractor”) on the terms of this clause.
- (b) The Contractor must make the approved sub-contractor aware of the terms and conditions of the Agreement and this clause.
- (c) If SOPA requires it, the Contractor must arrange for the approved sub-contractor to execute the statutory declaration at Schedule 12.
- (d) The terms and conditions of the sub-contract must be consistent with the Agreement.
- (e) The Contractor will continue to be bound by, and responsible for performance of, the Agreement notwithstanding that part or all of it may have been sub-contracted.
- (f) SOPA may, without incurring liability, withdraw its approval of a sub-contractor if in its reasonable opinion the sub-contractor is not meeting the requirements of the Agreement. SOPA will notify the Contractor in writing that its approval is withdrawn and the Contractor will immediately terminate its arrangement with the sub-contractor.
- (g) To the extent that loss is not attributable to SOPA’s withdrawal of approval of a sub-contractor:
  - (i) the Contractor will be liable for any acts or omissions of any sub-contractor or any employee or agent of the sub-contractor as fully as if they were the acts or omissions of the Contractor, and
  - (ii) the Contractor will indemnify and release SOPA from any liability or loss resulting from the acts or omissions of any sub-contractor.

### **17.2 Security of sub-contract payments**

- (a) “Paid when paid provision” means a term of a sub-contract under which:
  - (i) the Contractor’s liability to pay for Deliverables is contingent on a payment being made by SOPA or
  - (ii) the due date for payment for Deliverables is dependant on the date on which a payment is made by SOPA.
- (b) The terms of any sub-contract of this Agreement must not include a paid when paid provision.
- (c) SOPA is not liable for any failure by the Contractor to comply with this clause.

### **17.3 Representations and Warranties by Contractor**

The Contractor makes the following continuing representations and warranties for the benefit of SOPA:

- (a) it is a corporation validly incorporated and existing under the laws of the place of its incorporation;
- (b) it has in full force and effect all authorisations necessary to enter into and perform its obligations under this Agreement;
- (c) it has power to enter into and perform its obligations under this Agreement, and to carry on its business, and the entry into this Agreement is a proper exercise of power;
- (d) its obligations under this Agreement are valid and binding and are enforceable against it in accordance with its terms subject to the availability of equitable remedies and, to the extent applicable, laws relating to the enforcement of creditors' rights;
- (e) the execution, delivery and performance of this Agreement does not:
  - (i) violate its constituent documents or any law, regulation, treaty, judgment, ruling, order or decree of any court or official directive which is binding on it;
  - (ii) violate any other document or agreement to which it is a party or which is binding on it or any of its assets; or
  - (iii) cause a limitation on its powers or the powers of its directors or other officers to be exceeded;
- (f) it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (g) it does not enter into this Agreement in the capacity of a trustee of any trust or settlement; and
- (h) no litigation, arbitration, tax claim, dispute or administrative or other proceeding is current or pending or, to its knowledge, threatened which is likely to have a material adverse effect upon it or its ability to perform its obligations under this Agreement.

### **17.4 Performance Guarantee**

- (a) Once SOPA has accepted the Agreement, the Contractor must provide the Security to SOPA.
- (b) SOPA will hold the Security as security for the due and proper performance and completion of all the obligations of the Contractor under this Agreement.
- (c) If the Contractor fails to properly perform and complete its obligations under this Agreement and SOPA suffers loss or damage arising from, or in connection with, such failure by the Contractor, SOPA may deduct any or all such loss or damage (as ascertained and certified by SOPA) from the Security.
- (d) If the Security is not sufficient to meet payment of all the loss or damage suffered by SOPA, the balance remaining will be a debt due and owing from the Contractor to SOPA and may be recovered by SOPA in any appropriate court.
- (e) If the Contractor fails to deposit the Security as requested by SOPA in accordance with this clause SOPA may terminate this Agreement for substantial breach .

- (f) The Security must be issued by an Australian domiciled bank, insurance company or other financial institution (“Issuer”) acceptable to SOPA in its discretion.
- (g) The Contractor agrees that SOPA will have no liability to the Contractor of any nature (whether in negligence or otherwise) for any loss or damage suffered or incurred by the Contractor where SOPA exercises its rights under this clause in good faith.
- (h) The Contractor must not take any action to injunct or otherwise prevent SOPA from making a claim or receiving a payment under the Security. This clause does not prevent the Contractor from taking action to recover from SOPA any amount invalidly received by SOPA under any such Security.
- (i) SOPA must release the Security to the Contractor (or to whom the Contractor directs) if:
  - (i) the Contractor has fully performed and discharged all of its obligations under this Agreement and all Customer Contracts; and
  - (ii) in the reasonable opinion of SOPA:
    - (a) there is no prospect that money or damages will become owing (whether actually or contingently) by the Contractor to SOPA; and
    - (b) no payment by the Contractor or the provider of the Security is likely to be void, voidable or refundable under any law, including without limitation any law relating to insolvency.

## **17.5 Conflict of Interest**

- (a) The Contractor undertakes that, to the best of its knowledge, no conflict of interest of the Contractor, its employees, agents or sub-contractors exists or is likely to arise in the performance of its obligations under this Agreement.
- (b) The Contractor must:
  - (i) notify in writing, and consult with, SOPA immediately upon becoming aware of the existence, or possibility, of a conflict of interest; and
  - (ii) comply with any direction given by SOPA in relation to those circumstances designed to manage that conflict of interest.
- (c) SOPA may terminate the Agreement in accordance with clause 13 if in its view a conflict of interest exists which prevents the proper performance of the Agreement.

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## **18. Assignment**

### **18.1 Entitlement to Assign**

- (a) The Contractor shall not sell, transfer, assign, mortgage, charge or otherwise dispose of or encumber its interest in this Agreement without the prior written consent of SOPA.
- (b) SOPA may sell, transfer or assign or otherwise dispose of its interest in this Agreement to any person.

### **18.2 Change in Substantial Shareholding**

For the purposes of clause 18.1, any change in a substantial shareholding (as defined in the Corporations Act) of the Contractor during the Term shall be deemed to be an assignment by the Contractor of its interest in this Agreement and such change in shareholding shall be subject to the terms and conditions of this clause 18.

## **18.3 No Merger or Change of Control Without Consent**

Without the prior written consent of SOPA having been obtained, the Contractor shall not at any time after the execution of this Agreement:

- (a) merge, whether legally or practically, with any other entity whether by way of take-over, partnership, joint venture, association or acquisition in such a way that the Contractor's operation, management, maintenance, repair and control of the whole or any part of the Car Parking Facilities will materially differ in any way from that evidenced by this Agreement; and
- (b) cause or permit the effective control of the Contractor to change. For the purposes of this clause 18.3, the term "effective control of the Contractor " shall mean:
  - (i) control of the composition of its board of directors;
  - (ii) control of more than half of the voting power of its board of directors; or
  - (iii) control of more than half of the voting power of its issued share capital.

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## **19. Expenses and Stamp Duties**

### **19.1 Expenses**

Each party must bear:

- (a) its own costs, including professional costs and disbursements, associated with the preparation and execution of this Agreement and any subsequent consent, agreement, approval or waiver under this Agreement or amendment to this Agreement; and
- (b) unless the context otherwise provides, the costs associated with the performance of its obligations under this Agreement.

### **19.2 Stamp Duties**

The Contractor must pay all stamp, registration and similar taxes including fines and penalties payable to or required to be paid by any appropriate authority or determined to be payable in connection with the execution, delivery, performance or enforcement of this Agreement or any payment receipt or other transaction contemplated by them.

### **19.3 Governing Law**

This Agreement will be governed by and construed in accordance with the laws of New South Wales.

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## **20. Miscellaneous**

### **20.1 Notices**

Every notice or other communication of any nature whatsoever required to be served, given or made under or arising from this Agreement:

- (a) must be in writing in order to be valid;
- (b) must be left at the address of the addressee set out below or sent by prepaid ordinary post to the address of the addressee set out below or sent by facsimile to the facsimile number set out below or if the addressee notifies another address or facsimile number then to that address or facsimile number:

## **SOPA**

Address: 7 Figtree Drive  
SYDNEY OLYMPIC PARK NSW 2127

Facsimile: 9714 7333

Attention: Parking Manager, Commercial Services

## **Contractor**

Address: XXXXXXXXXXXXXXXXXXXX,  
XXXXXXXXXXXXXXXXXXXX

Facsimile: XXXXXXXXX

Attention: XXXXXXXXXXXXXXXXXXXX

- (c) must be marked for the attention of the person referred to in clause 20.1(b);
- (d) is taken to be given, served or made in relation to a party:
  - (i) (in the case of delivery by hand) on delivery;
  - (ii) (in the case of prepaid mail) on the fifth day after the date of posting; and
  - (iii) (in the case of facsimile) on receipt of a transmission report confirming successful receipt at the conclusion of the transmission; and
- (e) will be sufficient if executed by the party giving, serving or making the same or on its behalf by any attorney, director, secretary, other duly authorised officer or solicitor of such party.

## **20.2 Entire Agreement**

All of the agreements and understandings between the Contractor and SOPA in respect of the scope of this Agreement are embodied in this Agreement, including the Schedules and the Exhibits and, as from the date of this Agreement, such documents will supersede all prior agreements and understandings between the parties in relation to such scope.

## **20.3 Variation**

No modification, variation or amendment of this Agreement or any Schedule will be of any force unless such modification, variation or amendment is in writing and executed by each party.

## **20.4 Waiver**

A failure to exercise or enforce or a delay in exercising or enforcing or a partial exercise or enforcement of any right, remedy, power or privilege under this Agreement by SOPA will not in any way preclude or operate as a waiver of any further exercise or enforcement of it or the exercise or enforcement of any other right, remedy, power or privilege of SOPA under this Agreement or provided by law.

## **20.5 Further Assurance**

The Contractor must at its cost and expense immediately on demand by SOPA perform all such acts and execute all such agreements, assurances and other documents and instruments as SOPA, acting reasonably, requires to perfect the rights and powers afforded, created or intended by the parties to be afforded to or created in favour of SOPA by this Agreement.



## **20.6 Severability of Provisions**

Any provision of this Agreement which is illegal, void or unenforceable shall be ineffective to the extent only of such illegality, voidness or unenforceability without invalidating the remaining provisions of this Agreement.

## **20.7 Counterparts**

This Agreement may be executed in a number of counterparts and all such counterparts taken together will be deemed to constitute one and the same agreement.

## **20.8 Set-Off**

With exception of moneys payable by the Contractor to SOPA under clause 8.1, each party is entitled to set-off against any moneys which are due and payable by it to the other party any moneys which are due and payable by the other party to it including, without limitation, liquidated damages.

## **20.9 Non-Merger**

None of the terms or conditions of this Agreement nor any act, matter or thing done under or by virtue of or in connection with this Agreement shall operate as a merger of any of the rights and remedies of SOPA in or under this Agreement all of which shall continue in full force and effect until the obligations of the Contractor under this Agreement have been fully performed and satisfied.

## **20.10 Rights Cumulative**

The rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or any other right or remedy.

## **20.11 Survival clause**

Unless the context otherwise provides, the rights and obligations under this Agreement will survive the expiration or earlier termination of this Agreement.

## **Schedule 1 O&M Standards**

### **Objectives:**

The Contractor shall preserve the Car Parking Facilities to a high standard, in good condition both visually and functionally, and respond promptly in the event of failures of any assets, facilities or equipment forming part of the Car Parking Facilities.

This shall include:

### **Performance Criteria:**

- |                           |   |
|---------------------------|---|
| <b>Visual appearance:</b> | Minor signs of deterioration when viewed closely may be acceptable (as appropriate to function). However, no deterioration when viewed from normal distance. Some deterioration may be tolerated for short periods of time. |
| <b>Function:</b>          | All elements must function as intended during periods of intended use, with a low probability of failure.   |
| <b>Financial:</b>         | Refurbishments, equipment replacements and maintenance planning should be in a strategic framework and decisions taken on a cycle basis so as to maximise the long term economic performance of the Car Parking Facilities. |

### **Program implications:**

A high proportion of maintenance should be undertaken on a regular basis, in order to reduce failures and maintain an adequate level of functionality and appearance.

Inspections and maintenance tasks should be planned so as to minimise disruption to the use of the Car Parking Facilities. Some limited interruptions to service may be tolerated.

A call out capability must be available when the Car Parking Facilities are in use in order to respond to failures reported by patrons of the Car Parking Facilities. Unusual items should be kept in inventory, but some delays and certain substitutions may be acceptable. Inspections should be carried out regularly and defects rectified as soon as possible.

Materials and components used in carrying out repairs or replacements shall be:

1. genuine replacement parts; or
2. where such parts are not available, of an equivalent or greater quality than the original which it replaces.

## Schedule 2

### Hours of Operation

| <b>Car Park</b>         | <b>Weekdays (other than for Major Events)</b> | <b>Weekends &amp; Public Holidays (other than for Major Events)</b> | <b>Major Event that will result in car parking in the relevant Car Park</b>  |
|-------------------------|---|---|--|
| P1 Car Park             | 0800 to 1800 hours                            | 0900 to 1900 hours  | 3 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is the earlier) |
| P2 Car Park             | 0500 to 2200 hours                            | 0500 to 2200 hours  | 1.5 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)   |
| P3 Car Park             | 0600 to 1830 hours                            | 0900 to 1700 hours  | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P3A Car Park            | Not Applicable                                | Not Applicable  | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P4 Car Park             | Not Applicable                                | Not Applicable  | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P5 Car Park             | Not Applicable                                | Not Applicable  | 3 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P6 series car parks     | Not Applicable                                | Not Applicable  | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P6 Underground Car Park | 0600 to 1830 hours                            | Not Applicable  | 2 hours prior to first venue gate opening for the Major Event or 0500 hours (whichever is the later) and 2 hours after venue gate closing or 0100 hours (whichever is earlier)     |
| P7 Car Park             | Not Applicable                                | Not Applicable  | 2 hours prior to and 2 hours after the Major Event   |

## Schedule 3 Tariffs

1. As at the Commencement Date, the tariffs to be paid by causal patrons of the Car Parking Facilities are as below (which amounts are inclusive of GST):
  - Casual Parking Monday to Sunday including Public Holidays (all car parks- RAS, P1, P2, P3, P4, P5 and P6)  
**AT ALL TIMES**

| Time Period              | Rate |
|--------------------------|------|
| 0-1 hour                 | \$ 3 |
| 1-2 hours                | \$ 6 |
| 2-3 hours                | \$ 9 |
| 3-4 hours                | \$12 |
| 4-5 hours                | \$15 |
| Maximum fee (ie: 24 hrs) | \$15 |

- Accessible parking Monday to Sunday including Public Holidays (only available when car parks are staffed and at a staffed pay station):

50% discount on casual parking rate in parking stations. There is no charge in “Pay and Display” parking areas.

- Permanent Parking (RAS, P1, P2, P3, P4, P5 and P6 only)

\$110 per calendar month in RAS, P1, P2 and P3 and \$95 per calendar month in P4, P5 and P6, payable in advance, with limited access of 6 am to 8 pm Monday to Friday. Limited permanent parking may be offered on a 24 hour, 7 day per week basis, using the above rates as the basis for the 7 day rate (ie: \$154 or \$133 per month, depending on which car park).

- Pre-booked Parking fees  
Pre-booked parking charges for all events will be as follows:

General parking \$10 plus booking fees

Accessible parking \$ 5 plus booking fees

- Multiple entry ticket price \$12.50 per day
- Venue employees and contractor staff, the Authority tenant employees and contractor staff may park at a concession rate in any of the car parks that are not totally occupied by paying patrons.
- A system of car parking discount vouchers may be used in association with events at Sydney Olympic Park, in order to encourage patrons to return to the site and take advantage of discounted parking on their next visit.
- The fees to be charged for use of car parks when that use is non car park related may be determined on the basis of commercial criteria and must be approved by the Executive Manager, Commercial Services.

## **Schedule 4**

### **Operating Costs**

#### **PART A Payable By The Contractor And Not Reimbursed By SOPA**

1. Contract administration and management costs incurred by Contractor associated with the management of the Car Parks and this Agreement;
2. Employee entitlements accrued up to the Commencement Date;
3. All costs associated with the training and motivation of the Contractor's staff working in the Car Parks, excluding costs for training to be supplied by SOPA in accordance with clause 5(e);
4. All costs associated with the implementation, monitoring and reporting of any quality assurance programs implemented by the Contractor or compliance with the relevant ISO 9001 accreditation;
5. Audit expenses and customer survey costs;
6. Industrial relations costs;
7. Costs associated with the provision, maintenance and replacement of the Contractor's property;
8. Insurance of the Contractor's property and all other insurance required to be maintained by the Contractor in accordance with the terms of this Agreement (other than employer's liability and workers' compensation insurance);
9. The Contractor's equipment depreciation and amortisation expenses;
10. The Contractor's legal costs and any stamp duty payable by the Contractor in accordance with this Agreement;
11. Travel and entertainment;
12. Motor vehicle and mobile phone purchase expenses;
13. Any losses due to theft, fraud or financial discrepancies, relating to revenue obtained from the operation of the Car Parks where this occurs (in the opinion of SOPA acting reasonably) as a result of any omission or neglect by the Contractor or any employee, contractor or subcontractor of the Contractor;
14. Maintenance costs of the Car Parking Facilities including signage which is incurred (in the opinion of SOPA acting reasonably) as a result of any wilful or negligent act or omission or default by the Contractor, or any employee, contractor or subcontractor of the Contractor;
15. Business Plan development costs; and
16. Such other costs as expressly referred to in any provision under this Agreement.

**Part B Payable By The Contractor And Reimbursed By SOPA**

1. Wages and allowances for all on site management and operations staff;
2. All employment on-costs incurred in connection with the employment of on site management and operations staff including payroll tax, superannuation, employer's liability and workers' compensation insurance and rehabilitation costs, annual leave payments (when paid), annual leave loading (when paid), long service leave payments (including provisioning for appropriate pro-rata long service leave allowances) and sick leave payments (when paid);
3. Staff uniform costs;
4. Cash security services;
5. Petrol costs;
6. Other operating supplies;
7. Office supplies;
8. Ticket and access card stock;
9. Printed signs;
10. Telephone calls (local and mobile only) and facsimile charges;
11. Repairs and maintenance costs;
12. Water, sewerage, electricity and other utilities;
13. Equipment and signage replacement costs;
14. Waste management and cleaning costs; and
15. Costs of implementing Public Information Plans and Marketing Plans.

## **Schedule 5**

### **Weekly and Monthly Reporting Obligations**

#### **Part A: Weekly**

1. Vehicle movements recorded by the Access Control and Fee Processing Equipment;
2. Summary of the information provided in the daily reports required to be provided in accordance with clause 6.2(a);
3. Summary of the information provided in relation to Major Events in accordance with clause 6.2(b); and
4. Summary of maintenance carried out, specifying the information required to be recorded in the Maintenance and Repair Register;
5. Number of casual tickets issued;
6. Number of new Car Parking Access Cards issued and details of to whom they were issued;
7. Number of casual tickets tendered for payment and dollar amounts received;
8. Number of Car Parking Access Cards on issue, the dollar amounts invoiced and received in relation to such Car Parking Access Cards and any breaches of the conditions of use of such Car Parking Access Cards;
9. Number of pre booked parking tickets collected and the dollar value invoiced and received in relation to such tickets;
10. Number of pre booked parking tickets issued and dollar value invoiced and received including details of to whom tickets were issued and for which period;
11. Number of Car Parking Access Tickets or other tickets tendered by general authorised non paying vehicles and dollar value;
12. Number of validated tickets tendered by Core Patrons and Accredited Athletes competing in an event or competition held at the Sydney Aquatic Centre or the Sydney Athletic Centre and dollar value;
13. Number of lost tickets and unreadable tickets and dollar value;
14. Number of any other tickets, not otherwise falling within a category specified in this Part A of Schedule 5 and description as well as dollar amounts;
15. A breakdown of vehicle and gross revenue by time split, that is, each hour for the first five hours and each subsequent 24 hour period;
16. Occupancy rates by each time period;
17. Peak demand per day;
18. A summary report of pre booked parking for the next two weeks of operation;
19. Reconciliation with payments received or receivable;
20. Length of stay statistics;
21. Average fee paid per vehicle per day;

22. Number of tickets processed and dollar value by "Pay and Display" machines;
23. Venue crowd comparison to Car Park statistics each day, based on crowd statistics provided by SOPA; and
24. Other statistics as required by SOPA from time to time.

**Part B: Monthly**

1. Budget forecasts for the following month (and indications of discrepancies with the Financial Plan in the then current Business Plan);
2. A detailed break down of operating costs to be reimbursed by SOPA in accordance with clause 7.4(b) (together with documentary evidence that such amounts were incurred);
3. A comparison of actual costs incurred which are to be reimbursed by SOPA in accordance with clause 7.4(b) to budgeted costs as specified in the then current Business Plan together with an explanation of variances;
4. Copies of all authorisations for expenditure items over \$2,000 in relation to capital expenditure or maintenance;
5. Summary of the information provided in the weekly reports required to be provided in accordance with clause 6.2(c);
6. Report on staffing issues including training undertaken by any employee, leave taken and any industrial or occupational health, safety and rehabilitation issues;
7. Details of quality assurance program work and results;
8. Details of all customer service programs undertaken;
9. Details of any Public Information Plan and Marketing Plan initiatives; and
10. An executive summary of the above items.



## **Schedule 6**

### **Maintenance**

1. Ticketing and coin/note equipment;
2. Boom gates;
3. Ticket dispensers;
4. Ticket printers, reader throats and reader heads;
5. Line marking of all Car Parking Spaces and all paint work;
6. All access doors;
7. All glazing; and
8. Signage,

in each case, forming part of the Car Parking Facilities.

## **Schedule 7**

### **Cash Control and Revenue Handling**

#### **Part A**

The Contractor must account for all revenue received from the operation of the Car Parking Facilities on the following basis:

1. daily Monday to Friday - any cheque payments and invoice requisitions;
2. weekly, or as required, - all cash takings from the Car Parks;
3. daily Monday to Sunday including public holidays - all credit and charge card (batched once daily) transactions will be processed by the Contractor to the Car Parking Operating Account;
4. if on any day including a public holiday, cash receipts collected for that day exceed \$50,000 in aggregate, those receipts must be deposited on that day; and
5. at the time of delivery of pre-booked parking tickets to the operator of the relevant Venue or other third party advise SOPA of the amounts to be invoiced.

#### **Part B**

The services referred to in clause 8.2(a) comprise the following:

In relation to all revenue collected from all Car Parks (other than the at grade, P6 series car parks, the P3A Car Park and other on-street Pay & Display parking areas):

1. provision of a two key (one key held by the subcontractor and one key held by the On Site Manager or shift supervisor) drop safe in each of the Car Park offices where cash takings are processed;
2. insurance of cash takings once deposited in drop safes;
3. collection of cash takings;
4. payment by a cheque made payable to SOPA, to be provided to the Contractor on each occasion of cash collection from the Car Parks;
5. provision of change as required by the Contractor to service the needs of the Contractor's cashier staff and the "Pay on Foot" automatic fee processing machines.

In relation to all revenue collected from the at grade, P6 series car parks, the P3A Car Park and other on-street Pay & Display parking areas:

1. obtain print out of cash takings from each "Pay and Display" machine;
2. collection of cash from each "Pay and Display" machine;
3. payment by a cheque made payable to SOPA, handed to the Contractor on each occasion of cash collection from "Pay and Display" machines; and
4. provision of change as required by the Contractor to service the needs of the "Pay and Display" machines.

## **Schedule 8 Equipment**

### **PART A - ACCESS CONTROL AND FEE PROCESSING EQUIPMENT**

#### **P1 Car Park**

|                      |              |
|----------------------|--------------|
| <b>Total Spaces:</b> | 3,323        |
| <b>Structure:</b>    | Multi storey |
| <b>Entry Points:</b> | 13 lanes     |
| <b>Exit Points:</b>  | 13 lanes     |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|   |             |
|---|-------------|
| <b>Equipment List:</b>                                    | <b>Qty:</b> |
| Automatic pay stations                                    | 8           |
| Cashier stations  | 10          |
| Entry lane boom gate and ticket dispenser / reader        | 13          |
| Exit lane boom gate and ticket reader                     | 13          |
| Site Management Computers                                 | 7           |
| Ticket validation machines (Telstra Stadium & Acer Arena) | 2           |

#### **P2 Car Park**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 570      |
| <b>Structure:</b>    | At Grade |
| <b>Entry Points:</b> | 3 lanes  |
| <b>Exit Points:</b>  | 2 lanes  |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|  |             |
|--|-------------|
| <b>Equipment List:</b>                             | <b>Qty:</b> |
| Automatic pay stations                             | 2           |
| Cashier stations                                   | 2           |
| Entry lane boom gate and ticket dispenser / reader | 3           |
| Exit lane boom gate and ticket reader              | 2           |
| Local System Controller                            | 1           |

|   |   |
|---|---|
| Ticket validation machines (Aquatic & Athletic Centres) | 4 |
|---|---|

### **P3 Car Park**

|                      |              |
|----------------------|--------------|
| <b>Total Spaces:</b> | 1,431        |
| <b>Structure:</b>    | Multi storey |
| <b>Entry Points:</b> | 7 lanes      |
| <b>Exit Points:</b>  | 5 lanes      |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|  |             |
|--|-------------|
| <b>Equipment List:</b>                             | <b>Qty:</b> |
| Automatic pay stations                             | 4           |
| Cashier stations                                   | 4           |
| Entry lane boom gate and ticket dispenser / reader | 7           |
| Exit lane boom gate and ticket reader              | 5           |
| Local System Controller                            | 1           |

### **P3A Car Park**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 122      |
| <b>Structure:</b>    | At Grade |

|                                |                    |
|--------------------------------|--------------------|
| <b>Equipment Manufacturer:</b> | Schlumberger & CHS |
| <b>Equipment Supplier:</b>     | TTM Equipment      |

|                                     |             |
|-------------------------------------|-------------|
| <b>Equipment List:</b>              | <b>Qty:</b> |
| Schlumberger Pay and Display Meters | 2           |
| CHS Change Machine                  | 1           |

### **P4 Car Park**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 980      |
| <b>Structure:</b>    | At Grade |
| <b>Entry Points:</b> | 3 lanes  |
| <b>Exit Points:</b>  | 4 lanes  |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|  |             |
|--|-------------|
| <b>Equipment List:</b>                             | <b>Qty:</b> |
| Automatic pay stations                             | 4           |
| Cashier stations                                   | 2           |
| Entry lane boom gate and ticket dispenser / reader | 3           |
| Exit lane boom gate and ticket reader              | 4           |
| Local System Controller                            | 1           |

#### **P5 Car Park**

|                      |                            |
|----------------------|----------------------------|
| <b>Total Spaces:</b> | 2,515                      |
| <b>Structure:</b>    | At Grade – 3 sections      |
| <b>Entry Points:</b> | 6 lanes                    |
| <b>Exit Points:</b>  | 6 lanes                    |
|                      | 2 tidal entry / exit lanes |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|  |             |
|--|-------------|
| <b>Equipment List:</b>   | <b>Qty:</b> |
| Automatic pay stations   | 4           |
| Cashier stations   | 5           |
| Entry lane boom gate and ticket dispenser / reader                             | 6           |
| Exit lane boom gate and ticket reader  | 6           |
| Tidal entry / exit lane boom gate, ticket dispenser / reader and ticket reader | 2           |
| Local System Controller  | 1           |

#### **P6 Car Park**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 1140     |
| <b>Structure:</b>    | At Grade |

|                                |                      |
|--------------------------------|----------------------|
| <b>Equipment Manufacturer:</b> | Schlumberger & Misco |
| <b>Equipment Supplier:</b>     | TTM Equipment        |

|                                     |             |
|-------------------------------------|-------------|
| Equipment List:                     | <b>Qty:</b> |
| Schlumberger Pay and Display Meters | 16          |
| Misco Pay and Display Meters        | 2           |
| Change Machines                     | 3           |

#### **P7 Car Park**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 256      |
| <b>Structure:</b>    | At Grade |
| <b>Entry Points:</b> | 1 lane   |
| <b>Exit Points:</b>  | 1 lane   |

|                                |               |
|--------------------------------|---------------|
| <b>Equipment Manufacturer:</b> | Federal APD   |
| <b>Equipment Supplier:</b>     | TTM Equipment |

|  |             |
|--|-------------|
| <b>Equipment List:</b>                             | <b>Qty:</b> |
| Entry lane boom gate and ticket dispenser / reader | 1           |
| Exit lane boom gate and ticket reader              | 1           |
| Local System Controller                            | 0           |
| Ticket validation machines (State Sports Centre)   | 1           |

#### **On-Street Parking**

|                      |           |
|----------------------|-----------|
| <b>Total Spaces:</b> | 162       |
| <b>Structure:</b>    | On-street |

|                         |               |
|-------------------------|---------------|
| Equipment Manufacturer: | Schlumberger  |
| Equipment Supplier:     | TTM Equipment |

|                                     |             |
|-------------------------------------|-------------|
| <b>Equipment List:</b>              | <b>Qty:</b> |
| Schlumberger Pay and Display Meters | 8           |
| CHS Change Machine                  | 1           |

#### **Coach & Bus Parking**

|                      |          |
|----------------------|----------|
| <b>Total Spaces:</b> | 160      |
| <b>Structure:</b>    | At Grade |

## **PART B - OFFICE AND OTHER EQUIPMENT**

### **SOPA SUPPLIED EQUIPMENT**

| <b>ITEM</b>        | <b>P1</b> | <b>P2</b> | <b>P3</b> | <b>P4</b> | <b>P5</b> | <b>TOTAL</b> |
|--------------------|-----------|-----------|-----------|-----------|-----------|--------------|
| Chair              | 15        | 2         | 4         | 2         | 5         | 28           |
| Coin counter       | 1         |           |           |           |           | 1            |
| Desk & chair       | 7         |           |           |           |           | 7            |
| Draw file          | 4         |           |           |           |           | 4            |
| Draw file          | 2         |           |           |           |           | 2            |
| Fridge large       | 1         |           |           |           |           | 1            |
| Fridge small       |           | 1         | 1         | 1         | 1         | 4            |
| Radios             | 32        |           |           |           |           | 32           |
| Table & Chairs     | 3         | 1         | 1         |           |           | 5            |
| Telephone          | 7         |           |           |           |           | 7            |
| Two metre cupboard | 4         |           | 1         |           |           | 5            |

In addition, the following will be provided:-

- Office accommodation in the P1 Car Park and the P3 Car Park;
- Cashier stations in the P1 Car Park, the P2 Car Park, the P3 Car Park, the P4 Car Park, the P5 Car Park and the P6B (underground) Car Park;
- Staff amenities facilities in the P1 Car Park, the P2 Car Park, the P3 Car Park, the P4 Car Park, the P5 Car Park and the P6B (underground) Car Park; and
- Storage areas in the P1 Car Park and the P3 Car Park.

The following additional equipment will also be provided by SOPA:

| <b>EQUIPMENT</b> | <b>P1</b> | <b>P2</b> | <b>P3</b> | <b>P4</b> | <b>P5</b> | <b>TOTAL</b> |
|------------------|-----------|-----------|-----------|-----------|-----------|--------------|
| Desktop PC       | 6         |           |           |           |           | 6            |
| Printer          | 1         |           |           |           |           | 1            |
| Fax              | 1         |           |           |           |           | 1            |
| CCTV             | 2         | 1         | 1         | 1         | 1         | 6            |
| Telephones       | 5         |           |           |           |           | 5            |
| Photocopier      | 1         |           |           |           |           | 1            |
| Laminator        | 1         |           |           |           |           | 1            |
| Television       | 1         |           |           |           |           | 1            |
| Microwave        | 1         |           |           |           |           | 1            |

## **Schedule 9**

### **Incentive Payments**

1. The Incentive Fee to be paid for each Operating Year will, in accordance with this Schedule 9, be based on the Contractor's Incentive Fee Rate of the Net Operating Profit and the application of Key Performance Indicators relating to budget performance (BKPI), client satisfaction (CKPI) and patron satisfaction (PKPI).

2. **Budget Key Performance Indicator (BKPI)**

The BKPI is measured as a comparison, for each Operating Year, of the actual Net Operating Profit for the relevant period against the budgeted Net Operating Profit for the relevant period.

The BKPI will contribute 50% of the assessment of the Incentive Fee for each Operating Year.

If, for any relevant period:

- (a) the Net Operating Profit is equal to or greater than 100% of the budgeted Net Operating Profit, there will be no deduction of the Contractor's Incentive Fee Rate;
- (b) the Net Operating Profit is less than 100% but equal to or greater than 95% of the budgeted Net Operating Profit, there will be a deduction of 10% of the Contractor's Incentive Fee Rate;
- (c) the Net Operating Profit is less than 95% but equal to or greater than 90% of the budgeted Net Operating Profit, there will be a deduction of 20% of the Contractor's Incentive Fee Rate; and
- (d) the Net Operating Profit is less than 90% of the budgeted Net Operating Profit, there will be a deduction of 50% of the Contractor's Incentive Fee Rate.

The budgeted Net Operating Profit for any Operating Year will be the Net Operating Profit determined by SOPA in consultation with the Contractor after receipt by SOPA of the Business Plan for the relevant Operating Year.

3. **Client Satisfaction Key Performance Indicator (CKPI)**

The CKPI will contribute 30% of the assessment of the Incentive Fee for each Operating Year.

The CKPI will be measured by assessing the level of satisfaction reported by SOPA in regard to the performance of the Contractor during the relevant Operating Year.

There will be no deduction in the Contractor's Incentive Fee Rate for the relevant Operating Year if SOPA is completely satisfied with the performance of the Contractor during such period. If SOPA is not satisfied with the performance by the Contractor during any such period the percentage of deduction will be determined by SOPA in its absolute discretion.

4. **Patron Satisfaction Key Performance Indicator (PKPI)**

The PKPI will contribute 20% of the assessment of the Incentive Fee for each Operating Year.

There will be no deduction in the Contractor's Incentive Fee Rate for the relevant Operating Year if the rate of overall satisfaction with the level of service provided at the Car Parks (as determined by customer satisfaction surveys carried out in accordance with clause 4.19 during the relevant period) is 90% or more.

There will be a 10% deduction of the Contractor's Incentive Fee Rate for the relevant Operating Year if the rate of overall satisfaction with the level of service provided at the Car



Parks (as determined by customer satisfaction surveys carried out in accordance with clause 4.19 during the relevant period) is less than 90% but more than 85%.

There will be a 20% deduction of the Contractor's Incentive Fee Rate for the relevant period if the rate of overall satisfaction with the level of service provided at the Car Parks (as determined by customer satisfaction surveys carried out in accordance with clause 4.19 during the relevant period) is equal to or less than 85%.

**Example:**

Assume the Contractor's Incentive Fee Rate is 2% of Net Operating Profit.

Key Performance Indicators:

BKPI. Actual Net Operating Profit is 3% below budgeted figure, therefore there would be a deduction of 10% of 2% i.e. 0.2%.

CKPI. Judged moderate performance. Deduction 15% of 2% i.e. 0.25%

PKPI. Overall satisfaction 87 %. Deduction 10% of 2% i.e. 0.2%

Total deduction = (BKPI – 0.2% + CKPI – 0.25% + PKPI – 0.2%) = 0.65%

Incentive Fee payable for the relevant Operating Year = Contractor's Incentive Fee Rate 2% – deduction 0.65% = 1.35% of Net Operating Profit for the relevant Operating Year

**Executed** as an agreement.

**Signed for and on behalf of the Sydney Olympic Park Authority** by its duly authorised officer in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

**Excuted by XXXXXXXXXXXXXXXXXXXXXXX**  
by or in the presence of:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Secretary/other Director

\_\_\_\_\_  
Name of Director in full

\_\_\_\_\_  
Name of Secretary/other Director in full

## Schedule 10

### List of Approved Sub-Contractors

| Item | A. List of approved sub-contractors (Clause ) |
|------|---|
|------|---|

## **Schedule 11**

### **Approved Sub-Contractors Information**

#### A. Approved Sub-Contractor Information

## Schedule 12

### Statutory Declaration by Sub-Contractor

*Oaths Act 1900* (NSW), Ninth Schedule

I

(1) \_\_\_\_\_

do solemnly and sincerely declare that to the best of my knowledge and belief:

1. .... *[Insert full sub-contractor company name and its ACN]* ("the sub-contractor") has been selected as a sub-contractor to .... *[Insert name of the Contractor]* ("the Contractor") for the performance of a contract with .... *[Insert name of the Principal]* ("Principal") for the supply of certain Deliverables ("the Agreement").
2. The sub-contractor is aware of the relevant contractual terms and conditions of the Agreement and will be entering into a sub-contract with the Contractor in the near future on terms that will not be inconsistent with the Agreement for .... *[Insert short description of the sub-contract]* ("the Sub-Contract").
3. There are no reasons of which I am aware that would prevent the Sub-Contract from being signed and performed in a manner that would allow the satisfactory and timely performance of the Agreement and the Sub-Contract.

**And I make this solemn declaration, as to the matter aforesaid according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.**

(2) \_\_\_\_\_

Declared at \_\_\_\_\_

the \_\_\_\_\_ day of \_\_\_\_\_ 2001 \_\_\_\_\_

Before me, (3) \_\_\_\_\_

(4) \_\_\_\_\_

- (1) Here insert name, address and occupation of person making the declaration and his or her position in the sub-contractor company.
- (2) Signature of person making declaration
- (3) Signature of person before whom the declaration is made \*
- (4) Here insert title of person before whom the declaration is made.

---

\* the jurisdiction within which this declaration is made will depend on who may witness the declaration.

- Exhibit 1: Plans of Sydney Olympic Park (showing location of all Car Parks)**
- Exhibit 2: SOPA's Car Parking Policy**