

AGREEMENT FOR IDENTILITE SIGNAGE

Objective Reference: A2369901
Reports and Attachments (Archives)

Attachment: [Agreement for IdentiLite signage](#)

Authorising Officer: Peter Best
General Manager Infrastructure & Operations

Responsible Officer: Bradley Salton
Acting Group Manager City Infrastructure

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PURPOSE

To seek resolution from Council to enter into a licensing agreement between the preferred supplier and Redland City Council (RCC) to allow that supplier to continue operating under an exclusive licence for a period of 10 years; without first inviting written quotes or tenders pursuant to section 235(b) of the *Local Government Regulation 2012*.

The relevant exception in *Local Government Regulation 2012* is where Council resolves:

A local government may enter into a medium-sized contractual arrangement or large-sized contractual arrangement without first inviting written quotes or tenders if-

- (b) the local government resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the local government to invite quotes or tenders.*

The City Infrastructure Group has determined that, in this instance, there is only one supplier that is reasonably available to undertake the specialised installation and maintenance of IdentiLite street signage within Redland City and therefore be the preferred supplier for Council.

BACKGROUND

IdentiLites are internally illuminated advertising displays that direct traffic and customers to businesses throughout the city.

Council has an expired exclusive license with [REDACTED] to supply and maintain illuminated street signage on roadways within the Council region. There are a total of 33 illuminated signs within Redland City for which Council currently receives [REDACTED]. The new licence will provide a minimum of [REDACTED] (for state road locations) and [REDACTED] for council road locations.

This exclusive license requires [REDACTED] to be responsible for all associated maintenance and electricity charges, as well as initial installation costs.

Due to the specialised nature of this signage, we have previously deemed it impractical to invite tenders.

We have determined through a benchmarking analysis undertaken in 2015 for a comparison of licence fees with other councils listed below that there are other local governments that currently have contracts with [REDACTED] for IdentiLite signage. [REDACTED]

[REDACTED] The list below shows other local government councils that chose to renew their agreements at around this time with [REDACTED]

- Moreton Bay Regional Council (QLD);
- Burdekin Shire Council (QLD);
- Strathfield Council (NSW);
- City of Cockburn (WA);
- City of Mandurah (WA).

ISSUES

This agreement is necessary due to the specialised nature of illuminated street signage.

The calling of tenders is not seen as an effective way forward in this case due to:

- there are likely to be long delays in removal/maintenance of infrastructure, should [REDACTED] not be successful;
- should the current licensee not be successful, negotiation of new contracts could result in sites not being taken up within a short timeframe as a new licensee would need to negotiate new timeframes;
- loss of revenue during an interim period;
- loss of exposure for existing businesses; and
- loss of key directional and street signage in Redland City.

STRATEGIC IMPLICATIONS

Legislative Requirements

The legislative exceptions in *Local Government Regulation 2012* for this type of arrangement have been outlined above.

Risk Management

No risks have been identified.

Financial

Income for the first year of the contract will be [REDACTED] and CPI applied each year thereafter.

People

There will be no impact with respect to staff workloads. Customers wishing to advertise with [REDACTED] are advised to contact the supplier directly.

Environmental

Not applicable.

Social

Not applicable.

Alignment with Council's Policy and Plans

This report is consistent with Council's procurement policy and legislative requirements. Additionally, the proposed contract aligns with Council's Corporate Plan 2015-2020 which states that Council supports infrastructure that encourages business and tourism growth.

CONSULTATION

- Senior Solicitor, Legal Services Unit;
- Funding Coordinator, Business Partnering Unit; and
- Senior Procurement Officer, Contracts/Procurement Unit.

OPTIONS

1. That Council resolves:
 1. That, in accordance with section 235(b) of *the Local Government Regulation 2012*, because of the specialised nature of the services, it would be impractical or disadvantageous to invite quotes or tenders; and
 2. To delegate authority to the General Manager Infrastructure & Operations to make, vary and discharge an agreement between Redland City Council and Claude Outdoor Pty Ltd for the installation and maintenance of IdentiLite illuminated street signage on roadways within Redland City for a period of up to 10 years.
2. That Council resolve not to delegate authority to the General Manager Infrastructure & Operations and not execute the licence agreement for IdentiLite to operate within Redland City.

OFFICER'S RECOMMENDATION

That Council resolves as follows:

1. **That, in accordance with section 235(b) of *the Local Government Regulation 2012*, the agreement be signed with the preferred supplier;**
2. **To delegate authority to the General Manager Infrastructure & Operations, under s.257(b) of the *Local Government Act 2009* to negotiate, make, vary and discharge an agreement between Redland City Council and the preferred supplier for the installation and maintenance of IdentiLite illuminated street signage on roadways within Redland City for a period of up to 10 years; and**
3. **That this report and attachment remain confidential until the agreement has been signed by all parties.**

Redland City Council

And

**Claude
Outdoor™**

LICENCE AGREEMENT

ILLUMINATED DIRECTIONAL STREET SIGNS

AGREEMENT made this **day of**, **2016**

BETWEEN: **REDLAND CITY COUNCIL** (ABN 86 058 929 428) (the “Council”), Cnr Bloomfield and Middle Sts, Cleveland, Queensland, 4163 (“Council”); and

CLAUDE OUTDOOR PTY LTD (ABN 14 000 919 540) having its office at Level 5, 657 Pacific Highway, St Leonards, New South Wales, 2065 (the “Company”).

BACKGROUND:

- (A)** The Company is the leading national provider of Illuminated Directional Street Signs (“IdentiLites”).
- (B)** The Company has been granted an exclusive licence by the Council to erect IdentiLites on roadways within the Council Region.
- (C)** The parties agree that the terms of the licence will be those contained within this Agreement.

OPERATIVE PART:

Now it is hereby agreed as follows:

1. Definitions

In this Agreement capitalised terms have the following meanings:

- 1.1. “*Company*” means Claude Outdoor Pty Ltd (ABN 14 000 919 540) its successors and permitted assigns
- 1.2. “*Council*” means Redland City Council (ABN 86 058 929 428) and its successors.
- 1.3. “*Council Region*” means the Council’s Local Government Area as that term is defined by the relevant Departments of Local Government or their equivalent in each applicable Australian state or territory.
- 1.4. “*CPI*” means the All Groups consumer price index published by the Australian Bureau of Statistics for Queensland.
- 1.5. “*IdentiLite*” means an Illuminated Directional Street Sign.
- 1.6. “*Illuminated Directional Street Signs*” means structures erected by the Company on roadways under the control of the Council in accordance with the specifications set out in Annexure A (as amended from time to time) to this Agreement and Council’s approval under clause 7.
- 1.7. “*Term*” means the period described in clause 5 of the Agreement (and any extension thereto).

2. Interpretation

Unless the context otherwise requires -

- 2.1. Headings contained in this Agreement are for ease of reference only and will not affect, in any way, the interpretation or construction of this Agreement.
- 2.2. Words importing the singular number will include the plural number and vice versa.
- 2.3. Words importing any gender will include all other genders.
- 2.4. The conjunctive will include the disjunctive and vice versa.
- 2.5. Words importing the whole of a matter or thing include a part of the matter or thing.
- 2.6. Derivatives of any word defined in this Agreement will have a corresponding meaning.
- 2.7. A reference to Statute will include a reference to a citation of all enactments amending or consolidating the Statute and to any enactment substituted for the Statute.
- 2.8. A reference to clause, annexure or schedule is a reference to clause, annexure or schedule in this Agreement.
- 2.9. A reference to a matter or thing in this Agreement includes a reference to each one or more matter or thing or part of the matter or thing.

3. Permission to Erect IdentiLites

- 3.1. The Council will not grant, during the Term and any extension thereof, a permit or licence to any other person or company for the right to erect signs deceptively similar to the IdentiLites in the Council Region.
- 3.2. Unless otherwise agreed, in the circumstances where the parties (or any related party of the parties) has had a previous agreement or arrangement relating to the Company being provided with a licence to install and display IdentiLites by the Council, all IdentiLites or signs of a similar nature erected in accordance with the previous agreement or arrangement are deemed to be erected in accordance with this Agreement.

4. Ownership of IdentiLites

- 4.1. The IdentiLites will, at all times, be and remain the property of the Company.
- 4.2. On the earlier of termination and expiration of this Agreement, the Company will be entitled to remove the IdentiLites subject to the provisions of clause 10.
- 4.3. The Council acknowledges that the design of the IdentiLites is valuable intellectual property owned by the Company. The Council will not do anything or omit to do anything which will prejudice the Company's ownership of this intellectual property and will promptly advise the Company if it becomes aware that any third party may infringe the Company's right to it.

5. Commencement and Term

- 5.1. This Agreement will commence on the date of last execution by both parties and will continue for a period of ten (10) years on the terms and conditions contained in this Agreement unless sooner determined in accordance with this Agreement.
- 5.2. Provided that the Company is not in breach of the Agreement on the date of expiration of the Term, the Council may grant to the Company an extension of this Agreement for a further five (5) on the same terms as this Agreement. This extended term will commence from the day after the Company receives written notice from Council confirming the extension of this Agreement.

6. Fee

6.1. Licence Fee

- 6.1.1. The Company will pay to Council an annual licence fee in arrears as calculated in accordance with clause 6.1.2.
- 6.1.2. First Year Licence Fee and CPI:
 - a) The licence fee for the first year of the licence will be per the schedule of fees in Annexure B for each IdentiLite that is installed by the Company in the Council Region over the first year. The fee will be calculated on a pro-rata basis from the date of the installation of the relevant IdentiLite. The fee will be calculated and paid on the expiration of the first year of the Term.
 - b) The licence fee for the second year and for each of the other years of the Term (and any extended term) shall increase each year by CPI and then be calculated based on the total number of IdentiLites installed as at the expiration of the then current year of the Term (with the licence fee pro-rated if IdentiLites are not installed for the full year of the Term).
 - c) If the CPI is discontinued or modified or the publication of the CPI ceases, then the licence fee for any subsequent year of the term will be an amount as agreed between the parties from time to time and, if such amount cannot be mutually agreed upon by the parties, the question will be referred to the President, for the time being, of the State Division of the Australian Institute of Valuers and Land Economists of the State in which the IdentiLites are to be located, who will act as an expert and not an arbitrator.
- 6.1.3. The Council must provide a tax invoice in compliance with the law at the same time as the Company is required to make payments under this clause.

7. Company Obligations

7.1. Erection of Signs

- 7.1.1. The Company will, before erecting any IdentiLite in the Council Region, submit to the Council for its prior written consent a proposal which will include:
 - a) a plan showing the exact location of such IdentiLite; and
 - b) such other information as the Council may reasonably require.

7.1.2. Council agrees that it is integral to the Company's business model that it receives approvals for the installation of IdentiLites from Council. As such, Council agrees that it will act reasonably and expeditiously in relation to the approvals of all IdentiLites on behalf of the Company and in any event provide a response to the Company in relation to each approval no later than ten (10) days from the date that such request for approval is lodged. For the avoidance of doubt this clause 7.1.2 will not apply to approvals sought from Council pursuant to any relevant legislation or other law.

7.1.3. On the Council considering the proposal submitted pursuant to clause 7.1.1 Council may:

- a) consent to the proposal;
- b) refuse to consent to the proposal acting reasonably; or
- c) consent to the proposal subject to such reasonable conditions as the Company and Council may from time to time agree.

7.1.4. Should the Council refuse consent pursuant to clause 7.1.3(b) then the Council will only do so reasonably and will provide its written grounds of refusal to the Company with the decision.

7.2. Obtain Consents and Approvals

7.2.1. The Company, before erecting any IdentiLites, will obtain at its cost and expense, any necessary consents or approval required under any relevant legislation or Council bylaw.

7.3. Standards

7.3.1. The Company will erect the IdentiLites in accordance with the standards approved by any relevant electricity authority and in accordance with the relevant Australian Standard Codes on engineering and mechanical practice.

7.4. Inspect and Maintain Signs

7.4.1. The Company, at its own cost and expense, will regularly inspect the IdentiLites and undertake any repairs or maintenance necessary to ensure same are in good working order.

7.5. General Sign Repairs

7.5.1. The Company will make general repairs to the IdentiLites at its cost and expense, within ninety (90) days of receiving written notice to do so from the Council.

7.6. Emergency Sign Repairs

7.6.1. In the event that an IdentiLite is rendered unsafe in the reasonable opinion of the Council by reason of the negligent or intentional act of a third party or storm, tempest, or fire, then Council must notify the Company as soon as practicable after Council becomes aware of the damage to the IdentiLite.

7.6.2. Upon receipt of such notification, the Company will undertake any applicable emergency repairs to the affected IdentiLite as soon as practicable and in any event no later than five (5) business days from the date of notification.

- 7.6.3. In the event that the Company fails to make the IdentiLite safe, the Council may take such steps as it deems prudent to make the said IdentiLite safe.
- 7.6.4. The reasonable cost of such work may then be charged to the Company and will constitute a debt owed by the Company to the Council recoverable in any Court of competent jurisdiction.
- 7.6.5. The Council's action so exercised will not be construed as being in any way adverse to the rights of the Company provided always that such actions or repairs are limited to preserving the safety of the public users proximate to the IdentiLites and do not extend to general repairs and maintenance as provided above.

7.7. Pay Electricity Charges

7.7.1. The Company shall be responsible for:

- a) all costs and charges relating to the connection of electricity to the IdentiLite unit and for the maintenance of electrical installations in the IdentiLites; and
- b) all costs and charges levied by the electricity supply authority for consumption of electricity by the IdentiLite erected by the Company.

7.7.2. Unless otherwise agreed, the Company shall arrange for such costs and charges to be billed direct to the Company.

7.8. Indemnify Council

- 7.8.1. The Company shall indemnify and hold harmless the Council against all actions, claims, losses, damages and expenses brought or made against the Council for or on account of loss of life, injury or property damage caused by the employees, agents or contractors of the Company or to their property when they are upon land under the control of the Council.
- 7.8.2. The Company shall indemnify and hold harmless the Council against all actions, claims, losses and damages brought or made against the Council by any third party in respect of any loss of life, injury or property damage caused by the IdentiLites.
- 7.8.3. Notwithstanding any other provision of this Agreement, the indemnities above shall be reduced to the extent that the Council, its employees, agents or contractors and/or any other third party causes or contributes to the action, claim, loss and/or damage the subject of the indemnity.

7.9. Public Risk

- 7.9.1. The Company, before proceeding with the installation of any of the IdentiLites, will procure, at its own expense, a public liability insurance policy in an amount of twenty-five million dollars (\$25,000,000) to cover the activities contemplated by this Agreement and will maintain such policy in force throughout the period of this Agreement and pay all premiums thereon as and when the same will become due and will, if required by Council, produce receipts thereof to the Council within thirty (30) days after payment.

7.10. Company Will Comply With Statutes etc

- 7.10.1. The Company will, at its own cost and expense, comply with the provisions of all statutes, statutory regulations, Council by-laws for the time being in force so far as the same may concern or relate to the IdentiLites or for the purpose for which the same is used

8. Council Obligations

8.1. Disturbance to Road, Pavements, etc.

- 8.1.1. Subject to the Company obtaining any applicable statutory approvals, the Council permits the Company to disturb the pavement and roadway to the extent reasonably required to install the IdentiLites as provided in this Agreement provided that:
- a) before such installation will commence the Company on request from the Council will give forty-eight (48) hours written notice to the Council of such intent; and
 - b) it will forthwith at its own cost and expense clean up, repair and make good to the satisfaction of the Council any damage whatsoever to streets, footpaths, lands, locations or surrounds caused by such installation.

8.2. Not to Obscure Signs

- 8.2.1. The Council will not, during the period of this Agreement or any extension thereof, place, plant or erect any structure, unit (e.g a bin), vegetation or growth within three (3) metres of any IdentiLite and, further, will not grant a right of any nature to any third party to do so.
- 8.2.2. The Council will also ensure that any structure, vegetation or growth existing within three (3) metres of an IdentiLite on the date of its erection is not permitted to increase in size so as to obscure the visibility of the IdentiLite from persons using the public roadways in the vicinity of the IdentiLite.
- 8.2.3. Notwithstanding the above, Council permits the Company to keep any and all vegetation cut back where such vegetation may obscure the visibility of an IdentiLite from persons using the public roadways.

8.3. Council's Right to Require Removal of Advertising Copy

- 8.3.1. Council may at any time but always acting reasonably require the Company, at the Company's cost and expense, to remove any of the advertising on the IdentiLites which in Council's absolute discretion do not conform to standards of decency and morality or have been the subject of sustained and documented community objection.

8.4. Council to Enforce All Existing Advertising and Signage Policies

- 8.4.1. Council acknowledges and agrees that the Company is investing a significant amount of capital to provide businesses in the Council Region with safe, standardised advertising opportunities. As such Council agrees that it will diligently enforce all signage policies in the Council Region including those relating to the removal of illegal A-frame signage, banners, trailer signage, variable message signage and other un-approved signage.

8.5. Council Amalgamation

8.5.1. The Council warrants that this Agreement will not be affected by any council amalgamation or other type of reconstruction impacting the Council other than to the extent that such amalgamation may increase the size of the Council Area that the Company may install IdentiLites and therefore increase the revenue opportunity for Council.

9. Amendments to Specifications

9.1. Application for Amendment to Specifications

9.1.1. The Company may, from time to time submit to the Council for its prior written consent an application for amendment to Annexure "A" – ie the form and design of the IdentiLite. Such application will include:

- a) a plan showing the proposed amendments; and
- b) such other information as the Council may reasonably require.

9.1.2. The Company will not be required to submit an amendment request to the Council if the amendment proposed to the IdentiLite:

- a) is not material in design, form or effect;
- b) relates to the introduction of a new technology into the IdentiLite such as solar power, beacons or a digital display (where such display conforms to relevant guidelines put out by relevant roads and traffic authorities).

9.1.3. Amendments the subject of covered by clause 9.1.2 will be deemed to be automatically approved by the Council.

9.1.4. On the Council considering an application set out in clause 9.1 Council may: –

- a) consent to the proposal; or
- b) refuse to consent to the proposal if such proposal is, in the opinion of Council, contrary or inconsistent with any material listed in 9.1.2; or
- c) consent to the proposal subject to such reasonable conditions as the Company and Council may from time to time agree.

9.2. Council May Require Resiting of IdentiLites

9.2.1. The Council may at any time, by giving three (3) months' notice in writing to the Company, require the Company to resite any of the IdentiLites to a new site selected by the Company. The Council may only require this in the event that an IdentiLite is impacted due to a material safety issue or a road relocation.

9.2.2. The Company will bear the cost of resiting the first five (5) IdentiLites during the Term of this Agreement. After five (5) IdentiLites have been resited by the Company the cost of all future resites will be paid for by the Council.

9.2.3. In the event that an Identilite is resited, fees applicable to that Identilite will be suspended from the date of notice until the date that the Identilite is resited.

9.3. Council May Require Temporary Removal of Identilites

9.3.1. If in the event of safety issues or a redevelopment or road relocation, the Council requires the Company to temporarily remove any of the Identilites for the purpose of programmed roadworks, it will give at least three (3) months' written notice to the Company specifying the commencement date of the Council works and the estimated time of the Council works. The Company will temporarily remove and dismantle any of the Identilites at least seven (7) days before the commencement of the roadworks.

9.3.2. The Company will bear the cost of temporarily removing the first five (5) Identilites during the Term of this Agreement. After five (5) Identilites have been temporarily removed by the Company all future temporary removals and reinstatements will be paid for by the Council.

9.3.3. In the event that an Identilite is temporarily removed, fees applicable to that Identilite will be suspended from the date of notice until the date that the Identilite is reinstated.

9.4. Company May Remove and Resite Identilites

9.4.1. The Company may, at its own cost and expense, either remove any of the Identilites completely or remove and resite same to a new site agreed to by the Council in accordance with clause 7.1 herein if at any time during the period of this Agreement:

- a) the Company is prevented or prohibited from exhibiting the material displayed on any of the Identilites by reason of legislation or the order of any competent Authority; or
- b) any of the Identilites have to be temporarily removed because of roadworks subject to clause 9.3 herein; or
- c) any of the Identilites have become obscured or otherwise unusable for display of advertising material; or
- d) any of the Identilites are subjected to constant and excessive vandalism provided always that the Company will, at its own expense clean up, repair and make good to the satisfaction of the Council acting reasonably, any damage whatsoever to the streets or surrounds caused or brought about by such pulling down, dismantling and removal.

10. Removal and Make Good of Identilites

10.1. Definition

In this clause 10, Make Good means:

- 10.1.1. removing the Identilites; and
- 10.1.2. cleaning and restoring the sites where the Identilites were located.

10.2. Make Good and Vacate

Without limiting clause 10.3, unless Council has exercised an option to renew this Agreement, on the earlier of 180 days from the expiration of the Term (or any holding over period) and the date this Agreement ends, the Company will vacate the Council Region with all Make Good works complete.

- 10.3. Notwithstanding any other clause of this Agreement, the Company will not be required under any circumstances to remove any Identilite where it has a current arrangement with an advertiser for space on the Identilite. The Company must continue to pay the Council the licence fee during such a period pursuant to clause 6.

11. Default by Company

- 11.1. If the Company commits any breach of this Agreement or fails to observe any provision on its part to be observed and does not remedy the same within ninety (90) days after the Council has given written notice in accordance with this clause **Error! Reference source not found.**1 to remedy the same, or if the Company is wound up except for the purpose of reconstruction then, on the expiration of such period of ninety (90) days of the date of winding up of the Company, the Council may terminate this Agreement and Identilites will be removed in accordance with clause 10 and neither party will have any right of action against the other in respect thereof save in respect of any antecedent breach by either party.
- 11.2. If any event or circumstances occurs (including, but not limited to fire, storm, explosion, flood, earthquakes or other natural disaster, which is beyond the control of the Company and which causes or results in default or delay by the Company in the performance of its obligations under this Agreement or a loss of its benefits in respect of the Identilites affected by the occurrence, then this Agreement and the Company's obligations thereunder will be suspended for such period as the event or circumstance remains in effect, in respect of the affected Identilites.
- 11.3. If the event or circumstance is, in the reasonable opinion of the Company, permanent or incapable of remedy and in respect of a substantial number of Identilites, then the Company may terminate this Agreement by giving thirty (30) days' notice in writing to the Council and, at the end of such period, the parties will be released from the provisions of this Agreement except in relation to Make Good.

12. Assignment

- 12.1. The Company will not assign or transfer its rights or obligations under this Agreement without first obtaining the consent, in writing, of the Council. Council will not unreasonably withhold this consent and in any event may not withhold this consent if the proposed assignee or transferee is of good financial standing. For the avoidance of doubt a change of control of either party will not require consent.

13. Notices

- 13.1. Service of Notices

A notice, approval, certificate, consent or other communication in connection with this agreement:

- (a) may be given by the relevant party (if an individual) or an authorised officer of the relevant party;
and
- (b) must be in writing unless expressly specified otherwise in this agreement; and
- (c) must be left at the address of the addressee or sent by prepaid ordinary post (airmail if posted to or from a place outside Australia) to the address of the addressee or sent by facsimile to the facsimile number of the addressee which is set out in subclause 13.4 below, or if the addressee notifies another address or facsimile number then to that address or facsimile number.

13.2. Effects of Notices

Unless a later time is specified in it a notice, approval, consent or other communication takes effect from the time it is received.

13.3. Receipt of Notices

A letter or facsimile is taken to be received:

- (a) in the case of a posted letter, on the third (seventh, if posted to or from a place outside Australia) day after posting; and
- (b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this clause.

13.4. Address Details

Council's Details:

REDLAND CITY COUNCIL

Cnr Bloomfield and Middle Sts

Cleveland, Queensland, 4163

Attention : General Manager

Phone: 07 3829 8999

Fax: 07 3829 8765

Email: rcc@redland.qld.gov.au

Company's Details:

CLAUDE OUTDOOR PTY LIMITED

Phone: (02) 9315 2777

Fax: (02) 9662 3311

Email: [REDACTED]@claudefor.com.au

14. GST

- 14.1. If GST is or will be imposed on a supply made under or in connection with this Agreement then the recipient of the supply must pay to the supplier (in addition to any consideration in any form) the amount of the suppliers liability to pay GST on the supply, either at the time that the consideration for the supply is paid or at the time the supplier issues a tax invoice for the supply.
- 14.2. The right of the supplier to recover any amount in respect of GST under this Agreement on a supply is subject to the supplier issuing of the relevant tax invoice or adjustment note to the recipient except where the recipient is required to issue the tax invoice or adjustment not.
- 14.3. If there is an adjustment event, then the supplier must issue the necessary adjustment note and as appropriate:
- 14.3.1. Where there is an increasing adjustment, the recipient must pay the additional GST on the supply resulting from the increasing adjustment and
- 14.3.2. Where there is a decreasing adjustment, the supplier must refund the amount by which the previous GST amount paid or payable exceeds the GST amount on the supply.
- 14.4. In this Agreement, the following terms have the following meanings:
- 14.4.1. GST means the goods and services tax as provided for by the GST law;
- 14.4.2. GST law means A New Tax System (Goods and Services Tax) Act 1999 as amended or replaced from time to time and any associated legislation including without limitation, delegated legislation and any expression used that is defined in the GST law has that defined meaning.

15. Dispute Resolution

15.1. Dispute Resolution

All disputes or differences arising out of this Agreement will be resolved in accordance with this clause 15, unless:

- a) a party is seeking urgent interlocutory relief or a remedy where a delay in commencing proceedings in Court could prejudice the party's entitlement to seek that remedy;
- b) an incident has arisen that requires urgent resolution which mediation might not resolve;
or
- c) the process in the remainder of this clause 15 has been exhausted.

15.2. Notice of Dispute

Either party may, at any time, notify the other party in writing that there is a dispute or difference concerning any matter under this Agreement. That notice must:

- a) identify the subject matter of the dispute;
- b) identify the relevant provisions of this Agreement;
- c) annex copies of any correspondence, or background material and information relevant to that dispute; and
- d) contain any particulars of quantification of the dispute.

15.3. Parties to Confer

The parties must, within twenty-one (21) days of the service of the notice, meet in an attempt to discuss, and to reach a mutually acceptable decision, on the matter of the dispute.

15.4. Referral to Mediation

If:

- a) the matter in dispute is not settled within ten (10) business days of the meeting referred to in the preceding paragraph, or such later date as the parties may agree; or
- b) either party refuses to attend a meeting in accordance with clause 15.3; then
- c) the difference or dispute must be the subject of a mediation administered by the Australian Commercial Dispute Centre ("ACDC") conducted and held in accordance with the mediation rules of the ACDC in force at the time of the appointment of a mediator.

15.5. The mediator will be appointed:

- a) by the parties, from a panel suggested by the ACDC within twenty-eight (28) days of the referral of the difference or dispute for mediation; or
- b) if a mediator is not appointed by agreement within that period, by the Secretary-General of the ACDC at the request of either party.

15.6. The costs of and associated with formal mediation before a mediator under this clause are to be paid by the parties to the mediation in such proportions as they may agree among themselves or, failing agreement, in equal shares.

16. Miscellaneous

16.1. Governing Law

The interpretation of this agreement, the rights and obligations of the parties hereto and all questions relating to the execution, validity and performance hereof shall be governed by and be interpreted under the laws of the State of Queensland.

16.2. Jurisdiction

The parties hereto submit to the non-exclusive jurisdiction of the Supreme Court of Queensland and to the jurisdiction of the Courts to which an appeal will lie therefrom in respect of this agreement and with respect to all claims and demands which either party may hereafter have against the other on account of or arising, out of this agreement.

16.3. Counterparts

This agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

16.4. Attorneys

Whenever this agreement is executed by an attorney, the attorney hereby states by such execution that as at the time of such execution the attorney has received no notice of the revocation of the Power of Attorney pursuant to which the attorney has executed this agreement.

16.5. Variations

This agreement shall not be changed or modified in any way subsequent to its execution except by writing duly executed by all relevant parties.

16.6. Representations

The parties each represent and warrant to and covenant with each other that each has full power to enter into and perform its obligations under this agreement and this agreement constitutes valid and binding obligations of that party enforceable in accordance with its terms.

16.7. Invalidity

All provisions herein contained shall be construed so as not to be invalid illegal or unenforceable in any respect but if any such provision on its true interpretation is illegal invalid or unenforceable that provision may at the option of the party be read down to such extent as may be necessary to ensure that it is not illegal invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation of a partial character. In the event that any such provision or part thereof cannot be so read down such provision shall be deemed to be void and severable and the remaining provisions hereof shall not in any way be affected or impaired thereby.

16.8. Non-merger

Each representation covenant and obligation under this agreement shall continue in full force and effect until such representation obligation or covenant is satisfied or completed.

16.9. Contra proferentem

In the interpretation of this agreement no rules of constitution shall apply to the disadvantage of one party on the basis that that party put forward the agreement or any part thereof.

16.10. Own Costs

Each party will bear its own costs in relation to this Agreement.

Executed as an Agreement

Signed in my presence by Redland City Council:

Signature of Witness

Authorised Representative of Redlands City Council

Name of Witness (BLOCK LETTERS)

Address of Witness

Executed by CLAUDE OUTDOOR PTY LIMITED (ABN 14 000 919 540) in accordance with section 127 of the Corporations Act:

Director/Secretary

Director

Name Ben Kuffer

Name Andrew Gibson

Annexure A – IdentiLite Specifications

Per the IdentiLite’s currently in situ in the Council Region plus any other changes to same such as solar, LED and or digital illumination.

Annexure B - Schedule of Licence Fees

[REDACTED] per IdentiLite that is installed in the Council Region on a Council controlled roadway.

[REDACTED] per IdentiLite that is installed in the Council Region on a Department of Transport and Main Roads controlled roadway.