



REQUEST FOR TENDER

for

The Paint Horse Journal

**The Paint Horse Association of Australia
PO BOX 1008
DUBBO NSW 2830
office@painthorse.net.au**

**Ph: (02) 6884 5513
Fax: (02) 6884 5517**

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EXPLANATION OF DOCUMENTS

1. CONDITIONS OF TENDER (PART A)

The Conditions of Tender (“Conditions”) are the conditions upon which the Paint Horse Association of Australia Ltd hereafter referred to as PHAA will receive and evaluate Tenders. Failure to strictly observe these conditions may result in a Tender being excluded from further consideration.

2. PHAA REQUIREMENTS (PART B)

The PHAA’s Requirements contain some general information for tenderers together with details of the PHAA’s requirements to enable the PHAA’s Tender Panel to assess each Tender.

3. CONTRACT FOR PROFESSIONAL SERVICES (PART C)

The Contract contains the terms of the contract that the successful Tenderer is required to sign. It may be varied by agreement between the successful Tenderer and the PHAA during the Tender evaluation and negotiation process.

A contract for undertaking the *production and printing of The Paint Horse Journal* is not formed until counterparts of the Contract have been signed and exchanged between the PHAA and the successful Tenderer.

4. COVER SHEET FOR TENDERERS (PART D)

The Cover Sheet for Tenderers is a required form that must be returned as part of the Tender. A Tender may be excluded from further consideration if this form is not used.

PART A
CONDITIONS OF TENDER

1. INTERPRETATION

Unless expressly indicated otherwise, the terms of this RFT shall be interpreted in accordance with the Dictionary annexed to these Conditions.

2. TENDER CLOSING TIME

Tenders conforming to this RFT must be lodged in accordance with these Conditions no later than 5.00 pm AEST on Friday 9th March 2018.

3. LODGEMENT

3.1 The original Tender (marked "Original"), must be placed in an envelope clearly marked with the Tender Title, Closing Time and Tenderer's name, and lodged prior to Closing Time by:

- (a) Delivering it by hand to the Office Manager; or
- (b) posting it to the Post Office Box so that it is received by the PHAA before the Closing Time.

3.2 A Tender may be lodged by facsimile or email using the Contact Officer's facsimile number or email address as provided in this RFT.

3.3 A Tender submitted by facsimile or email before the Closing Time will be considered only if an identical tender, complying with this RFT, is despatched on the same day and is delivered to the Tender Box by hand, or by mail, within two Business Days after the Closing Time.

3.4 Oral Tenders will not be considered.

3.5 No responsibility will be accepted for any Tender lodged at an incorrect location.

4. UNAUTHORISED COMMUNICATION

4.1 Tenderers must direct all communications concerning this RFT through the Contact Officer unless directed otherwise by the Contact Officer. Unauthorised communication by a Tenderer with other staff of the PHAA may lead to the exclusion from consideration of a Tender lodged by that Tenderer.

4.2 The PHAA reserves the right to :

- (a) not answer a question asked by a Tenderer; and
- (b) provide any answers to questions raised by a Tenderer to any other Tenderer, on a non-attributable basis.

5. CONTACT OFFICER

For the purposes of this tender, the Contact Officer is:

Nicole Steinberger
President & Company Secretary
PHAA
PO BOX 1008
DUBBO NSW 2830
0428 394 890
Fax: (02) 6884 5517
Email: painteddreams@bigpond.com

6. RFT TIMETABLE

The PHAA's intended timetable for this RFT is as follows:

| | |
|---|--------------------------------------|
| Issue date of tender: | Monday 5 th February 2018 |
| Closing Time: | Friday 9 th March 2018 |
| Conclusion of tender evaluation: | 31 st March 2018 |
| Finalisation and signature of Contract: | 31 st March 2018 |

7. VARIATION OF RFT

The PHAA may, in its absolute discretion, amend this RFT or provide additional information at any time by giving written notice to:

- (a) prior to the Closing Time, all persons who have been issued with the RFT by the PHAA and who have provided sufficient address details to enable the PHAA to contact them; and
- (b) after the Closing Time, to all Tenderers who have lodged Tenders.

8. LATE TENDERS

- 8.1 Subject to sub-clause 3.2 above, Tenders received after the Closing Time ("Late Tenders") will not be accepted into the Tender Process unless the PHAA, in its absolute discretion, resolves that accepting a Late Tender will not compromise the integrity of the tendering process or provide any unfair advantage to the Tenderer lodging the Late Tender.
- 8.2 Late Tenders which are not accepted, will be marked on the envelope with the time and date of receipt, and returned unopened to the Tenderer.
- 8.3 The PHAA may request a Tenderer to provide evidence to assist it in making its decision as to whether to accept or exclude a Late Tender from the Tender Process.

9. ALTERATION OR ILLEGIBILITY

- 9.1 A Tenderer must initial any alteration made to a Tender.
- 9.2 A Tender containing alterations that are not initialled, erasures or illegible information may be excluded from consideration.

- 9.3 A Tenderer should immediately notify the Contact Officer in writing if it reasonably believes there is a discrepancy, error, ambiguity, inconsistency or omission in this RFT.

10. SUSPENSION OR CESSATION

The PHAA may cease to proceed with, or suspend the process, or any stage of it, outlined in the RFT or any negotiations being conducted at that time with any Tenderer.

11. REJECTION OF TENDER

The PHAA may reject a Tender that does not fully comply with the terms of the RFT.

12. PARTIAL ACCEPTANCE

The PHAA reserves the right to accept all or part of a Tender at the price or prices tendered unless the Tender states specifically to the contrary.

13. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 13.1 The RFT and such intellectual property rights as may exist in the information contained in the RFT shall remain the property of the PHAA. A Tenderer is only permitted to use the RFT for the purpose of preparing a Tender in response and for the purpose of conducting any contract negotiations with the PHAA.

- 13.2 The Tenderer must keep confidential all information concerning the PHAA, received as a result of, or in connection with, the submission of a Tender which the PHAA has indicated to Tenderers is confidential or which Tenderers know or ought to know is confidential.

- 13.3 All Tenders and accompanying documents become the property of the PHAA and the Tenderer authorises the PHAA, its officers, employees, agents and advisers to adapt, modify, disclose, reproduce or do anything else necessary (in the PHAA's sole opinion) to the whole or any portion of the Tender for the purposes:

- (a) Tender evaluation;
- (b) negotiating and/or entering into a contract with any party for the delivery of the PHAA's Requirements or similar requirements;
- (c) managing a contract with a successful Tenderer (if any); or
- (d) anything else related to the above purposes, including governmental and parliamentary auditing and reporting requirements.

- 13.4 The PHAA reserves the right to require that information concerning the PHAA, received by a Tenderer as a result of, or in connection with, the submission of a Tender (and copies of such information) be either destroyed by the Tenderer or alternatively returned to the PHAA at any time. The PHAA may also require that the Tenderer provide evidence (in a form satisfactory to the PHAA) that any PHAA requirements in this respect have been fully complied with.

14. CONTENT AND FORMAT OF TENDER

- 14.1 Tenders must include all the information requested in the RFT unless expressly specified otherwise.

- 14.2 All items, features and functions specified in the RFT are the minimum information requirements for a Tender unless expressly stated otherwise.
- 14.3 The Tenderer must submit the Tender under cover of the Cover Sheet. The Cover Sheet must be completely filled in, and be accompanied by any other supplemental documents necessary to make the Tender complete. A Tenderer may reproduce the Cover Sheet in an expanded format to provide additional space for response.
- 14.4 Where a Tenderer intends to utilise a subcontractor, all of the information requested in the RFT must be provided in full for each subcontractor.

15. PRICE

- 15.1 All monetary amounts are to be expressed in Australian Dollars.
- 15.2 The Tenderer must quote all prices without the addition of GST.

16. CONFLICT OF INTEREST

- 16.1 Tenderers must not place themselves in a position which may, or does give rise to a conflict of interest between themselves and the PHAA during the Tender Process.
- 16.2 If any actual or potential conflict of interest with the PHAA arises at any time during the Tender Process, the Tenderer is to immediately notify the PHAA in writing.
- 16.3 In the event of an actual or potential conflict of interest the PHAA may, in its absolute discretion:
- (a) resolve any actual or potential conflict of interest with a Tenderer; or
 - (b) reject the Tender lodged by such a Tenderer; or
 - (c) take any other action it considers appropriate.

17. ALTERNATIVE TENDER

- 17.1 Tenderers are encouraged to offer options or solutions, which in a novel or innovative way, contribute to the PHAA's ability to carry out its business in a more cost-effective manner. These may be related to the functional, performance and technical aspects of the requirements or to opportunities for more advantageous commercial arrangements. These options will be considered commercial in confidence.
- 17.2 The Tenderer may submit a Tender that does not comply with the PHAA's Requirements if
- (a) the Tenderer also lodges a Tender conforming with the PHAA's Requirements; and
 - (b) the Tender not complying with the PHAA's Requirements
 - A. is identified as an "Alternative Tender";
 - B. clearly specifies wherever it fails to comply with the PHAA's Requirements;
 - C. states the reasons for each non-compliance and demonstrates, in detail, how the alternative will benefit the PHAA; and

- D. is accompanied with any supplementary material, together with associated prices.

17.3 The PHAA reserves the right either to consider Alternative Tenders on their merits or not to consider them further.

18. TENDER CONSTITUTES BINDING OFFER

A Tender constitutes an irrevocable, unalterable offer by the Tenderer to the PHAA which must remain valid and open to be accepted for a period of no less than 90 days from the Closing Time and may be extended by written agreement. Tenderers may state in their Tender a period of more than 90 days from the Closing Time for which their Tender remains valid for acceptance.

19. EVALUATION OF TENDERS

19.1 The evaluation process will be undertaken with the aim of determining which Tender represents best value for money to the PHAA. In determining value for money, Tenders will be assessed against the following evaluation criteria:

Compliance Criteria

Compliance with:

- Conditions of Tender;
- Contract, including insurance requirements; and
- PHAA Requirements.

Qualitative Criteria

- Capability of the Tenderer to fulfil the PHAA's Requirements, including technical and management competence, financial viability, relevant skills, experience and availability of personnel;
- The extent to which the Fees represent value for money; and
- The degree to which the services meet the PHAA's Requirements.

19.2 Following the receipt of Tenders, the PHAA, in its absolute discretion, may:

- (a) use any relevant information obtained in relation to a Tender (through this RFT or by independent inquiry) in the evaluation of Tenders;
- (b) enter into discussions or negotiations with any one or more Tenderers; and
- (c) seek clarification or additional information from any Tenderer.

19.3 Tenderers must comply with any requests to provide additional information or clarification in relation to their Tender within the timeframe specified.

19.4 The PHAA may exclude from consideration in the evaluation of Tenders additional information provided by Tenderers, whether received in response to a request or otherwise.

19.5 The PHAA is not obliged to accept the lowest priced or any other Tender.

20. FORMATION OF CONTRACT

20.1 The successful Tenderer will be required to sign the Contract supplemented by the addition of relevant information, requirements, or variations:

- (a) contained in the successful Tender;
- (b) arising during the Tender evaluation; and
- (c) arising out of discussions and negotiations.

20.2 No contractual relationship or other obligation arises between the PHAA and a Tenderer, for the supply of the PHAA's Requirements, until the PHAA and the successful Tenderer formally exchange signed counterparts of the Contract. This clause applies despite any oral or written advice to the Tenderer that a Tender is successful or has been, or will be, accepted.

21. TAXATION

The Tenderer must provide its Australian Business Number (ABN). If the Tenderer holds no ABN, the reason for not having an ABN must be stated. Should Tenderers choose not to register or disclose details of their ABN, PAYG withholding tax may apply and the PHAA is required by law to deduct the relevant amount from any payment under the Contract and to remit the relevant amount to the Australian Taxation Office.

22. TENDERERS TO INFORM THEMSELVES

22.1 Tenderers are considered to have:

- (a) examined this RFT, any documents referenced in this RFT and any other information made available by the PHAA to Tenderers for the purpose of tendering;
- (b) examined all further information which is obtainable by the making of reasonable inquiries relevant to the risks, contingencies, and other circumstances having an effect on their Tender;
- (c) satisfied themselves as to the correctness and sufficiency of their Tenders including Fees; and
- (d) satisfied itself as to the terms and conditions of the Contract and its ability to comply with the Contract.

22.2 Tenders are submitted on the basis that Tenderers acknowledge that:

- (a) they do not rely on any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending these Conditions other than amendments in accordance with clause 7;
- (b) they do not rely upon any warranty or representation made by or on behalf of the PHAA, its officers, employees, agents or advisers except as are expressly provided for in this RFT, but they have relied entirely upon their own inquiries and inspection in respect of the subject of their Tender;

- (c) the PHAA will not be responsible for any costs or expenses incurred by Tenderers in complying with the requirements of this RFT; and
- (d) neither this RFT nor the Tender give rise to contractual obligations between the PHAA and the Tenderer.

22.3 The PHAA will not be liable to any Tenderer on the basis of any promissory estoppel, quantum meruit or other contractual, quasi contractual or restitutionary grounds whatsoever or in negligence as a consequence of any matter relating or incidental to a Tenderer's participation in this Tender Process including instances where:

- (a) a tenderer is not invited to participate in any subsequent process following completion of this Tender Process;
- (b) the PHAA varies or terminates the Tender Process;
- (c) the PHAA decides not to contract for all or any of the requirements; or
- (d) the PHAA exercises or fails to exercise any of its other rights under or in relation to this RFT.

23. PHAA'S RIGHTS

Without limiting its rights at law or otherwise, the PHAA reserves the right in its absolute discretion at any time to:

- (a) cease to proceed with the process outlined in this RFT, including the right not to proceed with the RFT, and not to enter into a Contract;
- (b) allow any Tenderer to change its Tender;
- (c) call for new Tenders;
- (d) accept or reject any Tender that does not comply with this RFT;
- (e) waive or vary any obligation of any Tenderer under this RFT;
- (f) negotiate with any person who is not a Tenderer and enter into a Contract in relation to this exercise with that person on such terms as the PHAA in its absolute discretion accepts;
- (g) add to, alter, delete or exclude any requirement including the inclusion of any additional requirements;
- (h) publish the names of the successful Tenderers; and
- (i) to forward to any other Tenderer on a non-attributable basis the PHAA's response to any Tenderer's request for clarification on any aspect of the RFT.

25. APPLICABLE LAW

25.1 The law applying to the State of New South Wales applies to the RFT, and the tendering process.

DICTIONARY

1. In this RFT, unless a contrary intention appears, the following definitions and rules of interpretation shall apply:

“Agreement” means the Contract. These terms are used interchangeably throughout this RFT.

“Alternative Tender” means a Tender submitted pursuant to clause 17 of the Conditions;

“Business Day” means a day that is not a Saturday, a Sunday, Anzac Day or a public holiday under the *Statutory Holidays Act 2000*.

“Consultant” means the Person with whom the PHAA enters into a contract to provide the PHAA’s Requirements;

“Contract” means the draft agreement forming Part C of this RFT.

“Closing Time” means the closing time and date for submission of Tenders pursuant to clause 2 of the Conditions;

“Contact Officer” means the person identified as Contact Officer in the Conditions;

“Cover Sheet” means the tender cover sheet forming Part D of this RFT;

“Fees” means the fees payable for services rendered by the Consultant calculated in accordance with clause 2 of the Contract;

“GST” means any tax imposed under any GST law and includes GST within the meaning of the GST Act;

“GST Act” means the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) as amended;

“GST Law” means the GST law as defined in the GST Act and includes any Act of the Parliament of Australia that imposes or deals with GST;

“Legislative Requirement” means any Act or subordinate legislation of the Commonwealth or Tasmanian legislature or the PHAA’s governing body.

“Person” includes a natural person, a corporation, a partnership, a board, a joint venture, an incorporated association, a government, a local government authority and an agency;

“Request For Tender” or **“RFT”** means this document inviting Tenderers to offer to deliver the PHAA’s Requirements by submitting a Tender as provided in this document;

“Services” or **“PHAA’s requirements”** means the services described in Part B of this RFT.

“Tender” means the documents constituting an offer by the Tenderer to deliver the PHAA’s Requirements;

“Tender Process” means the tendering process outlined in this RFT;

"Tender Title" means the Tender Title shown on the cover page of this RFT;

"Tenderer" means a Person who offers to deliver the PHAA's Requirements;

"PHAA" means the Paint Horse Association of Australia Ltd;

"PHAA's Requirements" or **"Services"** means the services described in Part B of this RFT;

2. In this RFT, unless the contrary intention appears:

- (a) a reference to a clause or schedule is a reference to a clause of, or schedule to, this RFT and a reference to this RFT includes an annexure, attachment or schedule;
- (b) a reference to this RFT is a reference to this RFT as amended, varied, notated or substituted from time to time;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) a word importing the singular includes the plural and vice versa; a word importing a gender includes each other gender and a reference to a person includes an individual, firm, body corporate, association (whether incorporated or not), government, governmental or semi-governmental body, local authority or agency;
- (e) a reference to a person includes the person's executors, administrators, successors, substitutes (including persons taking by novation), transferees and assigns;
- (f) a reference to an act matter or thing includes the whole, or any part of, that act matter or thing and a reference to a group of acts, matters, things or persons includes each act, matter, thing or person in that group;
- (g) where, under this RFT, or anything done under it, the day on, or by which, any act, matter or thing is to be done, is not a Business Day, that act matter or thing may be done on the immediately following Business Day;
- (h) where any terms and conditions are added to the RFT, it is agreed that those terms and conditions will form part of the RFT;
- (i) the use of inclusive terms such as "including" or "includes" will be read as "including, without limitation" or "includes, without limitation"; and
- (j) headings are inserted for convenience and do not affect the interpretation of this RFT.

PART B

PHAA'S REQUIREMENTS

JOURNAL ADVERTISING FEES & PAGE SPECIFICATIONS

GENERAL ADVERTISING

- ISFC, ISBC, OSBC = \$385 - (paid per issue but must be booked for 12 months)
- Double page = \$660 per advert
- Full page- = \$330 per advert - (does not include the ISFC, ISBC or the Outside Back Cover)
- Full page = \$300 per advert - (paid per issue but must be booked for 12 months)
- Half page = \$165 per advert - (No quarter page or smaller ads in General Advertising, they all go in the Directory)

DIRECTORY ADVERTISING

- Full page = \$300 per advert Half page = \$150 per advert
- Half page booked for 12 months - 4 issues = \$140....total \$560 (Paid in 2 payments of \$280, ads run with no change for 2 issues, then may be changed for next 2)
- Quarter Page = \$80 per advert
- Quarter page booked for 12 months - 4 issues, total \$280 (Paid in 1 payment, ads run with no changes each issue)
- 1/5th page = \$40 per advert
- 1/5th page ad booked for 12 months - 4 issues... total \$150 (Paid in 1 payment, ads run with no changes each issue)

SPECIFICATIONS

Cover:

150gsm gloss art; body 100gsm.

margins:

Top 10mm Bottom 10mm Left 10mm Right 10mm

Font size for copy text and subheads: 10pt ...Line spacing for copy text: 1.2 Text size for page numbers and Journal edition at the bottom of each page: 9pt Headline sizes are variable, depending on space and layout

Filler photos and artwork to be kept small and space-saving.

All other styles like "intro text", "photo credit", "listings", "box text" etc. will be in keeping with the overall appearance of the magazine.

Ad sizes:

Full page ad = 210 x 297mm plus 3mm bleed all round. 1/2 page ad = 190x136mm

1/4 page ad = 93x136mm

1/8 page ad = 93x66mm

SPACE ALLOCATION:

Priorities: must be as follows; (in order of importance) Paid advertising.

Office & Association advertising and notices. Directors reports.

National & State show reports and photos.

Articles of particular interest to Paint members (articles on high-achieving Paint horses, 'vales' etc)

General interest articles on horse-health, showing etc.

Any 'trimming' required keep the number of pages down will be done from the bottom of the list up and the Association will have the final decision on what shall be retained and what shall be discarded or held over for another issue.

Print Run and Specification

52 PAGE VARIABLE PRINT RUN

Quote 1:

Variable price, based on a maximum of 1600 copies printed Pages including cover 52

Paper Stock 100gsm text Paper Stock 150gsm Cover

Quote 2:

Variable price, based on a maximum of 1500 copies printed Paper Stock 100gsm text

Paper Stock 150gsm Cover Pages including cover 52

Quote 3:

Variable price: based on a maximum of 1400 copies printed Pages including cover 52

Paper Stock 100gsm text Paper Stock 150gsm Cover

Quote 4:

Variable price, Based on a maximum of 1200 copies printed Pages including cover 52

Paper Stock 100gsm text Paper Stock 150gsm Cover

8. FORM OF TENDER

Tenderers must provide their tender as either:

- original hard copy;

or

- 1 electronic copy compatible with the Microsoft® Word or PDF format.

9. CONTENTS OF TENDER

Drafting note: *In order to determine the information to be included in the Tender it is suggested that a review by undertaken of the information required in order to assess tenders against each of the evaluation criteria. For example in this RFT the qualitative criteria (clause 19.1 of the Conditions) require an assessment of the capability of the tenderer against a range of factors, including technical and management competence, financial viability, relevant skills, experience and availability of personnel. It is necessary to ensure that information is requested from tenderers in respect of each factor. For this criteria the information required for evaluation is as follows:*

- *technical and management competence: clause 9(d)*
- *financial viability: clause 9(l)*
- *relevant skills & experience: clause 9(d) and 9(e)*
- *availability of personnel: clause 9(j)*

The Tender *must* contain:

- (a) Cover Sheet completed and signed by the Tenderer or for and on behalf of the Tenderer by a person who warrants their authority to sign for the Tenderer;
- (b) Executive Summary;
- (c) Firm Information;
- (d) Magazine expertise in terms of:
 - i. providing a publication for the PHAA on a quarterly basis
 - ii. proven track record of publication of magazines
- (e) Staff resources who will deliver the services to the PHAA including:
 - i. the person who will be primary contact with the PHAA;
 - ii. the key personnel and their relevant experience or alternatively, their *Curricula Vitae* to be attached to the Tender;
- (f) A description of the Tenderer's system for disclosure and management of conflicts of interest;
- (g) Schedule of fees illustrating the makeup of costs;

- (h) Proposal outlining:
 - i. details of PHAA resources which may be required to assist in undertaking the review;
 - ii. Proposed timeline for completion of quarterly production;

10. ADDITIONAL MATERIAL

The Tender *may* contain

- (a) written references;
- (b) names of past or existing clients who the PHAA may contact for a reference as to the Tenderer's ability to work with the PHAA and to deliver high quality taxation services;
- (c) Further options for consideration by the PHAA in line with section 17 of Part A of this RFT; or
- (d) any other information the Tenderer considers appropriate.



CONTRACT FOR PROFESSIONAL SERVICES

1. PHAA:

PHAA
1A Sterling Street
DUBBO NSW 2830

2. CONTRACTOR:

3. PHAA CONTACT:

Name: Nicole Steinberger
Email: painteddreams@bigpond.com
Mob: 0428 394 890
Fax: 02 6884 5517

4. CONTRACTOR CONTACT:

Name:
Tel:
Fax:
Mob:

5. SERVICES:

See attached Brief

6. TERM:

Commencement date:

Completion date:

7. FEE:

Payable on:

8. LOCATION:

9. HOURS:

Normal working hours
8.30 am to 5.00 pm

10. INSURANCE:

TYPE: COVER

SIGNED BY PHAA

Name & Title:
Date:

Witness:
Name & Title:

SIGNED BY [NAME OF CONTRACTOR]

Name & Title:
Date:

Witness:
Name & Title:

1. ENGAGEMENT & TERM

The PHAA engages the Contractor to provide the services described in **box 5** during the Term described in **box 6 at the location described in box 8.**

2. PRICE AND PAYMENT

The price and payment described in **box 7** will be paid in the manner described in **box 7** on receipt of a tax invoice.

3. CONTRACTOR'S OBLIGATIONS

3.1 The Contractor agrees with the PHAA:

- (a) to perform its obligations under this agreement in a competent and professional manner and to ensure that all staff employed by the Contractor to perform the work are appropriately qualified, skilled and supervised;
- (b) to ensure that the services are provided or the contract completed in a timely manner;
- (c) to comply with any reasonable requests by the PHAA in relation to the provision of the services;
- (d) to accept responsibility for all matters in connection with the employment of its staff including all insurance cover required by law; and
- (e) at its own expense comply with all relevant legal requirements

3.2 Where the Contractor requires access to PHAA premises, access will be available during the hours stated in **box 9** or at such other reasonable times as agreed by the parties.

3.3 When accessing PHAA premises, the Contractor agrees to comply with the policies of the PHAA, including those in relation to occupational health and safety.

4. INDEMNITY

The Contractor is liable for and shall indemnify the PHAA against any claims in respect of any injury or damage whatsoever to property whether real or personal insofar as that injury or damages arises out of or in the course of or by reason of the Contractor's performance whether negligent or otherwise of its obligations under this agreement or such performance by its servants, agents or sub-contractors.

5. INSURANCE

The Contractor must take out and maintain those insurance policies specified in **box 10.**

6. CONFIDENTIALITY

6.1 The Contractor agrees to keep the Confidential Information of the PHAA confidential and agrees not to:

- (a) use the information other than for the purposes of the agreement; or
- (b) directly or indirectly disclose the information to any third party, beyond those reasonably involved in the agreement on a need to know basis;
- (c) without the prior written consent of the PHAA.

6.2 For the purpose of this clause, "Confidential Information" means any information designated by the PHAA as confidential, or which is by its nature confidential and includes information existing prior to commencement of this agreement or created in the course of this agreement. No

information will be regarded as confidential if it:

- (a) is already in the public domain;
- (b) is received by the Contractor from a third party who is lawfully in possession and has the power to disclose the information;
- (c) becomes available to the Contractor by any means other than a breach of this agreement by the Contractor.

7. INTELLECTUAL PROPERTY

Nothing in this agreement alters the Contractor's ownership of any intellectual property it owned prior to this agreement. The PHAA will own all materials delivered ("the Materials") and all intellectual property created by the Contractor in performing its obligations under this agreement. The Contractor agrees to supply the PHAA with the Materials on termination of this agreement.

8. MORAL RIGHTS

8.1 To the extent permitted by law, if the Contractor is the owner of Moral Rights in any of the Materials the Contractor unconditionally and irrevocably consents to any act or omission that would otherwise infringe the Contractor's Moral Rights in the Materials and in particular consents to the following acts:

- (a) any use of the Materials that does not identify the Contractor;
- (b) any use of the Materials that may falsely attribute authorship of the Materials to any other person;
- (c) any alteration or deletion to the Materials by the PHAA for the purpose of exercising its rights under this agreement.

8.2 For the purposes of this clause, "Moral Rights" means rights of integrity of authorship, rights of attribution of authorship, rights not to have authorship falsely attributed, and rights of a similar nature conferred by statute that may exist in the Materials.

9. TERMINATION

The PHAA may terminate this agreement by notice in writing to the Contractor if the Contractor is in breach of a term or condition of this agreement and the breach is not remedied within 14 days of service on the Contractor of a written notice specifying the breach and requiring it to be remedied. Such termination will be without prejudice to any other right or action the PHAA may have against the Contractor.

10. NO ASSIGNMENT

This agreement cannot be assigned without the consent of the other party.

11. RELATIONSHIP

Nothing in this agreement constitutes a relationship of partnership or of employer and employee between the parties and the parties expressly deny any such relationship.

12. LAW AND JURISDICTION

12.1 This agreement is governed by the laws of Tasmania.

12.2 Each party submits to the non-exclusive jurisdiction of the Tasmanian courts.

13. TERMS OF AGREEMENT

This agreement consists solely of these terms numbered 1 through to 13 and the contents of the boxes overleaf.

PART D
TENDER COVER SHEET
TENDER ID NO: FBS001

DATE:

The PHAA
PO BOX 1008
1A Sterling Street
DUBBO NSW 2830

CLOSING TIME for submission of Tenders: **5.00 P.M. Friday 9th March 2018.**

REQUEST FOR TENDER COVER SHEET

I/we submit this offer, by way of tender, to deliver the PHAA's Requirements specified in the above-mentioned Request for Tender ("RFT") at the prices tendered and in accordance with the Contract in Part C of the RFT ("Contract"). This Tender comprises:

- (1) this Tender Cover Sheet;
- (2) [*Note to Tenderer.* List the documentation submitted to comply with the RFT].
- (3)

I/we declare that:

Compliance with the RFT

- (a) the Tenderer undertakes to participate in the RFT process in accordance with the RFT;
- (b) this Tender is compliant with all sections of the RFT (including the Contract) [except to the extent stated below];

Notes to Tenderer. If the Tender does not comply or fully comply with the Conditions of Tender, including the Contract, the Tenderer must include a statement specifying each condition or requirement with which the Tender does not comply or fully comply with and indicating, for each condition or requirement the reason(s) for the non-compliance.

Acceptance

- (c) this Tender constitutes a complete offer relating to all matters required for the completion of the contract to deliver the PHAA's Requirements and is capable of immediate acceptance by the PHAA;
- (d) this Tender remains open for acceptance 9th May 2018.

Notes to Tenderer. Clause 18 of the Conditions of Tender provide that the Tender must remain valid and open to be accepted for a period of no less than 90 days from the Closing Time.

Accuracy and Correctness of Tender

- (e) the information and particulars provided as part of this Tender are accurate and correct;

Conflict of Interest

- (f) to the best of our knowledge, information and belief neither the Tenderer or its employees or advisers have placed themselves in a position which may have given or did give rise to a conflict of interest or a potential conflict of interest between the interests of the Tenderer or its employees or advisers and the interests of the PHAA in relation to this RFT process; and

Notes to Tenderer. If Tenderers are aware of a conflict of interest or potential conflict of interest they are obliged to notify the PHAA in writing (see clause 16 of the Conditions of Tender).

Authorisation

- (g) I am/we are duly authorised to sign this Tender Cover Sheet for and on behalf of the Tenderer.

Signed by the Tenderer or

for and on behalf of the Tenderer by

.....

a person who by his/her signature duly warrants his/her authority to sign

Name of Tenderer:

Address of Tenderer:

(Include email, fax no. & telephone no.)

ABN of Tenderer: