



SCATS and SRMS SOFTWARE USER LICENCE AGREEMENT

AGREEMENT dated the date that the last party signs between:

ROADS AND MARITIME SERVICES (ABN: 76 236 371 088), a statutory authority constituted under the Transport Administration Act 1988 (NSW) (as amended) of 101 Miller Street, North Sydney New South Wales 2060 (**RMS**); and

NEW ZEALAND TRANSPORT AGENCY, a crown entity established under s.93 of the Land Transport Management Act 2003 of Level 11, HSBC House, 1 Queen Street, Auckland, New Zealand ("Licensee")

RECITALS

- A. On 1 November 2011 the Roads and Traffic Authority of New South Wales ("RTA") was abolished and all its assets and rights and liabilities were transferred by operation of law to RMS.
- B. The Licensee is the legal successor of Transit NZ
- C. The parties have agreed that RMS will grant and the Licensee will accept a licence to use the Software on the terms and conditions set out in this Agreement.

IT IS AGREED as follows.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Commencement Date means the date the last of the parties executes this Agreement.

Confidential Information means:

(a) the Software and

(b) all information conveyed by RMS to the Licensee in the course of performing this Agreement that:

- is by its nature confidential or by the circumstances in which it is disclosed is confidential; or
- is designated by RMS as confidential or identified in terms connoting its

confidentiality

But does not include any reports, graphics or information produced by the Licensee using the Software.

CPI means the Consumer Price Index for Sydney (All Groups) published by the Australian Bureau of Statistics (and any such index that might replace it if it is discontinued).

Current Price List means the standard Licence Fees, Maintenance Fees or Training Fees which RMS may set from time to time as are current at the relevant time.

Delivery Date means the date on which an Upgrade or New Release is delivered under Clause 3.

Fees means collectively and individually the Licence Fees, the Maintenance Fees and the Training Fees as varied from time to time in accordance with this Agreement.

Financial Year means an annual period which commences on 1 July and ends on 30 June.

Fixed Time Intersection is a SCATS Intersection having Fixed Time Operation.

Fixed Time Operation means that operation is through cycling in accordance with a predetermined schedule located in the controller with connectivity to SCATS only for the purpose of updating the schedule or for reporting an alarm.

Intersections means traffic intersections in the Territory which are within the supervision, responsibility and control of the Licensee from time to time.

Intellectual Property Rights means all present and future industrial and intellectual property rights conferred by statute, common law or equity and includes copyright, trade marks, patents, designs, circuit layout rights, trade secrets, inventions and other results of intellectual activity in the industrial, commercial, scientific, literary and artistic fields whether non-registrable, registered or patentable.

Ramp means traffic ramp under the control or supervision of the Licensee which provides access onto or from a freeway, State highway, or motorway.

Licence Fee means the licence fees (including the core fees and connection fees) payable for the Software set out in Schedule 3 as varied from time to time in accordance with this Agreement.

Licensed Intersections means the maximum permitted number of SCATS Intersections (including any specified sub-limits on the type of SCATS Intersection or mode of operation or connectivity) which are licensed to be controlled at any time by use of the Software as set out in Schedule 2 (as may be varied by agreement from time to time).

Licensed Ramps means the maximum permitted number of ramps (including any specified sub-limits on the type of SRMS ramp or mode of operation or connectivity) which are licensed to be controlled at any time by use of the SRMS Software as set out in Schedule 2 (as may be varied by agreement from time to time subject to payment of additional connection fees).

Local Council means a public authority established by law for the government of a local area and (where the Licensee is in New Zealand) it includes a territorial authority

as defined in the Local Government Act 2002 (New Zealand).

Location means the Licensee's facilities located in the Territory where the Software is installed which have been approved in writing by RMS, and as varied from time to time in accordance with this Agreement.

Maintenance Fees means the fees for maintenance set out in Schedule 3 as varied from time to time in accordance with this Agreement.

Maintenance Services means the services listed in Schedule 4.

Managed Intersection means an Intersection outside the Territory or ordinarily within the supervision, responsibility and control of a person other than the Licensee.

Managed Ramp means a Ramp outside the Territory or ordinarily within the supervision, responsibility and control of a person other than the Licensee.

Managed Intersection Licence Fee means the fee specified in Schedule 3 as payable in respect of Managed Intersections set out in Schedule 3 as varied from time to time in accordance with this Agreement.

Managed Ramp Licence Fee means the fee specified in Schedule 3 as payable in respect of Managed Ramps set out in Schedule 3 as varied from time to time in accordance with this Agreement.

New Release means software produced primarily to extend, alter or improve the Software by providing additional functionality or performance enhancement (whether or not Defects in the Software are also corrected) while still retaining the original designated purpose of the Software. Version numbers are denoted using the convention N.n.n.n (where N and n are numerals). A New Release is identified by a change in either of the first two numerals.

SCATS Intersection means an Intersection or Managed Intersection which is controlled by the Software.

Software means the software which is comprised of the computer program described in Schedule 1, together with any related documentation, Upgrades and New Releases.

SRMS means the SCATS Ramp Metering Software referred to in Schedule 1.

Territory means the territories listed in Schedule 2.

Traffic Adaptive Intersection is a SCATS Intersection having Traffic Adaptive Operation.

Traffic Adaptive Operation means that SCATS provides autonomous centralised traffic adaptive control.

Training Fees means the fees for training set out in Schedule 3 as varied from time to time in accordance with this Agreement.

Training Services means the training services listed in Schedule 5 as varied from time to time in accordance with this Agreement.

Upgrades means software which has been produced primarily to overcome defects in, or to improve the operation of the Software. Version numbers are denoted using the convention N.n.n.n (where N and n are numerals). An Upgrade is identified by a

change in any numeral or numerals other than the first two.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The **singular** includes the plural and conversely.
- (b) A **gender** includes all genders.
- (c) Where a **word** or **phrase** is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a **person** includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a **clause** or **schedule** is to a clause of or schedule to this Agreement.
- (f) A reference to any **party** to this Agreement or any other agreement or document includes the party's successors and permitted assigns.
- (g) A reference to any **agreement** or **document** is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Agreement.
- (h) A reference to any **legislation** or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
- (i) A reference to **dollars** or **\$** is to Australian currency.
- (j) A reference to **conduct** includes any omission and any statement or undertaking, whether or not in writing.
- (k) Mentioning anything after **include**, **includes** or **including** does not limit what else might be included.

2. GRANT OF LICENCE & TERMINATION OF OLD LICENCE

2.1 Grant

RMS grants and the Licensee accepts a personal non-exclusive, non-transferable licence to use the Software in accordance with this Agreement in the Territory to operate Intersections up to but not exceeding the number of Licensed Intersections.

2.2 Commencement & Term

This Agreement starts on the Commencement Date and will continue indefinitely until such time as it is terminated in accordance with its terms.

2.3 Restrictions

The Licensee will:

- (a) only install the Software at the Location and will only use the Software in

accordance with the documentation supplied by RMS or other reasonable instructions notified by RMS from time to time;

- (b) only use the Software for the purpose of traffic control at the Intersections and Ramps, and will not use the Software to operate more than the maximum number of Licensed Intersections or Licensed Ramps as the case may be (including any specified sub-limits on types of Intersections or Ramps or their mode of operation or connection);
- (c) use the Software for the purpose of traffic control at Intersections and not use the Software at Managed Intersections or Managed Ramps without RMS's permission under clause 6;
- (d) not copy, modify, alter, translate, de-compile or reverse engineer the Software or merge the Software or any part unless the Licensee has previously obtained RMS's written consent (for the purposes of this sub-clause the parties acknowledge that RMS gives its consent for the Licensee to make 1 securely stored backup copy of the Software and that nothing prevents the Licensee from installing the Software on more than one of the Licensee's computers);
- (e) not in any circumstances sell, rent, offer for sale or rent, lease, dispose of, pledge, sublicense, assign, lend or part with possession of the Software, nor allow any other person to use or have the benefit of the Software or any part or parts of the Software other than as may be expressly provided for in this Agreement;
- (f) limit access to the Software to employees or agents of the Licensee who are required to use the Software for the purposes of traffic control by the Licensee;
- (g) not use the Software for a service bureau application or in timesharing;
- (h) not make a telecommunications data transmission of the Software (as opposed to operational data) over a network or otherwise; and
- (i) not alter, remove or obscure any copyright or other Intellectual Property rights notifications applied to the Software.

2.4 Termination of Old 2006 Licence

By mutual agreement the parties hereby terminate on the Commencement Date the SCATS Licence dated September 2006 which RMS granted to the Licensee's predecessor, Transit NZ.

3. DELIVERY

RMS will procure delivery of one copy of the Software to the Licensee. The Licensee acknowledges that RMS will not be responsible for installation or configuration of the Software on the Licensee's computer systems. The Software is enabled by software authorisation keys and a hardware dongle protection device issue by RMS.

4. MAINTENANCE AND TRAINING

4.1 Maintenance Services

If the Licensee pays the Maintenance Fees then RMS will provide the Maintenance

Services in accordance with this Agreement.

Subject to any warranty obligations which cannot be excluded by law, the Software is provided on an "as is" basis and no maintenance, support or defect correction is provided other than through paid Maintenance Services.

4.2 Upgrades & New Releases

If RMS provides Maintenance Services under clause 4.1:

- (a) RMS will provide Upgrades to the Licensee; and
- (b) RMS will provide New Releases to the Licensee.

The Licensee has no right to receive Upgrades or New Releases other than through paid Maintenance Services from RMS.

4.3 Term of Maintenance Services

Subject to the earlier termination of this Agreement, and subject to clause 4.5 RMS will provide the Maintenance Services for each period in respect of which the Maintenance Fee has been paid.

4.4 Training

RMS will make available the Training Services to personnel nominated by the Licensee upon payment by the Licensee of the Training Fees. Such training will take place at such times and locations and be of such content as determined by RMS in its discretion and the Licensee will bear its own costs in relation to the Training Services including any travel, accommodation and related expenses incurred by its nominated personnel.

4.5 Notice of New Release

RMS will notify the Licensee when a New Release is available. The Licensee is not obliged to take up a New Release from RMS but if the Licensee does not then RMS will not be required to remedy defects in or supply Maintenance Services for any earlier version of the Software after the later of:

- (a) 6 months after the date of the New Release; and
- (b) the end of the year in respect of which (at the date of the New Release) the current Maintenance Fee has been paid for.

5. CHANGE OF LOCATION OR TERRITORY

5.1 Change of Location

If the Licensee changes the location at which the Software is installed the licensee must advise RMS of the new location in writing.

5.2 Transfer of copies

Immediately upon change of the Location, the Licensee will ensure that all copies of the Software at the previous Location have been transferred to the new Location.

5.3 Change of Territory

The Licensee may not extend or otherwise change the Territory in any way without the prior written consent of RMS. RMS may in its sole discretion withhold or grant such consent subject to such conditions as it deems reasonable including variations of the Licence Fee, Maintenance Fees and Training Fees.

6. ADDITIONAL INTERSECTIONS & MANAGED INTERSECTIONS OR MANAGED RAMPS

6.1 Additional Intersections

If the Licensee wishes to increase the maximum number of Licensed Intersections or Licensed Ramps (or change any sub-limits on kinds of SCATS Intersections or Ramps) the Licensee must give prior written notice to RMS and pay to RMS additional connection fees determined by reference to RMS's then Current Price List at the time that RMS approves the increase.

6.2 Managed Intersections or Managed Ramps

If the Licensee intends to use the Software for the purpose of traffic control of Managed Intersections or Managed Ramps, the Licensee must first advise RMS in writing of the number of Managed Intersections or Managed Ramps and their location and pay the Managed Intersection Licence Fee or Managed Ramp Licence Fee by reference to RMS's then Current Price List.

7. CHARGES

7.1 Fees

The Licensee will pay the Fees payable at the times and in the manner set out in Schedule 3.

7.2 Additional Fees

- (a) Subject to (b) the Licence Fees set out in Schedule 3 are payable once only.
- (b) No additional Licence Fee is payable by the Licensee unless:
 - (i) the Licensee seeks to increase the number or change the type of Licensed Intersections or Ramps under clause 6; or
 - (ii) the Licensee obtains a New Version or New Release of the Software (other than one provided for free under clause 4.2(b)).

7.3 Deductions

- (a) Payment of all sums due will be made in full without any set-off, deductions or withholding and all sums stated are stated exclusive of GST but include any other applicable taxes payable by RMS from time to time.
- (b) If GST is payable on any supply made under this Agreement, for which the consideration is not expressly stated to include GST, the recipient agrees to pay to the supplier an additional amount equal to the GST at the same time that the consideration for the supply is to be provided. However:
 - the recipient need not pay the additional amount until the supplier gives the recipient a tax invoice or an adjustment note; and

- if an adjustment event arises in respect of the supply, the additional amount will be adjusted to reflect the adjustment event and the recipient or the supplier (as the case may be) must make any payments necessary to reflect the adjustment.
- (c) All expressions used in this clause which are defined in the GST Law have the meanings given to them in the GST Law. GST Law has the same meaning it has in the A New Tax System (Goods and Services Tax) Act 1999 (Cwth).

7.4 Interest

Interest will accrue daily on any Fees which are more than 30 days overdue at the Westpac Indicator Lending Rate (quoted on the first day of each month during which interest accrues) plus 2% and will be payable to RMS on demand.

7.5 Currency

All payments will be made in Australian dollars.

8. TERMINATION

8.1 RMS termination grounds

RMS may immediately terminate this Agreement by giving written notice to the Licensee if the Licensee:

- (a) breaches a provision of this Agreement and has not remedied that breach within 30 days after service by RMS of a notice requiring that the Licensee rectify such breach;
- (b) fails to remit any amounts owing to RMS with accrued interest within 60 days of the date due under this Agreement; or
- (c) breaches any of the provisions in Clause 2.3 (Grant of Licence - Restrictions) or Clause 11 (Confidentiality).

8.2 Licensee termination grounds

The Licensee may immediately terminate this Agreement by giving written notice to RMS of its intention to terminate on the ground that RMS has materially breached a provision of this Agreement and has not remedied that breach within 30 days after service by the Licensee of a notice requiring that RMS rectify such breach.

8.3 Injunction

The Licensee acknowledges that termination and damages may not be an adequate remedy for actual or threatened breaches of Clauses 2.3 or 11 and that RMS may apply for an injunction to restrain the Licensee from breaching Clause 2.3 or 11 of this Agreement.

8.4 Return of Software

If this Agreement is terminated the Licensee will immediately return, at its own cost, all copies of the Software and any Confidential Information in the possession or control of the Licensee. To the extent that copies of the Software can not be returned, the Licensee will certify in writing to RMS that such copies have been destroyed. The

Licensee will allow representatives of RMS to inspect its equipment and facilities on reasonable notice, whether at the Location or otherwise, in order to verify the Licensee's compliance with this Clause 8.4.

8.5 Rights and obligations

On termination of this Agreement:

- (a) the rights of the Licensee granted by this Agreement will cease;
- (b) the obligations of either party which have accrued but have not been discharged at the date of termination will not be affected by termination; and
- (c) all moneys owing by the Licensee to RMS under this Agreement will become payable immediately.

8.6 Termination of Maintenance Services or Training Services

- (a) Either party may terminate the Maintenance Services or Training Services provided under this Agreement by giving the other party at least 6 months notice whereupon the Maintenance Services or Training Services (as the case may be) will end at the end of the Financial Year in which that notice expires.
- (b) Where RMS assigns its rights under this Agreement to a third party (other than to a NSW Government agency or to an entity which is controlled by RMS or the NSW Government) then the Licensee may at any time give 1 month's written notice to RMS terminating the Maintenance Services or Training Services. At the end of that 1 month those services will cease and within a further 1 month RMS must refund to the Licensee a proportionate amount of the Maintenance Fees and/or Training Fees on a pro-rata basis from the date of termination.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Acknowledgment

Copyright and all other Intellectual Property rights by whatever name and throughout the world in the Software belong to and remain vested in RMS.

9.2 Notification

The Licensee will promptly notify RMS of any use by any third party of the Software or any part of which the Licensee becomes aware of which might reasonably amount to an infringement of any Intellectual Property rights relating to the Software.

9.3 Warranty

RMS warrants that:

- (b) it is authorised to grant the Licensee the licence to use the Software; and
- (c) the Software and associated materials provided by RMS do not infringe the Intellectual Property rights of any person if used in accordance with the terms of this Agreement.

10. LIMITATION OF LIABILITY AND INDEMNITY

- 10.1 Subject to clause 10.3, RMS excludes all liability for indirect, special and consequential loss arising from or in relation to this licence or the Software (including loss of revenue, profits, bargain or goodwill).
- 10.2 Subject to clauses 10.1 and 10.3, RMS's total liability in aggregate under this Licence is limited to the total amount of Licence Fees the Licensee paid for the Software to RMS under this Agreement.
- 10.3 Nothing in this Licence operates to limit or exclude liability that cannot by law be limited or excluded. RMS's liability under any obligation implied by law in this Licence is limited, at RMS's option, to resupplying the Software or paying for the resupply of the Software.
- 10.4 The Licensee indemnifies RMS, its agents and contractors against all expenses, losses, damages and costs (including legal costs on a full indemnity basis and whether incurred by or awarded against RMS) suffered or incurred by RMS in respect of the Licensee's breach of this Licence or the Licensee's use of the Software, whether negligent or otherwise.

11. CONFIDENTIALITY

11.1 Acknowledgment

The Licensee acknowledges that the Confidential Information is the property of and confidential to RMS and that any disclosure of it will cause damage to RMS.

11.2 Licensee's obligation of confidentiality

Subject to clause 11.3, the Licensee will take all necessary measures to:

- (a) maintain the secrecy of all Confidential Information; and
- (b) prevent third parties from gaining access to the Confidential Information; and
- (c) disclose the Confidential Information only to those of its employees and agents who need to know the Confidential Information to exercise the Licensee's rights under this Agreement and to obtain from each such person to whom the Confidential Information is disclosed undertakings no less onerous than those contained in this Clause 11; and
- (d) enforce any obligation of confidence imposed on the Licensee by this Agreement.

This Clause 11 will survive termination of this Agreement.

11.3 Exception

Clause 11.2 will not apply where the Confidential Information:

- (a) is disclosed in accordance with this Agreement;
- (b) comes into the public domain by reason other than a breach of this Agreement;
- (c) is disclosed to the Licensee by a third party having the right to do so; or
- (d) is disclosed by the Licensee in circumstances required by any applicable

law;

and RMS acknowledges that the Licensee may disclose Confidential Information (other than source codes for the Software):

- (e) where the Licensee is a Minister of State or a government or statutory department or agency or a Crown Entity or a state-owned corporation or Local Council, to Parliament, the Governor, Cabinet, any Minister of the Crown or Parliamentary or Cabinet committee or sub-committee of New Zealand having a proper interest in this Agreement;
- (f) as is reasonably required for the purpose of performing its own obligations under this Agreement or monitoring RMS's performance; or
- (g) as is reasonably required for the purposes of prosecuting or defending any legal proceedings.

11.4 Meaning of "public domain"

For the purposes of this Clause 11, Confidential Information will not be regarded as being in the public domain by reason only of the fact that some portion of the Confidential Information is public, or that information is public which, together with other information, could be used to produce the Confidential Information.

11.5 Security

The Licensee will take all reasonable steps to ensure that all of the Confidential Information in its possession is kept in a safe and secure place on its premises and will be protected at all times from unauthorised access, misuse, damage or destruction. The Licensee will not without the consent of RMS allow the Confidential Information to be removed from the Location.

12. FORCE MAJEURE

Except for the Licensee's obligation to pay any amounts under this Agreement, neither party will be liable for any failure to perform this Agreement due to causes beyond its control but RMS must reimburse the Licensee for any amount of the Maintenance Fee paid in advance for Maintenance Services RMS does not provide due to a cause beyond its reasonable control. Insolvency, lack of funds and labour disputes involving that party's employees only, are not reasons beyond a party's control.

13. NOTICES

Any notice given under this Agreement:

- (a) must not be sent by electronic mail;
- (b) must be sent by registered mail if sent to RMS from any place outside of Australia;
- (c) must be in writing addressed to the intended recipient at the address shown below or the address last notified by the intended recipient to the sender:

RMS

Street Address	Mailing Address
General Manager Traffic & Safety Management Roads and Maritime Services Australian Technology Park Locomotive Workshop Suite 3120 2 Locomotive Street Eveleigh, NSW 2015 Australia	General Manager Traffic & Safety Management Roads and Maritime Services P.O. Box 1927 Strawberry Hills NSW 2012 Australia

s9(2)(a)

Web www.scats.com.au

Licensee

Street Address	Mailing Address
Attn. Matthew Hoyle Technical Services Manager New Zealand Transport Agency Level 11, HSBC House, 1 Queen Street, Auckland, New Zealand	Attn. Matthew Hoyle Technical Services Manager New Zealand Transport Agency Private Bag 106602 Auckland 1143 New Zealand

s9(2)(a)

Web: www.nzta.govt.nz

- (d) must be signed by a person duly authorised by the sender; and
- (e) will be taken to have been given when delivered, received or left at the above address but if delivery or receipt occurs on a day when business is not generally carried on in the place to which the notice is sent, or is later than 4 pm (in the recipient's local time), it will be taken to have been duly given at the commencement of business on the next day when business is generally carried on in that place.

14. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

15. AMENDMENT

This Agreement may be amended only by written agreement of both parties.

16. ASSIGNMENT

The rights granted to the Licensee under this Agreement are personal to the Licensee and the Licensee will not assign, sub-license or otherwise deal with any of its rights and obligations under this Agreement without the prior written consent of RMS.

If the Licensee is a Minister of State, government department or agency, state-owned corporation, or Local Council and its road traffic functions are transferred to another Minister of State, government department or agency, state-owned corporation or Local Council within the same State then RMS will agree to novate this Agreement provided the Licensee is not in breach of this Agreement.

17. NO WAIVER

No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

18. NO MERGER

The rights and obligations of the parties will not merge on completion of any transaction under this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

19. STAMP DUTY AND COSTS

Each party will bear its own costs arising out of the preparation of this Agreement but the Licensee will bear any stamp duty (including fines and penalties) chargeable on this Agreement and on any instruments executed under this Agreement. The Licensee will indemnify RMS on demand against any liability for that stamp duty.

20. SEVERANCE

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

21. GOVERNING LAW

This Agreement is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

EXECUTED as an agreement

SIGNED on behalf of
ROADS AND MARITIME SERVICES)

by its delegate in the presence of:)

s9(2)(a)
[Redacted Signature]

Signature of witness

s9(2)(a)
[Redacted Signature]

Print name

DATE OF SIGNING: 22 March 2013

s9(2)(a)
[Redacted Signature]

Signature

s9(2)(a)
[Redacted Signature]

Print name

s9(2)(a)
[Redacted Signature]

SIGNED on behalf of
New Zealand Transport Agency)
by its delegate in the presence of:)

s 9(2)(a)
[Redacted Signature]

Signature of witness

CARLOS AYDOS

Print name

DATE OF SIGNING: 22/03/13

s 9(2)(a)
[Redacted Signature]

Signature

MATTHEW HOYLE

Print name

TECHNICAL SERVICES MANAGER

Office held

SCHEDULE 1

THE SOFTWARE

1. SCATS

SCATS is an area wide traffic management system software application which operates on a Windows PC or Windows server platform (the current version of the operating systems supported are included in the latest SCATS documents distributed with each release) using Intel chip sets only, SCATS is licensed using dongles.

SCATS provides autonomous traffic adaptive or fixed time control of traffic control intersections (or mid-block pedestrian crossings). In traffic adaptive mode, cycle time, green splits and offsets are continually adjusted in accordance with data from vehicle detectors located in lanes at the stop line of each intersection.

Traffic adaptive mode links intersections into sub-systems which can also be linked to allow for optimal coordination between all sites. Fixed time operation is accomplished by schedule. Intersections may have a permanent connection to a computer or may be accessed by dial-in or dial-out facilities when SCATS coordination is not required.

Monitoring is provided by a user interface with up to 30 users able to connect at the same time. Alarm condition monitoring and data entry/alteration facilities are included.

SCATS will automatically collect daily files for up to 9999 days for alarms and events, detector volumes, performance data and intersection history data. The Central Manager feature provides for seamless management of up to 64 computers. SCATS has an optional ITS Port allowing for the exchange of SCATS data with other compatible Intelligent Transport Systems (enabling of the port is subject to an additional licence fee).

The software also includes utilities supporting configuration of SCATS computers, drawing of SCATS graphics, production of traffic performance reports and alarm/event/incident reports.

For full details of the software capability and configuration please refer to the manuals provided on the distribution CD issued by RMS with each release.

2. SCATS Ramp Metering Software (SRMS)

SRMS is an RMS developed software application that provides adaptive ramp metering control for motorways/freeways which operates on a Windows PC or Windows server platform (the current version of the operating systems supported are included in the latest SRMS documents distributed with each release) using Intel chip sets only, SRMS is licensed using dongles.

The SCATS Ramp Metering (SRMS) is used to alleviate flow breakdown on freeways that occurs when traffic entering the freeway exceeds the available spare capacity on the freeway. This is achieved by restricting (metering) the flow of traffic entering the freeway via on-ramps controlled by ramp metering signals which display successive short green intervals. Each green releases one vehicle per lane. The metering rate is adjusted by varying the interval between greens. The control algorithm uses traffic flow data from detectors on the freeway and ramps to adaptively calculate metering flow rates.

SRMS itself includes a graphical user interface (SRMSAccess) and interfaces to signal control and detector monitoring systems. SRMS does not directly interface to detectors and

controllers. A typical SRMS installation interfaces to a freeway management system to access freeway mainline detector data and interfaces to SCATS to control the ramp meter signals and monitor detectors on ramps. SRMS can be interfaced to other systems to provide the detector monitoring and signal control functions.

For full details of the software capability and configuration please refer to the manuals provided on the distribution CD issued by RMS with each release.

SCHEDULE 2

SCATS LICENSED INTERSECTIONS

TYPE	LIMIT
Managed Intersections	Nil
Fixed Time Intersections	Nil
Traffic Adaptive Intersections	100
TOTAL	100

NOTE: The total limit and sub-limits may be increased by mutual agreement in writing in accordance with clause 6 on payment of additional connection fees

VERSION CONTROL: This version is current as at **30 May 2011**

SRMS LICENSED RAMPS

TYPE	LIMIT
Managed ramps	Nil
Traffic Adaptive Ramps	256
TOTAL	256

NOTE: The total limit and sub-limits may be increased by mutual agreement in writing in accordance with clause 6 on payment of additional connection fees

VERSION CONTROL: This version current as at **30 May 2011**

TERRITORY

The area within the boundaries determined by the Local Government Commission under s33(1) of the Local Government (Auckland Council) Act 2009.

SCHEDULE 3

FEES

clauses 4.3 – 4.5, 5.3, 6.1, 6.2 7.1, 7.2, 7.4, 12

Notes:

- The Core Fee allows the Licensee to use SCATS for a maximum of 250 Licensed Intersections (subject to the Licensee paying the appropriate Connection Fees). Thereafter further Core Fees (calculated according to RMS's Current Price List) are payable each time the threshold of 250 intersections is reached. Similarly, the Core Fee for SRMS covers up to 250 ramps.
- Connection Fees are payable for each Licensed Intersection. Further Connection Fees will be payable if the Licensee increases the number of Licensed Intersections. Similarly for SRMS Connection Fees for Licensed Ramps.
- Amounts stated in this Schedule reflect agreed prices at the date of this Agreement for the number of Licensed Intersections and Licensed Ramps agreed at the date of this Agreement but RMS's Current List Price will change from time to time.
- Amounts are expressed in Australian dollars exclusive of GST.

(A) Licence Fees

A **total** of \$360,400 for the Licensed Intersections and Licensed Ramps at the date of this Agreement calculated as follows:

- \$40,000 (being Core Fees x 2)
- \$90,000 for Traffic Adaptive Intersections
- \$230,400 for Traffic Adaptive Ramps

Receipt of which sum RMS acknowledges has already been paid.

(B) Maintenance Fees

NOTE: Maintenance Fees are only payable if the Licensee chooses to receive Maintenance Services.

- 1 The annual Maintenance Fee calculated each year is a sum equivalent to 10% of all Licence Fees at the Current List Price for the total number of the Licensee's Licensed Intersections and Licensed Ramps.

(Note that the Maintenance Fee is calculated on the Licence Fees (including Core Fees) ordinarily payable for the relevant number of Licensed Intersections as if the Licensee were taking a new licence and ignoring the fact that the Licensee is not actually required to pay further Licence Fees).

- 2 Maintenance Fees are payable annually in advance in respect of each Financial Year.
- 3 RMS will issue an invoice to the Licensee for the Maintenance Fees on signing this Agreement and thereafter in May each year for the following Financial Year.
- 4 In the event that any Financial Year is less than 12 months then the Maintenance Fee for that Financial Year will be apportioned.

(C) Training Fees

- 1 Training Fees are payable at the Current List Price at the time the training is provided.
- 2 RMS may make rules from time to time allowing discounts on Training Fees for SMUG members. A SMUG member is a licensee who a member of the SCATS Management User Group. The rules that apply at the Commencement Date are as follows:
 - (a) At each training session RMS allows a total of 3 trainees from SMUG members to attend without charge.
 - (b) If more than 3 SMUG members want to send staff to a training session then the first 3 SMUG members to apply will each be permitted to send one person without charge.
 - (c) If 3 SMUG members want to send staff to a training session then each of them will each be permitted to send one person without charge.
 - (d) If 2 SMUG members want to send staff to a training session then each of them will be permitted to send one person without charge and the SMUG member who applied first will be permitted to send a second person without charge.
 - (e) If only 1 SMUG member wants to send staff to a training session then it will be permitted to send 3 people without charge.

(D) Payment terms

All Fees are payable within 30 days from receipt of a valid invoice from RMS for the correct amount as determined in accordance with this Schedule.

(E) New Release Fee

The New Release Fee as set from time to time by RMS is payable if the Licensee wishes to upgrade to a New Release unless the Licensee is entitled to free upgrades under clause 4.2

SCHEDULE 4

MAINTENANCE SERVICES

The Maintenance Services are:

- a) telephone support in the form of consultations, assistance and advice from 9.00 am to 5.00 pm (Sydney time) Monday to Friday, excluding public holidays in Sydney, up to a total of 20 hours per year;
- b) access to RMS SCATS Help Internet system s 9(2)(a) [REDACTED];
- c) remote diagnosis/modem support;
- d) provision of New Releases;
- e) notification to the Licensee of alleged and identified operational problems and faults in relation to the Software as soon as they become known to RMS;
- f) distribution of solutions or processes to eliminate and/or reduce the impact of such problems or faults when such solutions or processes become available to RMS;
- g) technical support in the form of one annual visit (not exceeding 2 days) by RMS Traffic Management Branch (provided RMS's reasonable travel and accommodation cost are paid by the Licensee); and
- h) Free membership of the SCATS Management User Group (SMUG).

Access By Licensee's Contractor

Where the Licensee outsources its in-house maintenance of SCATS to a contractor RMS may agree to provide Maintenance Services to that contractor provided that:

- the Licensee provides a written request which provides full details of the contractor including the names and addresses of the contractor's personnel who are proposed to have access to the Maintenance Services (and updates that advice whenever a relevant change occurs or is proposed); and
- the contractor signs a confidentiality agreement in favour of RMS in the form provided in Schedule 6 and that each of the contractor's personnel sign a confidentiality undertaking in the form provided in Schedule 7.

If RMS agrees to allow the Licensee's contractor to access the Maintenance Services then:

- RMS may terminate that access immediately at any time and
- the Licensee hereby indemnifies the RMS from all loss and liability arising from the contractor's misuse of the Maintenance Services or breach of confidence.

SCHEDULE 5

TRAINING SERVICES

Subject to Clause 4.4 and Schedule 3 RMS will accept the Licensee's nominated personnel at any training course in relation to the Software conducted in Sydney.

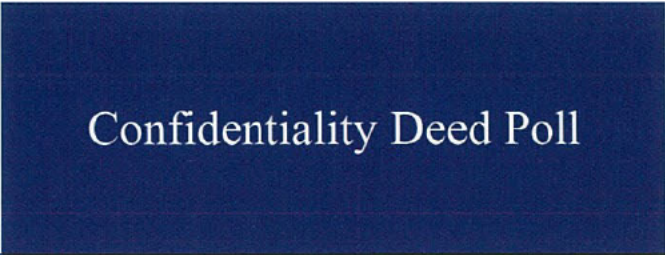
SCHEDULE 6

CONFIDENTIALITY DEED POLL

Form of confidentiality agreement RMS requires the Licensee's contractor to sign before accessing RMS Maintenance Services on the Licensee's behalf



Transport
Roads & Maritime
Services



RMS (Owner of confidential information)	Roads and Maritime Services (ABN 76 236 371 088) ("RMS") 101 Miller Street, North Sydney, NSW 2060, Australia Attention: ^{s9(2)(a)} [Redacted] Traffic Management Branch
Recipient of confidential information	Recipient Name: Address: Attention:
Approved Purpose (see clause 2.1)	Provision of maintenance and support services to Auckland Transport in relation to the SCATS® system.
Date	Signed and Delivered as a Deed on the _____ day of _____ 20____

Signature of Director: _____ Name: _____	Signature of 2 nd Director or The Company Secretary: _____ Name: _____
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RMS Confidentiality Deed Poll

You enter into this Deed Poll ("agreement") in consideration for our agreement to allow you access to Confidential Information

1 What is the Confidential Information?

1.1 The Confidential Information governed by this agreement is information which you obtain from us in connection with the Approved Purpose (whether or not recorded in any form). It also includes all information relating to our business policies, plans, strategies, financial details, proposals, systems, ideas, methods, know-how and intellectual property. It also includes information directly or indirectly derived from that information.

1.2 It does not include information which:

- (a) is or becomes part of the public domain (unless information is in or becomes part of the public domain because it has been disclosed without our consent);
- (b) was already lawfully known to you on a non-confidential basis;
- (c) is provided to you by another person who is in possession of it lawfully and can disclose it to you on a non-confidential basis; or
- (d) is independently developed by you without access to the Confidential Information.

1.3 The Confidential Information always remains RMS's property. This agreement does not give you any right, title or interest in it.

2 Your use of Confidential Information

2.1 You must use the Confidential Information solely for the Approved Purpose. You must not use it for any other purpose, or allow any other person to do so without our written consent.

2.2 You must not disclose the Confidential Information to any other person without our prior written consent. If we consent then you must ensure that other person signs a confidentiality agreement on the same terms as this agreement and you remain responsible for their actions.

2.3 You may disclose the Confidential Information to your employees and contractors on a strict need-to-know basis for the Approved Purpose provided you expressly inform them that it is RMS Confidential Information and you ensure that they owe you legally enforceable confidentiality obligations in respect of it. At any time we may require that you obtain a confidentiality undertaking from those persons in our favour.

2.4 You may disclose the Confidential Information as strictly required by law but you must inform us first and seek to limit the terms of that disclosure in any manner we reasonably request.

2.5 You must take reasonable steps to protect the Confidential Information and keep it secure from unauthorised access.

2.6 You must inform us as soon as possible if:

- (a) you become aware or suspect that there has been any unauthorised disclosure or use; or
- (b) you are required to disclose the information by law.

2.7 You must return or destroy (at our option) the Confidential Information and all copies of it when you no longer require it for the Approved Purpose or on our earlier request.

3 General

3.1 This agreement contains the entire agreement between both of us in relation to the Confidential Information and supersedes all other discussions, representations and statements about the Confidential Information.

3.2 This agreement may be varied or waived only if we both agree in writing.

3.3 You must not assign your rights or obligations under this agreement without our prior written consent.

3.4 If we do not exercise a right at any time in connection with a default under this agreement, this does not mean that we have waived the right or cannot exercise it later.

4 Privacy

If any Personal Information is disclosed to you by us or on our behalf, you must not use or disclose it except for the Approved Purpose; and notify us of any request for access to that information. You must also comply

with any reasonable direction which we give you relating to our obligations under Privacy Laws.

5 Governing law

The laws of New South Wales, Australia, govern this agreement and we both submit to the non-exclusive jurisdiction of the courts of that place.

6 Indemnity

You undertake to indemnify us against all liability or loss arising directly or indirectly from, and any costs, charges and expenses incurred in connection with:

- (a) any breach by you of this Deed; or
- (b) any act or omission by any of your representatives which, if done or omitted to be done by you, would be a breach of your obligations under this Deed.

7 Injunction

You agree that damages are not a sufficient remedy for RMS for any breach of this agreement and RMS is entitled to specific performance or injunctive relief.

8 End of this agreement

This agreement ends when:

- (a) we notify you in writing it ends; or
- (b) it is replaced by a later agreement which protects the Confidential Information to the same or similar degree; or
- (c) the Confidential Information is no longer confidential (but not through a breach by you or anyone you have disclosed it to).

9 Definitions

In this agreement, unless the contrary intention appears:

Approved Purpose means the purpose described on the front page of this agreement.

Confidential Information has the meaning as described in clause 1 of this agreement.

Personal Information has the same meaning it has in the Privacy Act.

Privacy Laws means the Privacy & Personal Information Protection Act 1998 (NSW).

we and us and our means Roads and Maritime Services.

you means the person named on page 1 as the recipient of Confidential Information.

SCHEDULE 7

CONFIDENTIALITY UNDERTAKING

Form of confidentiality undertaking of Contractor's personnel required under the Confidentiality Agreement in Schedule 6

CONFIDENTIALITY UNDERTAKING	
Individual's name:	#insert full name of the employee of the Recipient#
Approved Purpose:	provision of maintenance and support services to Auckland Transport for the SCATS system
Confidentiality Deed Poll:	Confidentiality Deed Poll in favour of Roads and Maritime Services ("RMS") by Recipient
Recipient's Name:	#insert name of Recipient (ie Auckland Transport's contractor)#

I, agree for the benefit of RMS:

- (a) that the Confidential Information made available to me is confidential to RMS;
- (b) to keep the Confidential Information confidential;
- (c) only to use it for the Approved Purpose;
- (d) not to disclose any of the Confidential Information to any person other than:
 - (i) to those who have signed an undertaking in this form; and
 - (ii) who require it for the Approved Purpose,unless I have the prior written consent of RMS; and
- (e) that I am aware that damages are not a sufficient remedy for RMS for any breach of this undertaking and RMS is entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach by me of this undertaking, in addition to any other remedies available to RMS at law or in equity.

The Recipient has informed me of the confidentiality obligations under the Confidentiality Deed Poll and of my obligations to maintain confidence. I understand that the Confidential Information is RMS's information, know-how, processes and methods and any other information not in the public domain.

EXECUTED

..... Signed Date
..... Print name	

