New South Wales Government

GC21 (Edition 2)

Schedules & Attachments

Sydney Modern Project
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</tr>
</tbody>
</table>
# Schedule 1 – Subcontractor's Warranty

Refer to clauses 30 of the GC21 General Conditions of Contract.

## Details

<table>
<thead>
<tr>
<th>Deed</th>
<th>between</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subcontractor:</td>
<td>Name</td>
</tr>
<tr>
<td></td>
<td>ABN/ACN/ARBN</td>
</tr>
<tr>
<td></td>
<td>Address</td>
</tr>
<tr>
<td></td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td>Attention</td>
</tr>
<tr>
<td>AND</td>
<td>Name</td>
</tr>
<tr>
<td>Contractor:</td>
<td>ABN/ACN/ARBN</td>
</tr>
<tr>
<td></td>
<td>Address</td>
</tr>
<tr>
<td></td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td>Attention</td>
</tr>
<tr>
<td>And</td>
<td>Name</td>
</tr>
<tr>
<td>Each of the Beneficiaries as follows:</td>
<td></td>
</tr>
<tr>
<td>The Principal:</td>
<td>Name</td>
</tr>
<tr>
<td></td>
<td>ABN/ACN/ARBN</td>
</tr>
<tr>
<td></td>
<td>Address</td>
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<tr>
<td></td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td>Attention</td>
</tr>
<tr>
<td>AGNSW</td>
<td>Name</td>
</tr>
<tr>
<td></td>
<td>ABN/ACN/ARBN</td>
</tr>
<tr>
<td></td>
<td>Address</td>
</tr>
<tr>
<td></td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td>Attention » concerning</td>
</tr>
</tbody>
</table>

Subcontract Work: ..................................................
Recitals
A. The Contractor has entered into the Contract with the Principal for the carrying out of the Works.
B. The Subcontractor has entered into an agreement with the Contractor for the Subcontract Work, which are to be used by the Contractor in performing the Contract.
C. The Beneficiaries, the Contractor and the Subcontractor wish to set out the obligations that the Subcontractor will owe each of the Beneficiaries directly, and make certain arrangements relating to the Contract and Subcontract.
D. The obligations created by this Deed are in addition to the obligations of the Subcontractor to the Contractor and do not affect any other rights or remedies available to the Beneficiaries (or any one of them) against the Contractor or the Subcontractor.

Terms of Deed
1 Definitions
In this Deed the following words and expressions have the meanings set out below:
.1 Beneficiaries means the Principal and AGNSW and each of their successors and permitted assignees.
.2 Contract means the contract between the Principal and the Contractor dated [insert] for the Works.
.3 Default Event means any failure by the Contractor to comply with an obligation imposed upon the Contractor under the Subcontract if such failure:
   .1 would entitle the Subcontractor to give the Contractor a notice under the Subcontract requiring the Contractor to remedy such failure; or
   .2 whether immediately or following the delivery of a notice or effluxion of time, would entitle the Subcontractor to exercise any Right.
.4 Details means the section of this Deed headed Details.
.5 Material Notice means a notice issued under the Subcontract by:
   .1 either the Subcontractor or the Contractor following an Insolvency Event;
   .2 by the Subcontractor or the Contractor relating to events and circumstances entitling either party to terminate, rescind, accept a repudiation or suspend performance of any obligations under the Subcontract; or
   .3 by the Subcontractor purporting to exercise its Rights.
.6 party means the Subcontractor or the Beneficiaries (or any one of them).
.7 Related Body Corporate has the meaning it has in the Corporations Act 2001 (Cth).
.8 Right means the Subcontractor’s right under the Subcontract to terminate, rescind, accept a repudiation by the Contractor of, or suspend performance of any obligations under, the Subcontract.
.9 Subcontract means the contract between the Contractor and the Subcontractor dated [insert] for the Subcontract Work.
.10 Subcontract Work means all of the works and services to be performed by the Subcontractor to comply with its obligations under the Subcontract, including the subcontract work and products identified in the Details and work carried out pursuant to the Subcontract prior to the date of this Deed.
.11 Warranty Period means [insert] years from the Actual Completion Date of the whole of the Works.
2 Interpretation

1. Heads are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Deed:
   .1 the singular includes the plural and vice versa;
   .2 a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
   .3 a reference to a document also includes any variation, replacement or novation of it;
   .4 the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
   .5 a reference to “person” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
   .6 a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
   .7 a reference to a time of day is a reference to Sydney time;
   .8 a reference to dollars, $ or A$ is a reference to the currency of Australia;
   .9 a reference to “law” includes common law, principles of equity and legislation (including regulations);
   .10 a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
   .11 a reference to “regulations” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
   .12 a reference to any thing (including an amount) is a reference to the whole and each part of it;
   .13 a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day; and
   .14 if a day on which a party must do something under this Deed is not a Business Day, the party must do it on the next Business Day.

2. Unless the contrary intention appears, terms which have a defined meaning in the Contract has the same meaning when used in this Deed.

3. If a provision of this Deed is inconsistent with a provision of the Subcontract, the provisions of this Deed prevail to the extent of the inconsistency.

3 Warranty

1. The Subcontractor warrants to the Beneficiaries that all work performed and all Materials supplied by the Subcontractor as part of the Subcontract Work will:
   .1 comply in all respects with the requirements of the Contract;
   .2 to the extent that the quality of Materials or standard of workmanship is not specified in the Contract, then the Materials or standard of workmanship must:
      .1 comply with the applicable industry standards, including (without limitation) the Building Code of Australia and any relevant Australian Standards or international standard in the absence of any relevant Australian Standard; and
      .2 be new and of good and merchantable quality;
      .3 be fit for the purposes for which they are required;
      .4 capable of safe and reliable operation; and
1.2 The Subcontractor represents, warrants and undertakes to the Beneficiaries that:

1.1 perform its obligations under the Subcontract in a proper and workmanlike manner and to a standard of care, skill, judgment and diligence; and

2.2 provide suitably qualified staff to a standard, commensurate with a competent professional experienced in work of a similar nature to the Subcontract Work;

2.2 the Subcontractor will perform its obligations under the Subcontract in accordance with the Subcontract and all applicable legislative requirements;

3.3 the Subcontract Works will be fit for their intended purpose and meet any design life specified in the Contract in respect of those Subcontract Works; and

4.4 to the extent that it is obliged to assign or license Intellectual Property Rights to the Contractor or the Beneficiaries (or any one of them):

1.1 it is the legal and beneficial owner of such rights; and

2.2 it has not previously assigned, transferred nor exclusively licensed such rights.

3. The Subcontractor gives to the Beneficiaries the same warranties, guarantees and indemnities that it has given the Contractor under the Subcontract and agrees that the Beneficiaries may assign these warranties and guarantees without the consent of the Subcontractor.

4 Replacement or making good

1. Until the expiry of the Warranty Period, the Subcontractor must replace or make good, to the reasonable satisfaction of the Principal, any of the Subcontract Work which does not comply with the requirements of this Deed.

5 Notice of Defects

1. The Beneficiaries (or any one of them) may notify the Subcontractor in writing if it considers there has been any breach of this Deed or if the Beneficiaries (or any one of them) requires the Subcontractor to replace or make good any of the Subcontract Work in accordance with clause 4 of this Deed ("Remedy Notice").

6 Time to remedy

1. The Subcontractor must do everything to remedy any breach or to carry out any replacement or making good notified to it in the Remedy Notice within a reasonable time after receiving the Remedy Notice.

7 Failure to remedy

1. If the Subcontractor fails to remedy the breach or complete the work specified in the Remedy Notice within a period determined by the Beneficiaries (or any one of them) to be reasonable in the circumstances, the Beneficiaries (or any one of them) may give written notice to the Subcontractor that the Beneficiaries (or any one of them) intends to have that work carried out by others. This notice must allow a reasonable period for the Subcontractor to respond.

2. If the Subcontractor fails to complete the work by the date specified in clause 7.1 of this Deed, or another date agreed by the parties, the Beneficiaries (or any one of them) may have the work carried out by others, and any Loss suffered or incurred by the Beneficiaries (or any of them) will be a debt due from the Subcontractor to the Beneficiaries (as applicable).

8 Indemnity

1. The Subcontractor indemnifies the Beneficiaries against claims (including Claims, actions and Losses) brought against, suffered or incurred by the
Sydney Modern Project – SCHEDULES

9 Liability

.1 The liability of the Subcontractor under this Deed is not affected by the:
   .1 Principal exercising or refraining from exercising any or all of their rights against the Contractor, at law or in equity;
   .2 AGNSW exercising or refraining from exercising any or all of their rights against the Contractor at law or in equity; or
   .3 the Contractor exercising or refraining from exercising any or all of their rights against the Subcontractor, at law or in equity.

.2 Any information provided to, and any inspection undertaken by, the Beneficiaries (or any one of them) or any person authorised by the Beneficiaries (or any one of them) will not:
   .1 limit or discharge the obligations of the Subcontractor under the Subcontract; or
   .2 relieve the Subcontractor from any liability which it may have in respect of any defect or default in or relating to the Subcontract Work.

10 Urgent action by Principal

.1 The Beneficiaries (or any one of them) may take any urgent action necessary to protect the Works, other property or people as a result of a breach of this Deed.

.2 The Subcontractor agrees that the Beneficiaries (or any one of them) taking action under clause 10.1 does not affect the warranty or any other obligation of the Subcontractor under this Deed.

.3 Any Loss suffered or incurred by the Beneficiaries (or any of them) as a consequence of the Beneficiaries (or any one of them) taking action under clause 10.1 will be a debt due from the Subcontractor to the Beneficiaries (as applicable).

11 Assignment

.1 The Subcontractor may not assign or otherwise deal with its rights under this Deed or allow any interest in them to arise or to be varied without the prior written consent of the Beneficiaries (which may be given or withheld in the Beneficiaries' absolute discretion).

.2 Each of the Beneficiaries may assign or otherwise deal with its rights under this Deed in any way it considers appropriate. If a Beneficiary does this, neither the Contractor nor the Subcontractor may claim against any assignee (or any other person who has an interest in this Deed) any right of set-off or other rights the Contractor or the Subcontractor has against the relevant Beneficiary.

12 Material Notices

.1 The Subcontractor must give the Beneficiaries:
   .1 copies of any Material Notice;
   .2 copies of all documents issued by the Subcontractor to the Contractor relating to the event or circumstance to which the Material Notice relates;

at the same time as it gives the Material Notice to the Contractor, or as soon as is reasonably possible following receipt of a Material Notice from the Contractor.

13 Novation

.1 The Subcontractor acknowledges that under the Contract that, in the event of a Contractor Termination Event, the Contractor must:
   .1 assign to the Principal the Contractor's rights and benefits in all its contracts and agreements in connection with the Works, warranties and unconditional undertakings, bank guarantees, insurance bonds, other security of a similar nature or purpose and retention held by the Contractor, with effect from the date of termination of its employment under the Contract; and
.2 consent to the novation to the Principal or its nominee of the Subcontract, if required by the Principal.

.2 If required by the Beneficiaries (or any one of them), the Subcontractor agrees to do all things reasonably necessary (including to execute a deed of novation or provide such information as reasonably required by the Beneficiaries) to give effect to:

.1 the novation of the Subcontract; and

.2 assignment of any rights or benefits in connection with the Subcontract Work, including any warranties, unconditional undertakings, bank guarantees, insurance bonds or other security, to the Beneficiaries (or any one of them).

.3 The Subcontractor acknowledges and agrees that the Beneficiaries (or any one of them) may at any time make payments and may deduct, withhold or set-off any amounts to be paid under the Subcontract, if novated, from amounts otherwise payable to the Contractor or from any Undertakings given on the Contractor's behalf.

14 Acknowledgements

.1 The Contractor acknowledges that:

.1 neither the existence of the Contract nor the fact that the Beneficiaries (or any one of them) exercises a power under the Contract or this Deed will of itself contravene, or constitute a Default Event under the Subcontract or entitle the Contractor to exercise any Right or power under the Subcontract; and

.2 the Beneficiaries will not be liable, or taken to have assumed liability, for any liability or obligation under or in respect of the Subcontract as a result of the entry into, or exercise of any rights or powers under, the Contract or this Deed.

15 Representations and warranties

.1 Each of the Subcontractor and the Contractor represents and warrants to the Beneficiaries that:

.1 (incorporation) it is validly incorporated and has the power to carry on its business as it is now being conducted;

.2 (power) it has the power to enter into and perform its obligations under this Deed;

.3 (authority) it has taken all action which is necessary to authorise the entry into and performance of its obligations under this Deed and;

.4 (binding obligations) this Deed contains legal, valid and binding obligations, enforceable in accordance with its terms.

16 Confidentiality

.1 Each party agrees not to disclose information provided by another party that is not publicly available except:

.1 to any person in connection with an exercise of rights or a dealing with rights or obligations under this Deed; or

.2 to officers, employees, legal and other advisers and auditors of any party; or

.3 to any party to this Deed or any Related Body Corporate of any party to this Deed, provided the recipient agrees to act consistently with this clause; or

.4 with the consent of the party who provided the information; or

.5 as allowed by any law or stock exchange.
17 Notices

.1 Notices must be sent to the relevant persons at the addresses in the Details, or at the address for service most recently notified in writing by the addressee.

.2 All notices must be in writing.

.3 Notices are taken to be received:
   .1 if sent by post, 3 days after posting;
   .2 if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
   .3 if sent by email:
      .1 when the sender receives an automated message confirming delivery; or
      .2 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,
whichever happens first.

18 Governing Law

.1 This Deed is governed by the law in force in the State of New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of that place.

19 General

.1 The parties agree to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this Deed and of other related documentation, except stamp duty.

.2 This Deed may be executed in counterparts. All counterparts when taken together constitute one document and the date on which the last counterpart is executed will be the date of the Deed.

.3 Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.

.4 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this Deed or any part of it.

.5 This Deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject.

.6 If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this Deed or is contrary to public policy.

.7 A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

20 Operation of Deed

.1 This Deed comes into effect when executed by the Subcontractor, and is effective whether or not executed by the Beneficiaries.

Executed as a deed
Sydney Modern Project – SCHEDULES

Signing page

DATED: __________________________

Signed sealed and delivered by )

as Chief Executive Officer of )

INFRAS TRUCTURE NSW ABN 85 031 )

302 516pursuant to the Infrastructure )

NSW Act 2011 (NSW) )

in the presence of )

................................. )

Signature of witness )

................................. )

Name of witness (block letters)

EXECUTED by [SUBCONTRACTOR] )

in accordance with section 127(1) of )

the Corporations Act 2001 (Cth) by )

authority of its directors:

................................. )

Signature of director )

Name of director (block letters)

................................. )

Signature of director/company )

secretary*

*delete whichever is not applicable

Name of director/company secretary*

(block letters)

*S delete whichever is not applicable

SIGNED by [AGNSW REP] as )

authorised representative for [AGNSW] )

in the presence of:

................................. )

Signature of witness )

Name of witness (block letters)

By executing this document the )

signatory warrants that the signatory is )

duly authorised to execute this )

document on behalf of [AGNSW]
EXECUTED by [CONTRACTOR] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

...........................................................
Signature of director

...........................................................
Name of director (block letters)

...........................................................
Signature of director/company secretary*
*delete whichever is not applicable

...........................................................
Name of director/company secretary* (block letters)
*delete whichever is not applicable
# Schedule 3 – Payment Claim Worksheet

Refer to clause 58 of the GC21 General Conditions of Contract.

<table>
<thead>
<tr>
<th>Activity to suit schedule of prices and/or activities</th>
<th>Activity number</th>
<th>Value of activity $</th>
<th>Activity completed %</th>
<th>Activity completed value $ (col 3 x col 4)</th>
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<tr>
<td>Amount brought forward from previous sheet</td>
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<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Amount carried forward to next sheet</td>
<td></td>
<td></td>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

### Value Completed

- Less payments already made: $
- Less retention for the *Completion Amount* under clause 60, if applicable: $

### Claimed Amount: $

**The Contractor:** .................................................................

**ABN** .................................................................

**The Contract:** The contract between the Principal and the Contractor

**Contract Name:** »

**Contract Number:** »
Schedule 4 – Parent Company Guarantee

Refer to clauses 33 of the GC21 General Conditions of Contract.

Deed of Guarantee and Indemnity

Sydney Modern Project

Dated

[insert party name and ABN/ACN/ARBN] ("Guarantor")
Infrastructure NSW ABN 85 031 302 516 ("Beneficiary")
## Details

<table>
<thead>
<tr>
<th>Parties</th>
<th>Guarantor and Beneficiary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Guarantor</strong></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>[insert]</td>
</tr>
<tr>
<td>ABN/ACN/ARBN</td>
<td>[insert]</td>
</tr>
<tr>
<td>Address</td>
<td>[insert]</td>
</tr>
<tr>
<td>Fax</td>
<td>[insert]</td>
</tr>
<tr>
<td>Email</td>
<td>[insert]</td>
</tr>
<tr>
<td>Attention</td>
<td>[insert]</td>
</tr>
<tr>
<td><strong>Beneficiary</strong></td>
<td><strong>Infrastructure NSW</strong></td>
</tr>
<tr>
<td>Name</td>
<td>Infrastructure NSW</td>
</tr>
<tr>
<td>ABN/ACN/ARBN</td>
<td>ABN 85 031 302 516</td>
</tr>
<tr>
<td>Address</td>
<td>Level 15, 167 Macquarie St, Sydney NSW 2000</td>
</tr>
<tr>
<td>Fax</td>
<td>+ 61 2 8016 0101</td>
</tr>
<tr>
<td>Email</td>
<td>[insert]</td>
</tr>
<tr>
<td>Attention</td>
<td>[insert]</td>
</tr>
<tr>
<td><strong>Contractor</strong></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>[insert]</td>
</tr>
<tr>
<td>ACN</td>
<td>[insert]</td>
</tr>
<tr>
<td>Address</td>
<td>[insert]</td>
</tr>
<tr>
<td><strong>Governing law</strong></td>
<td>New South Wales</td>
</tr>
<tr>
<td><strong>Date of deed</strong></td>
<td>See Signing page</td>
</tr>
<tr>
<td><strong>Recitals</strong></td>
<td></td>
</tr>
<tr>
<td>A</td>
<td>The Beneficiary has agreed to enter into the Contract with the Contractor on the condition that the Guarantor provides this deed.</td>
</tr>
<tr>
<td>B</td>
<td>The Guarantor considers that, by providing this deed, there will be a commercial benefit flowing to the Guarantor.</td>
</tr>
</tbody>
</table>
General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

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

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

- **Claim** means any claim, action, suit, demand of any kind.

- **Contract** means the design and construct contract dated [insert date] between the Beneficiary and the Contractor for [insert description of works].

- **Contractor** means the person or persons so described in the Details.

- **Corporations Act** means the Corporations Act 2001 (Cth).

- **Costs** includes costs, charges and expenses, including reasonable Costs incurred in connection with advisers and any reasonable legal costs on a full indemnity basis.

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

- **Guarantor** means the person so described in the Details.

- **Taxes** means taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them, but does not include a Tax imposed by any jurisdiction on the net income of the Beneficiary other than a Tax:
  
  (a) calculated on or by reference to the gross amount of any payment (without allowance for any deduction) derived by the Beneficiary under this deed or the Contract; or
  
  (b) imposed as a result of the Beneficiary being considered a resident of or organised or doing business in that jurisdiction solely as a result of it being a party to this deed or the Contract.

1.2 General interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this deed:

(a) the singular includes the plural and vice versa;

(b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
(c) a reference to a document also includes any variation, replacement or novation of it;

(d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;

(e) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

(f) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

(g) a reference to a time of day is a reference to Sydney time;

(h) a reference to dollars, $ or A$ is a reference to the currency of Australia;

(i) a reference to "law" includes common law, principles of equity and legislation (including regulations);

(j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

(k) a reference to "regulations" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);

(l) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;

(m) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

(n) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

(o) a reference to any thing (including an amount) is a reference to the whole and each part of it;

(p) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;

(q) if a party must do something under this deed on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;

(r) if the day on which a party must do something under this deed is not a Business Day, the party must do it on the next Business Day; and

(s) a reference to "property" or "asset" includes any present or future, real or personal, tangible or intangible property, asset or undertaking and any right, interest or benefit under or arising from it.

1.3 Terms defined in Contract

Unless the contrary intention appears, a term which has a defined meaning in the Contract has the same meaning when used in this deed.
2 Guarantee and indemnity

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

2.2 Guarantee
(a) The Guarantor unconditionally and irrevocably guarantees to the Beneficiary the Contractor's compliance with the Contractor's obligations in connection with the Contract, including each obligation to pay money.

(b) If the Contractor does not comply with those obligations on time and in accordance with the Contract, then the Guarantor agrees to comply with, or procure compliance with, those obligations within the period required by the Beneficiary (which shall not be less than 10 Business Days of receipt by the Guarantor of a demand from the Beneficiary. A demand must state that it made under this clause 2.2 and provide details of the Contractor's non-compliance and may be made whether or not the Beneficiary has made demand on the Contractor.

2.3 Indemnity
(a) The Guarantor indemnifies the Beneficiary against any Loss arising from, and any Costs it incurs, if:

(i) the Contractor does not, or is unable to, comply with an obligation it has (including an obligation to pay money) in connection with the Contract; or

(ii) an obligation the Guarantor would otherwise have under clause 2.2 ("Guarantee") is found to be void, voidable or unenforceable; or

(iii) a representation or warranty by the Contractor in the Contract is found to have been incorrect or misleading when made or taken to be made.

(b) The Guarantor agrees to pay amounts due under this clause within 10 Business Days of receiving a demand from the Beneficiary. Any such demand must:

(i) state that it is made under clause 2.3 of this deed; and

(ii) state and provide details of the amount being demanded and details of the basis for the demand.

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

2.4 Extent of guarantee and indemnity
Each of the guarantee in clause 2.2 ("Guarantee") and the indemnity in clause 2.3 ("Indemnity") is a continuing obligation and extends to all of the Contractor's obligations in connection with the Contract. The Guarantor waives any right it has of first requiring the Beneficiary to commence proceedings or enforce any other right against the Contractor or any other person before claiming from the Guarantor under this deed.
2.5 Variations and replacements

(a) The Guarantor acknowledges that the Contract may be varied or replaced from time to time.

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

(i) how the Contract is varied or replaced; and

(ii) the reasons for the variation or replacement; and

(iii) whether the obligations decrease or increase or the Contract is otherwise more onerous as a result of the variation or replacement.

(c) This clause does not limit clause 6 ("Rights of the Beneficiary are protected").

2.6 Acknowledgment

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

(a) was given a copy of the Contract (and all documents giving rise to an obligation of the Contractor in connection with the Contract) and had full opportunity to consider their provisions; and

(b) is responsible for making itself aware of the financial position of the Contractor and any other person who guarantees any of the Contractor's obligations in connection with the Contract.

2.7 Liability of Guarantor

Notwithstanding any other provision of this deed:

(a) the liability of the Guarantor to the Beneficiary under or in connection with this deed shall, per occurrence and in the aggregate, be no greater than the liability of the Contractor to the Beneficiary under the Contract after applying the limitations and exclusions on liability under clause 26.8 (subject to clause 26.9) and clause 26.10 of the Contract;

(b) the Beneficiary shall not be entitled to recover against the Guarantor in respect of any Loss under or in connection with this deed that has already been recovered from the Contractor under or in connection with the Contract;

(c) the Beneficiary shall not be entitled to recover against the Contractor in respect of any Loss under or in connection with the Contract that has already been recovered from the Guarantor under or in connection with this deed;

(d) the liability of the Guarantor to the Beneficiary for failing to comply for any reason with its obligations under clause 2.2 is limited to the liability of the Guarantor to the Beneficiary under clause 2.3; and

(e) the Guarantor will not be liable to the Beneficiary in respect of an action in connection with a Claim which is not maintainable against the Contractor by operation of a limitation period under the Contract or a limitation period provided for otherwise at law; and
the remedies available to the Beneficiary against the Guarantor for failing to comply for any reason with its obligations under clause 2.2 are limited to the right of the Beneficiary to make a claim on the Guarantor under clause 2.3.

3 Interest

3.1 Obligation to pay interest

(a) The Guarantor agrees to pay interest on any amount under this deed which:

   (i) is not paid on the due date for payment; and

   (ii) is not otherwise incurring interest.

(b) The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

(c) The Guarantor agrees to pay interest under this clause on demand from the Beneficiary. Nothing in this Deed is intended to render the Contractor and the Guarantor liable to pay interest twice for the same failure to pay an amount due and payable.

3.2 Rate of interest

The rate of interest applying to each daily balance is the most recent 60 day Bank Bill Swap Reference Rate last published on or before that day in The Australian Financial Review (or if that rate has not been published, another rate set by the Beneficiary in good faith).

3.3 Compounding

Interest payable under clause 3.1 (“Obligation to pay interest”) which is not paid when due for payment may be added to the overdue amount by the Beneficiary at intervals which the Beneficiary determines from time to time or, if no determination is made, every 30 days. Interest is payable on the increased overdue amount at the rate set out in clause 3.2 (“Rate of interest”) and in the manner set out in clause 3.1 (“Obligation to pay interest”).

4 Payments

The Guarantor agrees to make payments under this deed:

(a) in full without set-off or counterclaim, and without any deduction in respect of Taxes unless prohibited by law; and

(b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

5 No merger

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

   (i) any other guarantee, indemnity, mortgage, charge or other encumbrance, or other right or remedy to which the Beneficiary is entitled; or

   (ii) a judgment which the Beneficiary obtains against the Guarantor, the Contractor or any other person in connection with the Contract.
6 Rights of the Beneficiary are protected

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

(a) any act or omission:
   (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 2.2 are expressed to be owing;
   (ii) releasing the Contractor or giving the Contractor a concession (such as more time to pay);
   (iii) releasing any person (other than the Guarantor) who gives a guarantee or indemnity in connection with any of the Contractor's obligations;
   (iv) by which a person becomes a Guarantor after the date of this deed;
   (v) by which the obligations of any person who guarantees any of the Contractor's obligations (including obligations under this deed) may become unenforceable;
   (vi) by which any person who was intended to guarantee any of the Contractor's obligations does not do so, or does not do so effectively;
   (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;

(b) a person dealing in any way with the Contract or this deed;

(c) the death, mental or physical disability, or liquidation, administration or insolvency of any person including the Guarantor or the Contractor;

(d) changes in the membership, name or business of any person; or

(e) acquiescence or delay by the Beneficiary or any other person.

7 Guarantor's rights are suspended

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

   (i) reduce its liability under this deed by claiming that it or the Contractor or any other person has a right of set-off or counterclaim against the Beneficiary; or

   (ii) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity, mortgage, charge or other encumbrance:
(iii) in connection with the Contract or any other amount payable under this deed; or

(iv) in favour of a person other than the Beneficiary in connection with any obligations of, or any other amounts payable, by the Contractor to, or for the account of, that other person; or

(v) claim an amount from the Contractor, or another guarantor (including a person who has signed this deed as a "Guarantor"), under a right of indemnity or contribution in respect of the Contractor's obligations in connection with the Contract; or

(vi) accept an amount in the liquidation, administration or insolvency of the Contractor or of another guarantor of any of the Contractor's obligations (including a person who has signed this deed as a "Guarantor") ahead of the satisfaction of the Beneficiaries entitlement to amounts in such liquidation, administration or insolvency.

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

(c) This clause continues after this deed ends.

8 Reinstatement of rights

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

(i) the Beneficiary is immediately entitled as against the Guarantor to the rights in connection with this deed or the Contract to which it was entitled immediately before the transaction; and

(ii) on request from the Beneficiary, to the extent permitted by law the Guarantor agrees to do anything (including signing any document) to restore to the Beneficiary any mortgage, charge or other encumbrance (including this deed) held by it from the Guarantor immediately before the transaction.

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

9 Costs

(a) The Guarantor agrees to pay or reimburse the Beneficiary within 10 Business Days of a demand from the Beneficiary on the Guarantor for:

(i) the Beneficiary's reasonable Costs in enforcing and doing anything in connection with this deed including reasonable legal Costs in on a full indemnity basis; and
(ii) all duties, fees, Taxes and charges which are payable in connection with this deed or a payment or receipt or other transaction contemplated by it.

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

10 Notices and other communications

10.1 Form - all communications

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

10.2 Form - communications sent by email

Communications sent by email need not be marked for attention in the way stated in clause 10.1. Email must state the first and last name of the sender. Communications sent by email are taken to be signed by the named sender.

10.3 Delivery

Communications must be:

(a) left at the address set out or referred to in the Details; or

(b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or

(c) sent by fax to the fax number set out or referred to in the Details; or

(d) sent by email to the address set out or referred to in the Details.

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

10.4 When effective

Communications take effect from the time they are received or taken to be received under clause 10.5 ("When taken to be received") (whichever happens first) unless a later time is specified.

10.5 When taken to be received

Communications are taken to be received:

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

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

(c) if sent by email:

(i) when the sender receives an automated message confirming delivery; or
(ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, whichever happens first.

10.6 **Receipt outside business hours**

Despite anything else in this clause 10, if communications are received or taken to be received under clause 10.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

11 **Assignment**

11.1 **No assignment by Guarantor**

The Contractor may not assign or otherwise deal with its rights under this deed or allow any interest in them to arise or to be varied without the prior written consent of the Beneficiary (which may be given or withheld in its absolute discretion).

11.2 **Assignment by Beneficiary**

The Beneficiary may assign or otherwise deal with its rights under this deed in any way it considers appropriate to any party to whom it validity assigns the benefit of the Contract on a confidential basis.

12 **General**

12.1 **Costs**

The parties agree to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this deed and of other related documentation, except stamp duty.

12.2 **Discretion in exercising rights**

Unless this deed expressly states otherwise, the Beneficiary may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this deed in its absolute discretion (including by imposing conditions).

12.3 **Partial exercising of rights**

Unless this deed expressly states otherwise, if the Beneficiary does not exercise a right, power or remedy in connection with this deed fully or at a given time, they may still exercise it later.

12.4 **Remedies cumulative**

The rights, powers and remedies of the Beneficiary in connection with this deed are in addition to other rights, powers and remedies given by law independently of this deed.

12.5 **Stamp duty**

The Guarantor agrees to pay all stamp duty (including fines and penalties) chargeable, payable or assessed in relation to this deed and any transaction contemplated by it.
12.6 Governing law
This deed is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

12.7 Counterparts
This deed may be executed in counterparts. All counterparts when taken together constitute one document and the date on which the last counterpart is executed will be the date of the deed.

12.8 Further steps
Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this deed and the transactions contemplated by it.

12.9 Construction
No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this deed or any part of it.

12.10 Entire agreement
This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject.

12.11 Severability
If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

12.12 Variation and waiver
A provision of this deed, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

12.13 Indemnities and reimbursement obligations
Any indemnity, reimbursement or similar obligation in this deed given by the Guarantor:

(a) is a continuing obligation;
(b) is independent of any other obligations under this deed; and
(c) continues after this deed, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this deed.

12.14 Confidentiality
Each party agrees not to disclose information provided by another party that is not publicly available except:

(a) to any person in connection with an exercise of rights or a dealing with rights or obligations under this deed; or
(b) to officers, employees, legal and other advisers and auditors of any party; or
(c) to any party to this deed or any Related Body Corporate of any party to this deed, provided the recipient agrees to act consistently with this clause; or
(d) with the consent of the party who provided the information; or
(e) as allowed by any law or stock exchange.

12.15 Proportionate liability

To the extent permitted by law, the operation of Part 4 of the Civil Liability Act 2002 (NSW), and any equivalent statutory provisions, is excluded in relation to all rights, obligations and liabilities in connection with this deed whether such rights, obligations or liabilities are sought to be enforced as a breach of contract or a claim in tort (including negligence) or otherwise.

EXECUTED as a deed
Sydney Modern Project – SCHEDULES

Signing page

DATED: __________________________

Signed sealed and delivered by ) 
[insert] as Chief Executive Officer of ) 
INFRASTRUCTURE NSW ABN 85 031 ) 
302 516 pursuant to the Infrastructure ) 
NSW Act 2011 (NSW) ) 
in the presence of ) 
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Signature of witness ) )
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Name of witness (block letters) )

EXECUTED by [GUARANTOR] in ) 
accordance with section 127(1) of the ) 
Corporations Act 2001 (Cth) by authority ) 
of its directors: )
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Schedule 5 – Expert Determination Procedure

Refer to clauses 68 and 71 of the GC21 General Conditions of Contract.

1 Questions to be determined by the Expert

.1 For each Issue, the Expert must determine the following questions, to the extent that they are applicable to the Issue and unless otherwise agreed by the parties:

.1 Is there an event, act or omission which gives the claimant a right to compensation, or assists in otherwise resolving the Issue if no compensation is claimed:

.1 under the Contract,
.2 for damages for breach of the Contract, or
.3 otherwise in law?

.2 If so:

.1 what is the event, act or omission?
.2 on what date did the event, act or omission occur?
.3 what is the legal right which gives rise to the liability to compensation or resolution otherwise of the Issue?
.4 is that right extinguished, barred or reduced by any provision of the Contract, estoppel, waiver, accord and satisfaction, set-off, cross-claim or other legal right?

.3 In light of the answers to the questions in clauses 1.1.1 and 1.1.2 of this Expert Determination Procedure:

.1 what compensation, if any, is payable by one party to the other and when did it become payable?
.2 applying the rate of interest specified in the Contract, what interest, if any, is payable when the Expert determines that compensation?
.3 if compensation is not claimed, what otherwise is the resolution of the Issue?

.2 The Expert must determine, for each Issue, any other questions identified or required by the parties, having regard to the nature of the Issue.

2 Submissions

.1 The procedure for submissions to the Expert is as follows:

.1 The party to the Contract which referred the Issue to Expert Determination must make a submission in respect of the Issue, within 15 Business Days after the date of the letter of engagement of the Expert referred to in clause 71.3 of the GC21 General Conditions of Contract.

.2 The other party must respond within 15 Business Days after receiving a copy of that submission or such longer period as the other party may reasonably require, having regard to the nature and complexity of the Issue and the volume of the submission. If the parties do not agree on that longer period, the party desiring the longer period may make a submission on the point to the Expert, within the time specified by the Expert, and the Expert will promptly determine any extra time permitted. The response to the submission in clause 2.1.1 may include cross-claims.

.3 The party referred to in clause 2.1.1 may reply to the response of the other party, but must do so within 10 Business Days or such longer period as that party may reasonably require (in the same terms as in clause 2.1.2) after receiving the response, and must not raise new matters.
4 The other party may comment on the reply, but must do so within 10 Business Days or such longer period as that party may reasonably require (in the same terms as in clause 2.1.2) after receiving the reply, and must not raise new matters.

2 The Expert must ignore any submission, response, reply, or comment not made within the time given in clause 2.1 of this Expert Determination Procedure, unless the Principal and the Contractor agree otherwise.

3 The Expert may request further information from either party. The request must be in writing, with a time limit for the response. The Expert must send a copy of the request and the response to the other party, and give the other party a reasonable opportunity to comment on the response.

4 All submissions, responses, replies, requests and comments must be in writing. If a party to the Contract gives information to the Expert, it must at the same time give a copy to the other party. All documents to be sent to the Principal under this Expert Determination Procedure must be sent to the relevant person at the relevant postal or other address stated in Contract Information item 52.

3 Conference

1 The Expert may request a conference with both parties to the Contract. The request must be in writing, setting out the matters to be discussed.

2 The parties agree that such a conference is not to be a hearing which would give anything under this Expert Determination Procedure the character of an arbitration.

4 Role of Expert

1 The Expert:

   .1 acts as an Expert and not as an arbitrator;
   .2 must make its determination on the basis of the submissions of the parties, including documents and witness statements, and the Expert’s own expertise; and
   .3 must issue a certificate in a form the Expert considers appropriate, stating the Expert’s determination and giving reasons, within 16 weeks, or as otherwise agreed by the parties, after the date of the letter of engagement of the Expert referred to in clause 71.3 of the GC21 General Conditions of Contract.

2 If a certificate issued by the Expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the certificate.
Schedule 6 – Combined
Subcontractor’s Statement and
Supporting Statement
Refer to clause 58 of the GC21 General Conditions of Contract.

Part 1

SUBCONTRACTOR’S STATEMENT
REGARDING WORKER’S COMPENSATION, PAYROLL TAX AND REMUNERATION (Note 1 – see back of form)

For the purposes of this Statement a “subcontractor” is a person (or other legal entity) that has entered into a contract with a “principal contractor” to carry out work.

This Statement must be signed by a “subcontractor” (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B Workers Compensation Act 1987, Schedule 2 Part 5 Payroll Tax Act 2007, and s127 Industrial Relations Act 1996 where the “subcontractor” has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

SUBCONTRACTOR’S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.

Subcontractor: .................................................................................................................... ABN:..............................
of ........................................................................................................................................................................
has entered into a contract with ........................................................................................ABN:..............................
(Note 2)

Contract number/identifier...........................................................................................................................
(Note 3)

This Statement applies for work between: ....../....../..... and ....../....../..... inclusive,
(Note 4)

subject of the payment claim dated: ....../....../.....
(Note 5)

I, ......................................................................................... a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor’s Statement and declare the following to the best of my knowledge and belief:

(a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [ ] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [ ] and only complete (f) and (g) below. You must tick one box. (Note 6)

(b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ....../....../.....
(Note 7)

(c) All remuneration payable to relevant employees for work under the contract for the above period has been paid.
(Note 8)

(d) Where the Subcontractor is required to be registered as an employer under the Payroll Tax Act 2007, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor’s Statement. (Note 9)

(e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor’s Statement by its subcontractor(s) in connection with that work for the period stated above. (Note 10)

(f) Signature .......................................................................................................................... Full name:..............................

(g) Position/Title .................................................................................................................. Date ....../....../.....
Part 2

SUPPORTING STATEMENT BY HEAD CONTRACTOR
REGARDING PAYMENT TO SUBCONTRACTORS

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this statement, the terms "principal"; "head contractor"; "subcontractor"; and "construction contract" have the meanings given in section 4 of the Building and Construction Industry Security of Payment Act 1999.

Head Contractor: [business name of head contractor]
ABN: 

1. Has entered into a contract with [business name of subcontractor]
   ABN: Contract number/identifier:

   OR

2. Has entered into a contract with the subcontractors listed in the attachment to this statement.
   [Delete whichever of the above does not apply]

This statement applies for work and between: [start date] to [end date] (inclusive) (the construction work concerned),

subject of the payment claim dated: [date]

[full name], being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors, have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature: Date:
Full name: Position/Title:

Penalties

The Building and Construction Security of Payment Act 1999 provides that:

Section 13(7) A head contractor must not serve a payment claim on the principal unless the claim is accompanied by a supporting statement that indicates that it relates to that payment claim.

Maximum penalty: $22,000 (200 penalty units).

And:

Section 13(8) A head contractor must not serve a payment claim on the principal accompanied by a supporting statement knowing that the statement is false or misleading in a material particular in the particular circumstances.

Maximum penalty: $22,000 (200 penalty units) or 3 months imprisonment, or both.
### Schedule of subcontractors paid all amounts due and payable

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>ABN</th>
<th>Contract number/identifier</th>
<th>Date of works (period)</th>
<th>Payment claim dated (head contractor claim)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

### Schedule of subcontractors for which an amount is in dispute and has not been paid

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>ABN</th>
<th>Contract number/identifier</th>
<th>Date of works (period)</th>
<th>Payment claim dated (head contractor claim)</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
Schedule 8 – Principal’s Planning Obligations

Refer to clause 12 of the GC21 General Conditions of Contract.

Part A – Responsibility Matrix
<table>
<thead>
<tr>
<th>ID</th>
<th>CONDITION DESCRIPTION</th>
<th>ACTION</th>
<th>ACTION BY</th>
<th>TIMING</th>
<th>STATUS</th>
<th>DOC REFERENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>Obligations to Minimise Harm to the Environment</td>
<td>None</td>
<td></td>
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<tr>
<td>A2</td>
<td>Ongoing revisions of strategies, plans and programs</td>
<td>None</td>
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<td>A3</td>
<td>Ongoing.</td>
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<td>A4</td>
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<td>A5</td>
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<td>A12</td>
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</tbody>
</table>

### Terms of Consent

- The project must be completed by the applicant in accordance with the conditions of the consent.
- All relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation must be met.
- The development must be carried out in accordance with the approved plans.
- Any advice or notice to the consent authority must be served on the Planning Secretary.

### Legal Notices

- The applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.
- The applicant must file a Non-Compliance Notice immediately after the Applicant becomes aware of an incident.

### Non-Compliance Notice

- The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident.
- Additional information must be provided at the Incidents and the Department must be notified.

### Limits on Consent

- The applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.
- The applicant must file a Non-Compliance Notice immediately after the Applicant becomes aware of an incident.

### Structural Adequacy

- The applicant must ensure that all structural elements of the building are in accordance with the BCA.
- Any structural elements of the building are in accordance with the BCA.

### Obligation to Minimise Harm to the Environment

- The applicant must ensure that all structural elements of the building are in accordance with the BCA.
- Any structural elements of the building are in accordance with the BCA.

---

**Notes:**

- For further information, please contact the Long Service Payments Corporation on their Helpline 131414.
- For the purposes of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of consent or direction of the Planning Secretary, and a document.
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### A.13
The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.

### A.14
The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known), and what actions have been, or will be, undertaken to address the non-compliance.

### A.15
A non-compliance which has not been notified as an incident does not need to be notified as a non-compliance.

#### Monitoring and Environmental Audits

Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or as part of a plan, strategy, program, or suite of, is taken to be a condition requiring monitoring or an environmental audit under Division 5.4 of Part 6 of the EP&A Act. This includes conditions in respect of incident notification, reporting, response, non-compliance investigation, remediation, and environmental impact assessment.

Note: For the purposes of this condition, a “monitoring” is monitoring of the development to provide data on compliance with the consent or of the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

### A.16
The revised design shall be prepared in consultation with the Government Architect NSW (GANSW), OEH and the Royal Botanic Gardens and Domain Trust, and submitted to the satisfaction of the Planning Secretary.

### A.17
Woolloomooloo Gate

- **a)** modification to the overall extent of the canopy structure;
- **b)** increased street setbacks and landscaped area in and around the canopy structure;
- **c)** modification of the street alignment and orientation of the canopy structure between the existing sandstone gallery wing, proposed extension and sightlines to the entry plaza canopy design for review that:
  - demonstrates how design excellence and design integrity will be achieved in accordance with:
    - the conditions of consent.
    - the approved design upon development approval;
    - the design objectives of the original competition winning scheme;
    - the approved development shall be subject to a Design Integrity process throughout the design development and construction documentation period in consultation with:
      - the Government Architect NSW (GANSW), and through the State Design Review Panel (SDRP) Pilot Program. The SDRP is to be augmented by a member of the design competition jury, to be nominated by the Art Gallery of NSW and endorsed by GANSW. For presentations to the SDRP, the project team shall include the following members as a minimum:
        - a representative from the competition winning international architectural practice;
        - a representative from the local architect of record.
      - ii) a representative from the competition winning international architectural practice;
      - i) a representative from the competition winning international architectural practice;
      - the approved development cannot be commenced unless the Crown Building work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws in force as at:
        - the date of the invitation for tenders to carry out Crown building work; or
        - in the absence of tenders, the date on which the Crown building work commences.

#### B.1 PRIOR TO THE COMMENCEMENT OF WORKS

**Crown Building Work**

- **a)** shall be carried out subject to the Crown Building Work being certified by the Crown to comply with the technical provisions of the State's building laws in force as at:
  - the date of the invitation for tenders to carry out Crown building work; or
  - in the absence of tenders, the date on which the Crown building work commences.

**Design Excellence and Design Integrity**

- The approved development shall be subject to a Design Integrity process throughout the design development and construction documentation period in consultation with:
  - the Government Architect NSW (GANSW), and through the State Design Review Panel (SDRP) Pilot Program. The SDRP is to be augmented by a member of the design competition jury, to be nominated by the Art Gallery of NSW and endorsed by GANSW. For presentations to the SDRP, the project team shall include the following members as a minimum:
    - a representative from the competition winning international architectural practice;
    - a representative from the local architect of record.
  - ii) a representative from the competition winning international architectural practice;
  - i) a representative from the competition winning international architectural practice;

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- The approved development shall be subject to a Design Integrity process throughout the design development and construction documentation period in consultation with:
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    - a representative from the local architect of record.
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  - i) a representative from the competition winning international architectural practice;

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    - a representative from the local architect of record.
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    - a representative from the competition winning international architectural practice;
    - a representative from the local architect of record.
  - ii) a representative from the competition winning international architectural practice;
  - i) a representative from the competition winning international architectural practice;
Notification of Commencement

The Department must be notified in writing of the date of commencement of physical works by 48 hours before the date notified to the Planning Secretary.

If the commencement of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of any stage, of the date on which that stage of the development is to be commences.

Community Communication Strategy

The Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, City of Sydney Council and the community, including affected/adjoining landowners and businesses, and others directly impacted by the development during the design and construction of the development and for a minimum of 12 months following completion of construction.

The Community Communication Strategy must:

1. identify people to be consulted during the design and construction phase;
2. set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
3. provide for the formation of community-based forums, if required, that focus on any environmental management issues for the development;
4. set out procedures and mechanisms.

Compliance Reporting

Compliance Monitoring and Reporting Program is to be prepared and submitted to the Department (Department 2018) must be submitted to the Department.

The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done. Note provision for the Independent Environmental Audit of the development must be carried out in accordance with:

a) a toll-free 24-hour telephone number(s) on which complaints and enquiries about the carrying out of any works may be registered;

b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).

c) an Independent Environmental Audit of the development must be carried out in accordance with:

1. the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).

Compliance

The Applicant must ensure that all of its employees, contractors (and their subcontractors) are made aware of, and are instructed to comply with, the conditions of this consent.

The Applicant must:

1. the documents referred to in Condition A2 of this consent;
2. the plans and programs, reports and updates, which need to be published and who will input these e.g. 'comprehensive summary of the current stage and progress of the development' - who will author this? Inputs needs to be programmed.

Provision of Green Roof to Gallery 1

Prior to the commencement of relevant construction work, the plans/elevations and documentation shall be amended to provide a green roof to gallery 1 and submitted to the Planning Secretary.

Access to Information

All relevant information on the commencement of construction work, and the completion of all works under this consent or such other times as agreed by the Planning Secretary, the Applicant or the Department,

a) make the following information and documents (as they are prepared, obtained or approved) publicly available on its website: the documents referred to in Condition A2 of the consent.

b) the plans, programs, reports and updates, which need to be published and who will input these e.g. 'comprehensive summary of the current stage and progress of the development' - who will author this? Inputs needs to be programmed.

Independent Audit

If the construction of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of any stage, of the date on which that stage of the development is to be commenced, and the Department must be provided with any information and documentation required prior to commencement of each stage of the development.
<table>
<thead>
<tr>
<th>Condition</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Geotechnical Design, Certification and Monitoring Plan</strong></td>
<td>The proposed development involves the construction of subsurface structures that are subject to changes in groundwater and moisture conditions, which may require the application of monitoring and remedial measures. The geotechnical design must include:</td>
</tr>
<tr>
<td><strong>Structural Details</strong></td>
<td>To ensure the stability and safety of the new structures, designers must consider materials and methods for structural reinforcement and repair, ensuring that the new structures complement the existing heritage structures.</td>
</tr>
<tr>
<td><strong>External Walls and Cladding</strong></td>
<td>New external walls and cladding must be designed and constructed to match the existing aesthetic and material characteristics of the existing buildings.</td>
</tr>
<tr>
<td><strong>New Steps, Ramp and Pedestrian Control Structures</strong></td>
<td>Design details for new steps, ramps, and pedestrian control structures must be submitted for approval.</td>
</tr>
<tr>
<td><strong>Works to the Former Naval Fuel Bunker</strong></td>
<td>The works to the Former Naval Fuel Bunker must be designed and implemented in a way that does not damage the heritage features within the site.</td>
</tr>
<tr>
<td><strong>External Materials</strong></td>
<td>The use of external materials such as cladding, roof coverings, and ground surfaces must be compatible with the existing heritage buildings.</td>
</tr>
<tr>
<td><strong>Historical Archaeology</strong></td>
<td>Prior to the commencement of works, all necessary archaeological investigations must be undertaken to ensure the preservation of cultural heritage.</td>
</tr>
<tr>
<td><strong>Public Domain Place</strong></td>
<td>The development must ensure that public access is maintained and that the public domain is protected.</td>
</tr>
</tbody>
</table>

Note: All conditions must be satisfied prior to the commencement of works and must be submitted to the relevant authorities for approval.
## Wayfinding and Signage

Prior to the commencement of the relevant works, a Wayfinding and Signage Strategy prepared by suitably qualified personnel shall be endorsed by the Heritage Council and the Royal Botanic Gardens and Domain Trust and submitted to the satisfaction of the Certifying Authority.

1. The Strategy must be submitted to the Heritage Council and the Royal Botanic Gardens and Domain Trust for endorsement and approval by the Certifying Authority prior to the commencement of the relevant works.
3. The Wayfinding and Signage Strategy must be designed to respect the character and heritage values of the precinct.
4. The Wayfinding and Signage Strategy must be designed to enhance the legibility of the public domain.
5. The Wayfinding and Signage Strategy must be designed to ensure that the public domain is easy to navigate.
6. The Wayfinding and Signage Strategy must be designed to ensure that the public domain is easy to find.
7. The Wayfinding and Signage Strategy must be designed to ensure that the public domain is easy to use.
8. The Wayfinding and Signage Strategy must be designed to ensure that the public domain is easy to understand.
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<table>
<thead>
<tr>
<th>Condition Number</th>
<th>Condition Description</th>
<th>Exceptions</th>
<th>Note</th>
<th>Contractor Relevant Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>B30</td>
<td>The Applicant must ensure: at the external facades, a range of visual effects are achievable through (a) external finishes that are designed to enhance the visual appearance of the building; and (b) external finishes that are designed to reduce the visual impact of the building. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B31</td>
<td>The Applicant shall ensure that all sanitary facilities comply with the standards and requirements outlined in the Plumbing and Drainage Code (AS 3500). Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B32</td>
<td>All taps and showers installed within the development must be water-efficient with at least a 3-star rating under the Water Efficiency and Labelling Scheme (WELS). Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B33</td>
<td>All sanitary facilities must comply with the standards and requirements outlined in the Plumbing and Drainage Code (AS 3500). Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B34</td>
<td>All taps and showers installed within the development must be water-efficient with at least a 3-star rating under the Water Efficiency and Labelling Scheme (WELS). Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<tr>
<td>B35</td>
<td>All sanitary facilities must comply with the standards and requirements outlined in the Plumbing and Drainage Code (AS 3500). Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B36</td>
<td>Access and facilities for people with disabilities must be designed in accordance with the relevant provisions of the Building Code. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B37</td>
<td>All outdoor lighting (including tree uplighting and any signage illumination) shall comply with the recommendations of the Exterior Lighting Report dated 5 October 2017 and, where relevant, AS 1940.1-2000 for the Design of Outdoor Lighting. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B38</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
<tr>
<td>B39</td>
<td>The Applicant shall ensure that the detailed design of the development incorporates the environmental sustainability objectives, measured and verified in accordance with the Environmentally Sustainable Development Report (dated 1 November 2017) and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<tr>
<td>B40</td>
<td>Access and facilities for people with disabilities must be designed in accordance with the relevant provisions of the Building Code. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<tr>
<td>B41</td>
<td>The Applicant shall ensure that the detailed design of the development incorporates the environmental sustainability objectives, measured and verified in accordance with the Environmentally Sustainable Development Report (dated 1 November 2017) and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
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<td>Contractor Relevant Works</td>
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<td>B42</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<td>B43</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<td>B44</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<td>B45</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<tr>
<td>B46</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<td>B47</td>
<td>The Applicant shall ensure that the detailed design of the development incorporates the environmental sustainability objectives, measured and verified in accordance with the Environmentally Sustainable Development Report (dated 1 November 2017) and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
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<td>B48</td>
<td>The construction, fit-out and finishes of any food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 all relevant Australian Standards and the provisions of the BCA. Details demonstrating compliance with this condition must be submitted to the Certifying Authority prior to the commencement of relevant works.</td>
<td>No exceptions</td>
<td>Note. Documentation to be provided by the Contractor.</td>
<td>Contractor Relevant Works</td>
</tr>
</tbody>
</table>

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**Note:** Contractor Relevant Works refer to the specific conditions that are relevant to the contractor's works and must be submitted to the Certifying Authority prior to the commencement of the relevant works. Note. Documentation to be provided by the Contractor. refers to the requirement for the contractor to provide specific documentation to demonstrate compliance with the condition.
SSD: 6471
Sydney Modern Project

FINAL CONDITIONS OF CONSENT MATRIX

B60 Prior to the commencement of works, a heritage-specific dilapidation survey and report for significant elements, materials and finishes in the existing gallery building and site (including the forecourt sculptures) must be prepared and a copy provided to the Certifying Authority.

Heritage Dilapidation Survey

B55 AGNSW to manage and acquire licence. Principal

B56 AGNSW to manage and acquire licence. Principal

B54 Contractor to develop detailed solution and implement. Contractor

B53 Contractor to manage approval. Contractor

B52 AGNSW to manage and acquire licence. Principal

B51 Contractor to manage approval. Contractor

B50 Contractor to manage approval. Sydney Water. Note: AGNSW has engaged RMS and includes Building Plan Approval (BPA) or BPA will be sought by AGNSW prior to contract award to mitigate C.G. Interferes. Sewer connection design to be completed by RMS before BPA process can proceed. Sewer connection design in progress.

Contractor: Building Plan Approval requested prior to commencement of works

Maritime Exclusion Zone

B59 Further details demonstrating the proposed external system and the proposed associated exchange system pipelines will not be available until the operation of the proposed Exclusion zone Substation is to be submitted to the endorsement of AGNSW. Details of compliance must be submitted to the satisfaction of the Certifying Authority prior to commencement of the relevant works.

Exclusion Zone Substitution

B58 AGNSW to manage and acquire licence. Principal

B57 AGNSW to manage and acquire licence. Principal

B56 AGNSW to manage and acquire licence. Principal

B55 AGNSW to manage and acquire licence. Principal

B54 AGNSW to manage and acquire licence. Principal

B53 AGNSW to manage and acquire licence. Principal

B52 AGNSW to manage and acquire licence. Principal

B51 AGNSW to manage and acquire licence. Principal

B50 AGNSW to manage and acquire licence. Principal

Building plans must be stamped and approved by Sydney Water prior to the issue of a Crown Building Works Certificate, due to the proximity of works to Sydney Water assets.

For further assistance, please visit www.sydneywater.com.au or telephone 13 20 92.

Road Occupancy Licence

B64 A Road Occupancy Licence (ROL) must be obtained from the relevant road authority under section 138 of the Roads Act 1993 for any activity that may impact on the operation of the road network. The ROL allows the Applicant to use a specified road space at approved times, provided certain conditions are met. The Applicant must comply with the requirements of any public authorities (e.g. Ausgrid, Sydney Water, Telstra Australia) in respect to the connection to, relocation and/or linearisation of any existing infrastructure. Details of compliance must be submitted to the satisfaction of the relevant road authority.

Rollover Access Agreement

B65 As an Rollover Access Agreement, between the Applicant and Roads and Maritime Services (RMS), must be prepared. A copy of the final agreement, endorsed by RMS, is to be provided to the Planning Secretary prior to the commencement of works.

Deemed Escalation Zone

B63 AGNSW to provide endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the relevant road authority.

Deemed Escalation Zone

B62 AGNSW to provide endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the Certifying Authority prior to the commencement of the relevant works.

Deemed Escalation Zone

B61 AGNSW to provide endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the relevant road authority.

Deemed Escalation Zone

B60 AGNSW to provide endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the relevant road authority.

Deemed Escalation Zone

B59 AGNSW to provide endorsement of Ausgrid. Details of compliance must be submitted to the satisfaction of the relevant road authority.
**FINAL CONDITIONS OF CONSENT MATRIX**  
**Sydney Modern Project**  
**SSD: 6471**

<table>
<thead>
<tr>
<th>Section</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Prior to the commencement of works, the Applicant shall prepare and implement a Construction Environmental Management Plan (CEMP) for the development and submit to the Certifying Authority. The CEMP must:</td>
</tr>
<tr>
<td></td>
<td>a) be prepared in accordance with the EPA's Interim Construction Noise Guideline and the requirements of this consent;</td>
</tr>
<tr>
<td></td>
<td>b) be prepared in consultation with the Council, EPA, DPI, RMS, TNSW, and the OEH (Sydney Coordination and Metro Delivery Offices) and submitted to the Certifying Authority. The CEMP must:</td>
</tr>
<tr>
<td></td>
<td>c) clearly outline the stages, phases of construction that require ongoing environmental management monitoring and reporting;</td>
</tr>
<tr>
<td></td>
<td>d) identify the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works;</td>
</tr>
<tr>
<td></td>
<td>e) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts;</td>
</tr>
<tr>
<td></td>
<td>f) include a suitable proactive construction noise and vibration monitoring program which aims to ensure the construction noise and vibration criteria in this consent are not exceeded.</td>
</tr>
</tbody>
</table>

| 6.1 | Prior to the commencement of works, a copy of the CNVMP must be submitted to Council and the Planning Secretary. The CNVMP shall address (but not be limited to): |
| | a) be prepared in accordance with the EPA's Interim Construction Noise Guideline; |
| | b) detail the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | c) identify the noise management levels for the project; |
| | d) identify the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works; |
| | e) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | f) include a suitable proactive construction noise and vibration monitoring program which aims to ensure the construction noise and vibration criteria in this consent are not exceeded. |

| 6.2 | Prior to the commencement of works, a copy of the CPTMP must be submitted to Council and the Planning Secretary. The CPTMP must be prepared in consultation with Council and the relevant agencies during site establishment and construction; |
| | a) detail the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works; |
| | b) detail any changes required to on-street parking; |
| | c) detail any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction period; |
| | d) detail the construction methods and equipment to be used during construction to reduce the potential for turbidity related impacts to the site; |
| | e) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | f) include measures to ensure adequate groundwater entitlement is sourced in order to account for groundwater flows into the construction excavations, unless any exemption applies; |
| | g) detail the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | h) include a suitable proactive construction noise and vibration monitoring program which aims to ensure the construction noise and vibration criteria in this consent are not exceeded. |

| 6.3 | Prior to the commencement of works, a copy of the CEMP must be submitted to Council and the Planning Secretary. The CEMP must: |
| | a) be prepared in accordance with the EPA's Interim Construction Noise Guideline; |
| | b) be prepared in consultation with Council and the relevant agencies during site establishment and construction; |
| | c) detail the requirements that the Applicant is required to fulfill during site establishment and construction, including approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies; |
| | d) detail any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction period; |
| | e) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | f) include measures to ensure adequate groundwater entitlement is sourced in order to account for groundwater flows into the construction excavations, unless any exemption applies; |
| | g) detail the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to, noise, traffic and air impacts; |
| | h) include a suitable proactive construction noise and vibration monitoring program which aims to ensure the construction noise and vibration criteria in this consent are not exceeded. |

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**Construction Noise and Vibration Management Plan**

Prior to the commencement of works, the Applicant shall prepare and implement a Construction Noise and Vibration Management Plan (CNVMP) prepared by a suitably qualified person shall be endorsed by TNSW (Sydney Coordination and Metro Delivery Offices) and submitted to the Certifying Authority. The CNVMP shall be prepared in consultation with Council and the Planning Secretary.

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**Construction Pedestrian Traffic Management Plan**

Prior to the commencement of works, a Construction Pedestrian Traffic Management Plan (CPTMP) prepared by a suitably qualified person shall be endorsed by TNSW (Sydney Coordination and Metro Delivery Offices) and submitted to the Certifying Authority. The CPTMP shall be prepared in consultation with Council, TNSW (Sydney Coordination and Metro Delivery Offices), and the relevant agencies during site establishment and construction;
<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the Issue of the relevant Crown Building Works Certificate, an Air Quality and Odour Management Plan (AQOMP) must be prepared and submitted to the Certifying Authority**. The AQOMP must be consistent with Safe Work Australia’s codes of practice How to Safely Remove Asbestos 2011 and How to Manage and Control Asbestos in the Workplace 2011. The AQOMP must be developed considering the findings of the Stage 2 Preliminary Environmental Study and the Stage 2 Preliminary Environmental Study (Appendix E of the EIS). The AQOMP must be submitted to the Certifying Authority. The AQOMP must be implemented for the duration of construction works.
| Contractor to prepare. Contractor to prepare based on the one supplied in SSDA submission. |

**Construction**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction work must comply with Australian Standard AS 2654-2001</strong>. The demolition of structures (Standards Australia, 2001). The work plans prepared by AS 2654-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the PCA before the commencement of works.</td>
<td></td>
</tr>
<tr>
<td>Contractor to prepare. Contractor to prepare.</td>
<td></td>
</tr>
</tbody>
</table>

**During Construction**

**Demolition**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Demolition work must comply with Australian Standard AS 2654-2001</strong>. The demolition of structures (Standards Australia, 2001). The work plans prepared by AS 2654-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the PCA before the commencement of works.</td>
<td></td>
</tr>
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<td>Contractor to prepare. Contractor to prepare.</td>
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</tbody>
</table>

**Construction Phase**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
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</table>
| **Construction Phase** (including the delivery of material to and from the site) may only be carried out between the following hours: **a) between 7:00 am and 6:00 pm, Mondays to Saturdays; b) between 8:00 am and 3:30 pm, Saturdays.** Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:**
| Note: Contractor to prepare for endorsement by Council. To include responses to comments made by Council on draft tender drawings. |

**Water and Stormwater Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a detailed Water and Stormwater Management Plan, prepared by a suitably qualified person and endorsed by City of Sydney Council, shall be submitted to the satisfaction of the Certifying Authority.** The plan must:
| Contractor to prepare. Contractor to prepare. |

**Crime Prevention Through Environmental Design (CPTED)**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a Crime Prevention Through Environmental Design (CPTED) Action Plan (dated 25 September 2017) in Appendix Y of the EIS, and the Site Audit Report (dated 2 December 2016) in Appendix Z of the EIS.**
| Contractor to prepare. Contractor to prepare. |

**Asbestos Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a Asbestos Management Plan;**
| Contractor to prepare. Contractor to prepare. |

**Hazardous Materials Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a Hazardous Materials Management Plan (HMMP) must be prepared in consultation with the EHP and SafeWork NSW. The HMMP must:
| Contractor to prepare. Contractor to prepare. |

**Acid Sulfate Soils Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **The HMMP must recommend measures to minimise and manage any contamination problems arising from excavation works.**
| Contractor to prepare. Contractor to prepare. |

**Construction Site Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a Construction Site Management Plan (CSMP) must be prepared in consultation with the EHP, SafeWork NSW and the Client. The CSMP must:
| Contractor to prepare. Contractor to prepare. |

**Odour Management Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, an Odour Management Plan (OMP) must be prepared in consultation with the EHP and SafeWork NSW. The OMP must:
| Contractor to prepare. Contractor to prepare. |

**Odour Containment Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, an Odour Containment Plan (OCP) must be prepared in consultation with the EHP and SafeWork NSW. The OCP must:
| Contractor to prepare. Contractor to prepare. |

**Soil Contamination Plan**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Prior to the commencement of works, a Soil Contamination Plan (SCP) must be prepared in consultation with the EHP and SafeWork NSW. The SCP must:
| Contractor to prepare. Contractor to prepare. |
| C3 | The construction work may be carried out on Saturdays or public holidays. | Note |
| C4 | The Contractor must ensure that the site is safe at all times and that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C5 | The Contractor must ensure that all equipment and machinery are in good working order and are used in accordance with the conditions of the approved plans. | Contractor |
| C6 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C7 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C8 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C9 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C10 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C11 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C12 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C13 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C14 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C15 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C16 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C17 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C18 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C19 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
| C20 | The Contractor must ensure that all work is carried out in accordance with the conditions of the approved plans. | Contractor |
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#### Sydney Modern Project

##### Implementation of Management Plans

| C25 | 

#### Dust Control Measures

- **Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction.**

  - **Dust Control Measures**
    - a) physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions;
    - b) stockpiles of excavated material are constructed and maintained to prevent cross contamination; and
    - c) suitable erosion and sediment controls are in place for stockpiles.

- **Exhaust/Noise Control Measures**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Vehicle Cleansing

- **Vehicle Cleansing**

  - a) all vehicles are washed before entering the public roadway.
  - b) all vehicles leaving the premises are washed before leaving the site.
  - c) vehicles used to transport waste or excavation spoil from the site is covered before leaving the premises.

#### Stockpile Management

- **Stockpile Management**

  - a) stockpiles of excavated material do not exceed 4 metres in height;
  - b) stockpiles of excavated material are constructed and maintained to prevent cross contamination;
  - c) suitable erosion and sediment controls are in place for stockpiles.

#### Covering of Loads

- **Covering of Loads**

  - a) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Waste Management

- **Waste Management**

  - a) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Odour Management Plan

- **Odour Management Plan**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Asbestos and Hazardous Waste Removal

- **Asbestos and Hazardous Waste Removal**

  - a) asbestos or asbestos materials are not removed from the site;
  - b) all asbestos or asbestos materials are removed from the site;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Safety/Noise Requirements

- **Safety/Noise Requirements**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Groundwater

- **Groundwater**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Surface Water

- **Surface Water**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Weather Hazards

- **Weather Hazards**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
  - e) all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Chemicals

- **Chemicals**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
  - b) all waste generated by the development is classified as hazardous waste and duly recorded on the hazardous wastes register;
  - c) waste (including litter, debris or other matter) is not caused or permitted to enter the waters of Sydney Harbour;
  - d) the surface should be dampened slightly to prevent dust from becoming airborne but should not be watered to the extent that run-off occurs;
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  - f) all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays;
  - g) gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
  - h) cleaning of footpaths and roadways shall be carried out regularly.

#### Noise

- **Noise**

  - a) all works generated by the development must be classified and managed in accordance with the NSW’s Waste Classification Guidelines Part 1: Classifying Waste 2009;
<table>
<thead>
<tr>
<th>Condition</th>
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</tr>
</thead>
<tbody>
<tr>
<td>C35</td>
<td>The Applicant must ensure that any acid sulfate soils (ASS) and potential acid sulfate soils (PASS) excavated or otherwise disturbed during construction is managed in accordance with: a) the Acid Sulfate Soils Management Plan for this site (condition A9), b) the Acid Sulfate Soils Manual 1999 (NSW Acid Sulfate Soil Management Advisory Committee), and c) the EPA's Waste Classification Guidelines 2016 (Part 4: Acid Sulfate Soils).</td>
</tr>
<tr>
<td>C36</td>
<td>The Applicant shall site all chemicals, tanks and discarded oil in appropriately sealed areas in accordance with the requirements of all relevant Australian Standards, EPA, requirements and/or EPA's Burning and handling Wastes Environmental Protection – Participants Handbook.</td>
</tr>
<tr>
<td>C37</td>
<td>No approval is granted to cut or fell any native tree. All native trees on the site must be retained and protected.</td>
</tr>
<tr>
<td>C38</td>
<td>No trees are to be removed or transplanted unless specifically identified for removal or transplantation in the approved landscape plans (condition A3) or removal is required in an emergency to avoid the loss of life or damage to property.</td>
</tr>
<tr>
<td>C39</td>
<td>The enabling works must be completed prior to occupation or commencement of use, with the exception of the forecourt plaza which must be completed within 6 months of the occupation or commencement of use.</td>
</tr>
<tr>
<td>C40</td>
<td>Prior to occupation or commencement of the use, a new/updated Operational Plan of Management (OPM) prepared by a suitably qualified person shall be submitted to the PCA. The OPM shall provide a high-level description of the operational requirements, monitoring and reporting requirements, and management actions required to ensure that the development is operated in accordance with the conditions of this consent.</td>
</tr>
<tr>
<td>C41</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
</tr>
<tr>
<td>C42</td>
<td>Prior to occupation or commencement of the use, a Green Travel Plan (GTP) prepared by a suitably qualified person shall be endorsed by TNSW (Sydney Coordination Office) and submitted to the Certifying Authority. The GTP must be prepared in consultation with Council, RMS and TNSW (Sydney Coordination Office). The GTP shall outline all measures proposed to increase the mode share of walking and cycling to the site and expanded AGNSW.</td>
</tr>
<tr>
<td>C43</td>
<td>Prior to occupation or commencement of use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C44</td>
<td>Prior to occupation or commencement of use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C45</td>
<td>Prior to occupation or commencement of use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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</table>

**Operational Plan of Management**

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<tr>
<td>D1</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>D2</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>D3</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Protection of Trees**

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</thead>
<tbody>
<tr>
<td>C46</td>
<td>All heritage work must be carried out by suitably qualified tradespeople with practical experience in conservation and restoration of similar structures, materials and methods.</td>
</tr>
<tr>
<td>C47</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Protection of historic sites**

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<tr>
<td>C48</td>
<td>Prior to occupation or commencement of the use, a new/updated Operational Plan of Management (OPM) prepared by a suitably qualified person shall be submitted to the PCA. The OPM shall provide a high-level description of the operational requirements, monitoring and reporting requirements, and management actions required to ensure that the development is operated in accordance with the conditions of this consent.</td>
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<tr>
<td>C49</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C50</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C51</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Selection of Appropriate Tradespeople**

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<tr>
<td>C52</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C53</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Bundling**

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<tr>
<td>C55</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C56</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C57</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**EPL requirements and/or EPA's Storing and Handling Liquids: Environmental Protection - Participants Handbook.**

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<tr>
<td>C58</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C59</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Protection of Trees**

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<td>C61</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C62</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C63</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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**Protection of historic sites**

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<tr>
<td>C64</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<td>C67</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
</tr>
<tr>
<td>C68</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C69</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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<tr>
<td>C70</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
</tr>
<tr>
<td>C71</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
</tr>
<tr>
<td>C72</td>
<td>Prior to occupation or commencement of the use, the Applicant shall provide a report to the Planning Secretary and the OEH Heritage Division prepared by the Nominated Historical Archaeologist in accordance with condition A2.</td>
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</tbody>
</table>
## FINAL CONDITIONS OF CONSENT MATRIX

### Sydney Modern Project

**SSD:** 6471

<table>
<thead>
<tr>
<th>Condition</th>
<th>Principal</th>
<th>Prior to occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>D1</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to the commencement of use, evidence shall be submitted to the Certifying Authority demonstrating that the recommendations of the CPTED Report dated 16 February 2018 (Appendix 0 of the RTS) (Condition B72) have been fulfilled. Contractor to provide all required certification of the works.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D2</strong></td>
<td>Principal</td>
<td>Prior to occupation</td>
</tr>
<tr>
<td>The cost of repairing any damage caused to Council or other public authority’s assets in the vicinity of the site as a result of construction works associated with the approved development for which no dispensation has been granted by the Fire and Rescue NSW.</td>
<td>Principal</td>
<td>Prior to occupation</td>
</tr>
<tr>
<td><strong>D3</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to the commencement of use, an updated Waste Management Plan (WMP) prepared by a suitably qualified person shall be submitted to the Certifying Authority. The WMP must be prepared in consultation with Council and the EPA.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D4</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to occupation, evidence shall be submitted to the Certifying Authority demonstrating consultation with NSW Health regarding appropriate internal air quality criteria for the use of the former naval fuel bunker and an agreed monitoring program to ensure the ongoing suitability of use of the bunker. Contractor to provide all required certification of the works.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D5</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Section 73 Certificate must be submitted to the PCA prior to the use of the development.</td>
<td></td>
<td></td>
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<tr>
<td><strong>D6</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The provision of adequate services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D7</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The provision of adequate services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D8</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Fire Safety Certificate must be prepared.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D9</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to occupation, written advice shall be obtained from the relevant water supply authority, wastewater disposal authority, electricity supply authority, network operator and any relevant government body regarding the provision of adequate services. Contractor to prepare the relevant documents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D10</strong></td>
<td></td>
<td></td>
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<tr>
<td>Prior to the commencement of use, written advice shall be obtained from the relevant water supply authority, wastewater disposal authority, electricity supply authority, network operator and any relevant government body regarding the provision of adequate services. Contractor to prepare the relevant documents.</td>
<td></td>
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</tr>
<tr>
<td><strong>D11</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to the commencement of use, written advice shall be obtained from the relevant water supply authority, wastewater disposal authority, electricity supply authority, network operator and any relevant government body regarding the provision of adequate services. Contractor to prepare the relevant documents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D12</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to the commencement of use, signage must to be erected at the intersection of Lincoln Crescent and Cowper Wharf Road restricting any right turn movements of vehicles over 6 m in length exiting Lincoln Crescent. The signage must be retained in perpetuity. Contractor to install.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D13</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prior to the commencement of use, evidence shall be submitted to the Certifying Authority demonstrating consultation with NSW Health regarding appropriate internal air quality criteria for the use of the former naval fuel bunker and an agreed monitoring program to ensure the ongoing suitability of use of the bunker. Contractor to provide all required certification of the works.</td>
<td></td>
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<td><strong>D14</strong></td>
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<td>Prior to the commencement of use, signage must to be erected at the intersection of Lincoln Crescent and Cowper Wharf Road restricting any right turn movements of vehicles over 6 m in length exiting Lincoln Crescent. The signage must be retained in perpetuity. Contractor to install.</td>
<td></td>
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</tr>
<tr>
<td><strong>D15</strong></td>
<td></td>
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</tr>
<tr>
<td>Prior to the commencement of use, an updated Noise and Vibration Management Plan (NVMP) prepared by a suitably qualified person shall be submitted to the Certifying Authority for approval. The ONVMP must be prepared in consultation with Council and the EPA. The ONVMP shall include (but not be limited to):</td>
<td></td>
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</tr>
<tr>
<td><strong>D16</strong></td>
<td></td>
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<tr>
<td><strong>D17</strong></td>
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<td></td>
<td></td>
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<tr>
<td><strong>D18</strong></td>
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### Note

- Principal Prior to occupation
- Contractor
- NSW in preparation
- User
- Principal
- Prior to use
- AGNSW in preparation
- Principal
- Prior to occupation
- Prior to the commencement of use
- Prior to the commencement of use
- Prior to the commencement of use
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**FINAL CONDITIONS OF CONSENT MATRIX**

**Sydney Modern Project**

SSD: 6471

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**Post-Construction Dilapidation Report**

Prior to occupation or commencement of the use:

- The Applicant must engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. The report must:
  - a) be submitted to the Certifying Authority.
  - b) ascertain whether the construction works caused any physical damage to adjoining buildings, infrastructure and roads.
  - c) be submitted to the Certifying Authority.

**Food Premises - Health Registration Database**

Prior to the commencement of food handling operations, the proprietor of the food premises must notify and register the food premises with Council's Health and Building Services and the NSW Health Department at www.health.nsw.gov.au.

**Sanitary Facilities for Disabled Persons**

Prior to the occupation or commencement of the use, details must be provided to the Certifying Authority demonstrating that the provision of sanitary facilities for disabled persons complies with Section F2.4 of the BCA and Condition B49.

---

**Waste and Recycling Collection**

Prior to occupation or commencement of the use, details must be provided to the Certifying Authority demonstrating that the provision of facilities for waste and recycling collection complies with Section F2.4 of the BCA and Condition B49.

---

**Public Domain Works - Hold Points and Handover**

Prior to a Certificate of Completion being issued for public domain works and before the use of the development commences, whichever is earlier, electronic works-as-executed (WAE) documentation must be submitted to and accepted by Council.

---

**Interpretation Strategy**

An interpretation strategy for the development must be prepared by a suitably qualified heritage interpretation practitioner and submitted to the OEH Heritage Division for review and endorsement.

---

**Contamination**

The recommendations of the Remedial Action Plan are to be implemented (as-built) plans and documentation, certified by a suitably qualified, independent professional. The strategy must make decisive recommendations on how a range of interpretation media should be included in the project to enhance an understanding of the heritage significance of the Art Gallery of NSW, the Royal Botanic Gardens and the Domain, and the former naval fuel bunker.

---

**Protection of Public Infrastructure**

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### FINAL CONDITIONS OF CONSENT MATRIX

**Sydney Modern Project**

**SSD: E8471**

<table>
<thead>
<tr>
<th><strong>Operational Restrictions</strong></th>
<th><strong>Wastewater Disposal</strong></th>
<th><strong>Storage and Handling of Waste</strong></th>
<th><strong>Fire Safety Certificate</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E1</strong> All domestic wastewater must be disposed of to the sewer in accordance with a current agreement with the relevant wastewater disposal authority.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E2</strong> Land use and ownership of property at the site, shall not give rise to any one or more of the following:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E3</strong> All waste collection services utilising Lincoln Crescent must not be undertaken outside the hours of 7.30 am to 6 pm Monday to Friday.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E4</strong> The development shall operate in accordance with the Fire Safety Certificate obtained in accordance with condition D19 of this consent.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E5</strong> The doors and windows of the cafe and the multi-function room must be closed after 10 pm.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E6</strong> All vehicles using the loading dock shall enter and exit the site in a forward motion.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E7</strong> At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage collection.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E8</strong> Noise associated with the operations of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>E9</strong> All loading and unloading operations associated with the site must be carried out in accordance with the LDVMP (condition D7).</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Notes
- **E8**: Noise associated with the operations of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following: a) a sound pressure level at any affected residential property that exceeds the background (L_{A90}, 15 minute) noise level by more than 5dBA. The background noise level must be measured in the absence of noise emissions from the premises. The source noise level must be measured at least 15 minutes or a period equal to or greater than the time period during which the noise emissions are expected to occur. b) exhibit tonal, impulsive or other annoying characteristics. c) out in a manner so as not to cause inconvenience to the public or to be likely to cause a detrimental impact on the amenity of the locality.
- **E9**: All loading and unloading operations associated with the site must be carried out in accordance with the LDVMP (condition D7).
- **E10**: All loading and unloading operations associated with the site must be carried out in accordance with the LDVMP (condition D7).
### FINAL CONDITIONS OF CONSENT MATRIX

**Sydney Modern Project**

**SSD: 6471**

<table>
<thead>
<tr>
<th>Condition Number</th>
<th>Condition Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>E16</td>
<td>No part of the proposal provides any approval to pollute waters. The Applicant must ensure that any water quality, temperature and quantity discharge of waste complies with the requirements of the Protection of the Environment Operations Act 1997.</td>
<td>Note</td>
</tr>
<tr>
<td>E17</td>
<td>The Applicant will store all chemicals, fuels and oils used on-site in appropriately bunded areas in accordance with the requirements of all relevant Australian Standards, relevant EPA requirements and/or EPA's Storing and Handling Liquids: Environmental Protection - Participants Handbook.</td>
<td>Note</td>
</tr>
<tr>
<td>E18</td>
<td>Any temporary event structures shall comply with the relevant provisions of the applicable Australian Standard including the Australian Building Codes Board Temporary Structures Standard 2015 and the UCC.</td>
<td>Note</td>
</tr>
<tr>
<td>E19</td>
<td>The Interpretation Plan (condition D28) must be fully implemented within 12 months of the completion of the works.</td>
<td>Note</td>
</tr>
<tr>
<td>E20</td>
<td>The Applicant must ensure that public access to and around the site is maintained at all times and is not unduly obstructed.</td>
<td>Note</td>
</tr>
<tr>
<td>E21</td>
<td>All plant and equipment on site, or to receive the performance of the development must be: a. maintained in an efficient and effective condition, and b. operated in a proper and efficient manner.</td>
<td>Note</td>
</tr>
<tr>
<td>E22</td>
<td>Water treatment system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment.</td>
<td>Note</td>
</tr>
<tr>
<td>E23</td>
<td>The Applicant shall apply to the relevant authority for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, impact attenuation permits and any other approvals under section 68 (Approvals) of the Local Government Act 1993 or section 138 of the Roads Act 1993.</td>
<td>Note</td>
</tr>
<tr>
<td>E24</td>
<td>Before Subdivision Certificate - Defects Liability Period</td>
<td>Note</td>
</tr>
<tr>
<td>E25</td>
<td>All tree planting, landscaping and public domain works approved by condition A2, including planting a minimum of 273 trees, are to be completed prior to the commencement of use.</td>
<td>Note</td>
</tr>
</tbody>
</table>

**Public Access**

1. The Interpretation Plan (condition D28) must be fully implemented within 12 months of the completion of the works.
2. The Interpretation Plan (condition D28) must be fully implemented within 12 months of the completion of the works.
3. The Interpretation Plan (condition D28) must be fully implemented within 12 months of the completion of the works.

**Operation of Plant and Equipment**

1. The operation of the seawater heat exchange system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

**Seawater Heat Exchange System Operation**

1. Water treatment system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

**Public Domain Works - Defects Liability Period**

1. All works to the Council's public domain, including footpaths, kerbs, or other structures, shall be completed by the date of final completion. | Note |

**Registration of Easements**

1. The Applicant shall provide to the PCA evidence that all matters required to be registered on title, including easements, are shared by more than one lot, appropriate easements must be created, pursuant to Section 68 of the Conveyancing Act 1919. | Note |

**Encroaching and/or Shared Services**

1. All works to the Council's public domain, including footpaths, kerbs, or other structures, shall be completed by the date of final completion. | Note |

**Operation of the Seawater Heat Exchange System**

1. The operation of the seawater heat exchange system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

**Utilisation of Water**

1. The operation of the seawater heat exchange system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

**Bundling**

1. The operation of the seawater heat exchange system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

**No Pollution of Waters**

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**AN ADVISORY NOTES**

1. Any tools, structures or the like remaining such to be left behind or within the area of the site or, if transferred, then such items shall be disposed of within the site or, if transferred, then such items shall be disposed of within the site. | Note |

**AN ADVISORY NOTES**

1. The operation of the seawater heat exchange system must comply with the following at all times: a) any anti-foulant product used is registered at the time of use by the Australian Pesticides and Veterinary Medicines Authority for the purpose of a marine growth anti-foulant; b) waste water discharge must comply with the concentration of anti-foulant product specified on the packaging label for that product; c) if the intake jet is integrated with the intake pump, and d) if all waste generated from the intake pump is disposed of in a manner which complies with the protection of the environment. | Note |

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This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the relevant standards called up in the BCA which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

**COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. If the Applicant becomes aware of any of the Commonwealth legislation, it is the Applicant’s responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need for approval. This decision is not to be taken as an acceptance of any application by the Commonwealth legislation.

There are severe penalties for non-compliance with the Commonwealth legislation.

**BUILDING PLAN APPROVAL**

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water’s assets (e.g. water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see plumbing, building and developing then building over or next to assets).

**WORKS ON WATERFRONT LAND**

Any works on waterfront land should be carried out in accordance with the Guidelines for Controlled Activities on Waterfront Lands (2012).

**APPENDIX 1 WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written notification addressing the requirements set out below must be sent to the Department at the following address: <a href="mailto:compliance@planning.nsw.gov.au">compliance@planning.nsw.gov.au</a> within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition 14.</td>
<td>Such notification forms the view that an incident has not occurred.</td>
</tr>
<tr>
<td><strong>WRITTEN INCIDENT NOTIFICATION REQUIREMENTS</strong></td>
<td></td>
</tr>
<tr>
<td>Written notification of an incident must:</td>
<td></td>
</tr>
<tr>
<td>a. Identify the development and application number;</td>
<td></td>
</tr>
<tr>
<td>b. Provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);</td>
<td></td>
</tr>
<tr>
<td>c. Identify how the incident was detected;</td>
<td></td>
</tr>
<tr>
<td>d. Identify when the Applicant became aware of the incident;</td>
<td></td>
</tr>
<tr>
<td>e. Identify any actual or potential non-compliance with conditions of consent;</td>
<td></td>
</tr>
<tr>
<td>f. Describe what immediate steps were taken in relation to the incident;</td>
<td></td>
</tr>
<tr>
<td>g. Identify further action(s) that will be taken in relation to the incident;</td>
<td></td>
</tr>
<tr>
<td>h. Identify a project contact for further communication regarding the incident</td>
<td></td>
</tr>
<tr>
<td><strong>INCIDENT REPORT REQUIREMENTS</strong></td>
<td></td>
</tr>
<tr>
<td>Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide a detailed report on the incident addressing all requirements below, and such further reports as may be required.</td>
<td></td>
</tr>
<tr>
<td>The Incident Report must include:</td>
<td></td>
</tr>
<tr>
<td>a. A summary of the incident;</td>
<td></td>
</tr>
<tr>
<td>b. Outcomes of an incident investigation, including identification of the cause of the incident;</td>
<td></td>
</tr>
<tr>
<td>c. Details of any corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence;</td>
<td></td>
</tr>
<tr>
<td>d. Details of any communication with other stakeholders regarding the incident;</td>
<td></td>
</tr>
</tbody>
</table>
## Sydney Modern Project - Schedules

### Part B

<table>
<thead>
<tr>
<th>Authority Approvals</th>
<th>Date for Submission of Acceptable Documentation</th>
<th>Required Date of Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High Voltage (Ausgrid)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Ausgrid Level 3 Design Review &amp; Approval for New Chamber Substation Connections</td>
<td>Already submitted</td>
<td>24/03/2020</td>
</tr>
<tr>
<td><strong>NSW Fire &amp; Rescue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• NSW Fire &amp; Rescue Updated FER Review &amp; Approval</td>
<td>If required</td>
<td>38 days after submission</td>
</tr>
<tr>
<td>• Note: Only required if the contractor diverts from the current FER (which incorporates initial FEBQ)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SSDA - Section 4.55 (Cooling Towers) Approval</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Latest Date for Approval</td>
<td>Already submitted</td>
<td>29/11/2019</td>
</tr>
</tbody>
</table>
Schedule 9 – Subcontract requirements

Refer to clause 28.4.1 of the GC21 General Conditions of Contract.

1 General requirements for specified subcontracts

In addition to its obligations under clause 28 and 29, for all Subcontracts valued at or over the amount stated in Contract Information item 29, the Contractor must include requirements consistent with the provisions of the following clauses and schedules of this Contract:

1. clause 3 - Co-operation
2. clause 4 - Duty not to hinder performance
3. clause 5 - Early warning
4. clause 6 - Evaluation and monitoring
5. clause 10 - Governing law of the Contract
6. clause 13 - Compliance with Code of Practice for Procurement
7. clause 14 - No collusive arrangements
8. clause 15.1.2 - Work Health and Safety management, except that the submission and implementation of the Safe Work Method Statements is subject to the decision of the Contractor as principal contractor for work health and safety matters.
9. clause 15.1.6 - Aboriginal Participation in Construction
10. clause 16 - Work Health and Safety
11. clause 23 - Intellectual Property
12. clause 24 - Confidentiality
13. clause 25 - Media releases and enquiries
14. clause 26 - Care of people, property and the environment, indemnities and limitations
15. clauses 27.5, 27.10.1.1, 27.10.1.2, 27.10.1.5 and 27.10.1.6 - Insurances
16. clause 28 - Subcontractor relationships
17. clause 58 - Payment Claims
18. clause 59 - Payments
19. Schedule 1 (Subcontractor’s Warranty) together with an obligation to execute and deliver the Warranty to the Principal (only if the Subcontractor is required by clause 30 to provide the warranty)
20. Schedule 9 (Subcontract requirements)
Schedule 10 – Not used
Schedule 11 – Statement regarding Materials

Refer to clause 58.7 of the GC21 General Conditions of Contract.

I am a representative of [name of company/entity with custody of the Materials or on whose land the Materials are stored] in the capacity of [insert position] and I am authorised to make this statement on behalf of the Company. I confirm that the Company has no lien, charge or other encumbrance over the Materials listed in the schedule to this statement ("Materials"). I acknowledge that the Materials are the property of the Principal named in the schedule to this statement ("Principal") and I hereby irrevocably authorise the Principal or its officers or others acting with its authority to enter the premises where the Materials are stored at any reasonable hour to inspect or remove the Materials. I undertake to make no claim or charge against the Principal in respect of the storage of the Materials.

SCHEDULE

Materials

[list the Materials]

Principal

[insert name of the Principal]

SIGNED..............................................................

DATE:..............................................................
Schedule 12 – Compliance with Building Code 2016

Refer to clause 13.15 of the GC21 General Conditions of Contract.


2. Compliance with the Building Code shall not relieve the Contractor from responsibility to perform the Contract, or from liability for any Defect in the works arising from compliance with the Building Code.

3. Where a change in the Contract is proposed and that change would affect compliance with the Building Code, the Contractor must submit a report to the Commonwealth specifying the extent to which the Contractor’s compliance with the Building Code will be affected.

4. The Contractor must maintain adequate records of compliance by it with the Building Code.

5. The Contractor must maintain adequate records of compliance with the Building Code by its Related Persons (as defined in the Building Code).

6. If the Contractor does not comply with the requirements of the Building Code in the performance of this Contract such that a sanction is applied by the Minister for Employment, without prejudice to any rights that would otherwise accrue, funding entities or funding recipients (as the case may be) shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Contractor or a related entity in respect of Commonwealth funded building work.

7. The Contractor must not enter into a Subcontract with a Subcontractor where:
   (a) there are reasonable grounds to believe the building contractor or building industry participant is covered by an enterprise agreement that is inconsistent with the Building Code; or
   (b) there are reasonable grounds to believe that the building contractor or building industry participant is a party to an agreement of a kind described in subsection 10(1) of the Building Code; or
   (c) an exclusion sanction applies to the building contractor or building industry participant; or
   (d) an adverse decision, direction or order of a court or tribunal has been made in relation to the building contractor or building industry participant and a contravention of any of the following in respect of building work:
      (i) a designated building law; or
      (ii) Workplace Health and Safety Legislation or a corresponding WHS law; or
      (iii) the Competition and Consumer Act 2010; and,
there are reasonable grounds to believe that the building contractor or building industry participant has failed to comply with the decision, direction or order.

8. The Contractor will, and will require its related entities and its Subcontractors to, provide the Commonwealth or a person occupying a position in the Fair Work Building Industry Inspectorate, which is known and operates as Fair Work Building and
Construction (FWBC), with full access to the premises and records of the above-mentioned entity to:
(a) inspect any work, material, machinery, appliance, article or facility;
(b) inspect and copy any record relevant to the work in connection with the Contract th; and
(c) interview any person,
as is necessary to demonstrate its compliance with the Building Code.

9. The Contractor will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in FWBC, to produce a specified document within a specified period, in person, by fax, by electronic means or by post.

10. The Contractor will ensure that its related entities and its Subcontractors will agree to the requests in clause 9 of this Schedule 12.

11. The Contractor consents to disclosure by the Commonwealth, the Director of FWBC and Minister for Employment information concerning its and its related entities' compliance with the Building Code and whether or not an exclusion sanction has been imposed on it and/or its related entity. The Contractor must ensure that its Subcontractors are also aware of, and agree to comply with, these rights of use and disclosure.

12. The Contractor must ensure the obligations outlined in this Schedule 12 are contained in any Subcontracts.
Schedule 13 – Novation Deed

Refer to clauses 9.6 and 29.5 of the GC21 General Conditions of Contract.

Novation Deed

Sydney Modern Project
Dated

Art Gallery of NSW ABN/ACN/ARBN [insert] (“Incoming Party”)  
Infrastructure NSW ABN 85 031 302 516 (“Outgoing Party”)  
[insert] (“Consenting Party”)
# Details

<table>
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<tr>
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<tr>
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<tr>
<td>Attention</td>
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**Recitals**

A  Outgoing Party and Consenting Party are parties to the Contract.

B  The parties to this deed have agreed to the novation of the Contract on the terms of this deed.

**Contract**

Sydney Modern Project Design and Construction Contract

**Novation Date**

#insert date novation to be effective from#

**Governing law**

New South Wales

**Date of deed**

See Signing page
1 Definitions and Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

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

**Business Day** means a day other than:

(a) a Saturday, Sunday or a public holiday in New South Wales; and

(b) 27, 28, 29, 30 and 31 December.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.

**Contract** means the contract referred to in the Details.

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

**New Contract** means the new contract formed under clause 3.1.

**Novation Date** means the date set out in the Details.

**Related Body Corporate** has the meaning it has in the Corporations Act 2001 (Cth).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this deed:

(a) the singular includes the plural and vice versa;

(b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);

(c) a reference to a document also includes any variation, replacement or novation of it;

(d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;

(e) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

(f) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
(g) a reference to a time of day is a reference to New South Wales time;

(h) a reference to dollars, $ or A$ is a reference to the currency of Australia;

(i) a reference to "law" includes common law, principles of equity and legislation (including regulations);

(j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

(k) a reference to "regulations" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);

(l) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;

(m) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

(n) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

(o) a reference to any thing (including an amount) is a reference to the whole and each part of it; and

(p) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day.

2 Consideration

This deed is entered into in consideration of the parties incurring obligations and giving rights under this deed and the New Contract and for other valuable consideration.

3 Novation

3.1 Novation

With effect on and from the Novation Date, the parties agree that the Contract is discharged and the New Contract is created on the same terms and conditions as the Contract except that:

(a) Incoming Party is substituted for Outgoing Party; and

(b) each reference to Outgoing Party will be read as a reference to Incoming Party in the New Contract; and

(c) notices to Incoming Party must be provided using its details specified in the Details; and

3.2 Rights and benefits

With effect on and from the Novation Date, Incoming Party:

(a) is bound by the New Contract as the Contract relates to Outgoing Party; and
(b) enjoys under the New Contract all the rights and benefits conferred on Outgoing Party under the Contract.

3.3 Release from future performance
On and from the Novation Date, Consenting Party releases Outgoing Party from any obligation under the Contract to be performed on or after the Novation Date.

3.4 Consenting Party acknowledgement
The Consenting Party acknowledges that nothing in this deed or any of the transactions contemplated by this deed constitutes:

(a) a breach of any term of the Contract;
(b) an event of default under the Contract; or
(c) any other event or circumstance which, with the giving of notice, lapse of time, or fulfilment of any condition, would cause the acceleration of any payment to be made under, or the termination or enforcement of, the Contract.

3.5 Contract security
(a) Within 10 Business Days of the Novation Date, Consenting Party shall procure the issue of new security in favour of Incoming Party ("New Security").
(b) The New Security must be on the same terms and for the same amount as the Existing Security and must otherwise comply with the Contract.
(c) Outgoing Party must return any security still held under the Contract ("Existing Security") to Consenting Party within five days after the Consenting Party has provided the New Security to the Incoming Party pursuant to clause 3.5(a).
(d) Nothing in this clause 3.5 limits or affects Outgoing Party’s right to have recourse to the Existing Security in accordance with the Contract prior to the Novation Date.

4 Accrued Rights
4.1 Mutual release
(a) Subject to clause 4.1(b), on and from the Novation Date, each of Consenting Party and Outgoing Party releases the other from:

(i) any obligation or liability under or in respect of the Contract; and
(ii) any Claim which it, but for this release, had or may in the future have had against the other under or in respect of the Contract,

arising in connection with the performance of the Contract before the Novation Date.

(b) Clause 4.1(a) does not apply to:

(i) any Claim Outgoing Party had, or may in the future have had, against Consenting Party under or in respect of the Contract; and
any liability Consenting Party had, or may in the future have had, to Outgoing Party under or in respect of the Contract, in respect of any event or circumstance for which Consenting Party indemnifies Outgoing Party pursuant to the Contract.

4.2 Assumption by Incoming Party
On and from the Novation Date Incoming Party assumes responsibility for any obligation or liability of the Outgoing Party owed to the Consenting Party under or in respect of the Contract arising in connection with the performance of the Contract before the Novation Date.

5 Representations and warranties
5.1 General representations and warranties
Each party represents and warrants to each other party that:

(a) (incorporation) it is validly incorporated and has the power to carry on its business as it is now being conducted;

(b) (power) it has the power to enter into and perform its obligations under this deed and, for Incoming Party and Outgoing Party, the New Contract;

(c) (authority) it has taken all action which is necessary to authorise the entry into and performance of its obligations under this deed and, for Incoming Party and Outgoing Party, the New Contract; and

(d) (binding obligations) this deed and, for Incoming Party and Outgoing Party, the New Contract, constitute legal, valid and binding obligations, enforceable in accordance with their terms.

6 GST
6.1 Consideration GST exclusive
Unless expressly stated otherwise in this deed, all amounts payable or consideration to be provided under this deed are exclusive of GST.

6.2 Payment of GST
If GST is payable on any supply made under this deed, 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 payable at the same time that the consideration for the supply, or the first part of the consideration for the supply (as the case may be), is to be provided. However:

(a) the recipient need not pay the additional amount until the supplier gives the recipient a tax invoice or an adjustment note;

(b) if an adjustment event arises in respect of the supply, the additional amount must 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; and

(c) this clause 6.2 does not apply to the extent that the GST on the supply is payable by the recipient under Division 84 of the GST Act.
6.3 Reimbursements

If a party is required under this deed to indemnify another party, or pay or reimburse costs of another party, that party agrees to pay the relevant amount less any input tax credits to which the other party (or to which the representative member for a GST group of which the other party is a member) is entitled.

6.4 Calculation of payments

If an amount payable under this deed is to be calculated by reference to:

(a) the price to be received for a taxable supply then, for the purposes of that calculation, the price is reduced to the extent that it includes any amount on account of GST; and

(b) the price to be paid or provided for an acquisition then, for the purposes of that calculation, the price is reduced to the extent that an input tax credit is available for the acquisition.

6.5 Interpretation

For the purposes of this clause 6:

(a) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 6;

(b) ‘GST Act’ means the A New Tax System (Goods and Services Tax) Act 1999 (Cth); and

(c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it is a separate supply.

7 Notices and other communications

7.1 Form - all communications

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

7.2 Form - communications sent by email

Communications sent by email need not be marked for attention in the way stated in clause 7.1. However, the email must state the first and last name of the sender.

Communications sent by email are taken to be signed by the named sender.

7.3 Delivery

Communications must be:

(a) left at the address set out or referred to in the Details; or

(b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or

(c) sent by fax to the fax number set out or referred to in the Details; or

(d) sent by email to the address set out or referred to in the Details.
However, if the intended recipient has notified a changed address or fax number, then communications must be to that address or number.

7.4 **When effective**

Communications take effect from the time they are received or taken to be received under clause 7.5 (whichever happens first) unless a later time is specified.

7.5 **When taken to be received**

Communications are taken to be received:

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

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

(c) if sent by email:

(i) when the sender receives an automated message confirming delivery; or

(ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

7.6 **Receipt outside business hours**

Despite anything else in this clause 7, if communications are received or taken to be received under clause 7.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day.

8 **General**

8.1 **Costs**

The parties agree to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this deed and of other related documentation, except stamp duty.

8.2 **Stamp duty**

Consenting Party agrees to pay all stamp duty (including fines and penalties) chargeable, payable or assessed in relation to this deed and any transaction contemplated by it.

8.3 **Governing law**

This deed is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

8.4 **Counterparts**

This deed may be executed in counterparts. All counterparts when taken together constitute one document and the date on which the last counterpart is executed will be the date of the deed.
8.5 **Further steps**

Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this deed and the transactions contemplated by it.

8.6 **No merger**

The representations, warranties and indemnities in this deed do not merge on the Novation Date.

8.7 **Construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this deed or any part of it.

8.8 **Entire agreement**

This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous deeds, understandings and negotiations on that subject.

8.9 **Severability**

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

8.10 **Variation and waiver**

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

8.11 **Confidentiality**

Each party agrees not to disclose information provided by another party that is not publicly available except:

(a) to any person in connection with an exercise of rights or a dealing with rights or obligations under this deed; or

(b) to officers, employees, legal and other advisers and auditors of any party; or

(c) to any party to this deed or any Related Body Corporate of any party to this deed, provided the recipient agrees to act consistently with this clause; or

(d) with the consent of the party who provided the information; or

(e) as allowed by any law or stock exchange.

EXECUTED as an deed
Sydney Modern Project – SCHEDULES

Signing page

DATED: ______________________

EXECUTED by [OUTGOING PARTY] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

................................................
Signature of director
................................................
Name of director (block letters)

................................................
Signature of director/company secretary*
*delete whichever is not applicable
................................................
Name of director/company secretary* (block letters)
*delete whichever is not applicable

EXECUTED by [INCOMING PARTY] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

................................................
Signature of director
................................................
Name of director (block letters)

................................................
Signature of director/company secretary*
*delete whichever is not applicable
................................................
Name of director/company secretary* (block letters)
*delete whichever is not applicable

EXECUTED by [CONSENTING PARTY] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

................................................
Signature of director
................................................
Name of director (block letters)

................................................
Signature of director/company secretary*
*delete whichever is not applicable
................................................
Name of director/company secretary* (block letters)
*delete whichever is not applicable
Schedule 17 – ED Interface Deed

Refer to clauses 15B, 26, 34A, 34B, 34C, 34D and 34E of the GC21 General Conditions of Contract.
Art Gallery of NSW
Sydney Modern Project —
Eastern Distributor
Construction Interface
and Access Deed

Dated 21 December 2019

Airport Motorway Limited (ABN 26 057 283 093) and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607) ("ED Operator")
The Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW) (ABN 24 934 492 575) ("AGNSW")
Roads and Maritime Services of New South Wales ("RMS")

King & Wood Mallesons
Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com
# Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed

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<tr>
<td>7.5</td>
<td>ED Operator Step In</td>
<td></td>
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<tr>
<td>8</td>
<td>Subdivision of ED Land</td>
<td></td>
</tr>
<tr>
<td>8.1</td>
<td>Registrable Plan of Subdivision to be prepared</td>
<td></td>
</tr>
<tr>
<td>8.1A</td>
<td>Grant of Licence if Registrable Subdivision Plan not registered by Date of Completion</td>
<td></td>
</tr>
<tr>
<td>8.2</td>
<td>Operating Interface Principles</td>
<td></td>
</tr>
<tr>
<td>8.3</td>
<td>Deed of Partial Surrender</td>
<td></td>
</tr>
<tr>
<td>8.4</td>
<td>ED Operator may require easements, restrictions or covenants</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Representations and Warranties</td>
<td></td>
</tr>
<tr>
<td>9.1</td>
<td>ED Operator warranties</td>
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<td>9.2</td>
<td>AGNSW warranties</td>
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<tr>
<td>9.3</td>
<td>RMS warranties</td>
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<tr>
<td>9.4</td>
<td>Trustee warranties</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Liability</td>
<td></td>
</tr>
<tr>
<td>10.1</td>
<td>Liability and indemnity</td>
<td></td>
</tr>
<tr>
<td>10.2</td>
<td>RMS's acts or omissions</td>
<td></td>
</tr>
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<td>ED Operator's acts or omissions</td>
<td></td>
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<td>10.4</td>
<td>Fines</td>
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<td>10.5</td>
<td>Release</td>
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<td>10.6</td>
<td>Survival</td>
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<td>Fees and other costs</td>
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</tr>
<tr>
<td>11.1</td>
<td>Unplanned impact on ED Motorway</td>
<td></td>
</tr>
<tr>
<td>11.2</td>
<td>Other costs</td>
<td></td>
</tr>
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<td>Invoices and disputes</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Insurance</td>
<td></td>
</tr>
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<td>12.1</td>
<td>Care of the works</td>
<td></td>
</tr>
<tr>
<td>12.2</td>
<td>Insurance</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Confidentiality</td>
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<td>13.1</td>
<td>General restriction</td>
<td></td>
</tr>
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<td>13.2</td>
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<td>13.3</td>
<td>Publicity</td>
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<td>13.4</td>
<td>Disclosure and Release</td>
<td></td>
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<td>Dispute Resolution</td>
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</tr>
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<td>Disputes</td>
<td></td>
</tr>
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<td></td>
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<td>General</td>
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<td>16.1</td>
<td>Entire agreement</td>
<td></td>
</tr>
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<td>16.2</td>
<td>Further acts</td>
<td></td>
</tr>
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<td>16.3</td>
<td>Governing law and jurisdiction</td>
<td></td>
</tr>
<tr>
<td>16.4</td>
<td>Severability</td>
<td></td>
</tr>
<tr>
<td>16.5</td>
<td>Amendments</td>
<td></td>
</tr>
</tbody>
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Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
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# Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed

## Details

### Parties

<table>
<thead>
<tr>
<th>ED Operator</th>
<th>Name</th>
<th>ABN</th>
<th>Address</th>
<th>Telephone</th>
<th>Email</th>
<th>Attention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operator</td>
<td>Airport Motorway Limited and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607)</td>
<td>26 057 283 093</td>
<td>Level 31, Tower 5, Collins Square, 727 Collins Street, Docklands Victoria 3008</td>
<td>(02) 9254 4916</td>
<td><a href="mailto:edassetmanager@transurban.com">edassetmanager@transurban.com</a> and <a href="mailto:lbeer@transurban.com">lbeer@transurban.com</a></td>
<td>Louise Beer, ED Asset Manager</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGNSW</th>
<th>Name</th>
<th>ABN</th>
<th>Address</th>
<th>Telephone</th>
<th>Email</th>
<th>Attention</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW)</td>
<td>24 934 492 575</td>
<td>Art Gallery Road, The Domain, Sydney NSW 2000</td>
<td>(02) 9225 1852</td>
<td><a href="mailto:sally.webster@ag.nsw.gov.au">sally.webster@ag.nsw.gov.au</a></td>
<td>Sally Webster, Head Sydney Modern Project</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RMS</th>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
<th>Email</th>
<th>Attention</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Roads and Maritime Services of New South Wales</td>
<td>Level 22, 101 Miller Street, North Sydney NSW 2059</td>
<td>(02) 8588 4135</td>
<td><a href="mailto:Felicity.FINLAYSON@rms.nsw.gov.au">Felicity.FINLAYSON@rms.nsw.gov.au</a></td>
<td>Director Motorway Partnerships &amp; Planning</td>
</tr>
</tbody>
</table>
Recitals

A RMS owns the ED Land.

B ED Operator leases the ED Land from RMS pursuant to the ED Lease and operates, maintains and tolls the ED Motorway and the ED Operator and RMS are entitled to the revenue derived from the operation of the ED Motorway pursuant to the ED Project Deed.

C AGNSW (or Infrastructure NSW on its behalf) intends to undertake the Works which form part of the Project, on, or in the vicinity of, the ED Land.

D The ED Land comprises Zone 1, Zone 2 and Zone 3. AGNSW requires access to Zone 1 and Zone 2A to undertake the Works, and may require access to Zone 2B and Zone 3 in order to monitor, inspect, test or undertake the Works.

E AGNSW will be granted access to the ED Land for the purposes of carrying out the Works on the terms set out in this Deed.

F The parties intend that Zone 1 will be excised from the ED Lease after Completion, and that RMS will make tenure arrangements for such excised land directly with AGNSW.

G The parties agree to the matters set out in this Deed.
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
General terms

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this Deed are set out below:

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access Requirements</td>
<td>the requirements in Schedule 2 (&quot;Access Requirements&quot;).</td>
</tr>
<tr>
<td>AMT</td>
<td>AMT Management Limited (ABN 55 078 953 607).</td>
</tr>
<tr>
<td>Airport Motorway Limited</td>
<td>Airport Motorway Limited (ABN 26 057 283 093).</td>
</tr>
<tr>
<td>Approvals</td>
<td>any consent, approval, authorisation, licence, registration, order, permission or concurrence required by any Law which must be obtained or satisfied (as the case may be) to carry out the Project Activities and for the avoidance of doubt, includes the Planning Approval.</td>
</tr>
<tr>
<td>Assignment</td>
<td>means an assignment, transfer or other dealing with an interest and Assign has a corresponding meaning.</td>
</tr>
<tr>
<td>Building Contract</td>
<td>the design and construction contract entered into by the AGNSW (or by Infrastructure NSW on its behalf) and the Building Contractor for the design and construction of the Project.</td>
</tr>
<tr>
<td>Building Contractor</td>
<td>the person engaged pursuant to the Building Contract by the AGNSW (or Infrastructure NSW on its behalf) from time to time to design and construct the Works as notified by AGNSW to the ED Operator and RMS.</td>
</tr>
<tr>
<td>Business Day</td>
<td>a day that is not a Saturday, Sunday or any other day that is a public holiday or a bank holiday in Sydney, and excludes 27 to 31 December (inclusive).</td>
</tr>
<tr>
<td>Certificate of Works Completion</td>
<td>the relevant certificate issued by the Independent Certifier under the Independent Certifier Deed of Appointment certifying that Works Completion has been achieved.</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Claim</td>
<td>any claim, action, demand or proceeding:&lt;br&gt;1 under, arising out of, or in any way in connection with, this Deed;&lt;br&gt;2 arising out of, or in any way in connection with the Project Activities; or&lt;br&gt;3 otherwise at Law or in equity including:&lt;br&gt;(i) under or for breach of any statute;&lt;br&gt;(ii) in tort for negligence or otherwise, including negligent misrepresentation; or&lt;br&gt;(iii) for restitution, including restitution based on unjust enrichment.</td>
</tr>
<tr>
<td>Commencement Date</td>
<td>the date on which all of the Conditions Precedent have been satisfied (or waived by the parties in writing).</td>
</tr>
<tr>
<td>Completion</td>
<td>the stage when the Building Contractor has achieved &quot;Completion&quot; (as defined in the Building Contract) of the Project.</td>
</tr>
<tr>
<td>Condition Precedent</td>
<td>a condition precedent set out in Schedule 1 (&quot;Conditions Precedent&quot;).</td>
</tr>
<tr>
<td>Consequential Loss</td>
<td>any:&lt;br&gt;1 loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of any business or loss of business opportunity, loss of contract, loss of goodwill, loss of use or loss of production, loss of value to the ED Motorway (whether that loss is direct or indirect);&lt;br&gt;2 indirect or consequential loss, howsoever arising; or&lt;br&gt;3 failure to realise anticipated savings, reduced costs or other benefits,&lt;br&gt;in each case whether present or future, fixed or unascertained, actual or contingent.</td>
</tr>
<tr>
<td>Contamination</td>
<td>the presence in, on or under land or any other aspect of the Environment of a substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) which is:&lt;br&gt;1 at a concentration above the concentration at which the substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) is normally present in, on or under land or any other aspect of the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment; or&lt;br&gt;2 toxic, flammable or otherwise capable of causing harm to humans or damage to the Environment including asbestos,</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
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</tr>
<tr>
<td>toluene, polychlorine biphenyls, lead based paints, glues, solvents, cleaning agents, paints and water treatment chemicals.</td>
<td></td>
</tr>
<tr>
<td>Current Design Documentation</td>
<td>the design documentation for the Works contained in Schedule 10 to this Deed.</td>
</tr>
<tr>
<td>Date of Completion</td>
<td>the date on which:</td>
</tr>
<tr>
<td>1 Completion has been achieved; and</td>
<td></td>
</tr>
<tr>
<td>2 INSW has notified the parties to this Deed in writing that Completion has been achieved.</td>
<td></td>
</tr>
<tr>
<td>Date of Works Completion</td>
<td>1 the date specified in the Certificate of Works Completion as the date on which Works Completion has been achieved; or</td>
</tr>
<tr>
<td>2 where another date is determined in any binding expert determination, litigation, arbitration or other binding dispute resolution process as the date upon which “Works Completion” was achieved, that other date.</td>
<td></td>
</tr>
<tr>
<td>Day 1 Clauses</td>
<td>clauses 1 (“Definitions and interpretation”), 2 (“Conditions Precedent”), 6.2 (“Disclaimer”), 10 (“Liability”), 11 (“Fees and other costs”), 13 (“Confidentiality”), 14 (“Dispute Resolution”), 15 (“Notices”) and 16 (“General”)</td>
</tr>
<tr>
<td>Deed</td>
<td>this document, together with all schedules and exhibits to this document.</td>
</tr>
<tr>
<td>Deed of Partial Surrender</td>
<td>the deed of partial surrender in respect of the ED Lease attached as Schedule 11 with all blanks completed and with any further amendments agreed between the parties (acting reasonably).</td>
</tr>
<tr>
<td>Design Documentation</td>
<td>1 the Current Design Documentation; and</td>
</tr>
<tr>
<td>2 any amendments to that documentation permitted under this Deed (including Design Documentation Amendments permitted under Schedule 6 (“Design and Plans Review”)).</td>
<td></td>
</tr>
<tr>
<td>Design Documentation Amendment</td>
<td>has the meaning given to it in Schedule 6 (“Design and Plans Review”)</td>
</tr>
<tr>
<td>Development Deed</td>
<td>the “Sydney Modern Project Development Deed” between AGNSW, RMS and RBGD, dated on or about the date of this Deed.</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
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<td>-----------------------------</td>
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</tr>
<tr>
<td>Development Footprint</td>
<td>the footprint within Zone 1 on which the Works will be located as settled following the final survey undertaken for the purposes of the subdivision and excise of Zone 1.</td>
</tr>
<tr>
<td>ED Land</td>
<td>the area comprised of Zone 1 (until its excision), Zone 2 and Zone 3.</td>
</tr>
<tr>
<td>ED land bridge</td>
<td>the bridge above the ED Motorway which connects the AGNSW and RBGDT leased land, but does not include Art Gallery Road.</td>
</tr>
<tr>
<td>ED Lease</td>
<td>the lease of the ED Land which RMS (as lessor) or its predecessor in title must grant ED Operator pursuant to the ED Project Deed.</td>
</tr>
<tr>
<td>ED Motorway</td>
<td>the Eastern Distributor Motorway, including the road, tunnel and other physical works, facilities, systems, control centre and all plant machinery, equipment, fixtures, fittings and landscaping.</td>
</tr>
<tr>
<td>ED Operator Information</td>
<td>has the meaning given to it in clause 6.1(a).</td>
</tr>
<tr>
<td>ED Project Deed</td>
<td>the document titled 'Eastern Distributor Project Deed' between RMS (formerly Roads and Traffic Authority of New South Wales), the Minister for Roads and the Minister for Ports, Public Works and Services, and ED Operator dated 27 June 1997 (including all schedules and exhibits) (as amended from time to time).</td>
</tr>
<tr>
<td>ED Project Documents</td>
<td>each of the following documents:</td>
</tr>
<tr>
<td></td>
<td>1 the ED Project Deed;</td>
</tr>
<tr>
<td></td>
<td>2 the document entitled &quot;RMS Consent Deed&quot; dated 15 August 1997 between, amongst others, the RTA, ED Operator, Westpac Banking Corporation as security trustee and Westpac Banking Corporation as agent for the Banks and Swap Counterparties (each as defined in the Common Terms Deed), as amended on 18 April 2000, novated on 29 October 2004, amended on 4 April 2007, amended on 14 July 2009, amended on 6 July 2011, amended on 20 November 2013 and amended on 10 May 2016;</td>
</tr>
<tr>
<td></td>
<td>3 the RTA Deed of Charge (as defined in the ED Project Deed), as amended and restated on 6 July 2011; and</td>
</tr>
<tr>
<td></td>
<td>4 the ED Lease.</td>
</tr>
<tr>
<td>Emergency</td>
<td>an event which arises out of or in relation to the Works, the Project or the Project Activities which poses or may pose a serious risk or threat.</td>
</tr>
</tbody>
</table>
|                             | 1 of personal injury or death of any person or to the health or
<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
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</thead>
<tbody>
<tr>
<td>safety of any person;</td>
<td></td>
</tr>
<tr>
<td>2 of damage to or destruction of Zone 2B or Zone 3 or other property (including infrastructure) on or in relation to Zone 2B or Zone 3; or</td>
<td></td>
</tr>
<tr>
<td>3 to users of the ED Motorway;</td>
<td></td>
</tr>
<tr>
<td>Environment</td>
<td>components of the earth, including:</td>
</tr>
<tr>
<td>1 land, air and water;</td>
<td></td>
</tr>
<tr>
<td>2 any layer of the atmosphere;</td>
<td></td>
</tr>
<tr>
<td>3 any organic or inorganic matter and any living organism;</td>
<td></td>
</tr>
<tr>
<td>4 human-made or modified structures and areas; and</td>
<td></td>
</tr>
<tr>
<td>5 interacting natural ecosystems that include components referred to in paragraphs 1 to 3 of this definition.</td>
<td></td>
</tr>
<tr>
<td>EP&amp;A Act</td>
<td>the <em>Environmental Planning and Assessment Act 1979</em> (NSW).</td>
</tr>
<tr>
<td>External Event</td>
<td>an event which poses or may pose a serious risk or threat:</td>
</tr>
<tr>
<td>1 of personal injury to or death of any person or to the health or safety of any person;</td>
<td></td>
</tr>
<tr>
<td>2 of damage to or destruction to Zone 2B or Zone 3 or other property (including infrastructure) on or in relation to Zone 2B or Zone 3; or</td>
<td></td>
</tr>
<tr>
<td>3 to users of the ED Motorway, which is not an Emergency.</td>
<td></td>
</tr>
<tr>
<td>For Construction Drawings</td>
<td>the for construction drawings to be prepared by the Building Contractor for the Works.</td>
</tr>
<tr>
<td>Government Agency</td>
<td>a department of State, statutory or public authority, instrumentality, corporation, body or person, whether Commonwealth, State, territorial or local</td>
</tr>
<tr>
<td>GST</td>
<td>has the meaning given to that term in the GST Act.</td>
</tr>
<tr>
<td>GST Act</td>
<td>the <em>A New Tax System (Goods and Services Tax) Act 1999</em> (Cth).</td>
</tr>
<tr>
<td>Independent Certifier</td>
<td>the person or entity appointed as the Independent Certifier pursuant to the Independent Certifier Deed of Appointment or such other person(s) as may be engaged by AGNSW, RMS and ED Operator in accordance with the Independent Certifier Deed of Appointment.</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
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<td>-------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Independent Certifier Candidate</td>
<td>has the meaning given in clause 5.1(a).</td>
</tr>
<tr>
<td>Independent Certifier Deed of Appointment</td>
<td>the deed titled 'Deed of Appointment of Independent Certifier' to be entered into between AGNSW, RMS, ED Operator, the Building Contractor, the Independent Certifier and any other relevant stakeholders, which will be substantially in the form of the document which appears as Exhibit 1 ('Independent Certifier Deed of Appointment') to this Deed.</td>
</tr>
<tr>
<td>Independent Certifier's Services</td>
<td>the services to be performed by the Independent Certifier as set out in the Independent Certifier Deed of Appointment.</td>
</tr>
<tr>
<td>insurances</td>
<td>has the meaning given in clause 12 ('Insurance').</td>
</tr>
<tr>
<td>Land Bridge</td>
<td>means that part of the ED Motorway that is constructed and located beneath the surface of the land which is the subject of the RMS Lease.</td>
</tr>
</tbody>
</table>
| Law                                      | 1 any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, State, territorial or local;  
                                           | 2 the common law;  
                                           | 3 any Approval (including any condition or requirement under an Approval); and  
                                           | 4 any requirements of any Government Agency.                                                                                           |
| Loss                                     | includes:  
                                           | 1 any cost, expense, loss, damage or liability whether direct, indirect or consequential (including Consequential Loss or pure economic loss), present or future, fixed or unascertained, actual or contingent; and  
<pre><code>                                       | 2 without being limited by paragraph (1) and only to the extent not prohibited by Law, any fine or penalty.                                |
</code></pre>
<p>| Operating Interface Principles           | the operating interface principles set out in Schedule 5 ('Operating Interface Principles').                                           |
| Planned ED Lane Occupancy Fee            | the fee specified for that a Planned ED Lane Occupancy Period specified in Part B of the Access Requirements.                          |
| Planned ED Lane Occupancy Period         | in respect of a period of access to Zone 3 contemplated by clause 7.3, a period of time determined in accordance with Part C of the Access Requirements. |</p>
<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Approval</td>
<td>the consent relating to State Significant Development Application No. 6471 granted by the Minister for Planning (or delegate) under Part 4 of the EP&amp;A Act as modified from time to time.</td>
</tr>
<tr>
<td>Project</td>
<td>the ‘Sydney Modern Project’ being the proposed expansion of the Art Gallery of NSW as contemplated by the Planning Approval.</td>
</tr>
<tr>
<td>Project Activities</td>
<td>the undertaking by AGNSW (or Infrastructure NSW on its behalf) of the Project and all things and tasks which AGNSW (or Infrastructure NSW on its behalf) or any of its contractors is, or may be, required to carry out or do under this Deed to comply with AGNSW’s obligations under this Deed, including designing and constructing the Works.</td>
</tr>
<tr>
<td>RBGDT</td>
<td>the Royal Botanic Gardens and Domain Trust.</td>
</tr>
<tr>
<td>RMS Lease</td>
<td>a lease of proposed Lot 2001 as shown indicatively in the Stage 3 Subdivision Plan (as defined in the Development Deed), the form of which lease is annexed to the Development Deed at Schedule 3.</td>
</tr>
<tr>
<td>Registrable</td>
<td>has the meaning given in clause 8.1(a)(i).</td>
</tr>
<tr>
<td>Subdivision Plan</td>
<td></td>
</tr>
<tr>
<td>Responsible Parties</td>
<td>1 Infrastructure NSW (on behalf of AGNSW) and the directors, employees, officers, representatives, agents, contractors and consultants of Infrastructure NSW (on behalf of AGNSW); 2 the Building Contractor and the directors, employees, officers, representatives, agents, contractors and consultants of the Building Contractor; and 3 the subcontractors of AGNSW, Infrastructure NSW (on behalf of AGNSW), the Building Contractor and their sub-subcontractors and the directors, employees, officers, representatives, agents, contractors and consultants of the subcontractors of the Building Contractor and their sub-subcontractors, who are involved in the execution of, or in any performance of, the Project Activities.</td>
</tr>
<tr>
<td>Senior Representative</td>
<td>in respect of: 1 ED Operator, the AML Asset Manager; 2 RMS, the Director Motorway Partnerships and Planning; and 3 AGNSW, Dr Michael Brand, Director, Art Gallery of New South Wales or such other person (or delegate) notified in writing by the applicable party to the other parties.</td>
</tr>
<tr>
<td>Term</td>
<td>Meaning</td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sunset Date</td>
<td>31 December 2023, or such later date as the parties may agree in writing from time to time.</td>
</tr>
<tr>
<td>Step-In Event</td>
<td>has the meaning given in clause 7.5(a).</td>
</tr>
<tr>
<td>Trust</td>
<td>the Airport Motorway Trust, constituted under the Airport Motorway Trust Deed dated on or about 27 June 1997.</td>
</tr>
<tr>
<td>Unplanned ED Lane Occupancy Fee</td>
<td>the fee specified in Part D of the Access Requirements.</td>
</tr>
<tr>
<td>WHS Regulation</td>
<td>the Work Health and Safety Regulation 2017 (NSW).</td>
</tr>
<tr>
<td>Works</td>
<td>the physical works required to carry out the Project (including any temporary works) which are on or directly or indirectly affect any of the ED Land.</td>
</tr>
<tr>
<td>Works Completion</td>
<td>the stage when:</td>
</tr>
<tr>
<td></td>
<td>1 the structural and architectural works to be carried out under the Project within the hatched areas shown on the plans attached at Exhibit 4 are complete, except for minor defects; and</td>
</tr>
<tr>
<td></td>
<td>2 the Independent Certifier has certified that the remaining Project Activities which are required to occur within the hatched areas will have no adverse impact on Zone 2A, Zone 2B and Zone 3; and</td>
</tr>
<tr>
<td></td>
<td>3 the Works have been constructed in accordance with the For Construction Drawings certified by the Independent Certifier.</td>
</tr>
<tr>
<td>Zone 1</td>
<td>the area identified and described as such in Exhibit 3.</td>
</tr>
<tr>
<td>Zone 2</td>
<td>Zone 2A and Zone 2B.</td>
</tr>
<tr>
<td>Zone 2A</td>
<td>the area identified and described as such in Exhibit 3.</td>
</tr>
<tr>
<td>Zone 2B</td>
<td>the area identified and described as such in Exhibit 3.</td>
</tr>
<tr>
<td>Zone 3</td>
<td>the area identified and described as such in Exhibit 3.</td>
</tr>
</tbody>
</table>
1.2 Interpretation

In this Deed, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

(a) the expression “person” includes an individual, the estate of an individual, a corporation, an authority, any Government Agency, an association or joint venture (whether incorporated or unincorporated), a partnership and a trust;

(b) the words “includes” in any form is not a word of limitation;

(c) a reference to any party includes that party’s executors, administrators, successors, and permitted assigns, including any person taking by way of novation;

(d) a reference to a body, other than a party to this agreement (including an institute, association or authority), whether statutory or not:
   (i) which ceases to exist; or
   (ii) whose powers or functions are transferred to another body;

   is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

(e) a reference to any document (including this Deed) is to that document as varied, novated, ratified or replaced from time to time;

(f) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by laws, regulations, rules and other statutory instruments (however described) issued under it;

(g) a reference to a standard in accordance with which the Works are to be performed or tested is a reference to the version of the standard current on the date of this Deed;

(h) references to parties, clauses, schedules, exhibits and annexures are references to parties, clauses, schedules, exhibits and annexures to or of this Deed and a reference to this Deed includes any schedule, exhibit or annexure to this Deed;

(i) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;

(j) where a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;

(k) a reference to a day, month, quarter or year is a reference to a calendar day, a calendar month, a calendar quarter or a calendar year respectively;

(l) a reference to “$” or “dollar” is to Australian currency;

(m) a reference to any thing is a reference to the whole or any part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually; and
(n) where the phrase “at the cost of” is used, the liable party is under an obligation to pay the costs incurred by the other party.

1.3 No bias against drafting party
In the interpretation of this Deed, no rule of construction applies to the disadvantage of one party on the basis that that party put forward or drafted this Deed or any provision in it.

1.4 Business Day
If the day on or by which any thing is to be done under this Deed is not a Business Day, that thing must be done:

(a) if it involves a payment other than a payment which is due on demand, on the preceding Business Day; and

(b) in all other cases, no later than the next Business Day.

1.5 Excluding liability
Any provision of this Deed which seeks to limit or exclude a liability of a party is to be construed as doing so only to the extent permitted by Law.

1.6 Joint and several obligations
(e) The obligations of the entities comprising ED Operator under this Deed are joint and several

(b) The parties agree that the provision to, or receipt of any information or notice by, Airport Motorway Limited under or in connection with this Deed is deemed to be provision to or receipt by each of Airport Motorway Limited and AMT.

1.7 AMT’s capacity
(a) AMT enters into this Deed in its capacity as trustee of the Trust and in no other capacity. Subject to clause 1.7(f), Airport Motorway Limited, AGNSW and RMS acknowledge that AMT’s obligations under this Deed are incurred by AMT solely in its capacity as trustee of the Trust.

(b) Subject to clause 1.7(f), AMT will be liable to pay or satisfy any obligations (if any) under this Deed only out of the assets of the Trust out of which AMT is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.

(c) Subject to clause 1.7(f), Airport Motorway Limited, AGNSW and RMS may enforce their rights against AMT arising from non-performance of AMT’s obligations under this Deed only to the extent of AMT’s right of indemnity out of the assets of the Trust.

(d) Subject to clause 1.7(f), if Airport Motorway Limited, AGNSW and RMS do not recover all money owing to them arising from non-performance of AMT’s obligations under this Deed by enforcing the rights referred to in clause 1.7(b), they may not seek to recover the shortfall by:

(i) bringing proceedings against AMT in its personal capacity; or
Subject to clause 1.7(f), Airport Motorway Limited, AGNSW and RMS waive their rights and release AMT from any personal liability whatsoever, in respect of any loss or damage:

(i) which they may suffer as a result of any:

(A) breach by AMT of its duties under this Deed; or
(B) non-performance by AMT of its obligations under this Deed; and

(ii) which cannot be paid or satisfied out of the assets of the Trust out of which AMT is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.

(f) The limitations in clauses 1.7(a) to 1.7(e) will not apply in the case of fraud, negligence or breach of trust on the part of AMT or a failure on the part of AMT to perform its duties properly within the meaning of section 601GA(2) of the Corporations Act 2001 (Cth), in each case in its capacity as trustee of the Trust.

1.8 RMS as a public authority

(a) The parties acknowledge and agree that RMS enters into this Deed in its capacity as owner of the Land and a party to the ED Project Deed and not in any other capacity.

(b) Notwithstanding any other provision of this Deed (but subject to clause 1.8(c)), this Deed does not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of RMS to exercise any of its functions and powers pursuant to any Law.

(c) RMS acknowledges and agrees that clauses 1.8(b) and 1.8(d) do not limit RMS’s obligations under this Deed or any acknowledgement given by RMS under this Deed.

(d) Notwithstanding any other provision in this Deed (but subject to clause 1.8(c)), AGNSW and ED Operator acknowledge and agree that, without limiting clauses 1.8(b) and 1.8(c):

(i) nothing in this Deed operates to limit the operation or terms of any condition of any consent or approval in respect of the Project (including in respect of the Project Activities) provided or to be provided by RMS under any Law or the exercise by RMS of any discretion, right or remedy available to RMS in any capacity other than as a party to this Deed under any such consent or approval; and

(ii) anything which RMS does, fails to do or purports to do pursuant to its functions and powers under any Law will be deemed not to be an act or omission by RMS under this Deed and will not entitle either AGNSW or ED Operator to make any claim against RMS.

(e) The parties agree that clauses 1.8(a) to 1.8(d) are not taken to limit any liability which RMS would have had to AGNSW or ED Operator under
this Deed as a result of a breach by RMS of a term of this Deed but for clauses 1.8(b) and 1.8(c).

2 Conditions Precedent

2.1 Commencement of obligations

The rights and obligations of the parties under this Deed will not commence unless and until each of the Conditions Precedent have been satisfied (or waived by the parties in writing), except for the Day 1 Clauses which commence on the date of this Deed.

2.2 Satisfaction of Conditions Precedent

The parties must use reasonable endeavours to satisfy each Condition Precedent by the Sunset Date.

2.3 Termination

(a) If each of the Conditions Precedent have not been satisfied (or waived by the parties in writing) by the Sunset Date, any party to this Deed may terminate this Deed by notice in writing to each other party.

(b) Any termination of this Deed under clause 2.3(a) will not prejudice or affect any accrued rights or liabilities of any party under this Deed as at the date of termination of this Deed.

3 Approvals and Consents

3.1 Consent to Project Activities

(a) Each of RMS and ED Operator consent to:

(i) each other entering into this Deed; and

(ii) the matters set out in clause 3.1(b)(i) and clause 3.1(b)(iv),

including for the purposes of the ED Project Deed and the ED Lease.

(b) ED Operator and RMS acknowledge and agree that neither ED Operator nor RMS will be in breach of any express or implied obligation under the ED Project Documents or other covenant implied by law as a result of:

(i) ED Operator, RMS and AGNSW entering into this Deed;

(ii) the performance of the Project Activities, including the construction of the Works as contemplated by this Deed;

(iii) the acts and omissions of AGNSW and Responsible Parties in relation to the Project Activities; or

(iv) the fact that any part of the Project Activities is on, or passes over, the ED Land.

(c) ED Operator and RMS acknowledge and agree that:

(i) the matters set out in clause 3.1(b) will not constitute:
(A) an event of default under clause 14.2 of the ED Project Deed; or

(B) a basis for any claim, action, demand or proceeding under or in relation to the ED Project Documents; and

(ii) neither RMS nor ED Operator will be liable to make any payment whether by way of compensation or otherwise to the other under or in relation to the ED Project Documents or any covenant implied by law arising out of or in relation to the matters contemplated by this Deed.

4 Obligations regarding Project Activities

4.1 Design obligations

The parties acknowledge and agree that:

(a) AGNSW has procured the preparation of the Current Design Documentation;

(b) RMS and ED Operator have reviewed the Current Design Documentation in accordance with the letter from AGNSW to the ED Operator and RMS dated 18 September 2017 and titled “Sydney Modern Project – Design Review”;

(c) AGNSW will procure the Building Contractor to prepare For Construction Drawings that are based on and consistent with the Design Documentation; and

(d) the provisions in Schedule 6 (“Design and Plans Review”) will apply to the review by the ED Operator and RMS of:

(i) Design Documentation Amendments;

(ii) the For Construction Drawings; and

(iii) Project Plans (as defined in Schedule 6 (“Design and Plans Review”)).

4.2 Carrying out of Project Activities

(a) Without limiting AGNSW’s other obligations under this Deed, AGNSW must:

(i) obtain, or procure that all Approvals required to carry out the Project Activities are obtained;

(ii) carry out, and procure that, the Project Activities are carried out:

(A) in accordance with all relevant Approvals, Laws and the requirements of this Deed, including Schedule 8 (“Construction Requirements”);

(B) in a timely and expeditious manner;

(C) in a proper, thorough and workmanlike manner;

(D) in a manner which prevents:
any interference with the operation and use of Zone 2B and Zone 3 and other property (including infrastructure) on those areas; and

any traffic adjustment on Zone 3 or impact on Zone 2B and Zone 3 and other property (including infrastructure) on those areas, except as permitted in accordance with Schedule 2 ("Access Requirements");

using good workmanship and materials to ensure that the structure and integrity of Zone 2B and Zone 3 and other property (including infrastructure) on those areas is intact at all times;

so as not to prevent ED Operator and RMS from complying with its obligations under Law; and

so as not to prevent ED Operator and RMS from complying with their respective obligations under the ED Project Deed.

(iii) ensure that the Works are constructed in accordance with the For Construction Drawings which have been certified by the Independent Certifier; and

(iv) do all things necessary to prevent objects falling from the Works (or from vehicles or machinery used in connection with the Works) onto Zone 2B or Zone 3 or other property (including infrastructure) on those areas.

(b) The parties acknowledge and agree that:

(i) as between the parties to this Deed, AGNSW is solely responsible for all occupational health and safety matters in connection with the Project Activities; and

(ii) prior to commencement of the Project Activities, RMS will engage AGNSW, the Building Contractor or a nominee of AGNSW (as agreed between AGNSW and RMS) as 'principal contractor' for the Works for the purposes of the WHS Regulation.

(c) Subject to clauses 4.2(d), 4.4(a), 4.4(d) and 7.5, ED Operator and RMS must not hinder or impede the implementation of the Project Activities.

(d) ED Operator and RMS may take such action as is necessary to:

(i) comply with all Laws;

(ii) comply with obligations or to exercise rights in relation to the operation and maintenance of Zone 2B and Zone 3 and other property (including infrastructure) on those areas; and

(iii) exercise rights under clause 7.5, Schedule 2 ("Access Requirements") or Schedule 3 ("Monitoring Regime Process"), notwithstanding the fact that the scope, manner and timing of those actions have not been notified to the other parties.
4.3 Assistance by ED Operator

ED Operator must promptly upon request from AGNSW, at the cost of AGNSW:

(a) provide all reasonable assistance to AGNSW in connection with obtaining Approvals contemplated by clause 4.2(a)(i);

(b) provide AGNSW such assistance (including through the provision of information) as is reasonably required by AGNSW, to enable AGNSW to comply with its obligations as a person commissioning a construction project under Chapter 6 of the WHS Regulation, including information relating to hazards and risks to health and safety at or in the vicinity of the Project;

(c) where practicable, take all reasonable steps (such steps being agreed between ED Operator and AGNSW prior to being undertaken) to:

(i) mitigate; and

(ii) to the extent reasonably possible, overcome,

any impact that the carrying out of the Project Activities has or may have on the ability of ED Operator to perform its obligations under the ED Project Deed, including the operation and maintenance of Zone 2B and Zone 3 and other property (including infrastructure) on those areas; and

(d) take all reasonable steps (such steps being agreed between ED Operator and AGNSW prior to being undertaken) to mitigate Losses incurred or suffered by ED Operator that would be the subject of the indemnity in clause 10.1.

4.4 Emergency work

(a) In the case of an Emergency:

(i) AGNSW must; and

(ii) ED Operator and RMS may,

at the cost of AGNSW, undertake all actions necessary to manage the Emergency notwithstanding the fact that the scope, manner and timing of those actions have not been notified to the other parties.

(b) AGNSW indemnifies ED Operator against any Claim or Loss (other than Consequential Loss) suffered or incurred by ED Operator in relation to any action undertaken by ED Operator pursuant to clause 4.4(a) except to the extent the Claim or Loss is caused or contributed to by the negligence of the ED Operator or one of its employees, agents or contractors.

(c) AGNSW indemnifies RMS against any Claim or Loss (other than Consequential Loss) suffered or incurred by RMS in relation to any action undertaken by RMS pursuant to clause 4.4(a) except to the extent the Claim or Loss is caused or contributed to by the negligence of the RMS or one of its employees, agents or contractors.

(d) In the case of an External Event, ED Operator and RMS may undertake all actions necessary to manage the External Event notwithstanding the fact that the scope, manner and timing of those actions have not been notified to the other parties.
Clauses 4.4(b) and 4.4(c) survives termination or expiry of this Deed for any reason.

4.5 Contamination

If:

(a) AGNSW or the Building Contractor disturbs or interferes with any Contamination in, on or under the ED Land; or

(b) the carrying out of the Project Activities:

(i) causes, contributes or exacerbates any Contamination in, on or under the ED Land; or

(ii) uncovers any Contamination in, on or under Zone 1 or Zone 2,

(Relevant Contamination), then AGNSW must, or must procure the Building Contractor to, at the cost of AGNSW:

(c) immediately notify any relevant Government Agency as required by Law;

(d) promptly notify ED Operator and RMS;

(e) as soon as reasonably practicable, remediate, dispose of, or otherwise deal with, the Relevant Contamination in accordance with Law and the Planning Approval; and

(f) obtain, or procure the obtaining of, all Approvals required to remediate, dispose of, or otherwise deal with, the Relevant Contamination.

4.6 Advertising and Signage

AGNSW must not, without the prior written consent of RMS and ED Operator, place or permit the placement of any signage, including commercial advertising signage, on any part of the ED Land or the Project Activities, other than signage that contains public information such as safety warnings or information.

5 Independent Certifier

5.1 Appointment of Independent Certifier

(a) AGNSW must nominate in writing to ED Operator and RMS at least three persons (each an Independent Certifier Candidate) to be appointed as the Independent Certifier for the purposes of the Project.

(b) Each Independent Certifier Candidate must:

(i) be a suitably qualified engineering consultant from a reputable consultancy;

(ii) have no interest or duty which conflicts with its role as Independent Certifier in respect of the Project; and

(iii) be able and prepared to act in accordance with the terms of the Independent Certifier Deed of Appointment.

(c) AGNSW, ED Operator and RMS must use reasonable endeavours to agree on the identity of the Independent Certifier. If AGNSW, ED
Operator and RMS cannot agree, the parties will request (at the cost of AGNSW) that the President of the Royal Australian Institute of Architects (or its replacement or equivalent) nominate the Independent Certifier from the list of Independent Certifier Candidates provided under clause 5.1(a), and the parties must appoint the Independent Certifier nominated by the President of the Royal Australian Institute of Architects as soon as practicable thereafter on the terms set out in the Independent Certifier Deed of Appointment.

(d) The Independent Certifier must be engaged by AGNSW, RMS and ED Operator on the terms set out in the Independent Certifier Deed of Appointment, at the cost of AGNSW.

(e) The engagement of the Independent Certifier pursuant to clause 5.1(d) must be made prior to commencement of the Works and by a date early enough for the Independent Certifier to have sufficient time to perform the Independent Certifier Services.

(f) If the Independent Certifier Deed of Appointment is terminated before its scheduled expiry, or if any incumbent Independent Certifier ceases to act as Independent Certifier for the purposes of the Project Activities, AGNSW, ED Operator and RMS must, prior to the termination or cessation if practicable, or in any event within 10 Business Days after the termination of the Independent Certifier Deed of Appointment or cessation (as applicable) appoint another person to act as Independent Certifier in accordance with the process set out in this clause 5.1.

5.2 Independent Certifier Services

(a) The parties acknowledge and agree that the Independent Certifier is to act independently of AGNSW, ED Operator and RMS and any of their respective contractors.

(b) AGNSW, ED Operator and RMS must provide the Independent Certifier with all necessary information and documents reasonably required by the Independent Certifier and allow the Independent Certifier:

(i) to perform the Independent Certifier’s Services;

(ii) to attend any meetings in connection with the Project Activities;

(iii) access to any site upon which the Project Activities are carried out (subject to compliance with the Access Requirements in relation to access to the ED Land); and

(iv) to inspect any records of ED Operator, RMS and AGNSW which the Independent Certifier considers are required for the performance of the Independent Certifier’s Services.

(c) All notices and documents provided by a party to the Independent Certifier must be copied to the other parties.

5.3 Determinations of the Independent Certifier

(a) The parties acknowledge that, unless otherwise agreed by the parties:

(i) determinations of the Independent Certifier in relation to the Works (including in relation to Design Documentation (including Design Documentation Amendments) and For Construction Drawings) are immediately binding on the parties, in the
absence of manifest error or fact or law or a breach of the Independent Certifier Deed of Appointment;

(ii) if a party, acting reasonably, believes a manifest error of fact or law has occurred in relation to a determination of the Independent Certifier, or the Independent Certifier has breached the Independent Certifier Deed of Appointment, that party may raise this as a dispute in accordance with the dispute resolution process in the Independent Certifier Deed of Appointment;

(iii) AGNSW may proceed at its own risk pending a decision of the Independent Certifier or determination of the dispute under the Independent Certifier Deed of Appointment; and

(iv) the parties must give effect to determinations of the Independent Certifier unless and until they are revised pursuant to the dispute resolution process in the Independent Certifier Deed of Appointment.

(b) In the absence of manifest error of fact or law or a breach of the Independent Certifier Deed of Appointment, the Independent Certifier’s certification as set out in a Certificate of Works Completion is final and binding on the parties for the purposes only of establishing that Works Completion has occurred.

6 Information and meetings

6.1 Provision of information

(a) Subject to clause 6.1(c), ED Operator will, upon written request from AGNSW, provide to AGNSW, within 7 Business Days of receipt of the written request, any information relating to design, construction, engineering, operation, maintenance or technical matters in respect of the ED Motorway (ED Operator Information) which is requested by AGNSW for the purposes of the Project Activities at the cost of AGNSW.

(b) Subject to clause 6.1(c), ED Operator may disclose to AGNSW such further ED Operator Information (in addition to that requested by AGNSW) that it considers should be made available to AGNSW for the purposes of the Project Activities.

(c) The parties acknowledge and agree that ED Operator does not have to provide to AGNSW under clauses 6.1(a) and 6.1(b) any information:

(i) the disclosure of which would cause ED Operator to breach an obligation of confidentiality owed by ED Operator to a third party;

(ii) which ED Operator considers is commercially sensitive to ED Operator;

(iii) the disclosure of which is not approved by RMS (such approval not to be unreasonably withheld); or

(iv) the disclosure of which is not permitted by Law.

6.2 Disclaimer

(a) AGNSW acknowledges that neither ED Operator nor RMS has:

(i) made any representation;
(ii) given any information or advice; or

(iii) given any warranty,

of any kind in respect of any information or data supplied or made available by ED Operator or RMS under or in connection with this Deed.

(b) AGNSW acknowledges and agrees that:

(i) neither RMS nor ED Operator is liable to AGNSW (or Infrastructure NSW or any Building Contractor) for or in relation to:
   (A) the review of documents by ED Operator or RMS under or in connection with this Deed; or
   (B) comments, information or consent provided by ED Operator or RMS under or in relation to this Deed including under Schedule 6 ("Design and Plans Review"), but excluding the provision of consent under clause 3.1(a);

(ii) without limiting clause 6.2(b)(i), clause 4 ("General") of Schedule 6 ("Design and Plans Review") will apply in relation to the review of any Design Documentation Amendments, the For Construction Drawings, the Construction Plan and the Construction Pedestrian Traffic Management Plan; and

(iii) it waives any Claims it may have against ED Operator or RMS in relation to any matter referred to in clauses 6.2(a) or 6.2(b).

(c) AGNSW indemnifies ED Operator against any Claim or Loss suffered or incurred by ED Operator in respect of any Claim made by a third party relating to a matter referred to in clause 6.2(a) or 6.2(b) other than to the extent caused or contributed to by a wrongful or negligent act or wrongful or negligent omission of ED Operator or its employees, agents or contractors.

(d) AGNSW indemnifies RMS against any Claim or Loss suffered or incurred by RMS in respect of any Claim made by a third party relating to a matter referred to in clause 6.2(a) or 6.2(b) other than to the extent caused or contributed to by a wrongful or negligent act or wrongful or negligent omission of RMS or its employees, agents or contractors.

(e) This clause 6.2 survives the termination or expiry of this Deed for any reason.

6.3 Monitoring Regime

The provisions in Schedule 3 ("Monitoring Regime Process") apply.

6.4 Monitoring Meetings

(a) AGNSW will arrange for meetings to be held on a fortnightly basis (or at such other intervals as ED Operator may require from time to time) on and from the Commencement Date between Senior Representatives of ED Operator, RMS, AGNSW and the senior representative(s) of the Building Contractor (once the Building Contractor is appointed) to review the progress, monitoring and management of the Project Activities in relation to the ED Land and to discuss and resolve any matters of concern in relation to or arising out of those matters including any breach
of this Deed by any party or other matters of concern (including in relation to public health and safety, workplace health and safety, emergencies, property damage or traffic management).

(b) Any party to this Deed may request a meeting of Senior Representatives and the senior representative(s) of the Building Contractor (following reasonable notice) to deal with any matters of concern to a party, including concerns that an aspect of the Project may affect any part of the ED Land or the ED Motorway.

(c) Each party will use reasonable endeavours to ensure that its Senior Representative attends any such meetings under this clause 6.4 or, if that person is not available, a person who has equivalent power and authority to make decisions in relation to the relevant matter attends such meetings.

(d) AGNSW must take all reasonable steps to ensure that the relevant senior representative(s) of the Building Contractor attend any such meetings if so requested.

(e) AGNSW will attend, and will take all reasonable steps to procure that a relevant senior representative of the Building Contractor will attend, any meeting about, or that part of any meeting about, the performance of the Project Activities required by ED Operator, provided that ED Operator provides at least 3 Business Days' prior notice of any such meeting.

7 Access

7.1 Access to Zone 1 and Zone 2A

(a) The parties acknowledge and agree that AGNSW and the Building Contractor will require access to Zone 1 and Zone 2A in order to carry out the Project Activities.

(b) Subject to clause 7.1(d)(ii), RMS and ED Operator must:

(a) give and ensure that AGNSW, the Building Contractor and the Responsible Parties involved in the execution of, or in any performance of, the Works have unimpeded access to Zone 1 and Zone 2A on and from the Commencement Date; and

(b) thereafter continue to allow, or ensure that AGNSW, the Building Contractor and Responsible Parties involved in the execution of, or in any performance of, the Works, are continued to be allowed unimpeded access to Zone 1 and Zone 2A.

(c) At all times that AGNSW has access to Zone 1 and Zone 2A, AGNSW must control access to, and ensure public safety on, Zone 1 and Zone 2A.

(d) AGNSW must:

(i) ensure that it and the Building Contractor liaise with ED Operator in relation to the carrying out of the Works during any period AGNSW or the Building Contractor has access to Zone 1 or Zone 2A; and

(ii) provide ED Operator and RMS with access to Zone 1 and Zone 2A to the extent necessary to:
(A) exercise its rights under clause 7.5 ("ED Operator Step In");

(B) exercise ED Operator’s or RMS’s rights under the Access Requirements or Schedule 3 ("Monitoring Regime Process");

(C) respond to an Emergency or External Event;

(D) comply with all Laws; and

(E) undertake operation and maintenance activities in respect of Zone 2B (including the installation and maintenance of throw screens on the ED land bridge), subject to ED Operator or RMS (as applicable):

1. complying with AGNSW’s safety and security management procedures; and

2. coordinating its access to Zone 1 and Zone 2A with the Building Contractor’s programme of works in order to limit any delay to the Works.

Where ED Operator or RMS (as applicable) accesses Zone 1 or Zone 2A:

(i) under clause 7.1(d)(ii)(A) it will, where practicable to do so, provide AGNSW with reasonable prior notice; and

(ii) under clause 7.1(d)(ii)(B), (D) or (E) it will, where practicable to do so, provide AGNSW with reasonable prior notice. If a minimum of 5 Business Days’ notice is not provided, the Building Contractor may refuse access until a period of 5 Business Days has elapsed from the date that the ED Operator or RMS (as applicable) provides notice if, in its sole assessment (acting reasonably), the construction program will be materially delayed or if the granting of access will or is likely to detrimentally affect safety at the site.

7.2 Access to Zone 2B

(a) The parties acknowledge and agree that AGNSW and the Building Contractor will require access to Zone 2B in order to carry out the Project Activities.

(b) Subject to clause 7.2(c), RMS and ED Operator must:

(i) give, or ensure that AGNSW, the Building Contractor and the Responsible Parties involved in the execution of, or in any performance of, the Works have, access to Zone 2B on and from the date and time determined in accordance with Part B of Schedule 2 ("Access Requirements"); and

(ii) thereafter continue to allow, or ensure that AGNSW, the Building Contractor and the Responsible Parties involved in the execution of, or in any performance of, the Works continue to be allowed access to Zone 2B in accordance with Part B of Schedule 2 ("Access Requirements").

(c) AGNSW must:
(i) comply, and must ensure that the Building Contractor complies, with Part B of Schedule 2 ("Access Requirements") at all times it has access to Zone 2B;

(ii) ensure that it and the Building Contractor liaise with ED Operator in relation to the carrying out of the Project Activities during any period AGNSW or the Building Contractor has access to Zone 2B; and

(iii) provide ED Operator and RMS with access to Zone 2 to the extent necessary to:

(A) exercise its rights under clause 7.5 ("ED Operator Step In");

(B) exercise ED Operator or RMS's rights under Schedule 2 ("Access Requirements") or Schedule 3 ("Monitoring Regime Process");

(C) respond to an Emergency or External Event; or

(D) comply with all Laws.

7.3 Access to Zone 3 during Planned ED Lane Occupancy Period

(a) The parties acknowledge and agree that AGNSW and the Building Contractor may require access to Zone 3 in order to carry out the Project Activities and that such access will only be available during a Planned ED Lane Occupancy Period.

(b) Subject to clause 7.3(c), ED Operator will give AGNSW and the Building Contractor a Planned ED Lane Occupancy Period which provides AGNSW sufficient access to Zone 3 to carry out the Project Activities upon the dates and times determined in accordance with the Access Requirements.

(c) AGNSW must:

(i) comply, and must ensure that the Building Contractor complies, with Part C of Schedule 2 ("Access Requirements") at all times it has access to Zone 3;

(ii) subject to clause 7.3(d), pay the ED Operator the Planned ED Lane Occupancy Fee for that Planned ED Lane Occupancy Period;

(iii) ensure that it and the Building Contractor liaise with ED Operator in relation to the carrying out of the Project Activities during any period it has access to Zone 3; and

(iv) provide ED Operator and RMS with access to Zone 3 to the extent necessary to:

(A) exercise its rights under clause 7.5 ("ED Operator Step In");

(B) exercise ED Operator or RMS's rights under Schedule 2 ("Access Requirements") or Schedule 3 ("Monitoring Regime Process");

(C) respond to an Emergency or External Event; and
If, as a result of an event contemplated by clause 7.3(c)(iv) or clause 7.5, AGNSW or the Building Contractor is unable to access all or part of Zone 3 for a period in which AGNSW or the Building Contractor (as applicable) would otherwise be liable to pay a Planned ED Lane Occupancy Fee, other than to the extent caused or contributed to by AGNSW or the Responsible Parties, the Planned ED Lane Occupancy Fee for that area and for that period will be reduced to the extent necessary to reflect the duration of the period for which AGNSW or the Building Contractor (as applicable) is unable to access Zone 3.

Subject to clause 7.3(f) but notwithstanding any other provision of this Deed, ED Operator, RMS and AGNSW acknowledge and agree that the Planned ED Lane Occupancy Fee payable by AGNSW in accordance with clause 7.3(c) is ED Operator’s sole remedy for, and AGNSW will not be liable for, loss of use of Zone 3 and any other Consequential Loss incurred or suffered as a result of loss of use of Zone 3 during a Planned ED Lane Occupancy Period. The parties agree that this clause does not limit AGNSW's liability under clauses 10.1(a), 10.1(b), 10.1(d) and 10.1(e).

If this clause 7.3 (or any part) is found for any reason to be void, invalid or otherwise inoperative so as to disentitle ED Operator from recovering any of the Planned ED Lane Occupancy Fees which would otherwise be payable under this clause 7.3, then ED Operator is entitled to recover damages at law from AGNSW for the loss of use of Zone 3 as contemplated in Part C of Schedule 2 ("Access Requirements") in relation to the matters specified in Part C of Schedule 2 ("Access Requirements"), provided that the ED Operator's entitlement to recover damages at Law will be limited to the amount of the Planned ED Lane Occupancy Fees to which it would otherwise have been entitled had this clause 7.3 not been void, invalid or otherwise inoperative.

7.4 Access to the ED Land generally

The parties acknowledge and agree that to the extent that Zone 1 is not the subject of the ED Lease, ED Operator has no obligation to provide access as contemplated by this clause 7.

RMS and ED Operator agree not to hinder or disrupt AGNSW or the Building Contractor or any of their employees, agents and contractors in accessing:

(i) Zone 1;
(ii) Zone 2; or
(iii) Zone 3 during a Planned ED Lane Occupancy Period,

other than to the extent necessary to:

(iv) exercise its rights under clause 7.5 ("ED Operator Step In");
(v) to exercise its rights under the Access Requirements or Schedule 3 ("Monitoring Regime Process");
(vi) respond to an Emergency or External Event; and
(vii) comply with all Laws.
In exercising its rights under this clause 7, and without limiting AGNSW's other obligations under this Deed, AGNSW must consult and work cooperatively with ED Operator and RMS.

7.5 ED Operator Step In

(a) In the event that:

(i) any vehicle or machinery used by the Building Contractor in connection with the Project Activities is left unattended and unsecured in or on the ED Land or any part of the Project Activities (including building material or equipment) is left unattended and unsecured on any part of the ED Land and, in the reasonable opinion of ED Operator, is causing or may cause:

(A) a risk or threat to health or safety of persons in or on Zone 2B or Zone 3; or

(B) any damage or destruction of any part of Zone 2B or Zone 3 or other property (including infrastructure) on those areas; or

(ii) ED Operator or RMS suffers any Loss or any damage or destruction of any part of Zone 2B or Zone 3 or other property (including infrastructure) on those areas occurs from or arising out of the Project Activities;

(each, for the purposes of this clause 7.5, a "Step-In Event");

(iii) ED Operator may notify AGNSW of the occurrence of a Step-In Event;

(iv) in the case of a Step-In Event set out in clause 7.5(a)(i), if AGNSW or the Building Contractor fails to remove the vehicle or machinery, or secure the Project Activities within 24 hours, ED Operator may take steps to eliminate the risk or threat to health or safety in or on Zone 2B or Zone 3 (as applicable), including removing such vehicle or machinery to a secure location or securing the Project Activities, provided that:

(A) ED Operator has first notified AGNSW of the occurrence of a Step-In Event under clause 7.5(a)(iii); and

(B) in doing so, ED Operator does not breach, or cause AGNSW to breach, any Law or Approvals;

(v) in the case of a Step-In Event set out in clause 7.5(a)(ii), ED Operator may:

(A) take immediate steps to clear any debris and begin initial repair work;

(B) carry out such steps as are necessary to:

(1) minimise any Loss to ED Operator or RMS; and

(2) ensure:
the prompt repair or replacement of any damage to or destruction of Zone 2B or Zone 3 or other property (including infrastructure) on those areas so that it complies with the ED Project Deed and there is minimal disruption to the operation and maintenance of Zone 2B or Zone 3 and/or tolling of the ED Motorway; and

c) that, to the greatest extent possible, ED Operator and RMS are able to continue to comply with their obligations under the ED Project Deed;

(b) AGNSW indemnifies ED Operator from any Claim or Loss incurred or suffered by ED Operator arising out of or in relation to the exercise by ED Operator of its rights under this clause 7.5.

c) Any amount claimed by ED Operator pursuant to the indemnity in clause 7.5(b) will be reduced proportionally to the extent that the Claim or Loss arises from a negligent act or negligent omission of ED Operator or one of its employees, agents or contractors.

d) Clause 7.5(b) survives the termination or expiry of this Deed for any reason.

8 Subdivision of ED Land

8.1 Registrable Plan of Subdivision to be prepared

a) AGNSW will:

(i) in consultation with RMS, prepare, as soon as practicable after the Commencement Date and at AGNSW's cost, a subdivision plan that is:

(A) in a form that is registrable at Land Registry Services NSW; and

(B) consistent with the subdivision plans and principles set out in Schedule 9

(Registrable Subdivision Plan) and will use its reasonable endeavours to procure that the Registrable Subdivision Plan is completed and registered by the Date of Completion;

(ii) provide each of AML and RMS with a progress report at the end of each 3 monthly period after Commencement Date as to the status and progress of preparation and registration of the Registrable Subdivision Plan (including details of any potential sources of delay to registration of that plan);
(iii) once the Registrable Subdivision Plan has been approved by all relevant stakeholders (including the parties to this Deed and RBGDT), notify RMS in writing that the Registrable Subdivision Plan has been approved and, at AGNSW’s cost, expeditiously lodge for registration the approved Registrable Subdivision Plan;

(iv) at AGNSW’s cost, be responsible for attending to all requisitions, if any, that Land Registry Services NSW issues in relation to the Registrable Subdivision Plan; and

(v) once the Registrable Subdivision Plan has been registered, notify RMS and AML in writing that the Registrable Subdivision Plan has been registered and finalise entry into the Deed of Partial Surrender with AML and the agreed form of lease with RMS. Each of AML and RMS will enter into those documents in their agreed form promptly after being notified by AGNSW under this paragraph.

(b) ED Operator may not object to the subdivision and excising of that land unless:

(i) the land to be excised or the terms of its excision and surrender are inconsistent with the subdivision plans and principles set out in Schedule 9; or

(ii) AGNSW has not entered into the agreement or protocol contemplated in clause 8.2(b)(i); or

(iii) RBGDT has not entered into the agreement or protocol contemplated in clause 8.2(c)(i); or

(iv) RMS and/or RBGDT has not granted ED Operator (or the ED Operator does not otherwise have the benefit of) rights of access contemplated in paragraphs 10 and 11 of the Operating Interface Principles and in paragraph 2(d) of Schedule 9 over the part of the land to be excised pursuant to the Deed of Partial Surrender and leased to RBGDT.

(c) AGNSW must obtain, at its cost, all approvals required in relation to the Registrable Subdivision Plan.

8.1A Grant of Licence if Registrable Subdivision Plan not registered by Date of Completion

(a) If, despite AGNSW’s reasonable endeavours, the Registrable Subdivision Plan has not been registered by the Date of Completion, then:

(i) the ED Operator (as lessee under the ED Lease) grants AGNSW a licence (“AML Licence”) to occupy the part of Zone 1 within the Development Footprint (as determined at the Date of Completion) (the “Licensed Land”):

(A) on and from the Date of Completion until the date of registration of the Registrable Subdivision Plan; and

(B) subject to the terms set out in clause 8.1A(b); and

(ii) to the extent that ED Operator does not have the power, capacity and authority under the ED Lease to grant the AML Licence or any rights required by AGNSW under the AML
Licence, RMS (as registered proprietor of the Licensed Land) consents to the grant of the AML Licence and irrevocably waives any breach of the ED Lease by the ED Operator as a result of the grant of the AML Licence.

(b) Any licence granted to AGNSW under clause 8.1A(a) is granted on and is subject to the following terms and conditions:

(i) for the term of the AML Licence:

(A) AGNSW agrees that it will comply with the obligations set out in the RMS Lease in respect of the Licensed Land (the "RMS Lease Obligations"); and

(B) RMS irrevocably and unconditionally releases ED Operator from performance of its obligations under the ED Lease in respect of the Licensed Land (the "ED Lease Obligations") and any Claim or Loss for a breach of the ED Lease Obligations to the extent that the breach is caused or contributed to by, or arises out of or in relation to AGNSW performing or failing to perform the RMS Lease Obligations, except to the extent that the Claim or Loss is caused or contributed to by, or arises out of or in relation to the acts or omissions of the ED Operator or its sub-licensees (other than AGNSW or its own sub-licensees or its officers, agents, contractors, consultants, invitees or any other person on or about the Licensed Land at the invitation of or under the control or direction of AGNSW), including the negligence, fraud or wilful misconduct of those parties;

(ii) the licence is subject to the ED Operator's and RMS' continuing rights of access to the Licensed Land for the purposes set out in clause 7.1(d)(ii); and

(iii) subject to clauses 8.1A(c) and 8.1A(d), AGNSW indemnifies RMS and ED Operator (each an "Indemnified Party") from and against:

(A) any Claim or Loss (including Consequential Loss) suffered or incurred by the relevant Indemnified Party in relation to the Licensed Land or the occupation of the Licensed Land by AGNSW or any person taking an interest or exercising access rights through AGNSW; or

(B) any Claim or Loss (including Consequential Loss) suffered or incurred by the relevant Indemnified Party arising out of or in relation to:

(1) any injury to, or disease or illness (including mental illness) or death of, persons;

(2) the loss of (whether total or partial) or destruction or damage to, any real or personal property of any person (including the ED Operator and RMS);

(3) the loss of use (whether total or partial) of any real or personal property of any person (including the ED Operator and RMS);
the ED Operator or RMS, as the case may be, being unable to comply with its obligations under any Law; or

(5) the ED Operator or RMS, as the case may be, being unable to comply with or being in breach of the ED Project Deed or the ED Lease,

to the extent caused by or contributed to, arising out of or in relation to:

(C) the occupation or use of the Licensed Land by AGNSW (or its sub-licensees, officers, agents, contractors, consultants, invitees or any other person on or about the Licensed Land at the invitation of or under the control or direction of AGNSW);

(D) the acts or omissions of AGNSW (or its sub-licensees, officers, agents, contractors, consultants, invitees or any other person on or about the Licensed Land at the invitation of or under the control or direction of AGNSW) including the negligence, fraud or wilful misconduct of those parties; or

(E) any breach by AGNSW (or its sub-licensees, officers, agents, contractors, consultants, invitees or any other person on or about the Licensed Land at the invitation of or under the control or direction of AGNSW) of the terms of the licence granted under clause 8.1A(a).

(c) Any amount claimed by RMS pursuant to the indemnity in clause 8.1A(b)(iii) will be reduced proportionally to the extent the Loss or Claim arises from a wrongful or negligent act or wrongful or negligent omission of RMS or one of its employees, agents or contractors.

(d) Any amount claimed by ED Operator pursuant to the indemnity in clause 8.1A(b)(iii) will be reduced proportionally to the extent the Loss or Claim arises from a wrongful or negligent act or wrongful or negligent omission of ED Operator or one of its employees, agents or contractors.

8.2 Operating Interface Principles

(a) The parties agree that:

(i) on and from the Date of Works Completion, AGNSW will operate and maintain the Works and the land on which the Works are constructed; and

(ii) the Operating Interface Principles set out in Schedule 5 ("Operating Interface Principles") reflect the manner in which AGNSW, ED Operator and RMS intend to interact with each other in respect of the operation of the completed Works on and from the Date of Works Completion on Zone 2 and the management of interface matters on and in the vicinity of the ED Land.

(b) The parties will:

(i) develop the Operating Interface Principles further and enter into an agreement or protocol reflecting those principles (as further
developed) no later than 24 months after the Commencement Date; and

(ii) until the agreement or protocol contemplated in clause 8.2(b)(i) is entered into, comply with and be entitled to exercise the rights set out in:

(A) paragraph 15 of the Operating Interface Principles with effect from the Commencement Date; and

(B) all other Operating Interface Principles with effect from the Date of Works Completion.

(c) RMS and the ED Operator agree that:

(i) ED Operator and RMS intend to, and RMS will include provisions in the Development Deed requiring RBGDT to, develop operating interface principles further in respect of the land contemplated by the Development Deed to be excised pursuant to the Deed of Partial Surrender and leased to RBGDT (based on principles equivalent to the Operating Interface Principles) and enter into an agreement or protocol between the ED Operator, RMS and RBGDT reflecting those principles (as further developed) no later than 24 months after the Commencement Date;

(ii) RMS will include provisions in the Development Deed requiring that until the agreement or protocol contemplated in clause 8.2(c)(i) is entered into, RBGDT will with effect from the Date of Works Completion:

(A) comply with operating interface principles equivalent to the Operating Interface Principles; and

(B) grant rights of access (or consent to RMS granting such rights) contemplated in paragraphs 10 and 11 of the Operating Interface Principles and in paragraph 2(d) of Schedule 9 over the part of the land to be excised pursuant to the Deed of Partial Surrender and leased to RBGDT; and

(iii) RMS will until the agreement or protocol contemplated in clause 8.2(c)(i) is entered into, comply with the operating interface principle equivalent to the Operating Interface Principle at section 15(b) of Schedule 5 (in respect of easements, covenants or restrictions on use requested by RBGDT).

8.3 Deed of Partial Surrender

No later than five Business Days after receiving notice that the Registrable Subdivision Plan has been approved in accordance with clause 8.1(a)(ii), RMS must prepare the Deed of Partial Surrender and deliver and release to the ED Operator two originals of the Deed of Partial Surrender validly executed by RMS.

8.4 ED Operator may require easements, restrictions or covenants

(a) The ED Operator may require and have the benefit of easements, restrictions or covenants benefiting or burdening the proposed lots 3001 or 3002 (forming part of stage 2 of the subdivision plan attached to Schedule 9) for the following purposes:
(i) to provide access to proposed lot 3002 (forming part of stage 2 of the subdivision plan attached to Schedule 9) ("Lot 3002");
(ii) for the support of structures erected in Lot 3002;
(iii) if the easement, restriction or covenant is required by any Government Agency or under any Law;
(iv) to comply with the requirements of any Government Agency or with any Law;
(v) to undertake operation and maintenance activities required in connection with the ED Project Deed; or
(vi) for any purpose that the ED Operator deems appropriate, acting reasonably,

subject to ED Operator obtaining AGNSW’s and RMS’ consent, not to be unreasonably withheld or delayed. AGNSW and RMS cannot withhold or delay their consent to any easement, restriction or covenant required by ED Operator under clause 8.4(a) that does not materially adversely affect AGNSW’s use and operation of proposed lot 2001 (forming part of stage 3 of the subdivision plan (as shown indicatively in the Stage 3 Subdivision Plan (as defined in the Development Deed))).

(b) Any easements, restrictions or covenants required by ED Operator under clause 8.4(a) are at the cost of AGNSW.

9 Representations and Warranties

9.1 ED Operator warranties

ED Operator represents and warrants to the other parties to this Deed that it has in full force and effect each authorisation necessary for it to enter into this Deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced and that its obligations under this Deed are legally valid, binding and enforceable.

9.2 AGNSW warranties

AGNSW represents and warrants to the other parties to this Deed that it has in full force and effect each authorisation necessary for it to enter into this Deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced and that its obligations under this Deed are legally valid, binding and enforceable.

9.3 RMS warranties

RMS represents and warrants to the other parties to this Deed that it has in full force and effect each authorisation necessary for it to enter into this Deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced and that its obligations under this Deed are legally valid, binding and enforceable.

9.4 Trustee warranties

AMT, in its capacity as trustee of the Trust:

(a) represents and warrants the following are true:
(i) it has been properly appointed as trustee of the Trust;
(ii) there are no other trustees of the Trust (other than any others who are also parties to this Deed);
(iii) it is not proposing to resign as trustee of the Trust nor is it aware of any proposal to be removed or for another trustee to be appointed;
(iv) the Trust is validly formed and the trust documents comply with the law;
(v) if it has provided copies of any trust documents then they are current and complete;
(vi) it is not in default under any trust documents;
(vii) it has a full right of indemnity from the trust assets in respect of its obligations and liability under this Deed;
(viii) it has entered into this Deed as part of the proper administration of the Trust and for the commercial benefit of the Trust and entering into this Deed is a proper trust purpose;
(ix) the Trust has not been terminated and no action is pending to wind up, terminate, reconstitute or resettle the Trust nor has any event for the vesting of the assets occurred; and
(x) there is no material fact or circumstance relating to the assets, matters or affairs of the Trust that, if disclosed, might be expected to affect the decision of RMS to enter into this Deed;

(b) promises that:
(i) it will not do anything which may result in the loss of its full right of indemnity from the trust assets or the termination of the Trust; and
(ii) if it is replaced or joined by a new trustee, it will procure that the new trustee enters into a deed covenancing to comply with this clause 9.4.

10 Liability

10.1 Liability and indemnity

Subject to clauses 10.2 ("RMS’s acts or omissions") and 10.3 ("ED Operator’s acts or omissions"), AGNSW indemnifies RMS and ED Operator (Indemnified Party) from and against any Claim or Loss (including Consequential Loss) suffered or incurred by the Indemnified Party arising out of or in relation to:

(a) any injury to, or disease or illness (including mental illness) or death of, persons:
(b) the loss of (whether total or partial) or destruction or damage to, any real or personal property of any person (including ED Operator and RMS);
(c) the loss of use (whether total or partial) of any real or personal property of any person (including ED Operator and RMS), excluding:
(i) the loss of use during a Planned ED Lane Occupancy Period of any lane or part of Zone 3 which is the subject of a Planned ED Lane Occupancy Period; and

(ii) the loss of use of any lane or part of Zone 3 outside of a Planned ED Lane Occupancy Period arising out of or in relation to the Project Activities;

(d) (where ED Operator is the Indemnified Party) ED Operator being unable to comply with its obligations under any Law, or

(e) (where ED Operator is the Indemnified Party) ED Operator being unable to comply with or being in breach of the ED Project Deed,

to the extent caused by or contributed to, arising out of or in relation to:

(f) the Project Activities;

(g) the acts or omissions of AGNSW or the Responsible Parties (including the negligence, fraud or wilful misconduct of those parties); or

(h) any breach of this Deed by AGNSW.

10.2 RMS's acts or omissions

Any amount claimed by RMS pursuant to the indemnity in clause 10.1 ("Liability and indemnity") will be reduced proportionally to the extent the Loss or Claim arises from a wrongful or negligent act or wrongful or negligent omission of RMS or one of its employees, agents or contractors.

10.3 ED Operator's acts or omissions

Any amount claimed by ED Operator pursuant to the indemnity in clause 10.1 ("Liability and indemnity") will be reduced proportionally to the extent the Loss or Claim arises from a wrongful or negligent act or wrongful or negligent omission of ED Operator or one of its employees, agents or contractors.

10.4 Fines

Costs incurred by ED Operator or RMS in paying any fine, penalty or sanction imposed by a court or other authority in relation to the Project Activities will be reimbursed by AGNSW to ED Operator or RMS (as the case may be) to the extent that AGNSW or the Building Contractor is responsible for the event or circumstances which resulted in the fine or penalty or sanction being imposed on ED Operator or RMS (as the case may be).

10.5 Release

(a) Except as otherwise expressly stated in this Deed, AGNSW accepts all risk in relation to the Project Activities and this Deed, and releases:

(i) ED Operator from all Claims and Loss in this respect, except to the extent:

(A) caused or contributed to by a breach by ED Operator of this Deed; or

(B) caused or contributed to by a negligent or wrongful act or negligent or wrongful omission of ED Operator; and
(ii) RMS from all Claims and Loss in this respect, except to the extent:

(A) caused or contributed to by a breach by RMS of this Deed; or

(B) caused or contributed to by a negligent or wrongful act or negligent or wrongful omission of RMS.

(b) Subject to clauses 8.1A(b), 10.1 and 13.5 and to the maximum extent permitted by law, each party excludes all liability to each other party for any Consequential Loss.

10.6 Survival
This clause 10 survives the termination or expiry of this Deed for any reason.

11 Fees and other costs

11.1 Unplanned impact on ED Motorway

(a) To the extent the Project Activities cause any traffic impact or loss of use of Zone 3 outside of a Planned ED Lane Occupancy Period, AGNSW will pay the ED Operator the Unplanned ED Lane Occupancy Fee.

(b) Subject to clause 11.1(c), but notwithstanding any other provision of this Deed, ED Operator, RMS and AGNSW acknowledge and agree that the Unplanned ED Lane Occupancy Fee payable by AGNSW in accordance with clause 11.1(a) is ED Operator's sole remedy for, and AGNSW will not be liable for, loss of use of Zone 3 and any other Consequential Loss Incurred or suffered as a result of loss of use of Zone 3 outside of a Planned ED Lane Occupancy Period. The parties agree that this clause does not limit AGNSW's liability under clauses 10.1(a), 10.1(b), 10.1(d) and 10.1(e).

(c) If this clause 11.1 (or any part) is found for any reason to be void, invalid or otherwise inoperative so as to disentitle ED Operator from recovering any of the Unplanned ED Lane Occupancy Fees which would otherwise be payable under clause 11.1(a), then ED Operator is entitled to recover damages at law from AGNSW for the loss of use from AGNSW for the loss of use of Zone 3 as contemplated in Part D of Schedule 2 ("Access Requirements") in relation to the matters specified in Part D of Schedule 2 ("Access Requirements"), provided that the ED Operator's entitlement to recover damages at Law will be limited to the amount of the Unplanned ED Lane Occupancy Fees to which it would otherwise have been entitled had this clause 11.1 not been void, invalid or otherwise inoperative.

11.2 Other costs
In addition to any Planned ED Lane Occupancy Fees and Unplanned ED Lane Occupancy Fees, but subject to clauses 7.3(e) and 11.1(b), AGNSW will pay:

(a) to ED Operator:

(i) the reasonable costs incurred by ED Operator:

(A) from or in relation to, the Project Activities including, but not limited to, reasonable costs (both external and internal) in relation to the development and review of the Design Documentation Amendments, For Construction
Drawings and Project Plans, delivery, certification, attendance at meetings (including engineering and technical reviews), supervision of Project Activities on the ED Land, internal project management, traffic approvals, advertising, and traffic controls;

(B) in undertaking any inspections on the ED Land (or on any other area) in connection with the Works;

(C) in making any amendments required to the ED Project Documents as a result of the Project Activities;

(D) in the negotiation, preparation and execution of this Deed (for the avoidance of doubt, including both engineering and legal costs and the costs incurred in connection with obtaining the necessary consents and approvals from ED Operator's financiers);

(E) in the negotiation, preparation and execution of the Deed of Partial Surrender; and

(F) in the negotiation, preparation and execution of:

(1) any agreement or protocol contemplated in clause 8.2(b); and

(2) any agreement or protocol contemplated in clause 8.2(c)(i); and

(ii) any other costs expressly stated in this Deed as the responsibility of AGNSW;

(b) to RMS:

(i) the reasonable costs incurred by RMS:

(A) in making any amendments required to the ED Project Documents as a result of the Project Activities;

(B) in the negotiation, preparation and execution of this Deed (for the avoidance of doubt, including both engineering and legal costs);

(C) in the negotiation, preparation and execution of the Deed of Partial Surrender, and

(D) in the negotiation, preparation and execution of:

(1) any agreement or protocol contemplated in clause 8.2(b); and

(2) any agreement or protocol contemplated in clause 8.2(c)(i); and

(ii) any other costs expressly stated in this Deed as the responsibility of AGNSW; and

(c) unless otherwise expressly stated to the contrary in this Deed, all costs properly incurred or payable by ED Operator and RMS, or which ED Operator and RMS become or are liable for, in relation to the Project Activities or this Deed, including the reasonable costs incurred in the
obtaining of (including negotiation, preparation and execution and registration of the necessary documentation for, and obtaining the necessary consents and approvals for) any easements, restrictions or covenants required by ED Operator over the land to be excised pursuant to the Deed of Partial Surrender for the purpose of undertaking operation and maintenance activities required in connection with the ED Project Deed.

11.3 Invoices and disputes

(a) ED Operator will invoice AGNSW:

(i) on a monthly basis for Planned ED Lane Occupancy Fees and Unplanned ED Lane Occupancy Fees (plus GST) payable by AGNSW under clause 7.3(c)(iv) or 11.1(a); and

(ii) from time to time, for any other costs payable by AGNSW under this Deed.

The invoice must include details of the Planned ED Lane Occupancy Fees and Unplanned ED Lane Occupancy Fees and a reasonable breakdown of any costs claimed.

(b) Any invoice issued in accordance with clause 11.3(a) will be payable by AGNSW within 30 Business Days of receipt of the invoice.

(c) If AGNSW disputes any invoice, it will pay the undisputed amount in accordance with clause 11.3(b) and will notify ED Operator promptly in accordance with clause 14 (“Dispute Resolution”) of the disputed amount. The dispute will be a Dispute for the purposes of clause 14 (“Dispute Resolution”) and clause 14 (“Dispute Resolution”) will apply.

12 Insurance

12.1 Care of the works

(a) Subject to clause 12.1(b), AGNSW is responsible at all times from the Commencement Date until the Date of Completion for the care of the Works.

(b) To the extent the damage, destruction or loss to the Works is caused by a negligent act or negligent omission of RMS or ED Operator, or their agents, employees or subcontractors, RMS or ED Operator (as the case may be) must pay the reasonable costs and expenses actually incurred by AGNSW in rectifying the damage or replacing the Works.

12.2 Insurance

(a) AGNSW must take out, or must ensure that the Building Contractor takes out, all appropriate insurances in connection with the Project Activities as set out in Schedule 4 (“Insurance”) (“Insurances”).

(b) AGNSW must ensure that:

(i) the professional indemnity insurance remains in existence for the duration of the Project Activities and for a further 7 years after the Date of Completion;

(ii) the other Insurances remain in existence until the Date of Completion;
(iii) such Insurances are not amended or varied in any manner which would prejudice the position of ED Operator as an insured; and

(iv) at least 10 Business Days prior to the commencement of the Works (and thereafter on each anniversary of the date of this Deed), AGNSW provides ED Operator and RMS with a certificate of currency (that contains sufficient information to verify that the Insurances are in effect) issued by the relevant insurer in relation to the Insurances.

13 Confidentiality

13.1 General restriction

Subject to clauses 13.2, 13.3 and 13.4, neither ED Operator nor AGNSW will, at any time, without the consent of the other party, divulge or suffer or permit its servants, consultants or agents to divulge to any person (other than to the Building Contractor, the Independent Certifier and their officers, employees, consultants, advisers and agents who require such reports, studies, information and data to enable them properly to carry out their duties):

(a) any of the contents of this Deed;

(b) any information relating to the negotiations concerning this Deed;

(c) any information provided by one party to the other under or in connection with this Deed (including the ED Operator Information); or

(d) any information which may have come to a party's knowledge in the course of such negotiations or otherwise concerning the operations, dealings, transactions, contracts, commercial or financial arrangements or affairs of the other parties.

13.2 Exceptions

The restrictions imposed by clause 13.1 ("General restriction") will not apply to the disclosure of any information:

(a) which is now or hereafter comes into the public domain (other than as a result of a breach of clause 13.1 ("General restriction"); or which is obtainable with no more than reasonable diligence from sources other than the parties;

(b) which is required to be disclosed by law or the Listing Rules of the Australian Securities Exchange (if applicable);

(c) to a court, arbitrator or administrative tribunal in the course of proceedings before it or him to which the disclosing party is a party or to an expert in the course of any determination by him to which the disclosing party is a party; or

(d) which, in the reasonable opinion of the applicable party, is required to be disclosed to:

(i) any actual or prospective investor in or lender to (or assignee or novatee of a lender to) the party;

(ii) any insurer in respect of the Works or any insurer of the ED Motorway; or
(iii) any of applicable party’s officers, employees, professional advisers, auditors, contractors and consultants.

13.3 Publicity
(a) ED Operator and RMS may each provide information to the public in relation to lane closures on the ED Motorway or other traffic adjustments as a result of the Project Activities in a timely manner and by such methods as it considers appropriate and AGNSW must not provide any such information to the public without prior consultation with ED Operator and RMS.
(b) ED Operator and RMS may each issue any information, publication, document or article for publication concerning the Project Activities to the extent it is required to do so to comply with Law.

13.4 Disclosure and Release
(a) The parties acknowledge that each of them may be required by Law to disclose the contents of, or certain information concerning, this Deed (including in accordance with section 9 or sections 27 to 35 of the Government Information (Public Access) Act 2009 (NSW)).
(b) Each party consents to, and releases the other, in respect of any such disclosure.

13.5 Disclosure of ED Operator Information
AGNSW will procure that the Building Contractor treats any ED Operator Information received from ED Operator or via AGNSW or RMS as confidential. If any ED Operator Information which is not available in the public domain is disclosed to the Building Contractor or any other third party AGNSW indemnifies ED Operator from and against any Claim or Loss (including Consequential Loss) suffered or incurred by ED Operator arising out of or in relation to a failure to keep the ED Operator Information confidential.

14 Dispute Resolution
14.1 Disputes
If any dispute or difference arises between the parties as to any fact, matter or thing arising out of or in connection with this Deed (“Dispute”), the procedures in Schedule 7 (“Dispute Resolution Procedures”) will apply to the resolution of the Dispute.

14.2 Continuance of performance
Despite the existence of a Dispute, the parties will continue to perform their respective obligations under this Deed.

15 Notices
Any communication between the parties under or in accordance with this Deed:
(a) must be in writing;
(b) must be addressed as shown below or as otherwise notified in writing by
the parties from time to time:

<table>
<thead>
<tr>
<th></th>
<th>Felicity Finlayson</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Director Motorway Partnerships &amp; Planning</td>
</tr>
<tr>
<td></td>
<td>Level 22, 101 Miller Street, North Sydney NSW 2059</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Felicity.FINLAYSON@rms.nsw.gov.au">Felicity.FINLAYSON@rms.nsw.gov.au</a></td>
</tr>
<tr>
<td></td>
<td>(02) 8588 4135</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Louise Beer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ED Asset Manager</td>
</tr>
<tr>
<td></td>
<td>Level 31, Tower 5, Collins Square, 727 Collins Street, Docklands Victoria 3008</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:edassetmanager@transurban.com">edassetmanager@transurban.com</a></td>
</tr>
<tr>
<td></td>
<td>and <a href="mailto:lbeer@transurban.com">lbeer@transurban.com</a></td>
</tr>
<tr>
<td></td>
<td>(02) 9254 4918</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Sally Webster</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Head Sydney Modern Project</td>
</tr>
<tr>
<td></td>
<td>Art Gallery of New South Wales</td>
</tr>
<tr>
<td></td>
<td>Art Gallery Road, The Domain, Sydney NSW 2000</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:sally.webster@ag.nsw.gov.au">sally.webster@ag.nsw.gov.au</a></td>
</tr>
<tr>
<td></td>
<td>(02) 9225 1852</td>
</tr>
</tbody>
</table>

(c) must be signed by the party making the communication or (on its behalf)
by the solicitor for, or by any attorney, director, secretary or authorised
agent of, that party;

(d) must be delivered by hand or posted by prepaid post to the address of
the addressee, in accordance with clause 15(b); and

(e) will be deemed to be received by the addressee:

   (i) (in the case of prepaid post) on the second Business Day after
the date of posting; and

   (ii) (in the case of delivery by hand) on delivery at the address of
the recipient as provided in clause 15(b), unless that delivery is
made on a non-Business Day, or after 5.00 pm on a Business
Day, in which case that communication will be deemed to have
been received at 9.00 am on the next Business Day.

16 General

16.1 Entire agreement

(a) Subject to clause 16.1(b), this Deed represents the entire agreement
between the parties in respect of its subject matter and supersedes all
prior agreements, representations, warranties, promises, statements, negotiations and letters in respect of the subject matter of this Deed.

(b) Nothing in this Deed affects the rights and obligations of the ED Operator and RMS under the ED Project Deed in relation to the subject matter of the ED Project Deed.

16.2 Further acts
Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by Law or reasonably requested by any other party to give effect to this Deed.

16.3 Governing law and jurisdiction
(a) This Deed is to be governed by, and will be construed according to, the laws of New South Wales.

(b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to this Deed.

(c) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within clause 16.3(b).

16.4 Severability
If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction then:

(a) that will not affect or impair:

(i) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; or

(ii) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Deed; and

(b) the provision will be construed in a manner which:

(i) avoids the provision being void, illegal, invalid or unenforceable; and

(ii) subject to clause 16.4(b)(i), preserves to the minimum possible extent:

(A) the enforceability of the provision and the provisions of this Deed; and

(B) the original effect and intent of this Deed.

16.5 Amendments
This Deed may only be varied by a document signed by or on behalf of each of the parties.
16.6 Waiver

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or under this Deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by Law or under this Deed.

(b) Except as expressly provided in this Deed, any waiver or consent given by any party under this Deed will only be effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of any term of this Deed will operate as a waiver of another breach of that term or of a breach of any other term of this Deed.

16.7 Consents

Any consent or approval referred to in, or required under, this Deed other than given by ED Operator and RMS under clause 3, may be given or withheld, or may be subject to any conditions as the relevant party (in its absolute discretion) thinks fit, unless this Deed expressly provides otherwise.

16.8 Deed does not affect operation of statutes

(a) The parties acknowledge and agree that nothing in this agreement will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of a party to this Deed in the exercise of any of its functions and powers pursuant to any Law. The rights and powers conferred by this Deed upon a party are in addition to the statutory rights and powers of that party.

(b) To the extent of any inconsistency between this clause 16.8 and any other provision of this Deed, this clause prevails.

16.9 Assignment

(a) A party must not Assign its interest under this Deed without the prior consent of the other parties.

(b) Without limiting clause 16.9(a), if the ED Operator Assigns any interest in the ED Motorway or the ED Project Documents other than under clause 16.9(c) or 16.9(d), the ED Operator must ensure that the person to whom the Assignment is made is bound by this Deed as though it were the ED Operator.

(c) Despite clause 16.9(a), a party may Assign its interest under this Deed to a Government Agency without the necessity of obtaining the other parties' consent. For the purposes of this clause 16.9(c) only, 'Government Agency' means the State of New South Wales or any authority within the meaning of the Public Authorities (Financial Arrangements) Act 1987 (NSW).

(d) Despite clause 16.9(a) and subject to ED Operator providing the other parties with prior written notice, ED Operator may Assign its interest under this Deed to the financiers, or parties appointed by the financiers, who hold security in relation to the ED Motorway or the ED Project Documents, without the need to obtain the consent of the other parties.
A party (the "Consenting Party") must not withhold its consent to an Assignment of the other party's interest under this Deed if the other party (the "Assignor") first makes an application to the Consenting Party for consent and the Assignor demonstrates to the Consenting Party's reasonable satisfaction that the proposed assignee is a solvent person who is capable of performing all of the obligations in this Deed to be performed on the part of the Assignor.

16.10 Indemnities

(a) Any indemnity in this Deed is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Deed.

(b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Deed.

(c) A party must pay on demand any amount it must pay under any indemnity in this Deed.

16.11 Counterparts

This Deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

16.12 GST

(a) Notwithstanding any other provision of this Deed, any amount payable for a supply made under this Deed which is calculated by reference to a cost, expense or other amount (including GST) paid or incurred by a party will be reduced by an amount equal to any input tax credits to which that party is entitled to in respect of that cost, expense or other amount. Each of the parties will be assumed to be entitled to full input tax credits unless they provide evidence to the other parties to the contrary.

(b) If GST becomes payable on any supply made by a party ("Supplier") under this Deed:

(i) unless indicated otherwise, any amount payable under any other provision of this Deed for that supply ("Agreed Amount") is exclusive of GST;

(ii) to the extent that the consideration for the supply is not expressed as an amount of money, the value of the non-monetary consideration is to be treated as inclusive of GST; and

(iii) an additional amount will be payable by the party providing consideration for that supply ("Recipient"), equal to the amount of GST payable on that supply as calculated by the Supplier in accordance with the GST law and payable at the same time and in the same manner as for the Agreed Amount, provided that the Recipient will not be required to pay an additional amount until the Supplier has provided a tax invoice (or equivalent documentation which complies with the GST law) to the Recipient in respect of that supply.

(c) If, for any reason, the GST payable by the Supplier in respect of a supply it makes under this Deed (incorporating any increasing adjustments or
decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under clause 16.12(b) in respect of that supply, the Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an adjustment event occurs in relation to a supply, the Supplier will issue an adjustment note to the Recipient in respect of that supply within 10 Business Days after becoming aware of that adjustment event occurring.

(d) If the Recipient is dissatisfied with any calculation to be made by the Supplier under this clause, the Recipient may, at its own expense and after notifying the Supplier accordingly, refer the matter to an independent expert nominated by the President of the Institute of Chartered Accountants for expert determination, which will be final and binding on all parties (absent manifest error). The expert will act as an expert and not as an arbitrator and will take into account the terms of this Deed, the matters required to be taken into account by the Supplier under this clause and any other matter considered by the expert to be relevant to the determination. The parties must release the expert from any liability in acting as an expert, except in the case of fraud on the part of the expert.

(e) The right of the Supplier to recover any additional amount in respect of GST under this clause is subject to the issuing of the relevant tax invoice or adjustment note to the Recipient within 4 years of the Supplier’s liability to pay that GST arising.

(f) The parties must use their best endeavours to determine the mutually acceptable GST inclusive market value of any non-monetary consideration provided for supplies made under this Deed to be included in tax invoices to be issued to the Recipient of the relevant supply.

EXECUTED as a deed
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Schedule 1  Conditions Precedent

1. ED Operator has obtained, on terms satisfactory to ED Operator, consent of its financiers to the terms of this Deed and entry into this Deed and the carrying out of the transactions contemplated by it (including the subdivision of land and excising from the ED Lease contemplated in clause 8.1), as required under the Common Terms Deed dated 2 July 2009 between, amongst others, ED Operator and Westpac Banking Corporation as security trustee, as amended and restated on 6 July 2011 and amended on 20 November 2013.
Schedule 2  Access Requirements

PART A - GENERAL

For the purposes of this Part A, unless the context otherwise requires, a reference to a "Lane Occupancy Fee" is a reference to both the Planned ED Lane Occupancy Fee and Unplanned ED Lane Occupancy Fee.

AGNSW agrees that:

(a) the amount and enforceability of the Lane Occupancy Fees provided in this Schedule 2 ("Access Requirements") have been carefully negotiated between AGNSW and ED Operator and represent a liability which AGNSW willingly undertakes;

(b) the Planned ED Lane Occupancy Fee in Part C of this Schedule 2 ("Access Requirements") is a genuine pre-estimate of the Loss which ED Operator will suffer as a result of the loss of use of Zone 3 during a Planned ED Lane Occupancy Period;

(c) the Unplanned ED Lane Occupancy Fee in Part D of this Schedule 2 ("Access Requirements") is a genuine pre-estimate of the Loss as set out in Part D of this Schedule 2 ("Access Requirements") which ED Operator will suffer as a result of the loss of use of Zone 3 outside of a Planned ED Lane Occupancy Period;

(d) in calculating the amount of the Lane Occupancy Fees, ED Operator has:

   (i) carefully considered the amount of the Lane Occupancy Fee, relying on the agreement of AGNSW that the Lane Occupancy Fees are a genuine pre-estimate of those Losses; and

   (ii) taken into account the Loss which will be suffered by it as a result of the loss of use of Zone 3 caused by the Project Activities; and

(e) both AGNSW and ED Operator have equal bargaining power, possess extensive commercial experience and expertise and are being advised by their own legal, accounting, technical, financial, economic and other commercial professional advisers in relation to their rights and obligations under this Deed.
PART B - Access to Zone 2B

Where Works are to be performed in Zone 2B, AGNSW must provide 5 Business Days' prior written notice to the ED Operator and details of the Works intended to be performed.

Where, in the reasonable opinion of ED Operator, Project Activities performed in Zone 2B involve Works that cause or may cause a risk or threat to health or safety of any persons in or on Zone 3, and lanes of the ED Motorway will need to be closed for the duration of these Project Activities in order to limit that risk, then Part C of this Schedule 2 will apply to these Project Activities and AGNSW's associated access to Zone 2B.
PART C – Access to Zone 3 - Planned ED Lane Occupancy Period

This Part C sets out the requirements to agreeing a Planned ED Lane Occupancy Period and the Planned ED Lane Occupancy Fees payable to ED Operator in respect of a Planned ED Lane Occupancy Period.

For the purposes of this Part C “Authority to Work Permit” is the work authority permit produced from the “Maximo ATW” Authority to Work system used by ED Operator to control access to Zone 3.

AGNSW must:
• comply with Table 2 below in relation to access to Zone 3; and
• prepare and submit an Authority to Work Permit to ED Operator for its review and comment, such comment to be limited to the extent that the Authority to Work Permit does not comply with this Deed or Law.

The parties acknowledge that the provision of the Authority to Work Permit, any review and comment by ED Operator, and any amendments required, must occur within the relevant timeframe set out in Table 2 below.

Any review and comment by ED Operator on the Authority to Work Permit will not limit or relieve AGNSW of any of its obligations or liabilities under the Deed or give rise to any Claim by AGNSW against ED Operator or RMS.

Please note that the requirements for Planned ED Lane Occupancy Periods in this schedule reflect ED Operator’s requirements for access to Zone 3. ED Operator will secure a Road Occupancy Licence (ROL) and any other approvals that may be required from the Transport Management Centre (TMC) on behalf of AGNSW, at AGNSW’s cost. Notice periods and specific requirements for obtaining an ROL or any other approval from the TMC may differ from the requirements set out in this schedule. ED Operator does not warrant that compliance with this Schedule 2 will result in an ROL from the TMC.

For each occupancy, traffic control must be provided to ED Operator’s satisfaction. ED Operator will carry out traffic control for closures within the motorway (including at the entry/exit ramps), however AGNSW must provide all other traffic control required for the Works.

As indicated below, some closures may require additional coordination with operators of Sydney Harbour Tunnel (SHT) or the Cross City Tunnel (CCT).

1. Evening Periods

Planned ED Lane Occupancy Periods may be sought in an Evening Period (as defined in Table 1 below).

Table 1 - Planned ED Lane Occupancy Periods

<table>
<thead>
<tr>
<th>Evening Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each of the following comprises an Evening Period:</td>
</tr>
<tr>
<td>• Monday 11pm to Tuesday 5am;</td>
</tr>
<tr>
<td>• Tuesday 11pm to Wednesday 5am;</td>
</tr>
<tr>
<td>• Wednesday 11pm to Thursday 5am;</td>
</tr>
<tr>
<td>• Thursday 11pm to Friday 5am;</td>
</tr>
<tr>
<td>• Friday 11pm to Saturday 5am;</td>
</tr>
</tbody>
</table>
• Saturday 12am to Sunday 5am; or
• Sunday 10pm to Monday 4am;
but not including long weekends, gazetted public holidays, the first or last day of gazetted school holidays, Father's Day, Mother's Day and days or parts of days advised by RMS as special events in Sydney.

2 Fees, notice periods and requirements

The following Table 2 outlines the Planned ED Lane Occupancy Fees payable for the different types of Planned ED Lane Occupancy Periods that can be sought by AGNSW, the minimum notice periods, and specific requirements.

AGNSW and ED Operator acknowledge that the Planned ED Lane Occupancy Fees include amounts payable by AGNSW to ED Operator for:

1. ED Operator's management and involvement in the ROL process (applies to all types);
2. ED Operator's Eastern Distributor Motorway site costs for providing additional tow truck coverage (applies to occupancy types 3, 6 and 9);
3. ED Operator's traffic management costs within the Eastern Distributor Motorway (applies to all types);
4. ED Operator's margins and management overheads on costs (all types of occupancy);
5. a reasonable and genuine pre-estimate of loss incurred by ED Operator of toll revenue for Eastern Distributor Motorway and liabilities for lost revenues (applies to types 5, 6, 7 and 8) in connection with a Planned ED Lane Occupancy Period.

During the delivery of the Project Activities, the Planned ED Lane Occupancy Fees will be subject to escalation at 1.5% per calendar quarter, commencing on 1 October 2018 (and thereafter at the start of each calendar quarter).
Table 2 – Occupancy Fees, Notice Requirements and Specific Requirements for Planned ED Lane Occupancy Periods

<table>
<thead>
<tr>
<th>No</th>
<th>Description</th>
<th>Direction</th>
<th>Planned ED Lane Occupancy Periods</th>
<th>Period of notice for seeking approval of Planned ED Lane Occupancy Period from ED Operator</th>
<th>Specific Requirements</th>
<th>Lane Occupancy Fees (SAUD) payable to ED Operator (fees do not include GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Full closure of exit ramp to Woolloomooloo – Cowper Wharf Rd Exit</td>
<td>Southbound</td>
<td>Evening Period</td>
<td>Two weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$10,116 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>2</td>
<td>Single lane occupancy of the Eastern Distributor Motorway</td>
<td>Southbound</td>
<td>Evening Period</td>
<td>Two weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$10,116 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>3</td>
<td>Two lane occupancy of the Eastern Distributor Motorway</td>
<td>Southbound</td>
<td>Evening Period</td>
<td>Two weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$13,379 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>4</td>
<td>Full closure (three lane occupancy) of the Eastern Distributor Motorway</td>
<td>Southbound</td>
<td>Evening Period</td>
<td>Six weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$12,400 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>5</td>
<td>Single lane occupancy of the Eastern Distributor Motorway</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>Two weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$21,276 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>6</td>
<td>Two lane occupancy of the Eastern Distributor Motorway</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>Two weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$24,539 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>No</td>
<td>Description</td>
<td>Direction</td>
<td>Planned ED Lane Occupancy Periods</td>
<td>Period of notice for seeking approval of Planned ED Lane Occupancy Period from ED Operator</td>
<td>Specific Requirements</td>
<td>Lane Occupancy Fees ($AUD) payable to ED Operator (fees do not include GST)</td>
</tr>
<tr>
<td>----</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------------------------------</td>
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<td>----------------------------------------------------------------------------------------------</td>
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<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>7</td>
<td>Full closure (three lane occupancy) of the Eastern Distributor Motorway. Not including Sir John Young Crescent</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>Six weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$31,000 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>8</td>
<td>Full Closure of the Eastern Distributor Motorway (six lane occupancy). Not including Sir John Young Crescent</td>
<td>Northbound and Southbound</td>
<td>Evening Period</td>
<td>Six weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or Sydney Harbour Tunnel</td>
<td>$38,831 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>9</td>
<td>Full Closure of Sir John Young Crescent</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>Four weeks</td>
<td>Traffic control may extend to Cross City Tunnel and/or RMS roads in the vicinity</td>
<td>$15,531 per Evening Period or part of an Evening Period.</td>
</tr>
<tr>
<td>10</td>
<td>Gazetted public holidays, the first or last day of gazetted school holidays, Father's Day, Mother's Day and days or parts of days advised by RMS as special events in Sydney</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>By application and subject to ED Operator and TMC's consideration but usually not granted</td>
<td>Commence discussions with ED Operator no less than two months prior to the proposed occupancy and acknowledge that preferred period not guaranteed at the time that the request is made.</td>
<td>By application and agreement</td>
</tr>
<tr>
<td>11</td>
<td>Cancellation of any occupancy: more than three weeks' notice prior to start of occupancy</td>
<td>Northbound</td>
<td>Evening Period</td>
<td>By application and agreement</td>
<td>By application and agreement</td>
<td>No charge</td>
</tr>
<tr>
<td>No</td>
<td>Description</td>
<td>Direction</td>
<td>Planned ED Lane Occupancy Periods</td>
<td>Period of notice for seeking approval of Planned ED Lane Occupancy Period from ED Operator</td>
<td>Specific Requirements</td>
<td>Lane Occupancy Fees ($AUD) payable to ED Operator (fees do not include GST)</td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------------------------------------------</td>
<td>-----------</td>
<td>----------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>-----------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>Cancellation of any occupancy: three weeks’ notice or less, but more than one week’s notice, prior to start of occupancy</td>
<td></td>
<td></td>
<td>No charge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Cancellation of any occupancy: one week’s notice or less, but more than twenty-four hours’ notice, prior to start of occupancy</td>
<td></td>
<td></td>
<td>40% of the relevant Lane Occupancy Fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Cancellation of any occupancy: twenty-four hours’ notice or less prior to start of occupancy</td>
<td></td>
<td></td>
<td>80% of the relevant Lane Occupancy Fee</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ED Operator (at the cost of AGNSW) will provide notices of Works to the neighbours as required under the ROL and procure all other permits required to complete the Works.

* All occupancies must be approved and co-ordinated with ED Operator. Every endeavour is made to commence occupancies at the requested times, however ED Operator may need to delay commencement due to circumstances outside its control, including (without limitation) adverse weather, a direction from TMC, and/or incidents or emergencies on the ED Motorway. AGNSW acknowledges and agrees that ED Operator shall not be liable for any Loss arising from any delayed commencement.

* ED Operator maintains an annual shutdown calendar for the ED Motorway, which it will provide to AGNSW on an annual basis once it is available until the Date of Completion. Where practicable, closures for Works should be coordinated with closures for the ED Motorway. An example of the calendar is shown below. This is indicative only and is subject to change at ED Operator’s discretion. Where a Planned ED Lane Occupancy overlaps with a closure on the ED Motorway that is in the ED Operator’s shutdown calendar or is otherwise planned by ED Operator and does not arise in connection with the Project Activities, then no Planned ED Lane Occupancy Fee will apply in relation to the overlap.
# TU NSW Assets Tunnel Closure Calendar - 2018

<table>
<thead>
<tr>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
</table>

- **Public Holidays**
- **New Year's Day**
- **Australia Day**
- **Good Friday**
- **Easter Monday**
- **Anzac Day**
- **Mother's Day**
- **Father's Day**
- **Vivid Sydney**
- **NSW Labor Day**
- **School Holidays**
- **Christmas Day**
- **Boxing Day**

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Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access

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PART D – Outside Planned ED Lane Occupancy Period

Where there is a closure on Zone 3 due to the Project Activities outside of a Planned ED Lane Occupancy Period (e.g., without limitation) due to late-finishning roadworks), then additional fees will apply as set out in the following Tables 3, 4, 5 and 6.

AGNSW and ED Operator acknowledge that the Fees set out in the following Tables 3, 4, 5 and 6 cover amounts payable by AGNSW to ED Operator for:

1. ED Operator's traffic management costs within the Eastern Distributor Motorway;
2. ED Operator's margins and management overheads on costs (all types of occupancy); and
3. a reasonable and genuine pre-estimate of loss incurred by ED Operator of toll revenue for Eastern Distributor Motorway and liabilities for lost revenues. AGNSW and ED Operator acknowledge and agree that if this component of the Fee is found to be void, invalid or unenforceable, ED Operator may claim for damages at Law.

In respect of an unauthorised lane or tube closure on Zone 3, rates applicable for closure of lanes on Zone 3 during any applicable hour or part thereof on Weekdays are detailed in Tables 3 and 4 and during any applicable hour or part thereof on Weekends including Public Holidays are detailed in Tables 5 and 6.

During the delivery of the Project Activities, these Fees set out in the Tables 3, 4, 5 and 6 below will be subject to escalation at 1.5% per calendar quarter, commencing on 1 October 2018 (and thereafter at the start of each calendar quarter).

“Public Holidays” means long weekends, gazetted public holidays, the first or last day of gazetted school holidays, Father’s Day, Mother’s Day and days or parts of days advised by RMS as special events in Sydney.

### Table 3 - Loss of Lane Availability - Weekday Northbound

<table>
<thead>
<tr>
<th>Time of day/night the lane/tube in Zone 3 is closed</th>
<th>Single On/Off Ramp or Single Lane Closed (excl. GST)</th>
<th>All Lanes Closed (excl. GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00-00:59</td>
<td>$ 3,237</td>
<td>$ 5,395</td>
</tr>
<tr>
<td>01:00-01:59</td>
<td>$ 2,997</td>
<td>$ 4,995</td>
</tr>
<tr>
<td>02:00-02:59</td>
<td>$ 2,997</td>
<td>$ 4,995</td>
</tr>
<tr>
<td>03:00-03:59</td>
<td>$ 3,177</td>
<td>$ 5,295</td>
</tr>
<tr>
<td>04:00-04:59</td>
<td>$ 3,897</td>
<td>$ 6,495</td>
</tr>
<tr>
<td>05:00-05:59</td>
<td>$ 9,477</td>
<td>$ 15,795</td>
</tr>
<tr>
<td>06:00-06:59</td>
<td>$ 20,277</td>
<td>$ 33,795</td>
</tr>
<tr>
<td>07:00-07:59</td>
<td>$ 22,617</td>
<td>$ 37,695</td>
</tr>
<tr>
<td>08:00-08:59</td>
<td>$ 23,037</td>
<td>$ 38,395</td>
</tr>
<tr>
<td>09:00-09:59</td>
<td>$ 20,757</td>
<td>$ 34,595</td>
</tr>
<tr>
<td>Time of day/night</td>
<td>Single On/Off Ramp or Single Lane Closed (excl. GST)</td>
<td>All Lanes Closed (excl. GST)</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>00:00-00:59</td>
<td>$2,676</td>
<td>$4,460</td>
</tr>
<tr>
<td>01:00-01:59</td>
<td>$2,640</td>
<td>$4,400</td>
</tr>
<tr>
<td>02:00-02:59</td>
<td>$2,640</td>
<td>$4,400</td>
</tr>
<tr>
<td>03:00-03:59</td>
<td>$2,667</td>
<td>$4,445</td>
</tr>
<tr>
<td>04:00-04:59</td>
<td>$2,775</td>
<td>$4,625</td>
</tr>
<tr>
<td>05:00-05:59</td>
<td>$3,612</td>
<td>$6,020</td>
</tr>
<tr>
<td>06:00-06:59</td>
<td>$5,232</td>
<td>$8,720</td>
</tr>
<tr>
<td>07:00-07:59</td>
<td>$5,583</td>
<td>$9,305</td>
</tr>
<tr>
<td>08:00-08:59</td>
<td>$5,646</td>
<td>$9,410</td>
</tr>
<tr>
<td>Time of day/night the lane/tube in Zone 3 is closed</td>
<td>Single On/Off Ramp or Single Lane Closed (excl. GST)</td>
<td>All Lanes Closed (excl. GST)</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>09:00-09:59</td>
<td>$5,304</td>
<td>$8,840</td>
</tr>
<tr>
<td>10:00-10:59</td>
<td>$5,133</td>
<td>$8,555</td>
</tr>
<tr>
<td>11:00-11:59</td>
<td>$5,115</td>
<td>$8,525</td>
</tr>
<tr>
<td>12:00-12:59</td>
<td>$5,061</td>
<td>$8,435</td>
</tr>
<tr>
<td>13:00-13:59</td>
<td>$4,971</td>
<td>$8,285</td>
</tr>
<tr>
<td>14:00-14:59</td>
<td>$5,115</td>
<td>$8,525</td>
</tr>
<tr>
<td>15:00-15:59</td>
<td>$5,160</td>
<td>$8,600</td>
</tr>
<tr>
<td>16:00-16:59</td>
<td>$5,241</td>
<td>$8,735</td>
</tr>
<tr>
<td>17:00-17:59</td>
<td>$5,295</td>
<td>$8,825</td>
</tr>
<tr>
<td>18:00-18:59</td>
<td>$5,142</td>
<td>$8,570</td>
</tr>
<tr>
<td>19:00-19:59</td>
<td>$4,476</td>
<td>$7,460</td>
</tr>
<tr>
<td>20:00-20:59</td>
<td>$3,972</td>
<td>$6,620</td>
</tr>
<tr>
<td>21:00-21:59</td>
<td>$3,792</td>
<td>$6,320</td>
</tr>
<tr>
<td>22:00-22:59</td>
<td>$3,315</td>
<td>$5,525</td>
</tr>
<tr>
<td>23:00-23:59</td>
<td>$3,000</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

Table 5 - Loss of Lane Availability - Weekends and Public Holidays Northbound

<table>
<thead>
<tr>
<th>Time of day/night the lane/tube in Zone 3 is closed</th>
<th>Single On/Off Ramp or Single Lane Closed (excl. GST)</th>
<th>All Lanes Closed (excl. GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00-00:59</td>
<td>$7,734</td>
<td>$12,891</td>
</tr>
<tr>
<td>01:00-01:59</td>
<td>$6,414</td>
<td>$10,691</td>
</tr>
<tr>
<td>02:00-02:59</td>
<td>$5,934</td>
<td>$9,891</td>
</tr>
<tr>
<td>03:00-03:59</td>
<td>$5,874</td>
<td>$9,791</td>
</tr>
<tr>
<td>04:00-04:59</td>
<td>$5,994</td>
<td>$9,991</td>
</tr>
<tr>
<td>05:00-05:59</td>
<td>$7,674</td>
<td>$12,791</td>
</tr>
<tr>
<td>Time of day/night the lane/tube in Zone 3 is closed</td>
<td>Single On/Off Ramp or Single Lane Closed (excl. GST)</td>
<td>All Lanes Closed</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>-----------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>00:00-00:59</td>
<td>$ 5,541</td>
<td>$ 9,236</td>
</tr>
<tr>
<td>01:00-01:59</td>
<td>$ 5,343</td>
<td>$ 8,906</td>
</tr>
<tr>
<td>02:00-02:59</td>
<td>$ 5,271</td>
<td>$ 8,786</td>
</tr>
<tr>
<td>03:00-03:59</td>
<td>$ 5,262</td>
<td>$ 8,771</td>
</tr>
<tr>
<td>04:00-04:59</td>
<td>$ 5,280</td>
<td>$ 8,801</td>
</tr>
<tr>
<td>Time</td>
<td>Amount 1</td>
<td>Amount 2</td>
</tr>
<tr>
<td>--------------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>05:00-05:59</td>
<td>$5,532</td>
<td>$9,214</td>
</tr>
<tr>
<td>06:00-06:59</td>
<td>$6,081</td>
<td>$10,136</td>
</tr>
<tr>
<td>07:00-07:59</td>
<td>$6,513</td>
<td>$10,856</td>
</tr>
<tr>
<td>08:00-08:59</td>
<td>$6,855</td>
<td>$11,426</td>
</tr>
<tr>
<td>09:00-09:59</td>
<td>$7,224</td>
<td>$12,041</td>
</tr>
<tr>
<td>10:00-10:59</td>
<td>$7,593</td>
<td>$12,656</td>
</tr>
<tr>
<td>11:00-11:59</td>
<td>$7,746</td>
<td>$12,911</td>
</tr>
<tr>
<td>12:00-12:59</td>
<td>$7,827</td>
<td>$13,046</td>
</tr>
<tr>
<td>13:00-13:59</td>
<td>$7,692</td>
<td>$12,821</td>
</tr>
<tr>
<td>14:00-14:59</td>
<td>$7,503</td>
<td>$12,506</td>
</tr>
<tr>
<td>15:00-15:59</td>
<td>$7,530</td>
<td>$12,551</td>
</tr>
<tr>
<td>16:00-16:59</td>
<td>$7,467</td>
<td>$12,446</td>
</tr>
<tr>
<td>17:00-17:59</td>
<td>$7,584</td>
<td>$12,641</td>
</tr>
<tr>
<td>18:00-18:59</td>
<td>$7,332</td>
<td>$12,221</td>
</tr>
<tr>
<td>19:00-19:59</td>
<td>$6,783</td>
<td>$11,306</td>
</tr>
<tr>
<td>20:00-20:59</td>
<td>$6,378</td>
<td>$10,631</td>
</tr>
<tr>
<td>21:00-21:59</td>
<td>$6,243</td>
<td>$10,406</td>
</tr>
<tr>
<td>22:00-22:59</td>
<td>$6,117</td>
<td>$10,196</td>
</tr>
<tr>
<td>23:00-23:59</td>
<td>$5,766</td>
<td>$9,611</td>
</tr>
</tbody>
</table>
1 Definitions

In this Schedule 3 a reference to a clause is a reference to a clause of this Schedule 3 and:

Alert Event means the occurrence of one of the following events:

(a) exceedance of a limit defined in the Monitoring Regime;

(b) an Emergency; or

(c) an event which requires an urgent response to prevent any occurrence which affects:
    (i) the free and continuous flow of traffic on Zone 3; or
    (ii) the safe operation of Zone 2B or Zone 3 or other property (including infrastructure) on those areas.

Expert means, as the context requires, any consultant or consultants engaged by AGNSW in accordance with clause 2.

Location means, in respect of each Monitoring Regime, the locations where monitoring in accordance with that Monitoring Regime must take place or in the vicinity of the ED Land that are specified in, or determined in accordance with Exhibit 2 ("Monitoring Regime Scope and Details").

Monitoring Activities means the activities that AGNSW must carry out or procure, as part of any Monitoring Regime.

Monitoring Equipment means any devices, equipment, wires, conduits or hardware used as part of the Monitoring Regimes.

Monitoring Regime means the regime to be agreed in accordance with Exhibit 2 ("Monitoring Regime Scope and Details").

2 Implementation

(a) AGNSW, RMS and ED Operator must agree the Monitoring Regime.

(b) AGNSW must:
    (i) carry out Monitoring Activities on the ED Land prior to carrying out any Project Activities to determine ambient ranges of parameters at each Location, in accordance with the Monitoring Regime set out at Exhibit 2 ("Monitoring Regime Scope and Details");
(ii) ensure that the Monitoring Regimes are carried out during any period specified in relation to each Monitoring Regime in Exhibit 2 ("Monitoring Regime Scope and Details") and in accordance with clauses 2 to 11 and Exhibit 2 ("Monitoring Regime Scope and Details");

(iii) at its cost, engage each Expert; and

(iv) take all reasonable steps to procure that each Monitoring Regime is developed by the relevant Expert, in accordance with Exhibit 2 ("Monitoring Regime Scope and Details") and clause 2(b).

3 Modification of Monitoring Regimes

(a) The parties agree that if an Alert Event occurs, AGNSW may make modifications to enhance a Monitoring Regime.

(b) AGNSW must implement any modifications to a Monitoring Regime required by:

(i) AGNSW under this clause 3; or

(ii) ED Operator under clause 4,

and ED Operator will provide all reasonable assistance to enable AGNSW to implement such modifications.

4 ED Operator’s right to require modifications

(a) If an Alert Event occurs on the ED Land as a result of the carrying out of the Project Activities, ED Operator may provide a notice in writing to AGNSW specifying the modifications required to the relevant Monitoring Regime or Monitoring Regimes and the reasons those modifications are required.

(b) If AGNSW does not direct that any or all of the modifications requested by ED Operator under clause 4(a) are made:

(i) AGNSW must within 24 hours of receiving ED Operator’s notice respond to ED Operator in writing, identifying the modifications that AGNSW has not accepted and giving reasons; and

(ii) if ED Operator determines that failure to modify one or more of the Monitoring Regimes results in:

(A) an imminent risk or danger to persons or property (including the ED Motorway); or

(B) a disruption to the operation and maintenance of Zone 2B or Zone 3 or other property (including infrastructure) on those areas,

ED Operator may direct AGNSW to modify the Monitoring Regime and AGNSW shall promptly comply with the direction.
5 Access

(a) AGNSW acknowledges that in order to gain access to the ED Land to install any Monitoring Equipment or otherwise carry out the Monitoring Activities, it will be required to access in accordance with this Deed.

(b) ED Operator will use its best endeavours to facilitate AGNSW obtaining access to Zone 2B or Zone 3 in a timely manner to install the Monitoring Equipment or otherwise carry out the Monitoring Activities.

(c) Nothing under this clause 5 limits the operation of clause 7 of the Deed.

6 Risk in relation to operation of Monitoring Equipment

(a) AGNSW accepts all risk in relation to the continued operation of the Monitoring Equipment and releases ED Operator and RMS from all liability and claims in this respect, except if caused or contributed to by a willful and negligent act of ED Operator or RMS.

(b) If ED Operator or any representative, contractor, agent, employee, licensee or invitee interferes with, damages or destroys the Monitoring Equipment or any part of the Monitoring Equipment:

(i) ED Operator must immediately notify AGNSW of such interference, damage or destruction; and

(ii) AGNSW may as soon as practicable, and in consultation with ED Operator, access the ED Land for the purpose of rectifying such damage or destruction and to minimise the impact of such interference and ED Operator must facilitate access to the relevant ED Land in accordance with clause 5.

7 Monitoring communications

At all times during which the Works are being undertaken, AGNSW must ensure that:

(a) an effective and practical communications system exists and is operational between the monitoring station, the relevant Works, the machinery operators and ED Operator; and

(b) all results of the Monitoring Regime are submitted:

(i) in the case of a detection of any exceedance of the levels specified in the Monitoring Regime, a notice must be provided to ED Operator and the Independent Certifier immediately which includes:

(A) a description of the exceedance;

(B) the monitor location;

(C) the cause of the exceedance (where practicable);

(D) AGNSW's proposed corrective action (where practicable); and
(ii) in the case of routine reporting under the Monitoring Regime, to ED Operator and the Independent Certifier within the time frames specified in the Monitoring Regimes from time to time.

8 AGNSW to notify

If AGNSW becomes aware of the occurrence of an Alert Event, AGNSW must, at its cost:

(a) immediately inform ED Operator of the Alert Event and keep it informed about the Alert Event and provide ED Operator with sufficient information to enable ED Operator to assess the nature of the Alert Event and the likely effect of the Alert Event on the issues contemplated by paragraph (b) or (c) of the definition of Alert Event; and

(b) thereafter, and as soon as is reasonably practicable, notify RMS of the Alert Event.

9 Risk mitigation

If an Alert Event occurs, AGNSW must immediately:

(a) if the Alert Event is an Emergency, cooperate with ED Operator and adhere to any instruction provided by ED Operator including by:

(i) ceasing to carry out or suspending that part of the Project Activities which gave rise to the Emergency; and

(ii) temporarily vacating, and ensuring that the Building Contractor temporarily vacates, Zone 2 or Zone 3 (as applicable) if required to avert any danger;

(b) without limiting or otherwise restricting clause 9(a), assist ED Operator to take such action as ED Operator directs is necessary to avert any danger and ameliorate the risk of danger;

(c) without limiting clauses 9(a) and 9(b), allow representatives of ED Operator to enter the ED Land for the purpose of taking any action directed by ED Operator to avert any danger and ameliorate the risk of danger; and

(d) consult with RMS in relation to the Alert Event and any steps taken by AGNSW and ED Operator to address the relevant Alert Event.

10 Representative on-call

Each Senior Representative (or their respective nominees) must be available on a 24 hour call basis to respond to any suspension under clause 9.

11 ED Operator’s right to direct the Building Contractor

ED Operator has the right to direct the Building Contractor in accordance with clause 9 if:

(a) AGNSW’s Senior Representative cannot be immediately contacted; and
(b) ED Operator determines that the Alert Event is an Emergency which will result in an imminent:

(i) risk or danger to persons or property; or

(ii) impact on the free and continuous flow of traffic on Zone 3; or

(iii) impact on the safe operation of Zone 2B or Zone 3 other property (including infrastructure) on those areas.
## Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed

### Schedule 4  Insurance

<table>
<thead>
<tr>
<th>Types of Insurances</th>
<th>Minimum Sum Insured</th>
<th>Period of Insurance</th>
<th>Insurance Cover is to include the following</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Public Liability and Product Liability</td>
<td>$500,000,000 for any one occurrence or series of occurrences arising out of the same source or original cause and unlimited in the aggregate during the period of insurance but in the aggregate in respect of all occurrences with respect to products and completed operations liability.</td>
<td>Until the Date of Completion</td>
<td>(a) is with an Approved Insurer as defined in clause 1 of the Definitions and Notes below; (b) is governed by the law of New South Wales and subject to Australian jurisdictions as defined in clause 2 of the Definitions and Notes below; (c) lists RMS and ED Operator as an additional named insured; (d) includes contractors and sub-contractors for their respective rights, interests and liabilities as an additional insured; (e) covers the use of any construction plant and equipment not covered under a comprehensive or third party motor vehicle insurance policy; and (f) includes a cross liability clause as defined in clause 3 of the Definitions and Notes below.</td>
<td></td>
</tr>
<tr>
<td>2 Motor Vehicle Insurance (Compulsory Third Party)</td>
<td>To legislative requirements</td>
<td>Until the Date of Completion</td>
<td>To legislative requirements.</td>
<td></td>
</tr>
<tr>
<td>3 Plant and equipment insurance</td>
<td>Market value of plant and equipment</td>
<td>Until the Date of Completion</td>
<td>A plant and equipment insurance policy which covers physical loss or damage to any plant or equipment (whether owned, hired or leased) which is used in connection with the carrying out of the Project Activities.</td>
<td></td>
</tr>
<tr>
<td>4 Workers Compensation</td>
<td>As per relevant Workers Compensation State legislation</td>
<td>Until the Date of Completion</td>
<td>As per relevant Workers Compensation State legislation.</td>
<td></td>
</tr>
<tr>
<td>5 Professional Indemnity Insurance</td>
<td>$20,000,000 for any one claim and in the aggregate for the duration of the Project Activities.</td>
<td>In relation to the construction phase, for the period starting no later than the commencement of the Works until the date which is 7 years</td>
<td>(a) is with an Approved Insurer as defined in clause 1 of the Definitions and Notes below; and (b) is governed by the law of New South Wales and subject to Australian jurisdictions as defined in clause 2 of the Definitions and Notes below.</td>
<td></td>
</tr>
<tr>
<td>Types of Insurances</td>
<td>Minimum Sum Insured</td>
<td>Period of Insurance</td>
<td>Insurance Cover is to Include the following</td>
<td>Comments</td>
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<tr>
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</tr>
<tr>
<td>Contract Works</td>
<td>For the replacement value of the Works</td>
<td>Until the Date of Completion</td>
<td>(a) Is with an Approved Insurer as defined in clause 1 of the Definitions and Notes below; (b) Is governed by the law of New South Wales and subject to Australian jurisdictions as defined in clause 2 of the Definitions and Notes below; (c) Lists ED Operator and RMS and all contractors and subcontractors for their respective rights, interests and liabilities as additional named insureds; and (d) Includes a cross liability clause as defined in clause 3 of the Definitions and Notes below.</td>
<td></td>
</tr>
</tbody>
</table>

Definitions and Notes:

1 “Approved Insurer” means:

(a) an Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia and rated not less than A minus (A-) from Standard and Poor’s (Australia) Pty Limited or an equivalent rating;

(b) Lloyds Underwriters;

(c) a Treasury Managed Fund insurance scheme with the NSW State Government;

(d) the Comcover insurance scheme for the Australian Federal Government.

Note: where the insurance risk is insured by an insurer not listed in 1(a) or (b) then a ‘fronting’ placement is acceptable from an insurer listed in 1(a) or (b).

2 Insurance policies must be subject to the laws of Australia (or an Australian State or Territory) and their courts.

3 Where so noted in the table above, insurances must include a waiver and cross liability clause in which the insurer agrees:

(a) to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured;

(b) that the term “insured” applies to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased as a result); and

(c) that any non-disclosure, breach of any duty or act or omission by one insured does not prejudice the right of any other insured to claim under any insurance.

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38553019_51 Art Gallery of NSW Sydney Modern Project – Eastern Distributor 68
Construction Interface and Access Deed
References in this Insurance Schedule to the "contractor" and the "contract" are to be interpreted to harmonise with the terminology used in the contract in which this Insurance Schedule is used (e.g. "AGNSW" and "Deed" or as the case may be).

Promptly after the Commencement Date, AGNSW will procure icare to undertake a full risk assessment of the Project and its impact on the ED Motorway. AGNSW will provide a copy of this assessment to ED Operator and RMS and the parties will, following their review of the assessment, meet and discuss in good faith whether a reduction in the level of Public Liability and Product Liability insurance cover is appropriate.
1 AGNSW and ED Operator must adopt each other's safety and environmental protocols when working immediately adjacent to where Zone 2 and/or Zone 3 and the Works meet, or where there is any risk of overhead activity on the ED land bridge (within Zone 1 or in the vicinity of Zone 2) causing people / equipment or materials to fall onto Zone 3 and cause damage, accident or motorway closure.

2 AGNSW must take out or ensure that its chosen operator takes out all appropriate insurances in connection with operation and maintenance of the Works. ED Operator and RMS must be included as a named insured for public and products liability.

3 AGNSW will maintain Zone 1 and infrastructure associated with the Works after construction is completed, within the Development Footprint.

4 ED Operator will maintain the ED land bridge underlying superstructure and headwalls on either side of the ED land bridge (in Zone 2).

5 AGNSW will maintain any new permanent rock anchors installed as a part of the Works to condition state 2 in accordance with the RMS Bridge Inspection Procedure Manual at AGNSW's cost. Any inspections that are required will be undertaken by an inspector who has a RMS Level 2 bridge inspection qualification in accordance with the RMS Infrastructure Asset Management Policy PN 156. ED Operator will have inspection and access rights regarding the rock anchors if there is concern over the condition of the rock anchors on the ED Motorway. AGNSW will pay any costs associated with the ED Operator's inspection and access.

6 Where they can be readily inspected, AGNSW will undertake an inspection of new bearings installed as part of the Works 12 months after the Date of Works Completion and every 24 months thereafter, at AGNSW's cost. AGNSW will ensure that the inspector has a RMS Level 2 bridge inspection qualification in accordance with the RMS Infrastructure Asset Management Policy PN 156. Inspection reports will be promptly provided to the other parties. If the reports indicate deterioration of the condition of the bearings that have been inspected, then the ED Operator (or its appointed contractor) will have the right to inspect and access the bearings. In the circumstances where deterioration of the condition of the bearings has been identified, the ED Operator may require that the remaining bearings be examined by the ED Operator. AGNSW will pay any costs associated with the ED Operator's inspection and access.

7 The parties will attend meetings:
   - annually to review and discuss interface matters;
   - in response to any Emergencies, External Events, or threats to safety of persons on or in the vicinity of the ED Land; and
   - as otherwise requested by either party from time to time.

8 The parties will work together in good faith to agree processes to undertake future works other than maintenance (e.g. asset upgrades).
The parties will work together in good faith to agree an ongoing monitoring regime to commence on and from the Date of Works Completion.

ED Operator will have ongoing rights of access to Zone 1, including by way of an easement or other rights of access over Zone 1 within the Development Footprint (the land subject to such easement to be maintained by AGNSW), to enable ED Operator's ongoing maintenance of the ED land bridge (including the installation and maintenance of throw screens) and performance of its operation and maintenance obligations under the ED Project Deed, subject to ED Operator complying with AGNSW's (or, if applicable, RBGDT's) reasonable safety management procedures. Without limiting this paragraph 10, the ED Operator will require one or more easements of access over the proposed lot 3001 (forming part of stage 2 of the subdivision plan attached to Schedule 9) and Lot 3002.

If, during construction, remediation or strengthening requirements are identified in respect of the protection slab and/or waterproof membrane outside the Development Footprint, and AGNSW has not been requested to remediate that part of the protection slab and/or waterproof membrane in accordance with the Construction Requirements, then ED Operator and/or RMS following the Date of Works Completion may access Zone 1 in order to undertake the remediation works, subject to ED Operator and/or RMS, as the case may be, complying with RBGDT's (or, if applicable, AGNSW's) reasonable safety management procedures.

From the Date of Works Completion, if, as part of the Works, AGNSW has (at its cost) remediated the protection slab, geotechnical materials, water drainage cells and waterproof membrane that lie within the bounds of the Development Footprint, then AGNSW will continue to protect and maintain that remediated work.

The average loads to be imposed on the ED land bridge deck by the proposed building in its permanent condition are described in Arup drawing SMP-S-4020X00 Rev02.06, "Land Bridge – Loading Plan". Loads are expressed both as Dead Load and Live Load separately, and as a Factored Load combination with appropriate load factors. Any future change in Dead or Live Load which results in a net increase in the Factored Load exerted on the ED land bridge is not permitted unless it has been:

- demonstrated through the preparation of a Level 4 inspection report in accordance with the requirements of PN158 of the ED land bridge and subsequent Loading Rating Assessment prepared by a Structural Engineer whose selection is agreed by all the parties; and
- approved by ED Operator (acting reasonably).

This may include changes which, although outside the ED land bridge footprint, nevertheless increase the loading on the ED land bridge.

AGNSW must not without ED Operator's prior written approval:

- do anything that may cause a safety risk to the Land Bridge, to the ED Motorway or to the motorists using the ED Motorway; or
- do anything which may disturb or interfere with the Land Bridge or the ED Motorway; or
- alter or affect the drainage system of or in the land within the Development Footprint or otherwise the subject of the RMS Lease, such that the Land Bridge or ED Motorway may be damaged or the stability of the Land Bridge or ED Motorway may be affected; or
• plant any tree, or allow any tree to grow, whose weight or roots may damage the Land Bridge or ED Motorway; or

• do anything that causes vibration within the land within the Development Footprint or otherwise the subject of the RMS Lease at vibration levels that could damage the Land Bridge or ED Motorway.

15 AGNSW Easements

(a) If AGNSW requests any easements, covenants or restrictions on use benefiting and burdening any part of the RMS Land (as defined in the Development Deed), including land within the Development Footprint or otherwise the subject of the RMS Lease (“AGNSW Easements”) under clause 9.10 of the Development Deed or clause 16.6 of the RMS Lease, then AGNSW must deliver to the ED Operator a copy of the request, and all other details that it provides to RMS, at the same time that it delivers them to RMS.

(b) Subject to paragraph (c) and without limiting paragraph (d), RMS may not consent or approve an AGNSW Easement:

• that is inconsistent with the Operating Interface Principles or the agreement or protocol contemplated in clause 8.2(b)(i); or

• that is inconsistent with any rights or restrictions in favour of the ED Operator in the ED Project Documents, this Deed or any easements, covenants, restrictions or other interests registered at NSW Land Registry Services; or

• in respect of which RMS is otherwise entitled to withhold consent or approval under the Development Deed or RMS Lease (as applicable),

without the ED Operator's prior written approval.

(c) Subject to paragraph (d), the grant of the easement for support and shelter contemplated in clause 9.10(i) of the Development Deed or clause 16.6(g) of the RMS Lease (as applicable) in the form set out in Schedule 12 of the Development Deed or Schedule 2 of the RMS Lease (as applicable) does not require further written approval from the ED Operator.

(d) The parties acknowledge and agree that no AGNSW Easement over any part of the RMS Land may be granted or registered prior to the Partial Surrender Date (as defined in the Deed of Partial Surrender) (other than the easement for support and shelter contemplated in clause 9.10(i) of the Development Deed which, despite consent to its grant, cannot come into effect or be registered until after the Partial Surrender Date) without the ED Operator’s prior written approval.
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Schedule 6  Design and Plans Review

1 Definitions
(a) In this Schedule 6 a reference to a paragraph is a reference to a paragraph of this Schedule 6 and:

(i) "Construction Plan" means the plan so titled to be prepared by or on behalf of AGNSW or the Building Contractor (or its delegate or nominee) in respect of the carrying out of construction of the Works.

(ii) "Design Documentation Amendment" means any amendment to the Design Documentation of a material nature or that is likely to have an effect on the ED Motorway.

(iii) "Project Plans" means the Construction Plan and the Construction Pedestrian Traffic Management Plan.

(iv) "Construction Pedestrian Traffic Management Plan" means the plan so titled to be prepared by or on behalf of AGNSW or the Building Contractor (or its delegate or nominee) in respect of the carrying out of construction of the Works.

(v) "Review Period" means:

(A) subject to paragraph (B) of this definition, 15 Business Days after receipt of the Design Documentation; and

(B) 15 Business Days where paragraph 2(c) or 2(d) applies to resubmitted Design Documentation.

(b) AGNSW may not, after the date of this Deed, make any amendment to the Design Documentation of a material nature or that is likely to have an effect on the ED Motorway unless it has completed the review process in clause 2 below, and ED Operator and RMS have confirmed that they have no comments on the applicable Design Documentation Amendment.

2 Review of For Construction Drawings and Design Documentation Amendment
(a) AGNSW will provide to the Independent Certifier, ED Operator and RMS a copy of:

(i) the For Construction Drawings; and

(ii) if applicable, any Design Documentation Amendment,

for each stage of construction of the Works in a self-contained package which contains:
(iii) a sufficient level of detail in respect of the stage of construction;

(iv) any information reasonably required for the review of the For Construction Drawings and, if applicable, the Design Documentation Amendment, to enable interpretation by each of ED Operator and RMS without reference to any other external materials; and

(v) a comments register pursuant to which ED Operator and RMS may provide comments to address non-compliances with Law or this Deed, or safety concerns, in accordance with paragraph 2(b),

(each a "Design Package").

(b) ED Operator and RMS may, within the Review Period, review the For Construction Drawings and, if applicable, the Design Documentation Amendment and by notice to AGNSW and the Independent Certifier either:

(i) reject the design if the Design Package does not comply with this Deed or Law (including if the For Construction Drawings are not consistent with the Design Documentation) or raises legitimate safety concerns in respect of Zone 2 or Zone 3 or other property (including infrastructure) on those areas, and provide its reasons for doing so including details of the non-compliance or safety concerns;

(ii) notify AGNSW of any changes it considers necessary to the For Construction Drawings and/or Design Documentation Amendment to address non-compliances from this Deed or Law or safety concerns;

(iii) request more information in relation to the For Construction Drawings and/or Design Documentation Amendment;

(iv) confirm that it has no comments on the For Construction Drawings and/or Design Documentation Amendment.

(c) Where ED Operator or RMS rejects the design under paragraph 2(b)(i) or notifies AGNSW of any changes under paragraph 2(b)(ii):

(i) AGNSW may resubmit the amended parts of the For Construction Drawings and/or the Design Documentation Amendment and any other materials making up the associated Design Package; and

(ii) unless ED Operator or RMS (as applicable) considers (acting reasonably) that its comments can be addressed in the next design stage, paragraph 2(b) will reapply.

(d) Where ED Operator or RMS (or their design consultants) requests further information under paragraph 2(b)(iii), AGNSW must promptly provide this information to ED Operator and RMS (or their design consultants). Upon receipt of this additional information, the requirements under paragraph 2(b) will apply again.

(e) If reasonably requested by AGNSW, ED Operator and RMS will use their reasonable endeavours to consult with AGNSW and its design and engineering consultants so as to discuss ED Operator’s and RMS’s concerns with any design submitted.
Paragraphs 2(a) to 2(e) will reapply to any For Construction Drawings and Design Documentation subsequently amended after ED Operator and RMS have confirmed that they have no comments on the relevant For Construction Drawings and/or Design Documentation under paragraph 2(b)(iv).

In respect of the Current Design Documentation, AGNSW warrants and represents that such Current Design Documentation does not produce a design that is in breach of this Deed including Schedule 8 ("Construction Requirements") or Law, or that causes safety issues on Zone 2 or Zone 3 or in relation to other property (including infrastructure) on those areas.

3 Construction Plan and Construction Pedestrian Traffic Management Plan

(a) Prior to commencement of construction of the Works, AGNSW will provide to ED Operator and RMS:

(i) the Construction Plan for each stage of construction of the Works detailing the proposed work methods for the Works, including the applicable monitoring regime; and

(ii) the Construction Pedestrian Traffic Management Plan for each stage of construction of the Works detailing the proposed management of the impact of the Works on the operation of Zone 2B and Zone 3 and other property (including infrastructure) on those areas,

to the extent that they relate to the Works and accompanied with any other information reasonably required for the review of the For Construction Drawings and, if applicable, any Design Documentation Amendment.

(b) The parties agree that sections 2(b), 2(c) and 2(d) of this Schedule 6 will apply to the Construction Plan and Construction Pedestrian Traffic Management Plan as though references to "For Construction Drawings", "Design Documentation Amendment" and "Design Package" were references to the "Construction Plan" or the "Construction Pedestrian Traffic Management Plan" (as applicable).

4 General

AGNSW acknowledges and agrees that:

(a) no review or comments on the For Construction Drawings, the Design Documentation (including any Design Documentation Amendment) or the Project Plans by ED Operator or RMS (or their design consultants) will reduce or lessen the obligations of AGNSW or the acknowledgements and undertakings made by, or liabilities assumed by, AGNSW in this Deed;

(b) any feedback, advice, recommendations, comments or other information provided by ED Operator or RMS (or their design consultants) in respect of the For Construction Drawings, Design Documentation (including any Design Documentation Amendment) and Project Plans are provided to AGNSW on a strictly non-reliance basis;
(c) it will rely on its own opinion and professional advice (based on its independent analysis, assessment, investigation and appraisal) in designing the Project; and

(d) notwithstanding any other provision of this Deed:

(i) neither ED Operator nor RMS assumes or owes any duty of care to AGNSW to review or comment on, or in reviewing and commenting on, the For Construction Drawings, Design Documentation (including any Design Documentation Amendment) or the Project Plans, including in relation to the contents, sufficiency and suitability of the For Construction Drawings, Design Documentation Amendment or Project Plans;

(ii) neither ED Operator nor RMS (including their design consultants), nor any person acting on behalf of, or associated with, any of them, will have any liability in respect of the For Construction Drawings, Design Documentation (including any Design Documentation Amendment) or Project Plans, ED Operator’s or RMS’s review of or comments on, or failure to review or provide any comments on, the For Construction Drawings, the Design Documentation (including any Design Documentation Amendment), the Project Plans, the Project or otherwise in relation to this Schedule 6;

(iii) neither AGNSW nor its Building Contractor or engineering and design consultants will be entitled to make any claim against ED Operator or RMS or any of their associates (including their design consultants) in respect of the For Construction Drawings, Design Documentation (including any Design Documentation Amendment) or Project Plans, ED Operator’s or RMS’s review of or comments on, or failure to review or provide any comments on, the For Construction Drawings, the Design Documentation (including any Design Documentation Amendment), the Project Plans, the Project or otherwise in relation to this Schedule 6; and

(iv) AGNSW releases ED Operator and RMS and any of their associates (including their design consultants) from any liability or claim in respect of ED Operator’s or RMS’s review of or comments on, or failure to review or provide any comments on, the For Construction Drawings, the Design Documentation (including any Design Documentation Amendment), the Project Plans, the Project or otherwise in relation to this Schedule 6.
Art Gallery of NSW Sydney Modern Project –
Eastern Distributor Construction Interface
and Access Deed
Schedule 7  Dispute Resolution Procedures

1 Notices

If any dispute or difference arises between the parties as to any fact, matter or thing arising out of or in connection with this Deed ("Dispute"), then a party may give to the other party or parties to the Dispute a notice identifying the matters the subject of the dispute or difference together with detailed particulars of it and that dispute or difference will be dealt with in accordance with this Schedule 7.

2 No court proceedings

Prior to commencement of court proceedings in relation to any Dispute, the procedures set out in clause 14 ("Dispute Resolution") and this Schedule 7 must be followed.

3 Senior Representatives Meeting

During the 14 days after a notice is given under clause 1 of this Schedule 7 (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of Senior Representatives to resolve the Dispute. If the parties cannot resolve the Dispute within that period, they must refer the Dispute to the Expert if one of them requests to do so in writing.

4 Determination of Expert

(a) The Expert will:

(i) act as an expert and not as an arbitrator;

(ii) proceed in any manner he or she thinks fit without being bound to observe the rules of evidence;

(iii) take into consideration all documents, information and other material which the parties give the Expert and which the Expert in his or her absolute discretion, considers relevant to the determination of the dispute;

(iv) not be expected or required to obtain or refer to any other documents, information or material but may do so if he or she so wishes;

(v) take into consideration the general objectives of this Deed;

(vi) act in good faith and make his or her decision within 20 Business Days of accepting appointment or such longer period as is agreed by the parties; and
(vii) give written reasons for his or her determination.

(b) The Expert may commission his or her own advisers or consultants, including lawyers, accountants, bankers, engineers, surveyors, traffic consultants or other technical consultants, to provide information to assist the Expert in his or her decision.

(c) The parties will indemnify the Expert for the cost of retaining those advisers or consultants.

5 Provision of Information

(a) The parties to the Dispute will provide the Expert with any relevant information they consider necessary to keep the Expert informed and able to carry out his or her function.

(b) A copy of all information provided by one party under this clause 5 must be sent to the other party to the Dispute.

6 Expert’s Finding

The determination of the Expert must be in writing and will be final and binding on each party to the Dispute unless a party gives notice to the other party or parties of its intention to initiate proceedings in respect of the determination in a court or other tribunal within 20 Business Days of receiving the written Expert’s determination.

The parties are to give effect to the determination of the Expert unless and until it is reversed, overturned or otherwise changed by any subsequent litigation proceedings.

7 Release

The Expert will not be liable in respect of his or her determination, except in the case of fraud or wilful misconduct on the part of the Expert. The parties will release and indemnify the Expert from and against all claims, except in the case of fraud or wilful misconduct on the part of the Expert, which may be made against him or her by any person in respect of the Expert’s appointment to determine the dispute.

8 Costs

Each party to the Dispute will:

(a) bear its own costs in respect of any expert determination; and

(b) pay an equal portion of the Expert’s costs.

9 Expert

For the purposes of this Schedule 7, Expert means a person:

(a) with at least 10 years’ exposure to roads infrastructure construction and bridge or rail infrastructure construction, unless otherwise agreed by the parties to the Dispute in writing:
(b) agreed by the parties to the Dispute in writing or, failing agreement within 20 Business Days after the Dispute was referred to expert determination in accordance with this Deed, selected by the President of the Law Society of New South Wales or his nominee; or

(c) appointed by the parties to the Dispute in writing to act as an independent expert for the purposes of clause 3 in this Schedule 7.
1 Level 3 Condition Assessments

(a) Prior to commencement of construction, AGNSW must undertake updated Level 3 condition assessments on Zone 2. AGNSW will ensure that the party undertaking the condition assessment has a RMS Level 3 bridge inspection qualification in accordance with the RMS Infrastructure Asset Management Policy PN 158.

(b) Following the Date of Works Completion, AGNSW must undertake an updated Level 3 condition assessment on Zone 2. ED Operator may nominate the inspector that is to be engaged by AGNSW to perform this inspection.

2 Compliance with plans

AGNSW will perform the Works in accordance with:

(a) the Construction Plan;
(b) the Construction Pedestrian Traffic Management Plan; and
(c) RMS QA Specification B114 Ground Anchors for the design, construction, and monitoring of the rock anchors.

3 Monitoring

(a) The updated Level 3 condition assessments performed under clause 1 above will determine what monitoring instrumentation will be required to be installed on Zone 2 during construction.

(b) At a minimum, AGNSW will perform the following geotechnical monitoring of the rock pillar and monitoring of the ED land bridge structure:

   (i) Geotechnical monitoring

      (A) A 3D geotechnical ground model will be developed prior to construction, to assist visualisation of the excavation sequence for the Fuel Bunker, the subsequent ED construction and the proposed new excavation along the northern elevation. The 3D model will be used to assist in appreciation of geotechnical issues and potential locations of stress concentration and potential wedge/block type failure mechanisms in the vicinity of the ED land bridge.
(B) The monitoring regime will also meet the requirements of RMS technical note GTD 2012/001 “Excavation adjacent to RMS Structures”.

(C) For geotechnical monitoring of Wall 5: Continuous vibration monitoring during rock excavation at minimum 3 locations along Wall 5; Tilt meters, minimum 6 along segment of Wall 5, that abuts the proposed excavation; and crack meters on concrete structure elements where existing cracks are observed.

(D) For geotechnical monitoring of the rock pillar between Wall 5 and the proposed excavation: Inclinometers – minimum 3 nos. will be installed; and progressive geological mapping of the excavated face completed.

(ii) Structural monitoring

(A) For survey monitoring of the ED land bridge, survey targets will be installed to allowing monitoring of movements of various parts of the land-bridge structure within the zone of influence of excavation before, during and after the construction of the Works.

(B) For survey monitoring of Wall 5 (northeast abutment), within a segment of existing works (i.e. between permanent expansion joints), survey targets will be installed as a minimum, at each end and mid-way underside of a land-bridge beam; sill beam or top of wall at the same chainage; base of wall at the same chainage.

(C) For survey monitoring of Wall 4 within a segment of existing works (i.e. between permanent expansion joints) survey targets will be installed as a minimum, at each end and mid-way underside of a land-bridge beam; sill beam or top of wall at the same chainage.

(D) The frequency of monitoring will be agreed prior to commencement of excavation.

(E) Where existing pot bearings allow translational movement, measurements of bearing movement shall be taken prior to excavation and at the completion of excavation (span #3 and span #4 only).

(F) Where existing elastomeric bearings allow translational movement, the bearings shall be inspected and typical displacements recorded prior to excavation and at the completion of excavation (span #3 and span #4 only).

(c) Trigger levels and timing and method of notification of exceedances will be agreed with ED Operator and the AGNSW engineers, as noted in the Monitoring Regime in Schedule 3.

4 Inspection Rights

(a) ED Operator and RMS will be given a reasonable opportunity to inspect Zone 1 and Zone 2 to inspect any repair works (to the protection slab or otherwise) that may be required.
(b) AGNSW will procure that at a minimum, ED Operator and RMS will be given at least five Business Days' notice by the Building Contractor of the following inspection witness points:

(i) Inspection of protection slab and any uncovered sections of waterproof membrane after excavation;

(ii) If protection slab and/or waterproof membrane is damaged, inspection of damage and rectification;

(iii) Inspection of protection slab prior to backfilling;

(iv) Installation of rock anchors; and

(v) Review of excavation mapping and site inspection (if necessary) to assess the condition of the excavated face for any potential stability issues, prior to construction of the structural elements that may restrict future accessibility.

(c) ED Operator, RMS and AGNSW will cooperate in good faith to prevent the inspection witness points having any material impact on AGNSW's construction timetable.

5 Remediation of Waterproof Membrane

(a) According to the as-built drawings of the ED land bridge, the waterproof membrane located in Zone 2B is covered by a concrete protection slab of 75mm in thickness and with an unknown extent of reinforcement. There is a possibility that the protection slab may be damaged or removed during the excavation by AGNSW.

(b) The quality of the protection slab cannot be assessed until the protection slab is uncovered.

(c) If remediation or strengthening requirements are identified, AGNSW will provide a proposed plan for the approval of ED Operator and RMS (acting reasonably) to remediate the protection slab and/or waterproof membrane, so that the protection slab and/or waterproof membrane will be remediated or replaced to a standard that:

(i) complies with all relevant Building Code and AS standards and RMS standards, including:

(A) for protection slab sitting directly above the concrete slab, AS5100 and RMS B80;

(B) for geotechnical materials, RMS B30 and R44;

(C) for water drainage cells sitting directly above the protective slab, Atlantis Drainage Cell;

(D) for perforated drainage pipe, AS2439.1, R33, R38 and RMS 3552; and

(E) for waterproof membrane, AS5100 and RMS B80; and

(ii) is at least equivalent to its original standard.

(d) If remediation or strengthening requirements are identified, AGNSW will:
(i) at its own cost, remediate the protection slab and/or waterproof membrane within the Development Footprint; and

(ii) at RMS and/or the ED Operator’s request (subject to paragraph 5(e) below), remediate the protection slab and/or waterproof membrane outside the Development Footprint,

in accordance with AGNSW’s approved remediation plan and in such a way to meet the minimum requirements contemplated in paragraph 5(c).

(e) If RMS and/or the ED Operator requests AGNSW to remediate or strengthen the protection slab and/or waterproof membrane outside the Development Footprint, then AGNSW will provide RMS and/or the ED Operator (as applicable) an estimate of the cost of this work. The parties agree that:

(i) AGNSW will not be required to perform the remediation work contemplated in paragraph 5(d)(ii) unless it is reimbursed for the cost of this work; and

(ii) the cost of this work for which AGNSW will be reimbursed may not include any type of delay or prolongation cost charged by AGNSW or any Responsible Party.

(f) The parties agree that neither ED Operator nor RMS will have any liability to AGNSW or its Responsible Parties for any delay to the Project or change to the Project Activities or Project Plans or Design Documentation arising from any remediation or strengthening works to the protection slab and/or waterproof membrane.

6 Temporary works

(a) ED Operator will have the opportunity to review and comment on temporary works packages in Zone 1 (and indirectly affecting Zone 2 and Zone 3) such as (without limitation):

(i) temporary shoring designs in the vicinity of the ED land bridge;

(ii) lift studies of any crane lifts occurring on or in the vicinity to our assets;

(iii) design of any hoarding required in the vicinity of the ED land bridge;

(iv) excavation staging and load shifts on the ED land bridge and in parts of the build potentially affecting the motorway and ED land bridge (e.g. the sandstone to the side of motorway);

(v) construction staging and any associated load limits placed on the ED land bridge; and

(vi) any other temporary works that have the potential to impact the safe functioning of the ED Motorway.

(b) ED Operator will require evidence of the checking and reviewing of temporary works designs (e.g. via independent Certification).
7 Reinstatement

AGNSW will be responsible for making good to the satisfaction of ED Operator and RMS any damage to Zone 2B or Zone 3 and any property on Zone 2B or Zone 3 that is damaged as a result of the Project Activities or any acts or omissions of AGNSW or Responsible Parties, and for site inspections and condition reports required to evidence the reinstatement.

8 Further requirements

(a) The average loads to be imposed on the ED land bridge deck by the proposed building in its permanent condition and described in Arup drawing SMP-S-4020X00 Rev02.06, "Land Bridge – Loading Plan". Loads are expressed both as Dead Load and Live Load separately, and as a Factored Load combination with appropriate load factors. Any future change in Dead or Live Load which results in a net increase in the Factored Load exerted on the ED land bridge is not permitted unless it has been:

(i) demonstrated through the preparation of a Level 4 inspection report in accordance with the requirements of PN158 of the ED land bridge and subsequent Loading Rating Assessment prepared by a Structural Engineer whose selection is agreed by all the parties; and

(ii) approved by ED Operator (acting reasonably).

This may include changes which, although outside the ED land bridge footprint, nevertheless increase the loading on the ED land bridge.

(b) The existing palisade fence panels located on the precast concrete fascia panels must not be disturbed at any time, except where the pedestrian bridge connecting the ED land bridge to the external lift is to be constructed.
1 Subdivision plan

The land to be excised:

(a) will include a lot comprising the upper stratum of part of Lot 107 in DP1105308, comprising airspace, turf/grass, topsoil surface, subsoil and, if applicable, drainage cells over and on top of the ED land bridge, shown indicatively in the attached Lot 107 plan; and

(b) will in all other respects be materially consistent with the land identified for excise in the attached draft subdivision plan.

Lot 107 plan (paragraph 1(a))

[Markup DP1105308 for Additional Land]

Draft subdivision plan (paragraph 1(b))

[0714-14C stratum sub.pdf]

2 Subdivision principles

(a) Following the excising of the land the land leased to the ED Operator under the ED Lease will:

(i) include the balance of Lot 107 (excluding the subdivided upper stratum described in paragraph 1(a) above);

(ii) include Zones 2A, 2B and 3; and

(iii) comprise up to (but excluding) the underside structure of the structure of the lot above.

(b) AGNSW must as soon as practicable following the Date of Completion:

(i) procure a survey of the land the subject of the subdivision plan for the purpose of finalising the Registrable Subdivision Plan (as defined in clause 8.1(a)(i) of this Deed); and

(ii) provide a copy of that survey to the relevant stakeholders (including the ED Operator and the parties to this Deed).
AGNSW must ensure that the following survey principles are applied by the surveyor when preparing the survey referred to in paragraph 2(b)(i):

(i) the survey must reflect the intention of the parties set out at paragraph 2(a) above;

(ii) stratum boundaries are required to be defined relative to Australian Height Datum;

(iii) horizontal boundaries – the lot retained by the ED Operator includes all structural elements of the road and is unlimited in depth; and

(iv) vertical boundaries – the lot retained by the ED Operator extends to comprise the land and the components in Zone 2B as set out in Exhibit 3 (including fencing).

The parties agree that in preparing the plan of subdivision, the ED Operator must have and be granted the benefit of any rights of access needed over the excised land (or any adjoining land) in order to continue its occupation and for the purpose of repair and maintenance of the remainder of the land the subject of the ED Lease.
STAGE 1
SUBDIVISION
THAT PART OF LOT 3001 ODTOTT (Z) IS
UNLIMITED IN HEIGHT AND DEPTH

Pt.1002
STAGE 1
SUBDIVISION
Pt.3002
REFER SHEET 2

113
DP1105308
MCN
SHINS AND AREAS SUBJECT TO TRIAL
ORDER LANDS REGISTRATION ACT

STAGE 2

PLAN SHOWING PROPOSED SUBDIVISION OF PART OF
EASTERN DISTRIBUTOR BEING LOT 100 IN DP. 1105308
LOT 4 IN DP. 259027 AND LOT 52 IN DP. 1105375

YSOCO GEOMATICS

PLAN SHOWING PROPOSED SUBDIVISION OF PART OF
EASTERN DISTRIBUTOR BEING LOT 100 IN DP. 1105308
LOT 4 IN DP. 259027 AND LOT 52 IN DP. 1105375

IN SYDNEY L.A.

DESIGNED BY: A.A.E.
SCALE: 1:500 A.H.O.
DIA. 974/14C
DATE: 30 NOVEMBER 2005

STAGE 1
SUBDIVISION

PL.3002
REFER SHEET 2

PL.1002
STAGE 1
SUBDIVISION

PL.3002
REFER SHEET 2
The design documentation listed in the following documents:

180924_SMP
Drawing Register Tr.

180919_Drawing
register_Land bridge
## Document Transmittal Register

**Project Name**: SYDNEY MODERN PROJECT - AGNSW  
**File**: A02_TRNS  
**Project No.**: 140416  
**Project Stage**: SD

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**Approved For Issue**  
**Reason For Issue**  
**Project Leader Signature**  
**Date**  
Land Bridge Approval  
John Jeffrey  
24 September 2018

**Issue Details**  
**Issue Date**  
Day: 24  
Month: 06  
Year: 18  
**Reason for Issue/Person Sending/Issue Method**  
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Art Gallery Road Sydney, NSW, 2000  
**Project No** 247039  
**Transmittal Issue Date** 20/09/2018

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Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Schedule 11 Deed of Partial Surrender
Deed of Partial Surrender of Lease

Dated

Eastern Distributor Project

Roads and Maritime Services of New South Wales (ABN 76 236 371 088)

Airport Motorway Limited and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 26 057 283 093)
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Schedule 1 Plan of Surrender Premises 13
# Deed of Partial Surrender of Lease

## Details

### Parties

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<th>RMS</th>
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<th>Roads and Maritime Services of New South Wales, a NSW Government agency and corporation incorporated under section 46 of the Transport Administration Act 1988 (NSW)</th>
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<tr>
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</tr>
<tr>
<td></td>
<td>Email</td>
<td><a href="mailto:felicity.finlayson@rms.nsw.gov.au">felicity.finlayson@rms.nsw.gov.au</a></td>
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<td>Address</td>
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<td>(02) 9254 4918</td>
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<td>Email</td>
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### Premises

The land and airspace leased to the Tenant under the Lease

### Lease

Lease (undated) between RMS (as successor in law to Roads and Traffic Authority of New South Wales), as landlord, and the Tenant, as tenant, initially in the form of the Annexed Trust Lease in Exhibit A to the Project Deed

### Partial Surrender Date

The date determined in accordance with clause 2.2(b)

### Partial Surrender Sum

$1.00

### Background

A RMS (as successor in law to RTA) and the Tenant are parties to the Project Deed.
B RMS owns the Premises.

C RMS and the Tenant are required to enter into or are deemed to be bound by the Lease pursuant to the Project Deed.

D The parties agree to effect the Partial Surrender for the purposes of facilitating the construction and carrying out of works by AGNSW on and around land the subject of the Lease.
Deed of Partial Surrender of Lease

General terms

1 Interpretation

1.1 Definitions

The following words have the following meanings in this deed, unless the context requires otherwise.

AGNSW means the Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW) ABN (24 934 492 575).

Airport Motorway Limited means Airport Motorway Limited (ABN 26 057 283 093).

AMT means AMT Management Limited (ABN 55 078 953 607).

 Associates means the employees, agents, officers, delegates, contractors (including a sub-contractor), licensees, invitees and other authorised persons a party.

Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in New South Wales.

Claim includes any claim, action, demand or proceeding:

(a) under, arising out of, or in any way in connection with this deed; or

(b) otherwise at Law or in equity including:

(i) by statute;

(ii) in tort for negligence or otherwise, including negligent misrepresentation; or

(iii) for restitution, including restitution based on unjust enrichment.

Details means the section of this deed headed “Details”.

GST Law has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth), and terms used which are not defined in this deed, but which are defined in the GST Law, have the meanings given in the GST Law.

Interface Deed means the document headed “Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed” between the Tenant, AGNSW and RMS.

Lease means the lease specified in the Details.

LRS means NSW Land Registry Services.

Partial Surrender means the partial surrender of the Lease in accordance with the terms and conditions of this deed.
Partial Surrender Date means the date specified in the Details.

Partial Surrender Sum means the amount specified in the Details.

Premises means the premises specified in the Details.

Project Deed means the document titled 'Eastern Distributor Project Deed' between RMS (as successor in law to RTA), the Minister for Roads and the Minister for Ports, Public Works and Services, and the Tenant dated 27 June 1997 (including all schedules and exhibits) (as amended from time to time).

Surrender Premises means that part of the Premises shown as [Lots TBC] on Registrable Subdivision Plan attached at Schedule 1.

Registrable Subdivision Plan has the meaning given to that term in clause 8.1(a) of the Interface Deed.

RTA means the former Roads and Traffic Authority of New South Wales.

Trust means the Airport Motorway Trust, constituted under the Airport Motorway Trust Deed dated on or about 27 June 1997.

1.2 Interpretation
The following apply in the interpretation of this deed, unless the context requires otherwise.

(a) A reference to this deed, this document or a similar term means either the agreement set out in this deed or the deed itself, as the context requires.

(b) A reference to this deed or any other agreement, deed, lease or document is a reference to this deed or that other agreement, deed, lease or document as varied, novated, consolidated, restated or replaced in any way.

(c) A reference to a law includes any law, principle of equity, statute and official directive of any governmental authority.

(d) A reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it, and any regulation or other statutory instrument issued under it.

(e) A reference to the singular includes the plural number and vice versa.

(f) A reference to a party means a person who is named as a party to this deed.

(g) A reference to a person includes a firm, corporation, body corporate, unincorporated association and a governmental authority.

(h) A reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this deed, their substitutes and assigns.

(i) An agreement on the part of, or in favour of, 2 or more persons binds or is for the benefit of them jointly and severally.

(j) A reference to includes means includes but without limitation.
(k) Where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning.

(l) A reference to doing something includes an omission, statement or undertaking (whether or not in writing) and includes executing a document.

(m) A reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or an annexure to this deed.

(n) A reference to time is to the time in the place where a thing is to be done, unless specified otherwise.

(o) A reference to dollars or $ is to Australian currency.

(p) A heading is for reference only. It does not affect the meaning or interpretation of this deed.

(q) Any schedule attached to this deed forms part of it. If there is any inconsistency between any clause of this deed and any provision in any schedule, the clause of this deed prevails.

2 Partial Surrender

2.1 Registrable Subdivision Plan

Once the Registrable Subdivision Plan is approved by the Tenant in accordance with the Interface Deed it will show the Surrender Premises.

2.2 Partial Surrender Date

(a) The Partial Surrender is conditional on:

(i) the Date of Completion having occurred (as defined in the Interface Deed); and

(ii) the Interface Deed being current and not having been determined as at the Partial Surrender Date.

(b) Subject to clause 2.2(a), the Partial Surrender Date is midnight on the date that RMS gives notice to the Tenant that the Registrable Subdivision Plan (as approved by the Tenant in accordance with the Interface Deed) is registered by LRS and attaching a copy of an LRS registration notice.

(c) RMS must as soon as practicable after RMS becomes aware of the registration of the Registrable Subdivision Plan at LRS:

(i) notify the Tenant that the Registrable Subdivision Plan has been registered at LRS and that the date of registration is the Partial Surrender Date under this deed; and

(ii) provide a copy of the registered Registrable Subdivision Plan to the Tenant.

2.3 Partial Surrender

(a) In consideration of the Tenant paying the Partial Surrender Sum (receipt of which is acknowledged by RMS), the Tenant surrenders, and RMS
accepts the partial surrender of, the Lease insofar as the Surrender Premises forms part of the Premises.

(b) The Partial Surrender is effective from the Partial Surrender Date.

(c) If the Lease has been registered or lodged for registration at the Partial Surrender Date, the parties must execute a Real Property Act form of partial surrender of lease in registrable form if requested by RMS and RMS must cause that form to be lodged for registration at LRS.

2.4 Project Deed agreement and consent

For the purposes of the Project Deed, RMS and the Tenant:

(a) agree that the Surrender Premises does not form part of any land leased or required to be leased by RMS to the Tenant under the Project Deed as at the Partial Surrender Date; and

(b) agree that the Surrender Premises will not form part any lease or sublease required to be granted to the Tenant under the Project Deed.

3 Release

(a) On and from the Partial Surrender Date, RMS and the Tenant release and discharge each other and their respective Associates from all Claims and obligations whatsoever under the Lease which either of them may or would be entitled to make or maintain against the other party but only to the extent that those Claims and obligations relate to the Surrender Premises.

(b) Nothing in clause 3(a) or otherwise in this deed releases or discharges RMS or the Tenant from any of their obligations and liabilities under the terms and conditions of the Lease:

(i) created or incurred prior to the Partial Surrender Date; or

(ii) which relate to the lease of that part of the Premises not surrendered by this deed.

4 Costs and stamp duty

4.1 Costs

The parties agree that their costs incurred in connection with the negotiation, preparation and execution of this deed will be included in the costs of that party in connection with the Interface Deed and dealt with in accordance with clause 11.2 of the Interface Deed.

4.2 Stamp duty

The parties agree that any stamp duty (including any fines and penalties) payable in connection with this deed or the Partial Surrender will be included in the costs of RMS in connection with the Interface Deed and dealt with in accordance with clause 11.2 of the Interface Deed.
5 Financier consents

The Tenant warrants to RMS:

(a) that the Tenant does not require the consent or approval of any person, including a mortgagee, to the Partial Surrender; or

(b) if the Tenant does require a consent or approval to the Partial Surrender, the Tenant has obtained that consent or approval on or prior to the Partial Surrender Date.

6 Dispute Resolution

6.1 Disputes

If any dispute or difference arises between the parties as to any fact, matter or thing arising out of or in connection with this deed (Dispute), the procedures in clause 14 of the Interface Deed will apply to the resolution of the Dispute.

6.2 Continuance of performance

Despite the existence of a Dispute, the parties will continue to perform their respective obligations under this deed.

6.3 GST

(a) Notwithstanding any other provision of this deed, any amount payable for a supply made under this deed which is calculated by reference to a cost, expense or other amount (including GST) paid or incurred by a party will be reduced by an amount equal to any input tax credits to which that party is entitled in respect of that cost, expense or other amount. Each of the parties will be assumed to be entitled to full input tax credits unless they provide evidence to the other parties to the contrary.

(b) If GST becomes payable on any supply made by a party (Supplier) under this deed:

(i) unless indicated otherwise, any amount payable under any other provision of this deed for that supply (Agreed Amount) is exclusive of GST;

(ii) to the extent that the consideration for the supply is not expressed as an amount of money, the value of the non-monetary consideration is to be treated as inclusive of GST; and

(iii) an additional amount will be payable by the party providing consideration for that supply (Recipient), equal to the amount of GST payable on that supply as calculated by the Supplier in accordance with the GST Law and payable at the same time and in the same manner as for the Agreed Amount, provided that the Recipient will not be required to pay an additional amount until the Supplier has provided a tax invoice (or equivalent documentation which complies with the GST Law) to the Recipient in respect of that supply.

(c) If, for any reason, the GST payable by the Supplier in respect of a supply it makes under this deed (incorporating any increasing adjustments or...
decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under clause 6.3(b) in respect of that supply, the Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an adjustment event occurs in relation to a supply, the Supplier will issue an adjustment note to the Recipient in respect of that supply within 10 Business Days after becoming aware of that adjustment event occurring.

(d) If the Recipient is dissatisfied with any calculation to be made by the Supplier under this clause, the Recipient may, at its own expense and after notifying the Supplier accordingly, refer the matter to an independent expert nominated by the President of the Institute of Chartered Accountants for expert determination, which will be final and binding on all parties (absent manifest error). The expert will act as an expert and not as an arbitrator and will take into account the terms of this deed, the matters required to be taken into account by the Supplier under this clause and any other matter considered by the expert to be relevant to the determination. The parties must release the expert from any liability in acting as an expert, except in the case of fraud on the part of the expert.

(e) The right of the Supplier to recover any additional amount in respect of GST under this clause is subject to the issuing of the relevant tax invoice or adjustment note to the Recipient within 4 years of the Supplier's liability to pay that GST arising.

(f) The parties must use their best endeavours to determine the mutually acceptable GST inclusive market value of any non-monetary consideration provided for supplies made under this deed to be included in tax invoices to be issued to the Recipient of the relevant supply.

7 General

7.1 Notices
A notice required to be given under this deed may be given in the same way in which a notice may be given to a party under the Interface Deed.

7.2 Waiver and variation
A provision of or a right under this deed may not be waived or varied except in writing signed by whoever is to be bound.

7.3 Counterparts
This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

7.4 Further assurance
Each party must do everything necessary, or reasonably required, by the other party, to give effect to this deed and the transactions contemplated by this deed.

7.5 Governing law and jurisdiction
(a) This deed is governed by the law in force in New South Wales.
8 Limitation of liability – Trustee

8.1 Trustee’s AMT’s capacity

(a) AMT enters into this deed in its capacity as trustee of the Trust and in no other capacity. Subject to clause 8.1(f), RMS acknowledges that AMT’s obligations under this deed are incurred by AMT solely in its capacity as trustee of the Trust.

(b) Subject to clause 8.1(f), AMT will be liable to pay or satisfy any obligations (if any) under this deed only out of the assets of the Trust out of which AMT is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.

(c) Subject to clause 8.1(f), Airport Motorway Limited and RMS may enforce their rights against AMT arising from non-performance of AMT’s obligations under this deed only to the extent of AMT’s right of indemnity out of the assets of the Trust.

(d) Subject to clause 8.1(f), if Airport Motorway Limited and RMS do not recover all money owing to them arising from non-performance of AMT’s obligations under this deed by enforcing the rights referred to in clause 8.1(b), they may not seek to recover the shortfall by:

(i) bringing proceedings against AMT in its personal capacity; or

(ii) applying to have AMT wound up or proving in the winding up of AMT unless another creditor has initiated proceedings to wind up AMT.

(e) Subject to clause 8.1(f), Airport Motorway Limited and RMS waive their rights and release AMT from any personal liability whatsoever, in respect of any loss or damage:

(i) which they may suffer as a result of any:

(A) breach by AMT of its duties under this deed; or

(B) non-performance by AMT of its obligations under this deed; and

(ii) which cannot be paid or satisfied out of the assets of the Trust out of which AMT is entitled to be indemnified in respect of any liability incurred by it as trustee of the Trust.

(f) The limitations in clauses 8.1(a) to 8.1(e) will not apply in the case of fraud, negligence or breach of trust on the part of AMT or a failure on the part of AMT to perform its duties properly within the meaning of section 601GA(2) of the Corporations Act 2001 (Cth), in each case in its capacity as trustee of the Trust.

8.2 Joint and several obligations

(a) The obligations of the entities comprising the Tenant under this deed are joint and several.

(b) The parties agree that the provision to, or receipt of any information or notice by, Airport Motorway Limited under or in connection with this deed
is deemed to be provision to or receipt by each of Airport Motorway Limited and AMT.

8.3 Trustee warranties

AMT, in its capacity as trustee of the Trust:

(a) represents and warrants the following are true:

(i) it has been properly appointed as trustee of the Trust;
(ii) there are no other trustees of the Trust (other than any others who are also parties to this deed);
(iii) it is not proposing to resign as trustee of the Trust nor is it aware of any proposal to be removed or for another trustee to be appointed;
(iv) the Trust is validly formed and the trust documents comply with the law;
(v) if it has provided copies of any trust documents then they are current and complete;
(vi) it is not in default under any trust documents;
(vii) it has a full right of indemnity from the trust assets in respect of its obligations and liability under this deed;
(viii) it has entered into this deed as part of the proper administration of the Trust and for the commercial benefit of the Trust and entering into this deed is a proper trust purpose;
(ix) the Trust has not been terminated and no action is pending to wind up, terminate, reconstitute or resettle the Trust nor has any event for the vesting of the assets occurred; and
(x) there is no material fact or circumstance relating to the assets, matters or affairs of the Trust that, if disclosed, might be expected to affect the decision of RMS to enter into this deed; and

(b) promises that:

(i) it will not do anything which may result in the loss of its full right of indemnity from the trust assets or the termination of the Trust;

(c) if it is replaced or joined by a new trustee, it will procure that the new trustee enters into a deed covenanting to comply with this clause 8.3.

9 RMS as a public authority

(a) This deed will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of RMS to exercise any of its functions and powers pursuant to any law or approval.

(b) Clause 9(a) does not limit RMS' obligations under this deed or any acknowledgement given by RMS under this deed.
Anything which RMS does, fails to do or purports to do pursuant to its functions and powers under any law or approval will be deemed not to be an act or omission by RMS under this deed and will not entitle the other parties to make any Claim against RMS.
EXECUTION

Executed as a deed on 2018

Tenant

EXECUTED by AIRPORT MOTORWAY LIMITED (ABN 26 057 283 093) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director
......................................................
Name of director (block letters)

EXECUTED by AMT MANAGEMENT LIMITED as trustee of the Airport Motorway Trust (ABN 55 078 953 607) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director
......................................................
Name of director (block letters)

RMS

Signed Sealed and Delivered for and on behalf of Roads and Maritime Services by its authorised delegate in the presence of:

......................................................
Witness Signature
......................................................
Print Name
Schedule 1   Plan of Surrender Premises
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Signing page

DATED: 21 December 2008

SIGNED, SEALED AND DELIVERED for and on behalf of The Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW) (ABN 24 934 492 575) by its authorised delegate in the presence of:

Signature of delegate

Signature of witness

Name of witness (block letters)

EXECUTED by AIRPORT MOTORWAY LIMITED (ABN 26 057 283 093) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

Signature of director

Name of director (block letters)

Signature of director/company secretary*

*delete whichever is not applicable

Name of director/company secretary* (block letters)

*delete whichever is not applicable

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36553019_51
Art Gallery of NSW Sydney Modern Project –
Eastern Distributor Construction Interface
and Access Deed
Signing page

DATED: 21 December 2016

SIGNED, SEALED AND DELIVERED
for and on behalf of The Art Gallery of
New South Wales Trust, a statutory
corporation constituted under
section 5 of the Art Gallery of New
South Wales Act 1980 (NSW) (ABN
24 934 492 575) by its authorised
delegate in the presence of:

............................................
Authorised Delegate Signature

...........................................
Print Name

Signature of witness

Name of witness (block letters)

EXECUTED by AIRPORT
MOTORWAY LIMITED (ABN 26 057
283 093) in accordance with section
127(1) of the Corporations Act 2001
(Cth) by authority of its directors:

............................................
Signature of director/company
secretary*
*delete whichever is not applicable

AMANDA LYDIA STREET
Name of director/company secretary*
(block letters)
*delete whichever is not applicable

............................................
Signature of director/company
secretary*
*delete whichever is not applicable

KRISTINE COONEY
Name of director (block letters)
EXECUTED by AMT MANAGEMENT LIMITED as trustee of the Airport Motorway Trust (ABN 55 078 953 607) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

Signature of director

Y. Vassallo

Name of director (block letters)

*SIGNATURE OF DIRECTOR

Signature of director/company secretary*

*delete whichever is not applicable

AMANDA LYDIA STREET

Name of director/company secretary (block letters)

*delete whichever is not applicable

SIGNED, SEALED AND DELIVERED for and on behalf of ROADS AND MARITIME SERVICES by its authorised delegate in the presence of:

Signature of witness

Name of witness (block letters)

Signature of witness

Authorised Delegate Signature

Print Name
The seal of ROADS AND MARITIME SERVICES was affixed to this document in the presence of the Chief Executive pursuant to the Transport Administration Act 1988 (NSW) in the presence of:

Signature of witness
Felicity Frueh
Name of witness (block letters)

Signature of Chief Executive
Ken Kanofski
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Exhibit 1 – Independent Certifier Deed of Appointment
Sydney Modern Project - Deed of Appointment of Independent Certifier

Dated

Infrastructure NSW (ABN 85 031 302 516) ("Principal")
Airport Motorway Limited (ABN 26 057 283 093) and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607) ("ED Operator")
The Art Gallery of New South Wales Trust (ABN 24 934 492 575) ("AGNSW")
Roads and Maritime Services of New South Wales ("RMS")
[insert] (ABN [insert]) ("D&C Contractor")
[insert] (ABN [insert]) ("Independent Certifier")

King & Wood Mallesons
Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com
# Independent Certifier Deed

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## Details

### Parties

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<th>Name</th>
<th>Infrastructure NSW</th>
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<tbody>
<tr>
<td>ABN</td>
<td>85 031 302 516</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>Level 15, 167 Macquarie St, Sydney NSW 2000</td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td>+ 61 2 8016 0101</td>
<td></td>
</tr>
<tr>
<td>Attention</td>
<td>David Riches</td>
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<th>ED Operator</th>
<th>Name</th>
<th>Airport Motorway Limited and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>Level 23, Tower One, Collins Square, 727 Collins Street, Docklands Victoria 3008</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>(02) 9254 4918</td>
<td></td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:edassetmanager@transurban.com">edassetmanager@transurban.com</a> and <a href="mailto:lbeer@transurban.com">lbeer@transurban.com</a></td>
<td></td>
</tr>
<tr>
<td>Attention</td>
<td>Louise Beer, ED Asset Manager</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RMS</th>
<th>Name</th>
<th>Roads and Maritime Services of New South Wales, a NSW Government agency and corporation incorporated under section 46 of the Transport Administration Act 1988 (NSW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>99 Phillip Street, Parramatta 2150</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>(02) 8837 0901</td>
<td></td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:Felicity.FINLAYSON@rms.nsw.gov.au">Felicity.FINLAYSON@rms.nsw.gov.au</a></td>
<td></td>
</tr>
<tr>
<td>Attention</td>
<td>Director Motorway Partnerships &amp; Planning</td>
<td></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>AGNSW</th>
<th>Name</th>
<th>The Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td>24 934 492 575</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td>(02) 9225 1852</td>
<td></td>
</tr>
</tbody>
</table>
Email  sally.webster@ag.nsw.gov.au

Attention  Sally Webster

<table>
<thead>
<tr>
<th>D&amp;C Contractor</th>
<th>Name</th>
<th>[TBC]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Address</td>
<td>[TBC]</td>
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<td>Fax</td>
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<td></td>
<td>Telephone</td>
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<td></td>
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<table>
<thead>
<tr>
<th>Independent Certifier</th>
<th>Name</th>
<th>[TBC]</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Address</td>
<td>[TBC]</td>
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<tr>
<td></td>
<td>Attention</td>
<td>[TBC]</td>
</tr>
</tbody>
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| Governing law | New South Wales |

<table>
<thead>
<tr>
<th>Recitals</th>
<th>A</th>
<th>ED Operator, RMS and AGNSW have entered into the Interface Deed.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>The Principal and the D&amp;C Contractor have entered into the D&amp;C Contract.</td>
</tr>
<tr>
<td></td>
<td>C</td>
<td>The Interface Deed and the D&amp;C Contract contemplate that an independent certifier will be engaged to carry out the Services.</td>
</tr>
<tr>
<td></td>
<td>D</td>
<td>ED Operator, RMS, AGNSW, the Principal and the D&amp;C Contractor wish to engage an independent certifier to carry out the Services.</td>
</tr>
<tr>
<td></td>
<td>E</td>
<td>The Independent Certifier has represented to ED Operator, RMS, AGNSW, the Principal and the D&amp;C Contractor that it has the experience and expertise in the carrying out of services equivalent to the Services.</td>
</tr>
<tr>
<td></td>
<td>F</td>
<td>The Independent Certifier has agreed to carry out the Services and its other obligations arising out of or in any way in connection with this document in accordance with the terms and conditions of this document.</td>
</tr>
</tbody>
</table>
General terms

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this document are set out below.

**Authorised Officer** means:

(a) in the case of the Principal, the mayor, the chief executive officer, chief financial officer and any other officer of the Principal nominated by the Principal to act as an authorised officer for the purposes of this document; and

(b) in the case of any other party, a director or secretary of that party or any other person nominated by that party to act as an authorised officer for the purposes of this document.

**Business Day** means a day on which banks are open for general banking business in Sydney, New South Wales (not being a Saturday, Sunday or public holiday in that place).

**Certificate** means a certificate issued by the Independent Certifier under this document.

**Certificate of Works Completion** has the meaning given in the Interface Deed.

**Claim** means any claim, loss, suit, proceeding, action, cause of action, demand, notice, litigation, investigation, judgment, execution, liability or responsibility, including for any Damages or for any injury or death, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), in equity, statute or otherwise.

**Commencement Date** means the date that this document is executed by all of the parties to this document.

**Communications** has the meaning given in clause 17.1(a).

**Confidential Information** means all Information disclosed to the Receiving Party or any Related Body Corporate of the Receiving Party, under or in connection with this document, including:

(a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Disclosing Party or any of its Related Bodies Corporate;

(b) information derived or produced partly or wholly from the Information including any calculation, conclusion, summary or computer modelling; or

(c) trade secrets or information which is capable of protection at law or equity as confidential information,

whether the Information was disclosed:
(d) orally, in writing or in electronic or machine readable form;

(e) before, on or after the date of this document;

(f) as a result of discussions between the parties concerning or arising out the matters the subject of this document; or

(g) by the Disclosing Party or its Representative, any of its Related Bodies Corporate, or by any third person.

Corporations Act means the Corporations Act 2001 (Cth).

Costs means all costs, expenses, losses, charges and payments including any fees payable to consultants, agents or contractors, legal fees (on a full indemnity basis) and any administration costs.

Current Design Documentation has the meaning given in the Interface Deed.

Damages means any loss, Costs or damage whatsoever including, but not limited to, direct, indirect, incidental, consequential or special damages, damage to property or to land.

Date of Works Completion means the date specified by the Independent Certifier in a Certificate of Works Completion as the date on which Works Completion was achieved.

Design Documentation has the meaning given to it in the Interface Deed.

Design Documentation Amendment has the meaning given to it in the Interface Deed.

Design Package has the meaning given to it in clause 2 of Schedule 6 of the Interface Deed.

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

Disclosing Party means the party disclosing Confidential Information.

Dispute includes any dispute, controversy, difference or Claim arising out of or in connection with this document or the subject matter of this document, including any question concerning its formation, validity, interpretation, performance, breach and termination.

Dispute Notice has the meaning given in clause 11.2(a)(i).

document means the agreement between the parties as set out in this document.

Document Particulars means the particulars set out in Schedule 1 ("Document Particulars").

D&C Contract means the contract between the Principal and the D&C Contractor dated [insert] for the design and construction of the Works.

ED IFC Design Documentation has the meaning given to it in the D&C Contract.

ED Land has the meaning given in the Interface Deed.

Excluded Information means Confidential Information which:
(a) is in or becomes part of the public domain other than through breach of this document or an obligation of confidence owed to the Disclosing Party or any Related Body Corporate of the Disclosing Party;

(b) the Receiving Party can prove by contemporaneous written documentation was already known to it at the time of disclosure by the Disclosing Party or its Related Bodies Corporate or Representatives (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality); or

(c) the Receiving Party acquires from a source other than the Disclosing Party or any Related Body Corporate or Representative of the Disclosing Party where such source is entitled to disclose it.

**Good Industry Practice** means the exercise of that degree of skill, diligence and prudence which would reasonably and ordinarily be expected from a prudent, experienced, properly qualified and competent person carrying out the role of independent certifier seeking in good faith to comply with its contractual obligations.

**GST** includes amounts defined as "GST" under the GST Act and "GST equivalents" payments under the GST and Related Matters Act 2000 (Qld) (or similar payments under corresponding legislation of any State or Territory).

**GST Amount** has the meaning given in clause 10.2(a).

**Information** means all information regardless of its Material Form relating to or developed in connection with:

(a) the business, technology or other affairs of the Disclosing Party or any Related Body Corporate of the Disclosing Party; or

(b) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is marked "confidential" or is otherwise indicated to be subject to an obligation of confidence owned or used by or licensed to the Disclosing Party or a Related Body Corporate of the Disclosing Party.

A person is **Insolvent** if:

(a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);

(b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller (as defined in the Corporations Act) appointed to its property;

(c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);

(d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed or any other action taken, in each case in connection with that person, in respect of any of the things described in paragraphs (a), (b) or (c);
(e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;

(f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);

(g) it is otherwise unable to pay its debts when they fall due; or

(h) something having a substantially similar effect to any of the things described in paragraphs (a) to (g) happens in connection with that person under the law of any jurisdiction.

Interface Deed means the deed entitled "Art Gallery of NSW Modern – Eastern Distributor Construction Interface and Access Deed" entered into between the ED Operator, RMS and AGNSW dated [insert].

Key Personnel means any of the people named in Item 1 of Schedule 1 ("Document Particulars").

Loss means, in relation to any person, any loss (including loss of reputation), liability, Damages, Cost, fine or penalty incurred by the person however arising and whether present or future, fixed or unascertained, actual or contingent whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.

Material Form includes any form (whether visible or not) of storage from which reproductions can be made.

Personal Information has the meaning given in the Privacy Act 1988 (Cth).

Planned ED Lane Occupancy Period has the meaning given in the Interface Deed.

Privacy Laws means:

(a) the Privacy Act 1988 (Cth); and

(b) any other requirement under Australian law, industry code, policy or statement relating to the handling of Personal Information.

Project has the meaning given to it in the Interface Deed.

Project Brief has the meaning given to it in the D&C Contract.

Project Plan has the meaning given to it in the Interface Deed.

Receiving Party means the recipient of Confidential Information.

Related Body Corporate has the meaning it has in the Corporations Act.

Representative means a duly authorised representatives of either ED Operator, RMS, AGNSW, the Principal and the D&C Contractor (as applicable).

Review Period has the meaning given to it in the Interface Deed.

Services means:

(a) all of the powers, obligations, duties, functions, services and tasks conferred on, or contemplated to be carried out by the Independent Certifier under this document and the Interface Deed and the D&C
Contract (including the functions as described in Schedule 3 ("Services")) as varied from time to time in writing by the parties; and

(b) without limiting paragraph (a) above, all other things and tasks not described in this document or the Interface Deed or the D&C Contract if those things or tasks should have been reasonably anticipated by an experienced and professional provider of services equivalent to the Services as being necessary for the carrying out of the Services or which are otherwise capable of inference from this document or the Interface Deed or the D&C Contract.

Site has the meaning given to it in the D&C Contract.

Statutory Requirements has the meaning given to it in the D&C Contract.

Temporary Works has the meaning given to it in the D&C Contract.

Termination Event means:

(a) the Independent Certifier is Insolvent;

(b) the Independent Certifier fails or refuses to perform all or any part of its obligations, duties and functions under this document, the Interface Deed and the D&C Contract within the time required under this document, the Interface Deed or the D&C Contract (as applicable); or

(c) the Independent Certifier commits a material breach of any of its obligations, duties and functions under this document and fails promptly to remedy such breach after notice jointly from the Principal, ED Operator and RMS to the Independent Certifier requesting it to do so.

Test has the meaning given to it in the D&C Contract.

Works has the meaning given in the Interface Deed.

Works Completion has the meaning given to it in the Interface Deed.

Zone 1 has the meaning given in the Interface Deed.

Zone 2 has the meaning given in the Interface Deed.

Zone 2B has the meaning given in the Interface Deed.

Zone 3 has the meaning given in the Interface Deed.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

(a) the singular includes the plural and vice versa;

(b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);

(c) a reference to a document or an agreement (including this document) includes the document or agreement as varied, novated, supplemented, extended, replaced or restated;
(d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;

(e) a reference to a party is to a party to this document, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes and, in the case of a trustee, includes a substituted or additional trustee;

(f) a reference to an Authority includes that Authority's successors and substitutes or any agency that performs substantially the same functions and powers;

(g) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

(h) a reference to a time of day is a reference to Sydney, New South Wales time;

(i) a reference to dollars, $ or A$ is a reference to the currency of Australia;

(j) a reference to "Law" includes common law, principles of equity and legislation (including regulations);

(k) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

(l) a reference to "regulations" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);

(m) an agreement, representation, warranty or indemnity by 2 or more persons binds them jointly and each of them individually;

(n) an agreement, representation, warranty or indemnity in favour of 2 or more persons is for the benefit of them jointly and each of them individually;

(o) a reference to any thing (including an amount) is a reference to the whole and each part of it;

(p) a rule of construction does not apply to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it;

(q) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;

(r) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;

(s) if the day on which a party must do something under this document is not a Business Day, the party must do it on the next Business Day;

(t) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually; and

(u) labels used for definitions are for convenience only and do not affect interpretation.
2 Appointment

2.1 Engagement of Independent Certifier

The Independent Certifier is engaged by ED Operator, RMS, AGNSW, the Principal and the D&C Contractor as an independent certifier to carry out the obligations, functions, duties and services of an independent certifier in accordance with the Interface Deed and the D&C Contract, which obligations, functions, duties and services include the carrying out of the Services.

2.2 Services

In carrying out the Services, the Independent Certifier must:

(a) comply with all Laws;

(b) act as an expert and not as an arbitrator;

(c) at all times act independently of ED Operator, RMS, AGNSW, D&C Contractor and the Principal;

(d) at all times act impartially, reasonably, fairly, honestly and with due expedition and without delay (and in any event within the time requirements for the carrying out of its obligations specified in this document, the Interface Deed and the D&C Contract);

(e) exercise all reasonable skill, care and diligence expected of a properly qualified and competent professional rendering services of an equivalent nature to the Services and experienced in projects of a similar size, scope and complexity as the Works and in accordance with Good Industry Practice;

(f) not waive or vary any requirements in the D&C Contract or the Interface Deed;

(g) not discharge or release a party from any of its obligations arising out of the D&C Contract or the Interface Deed;

(h) provide a copy of any certificate or determination made in the course of performing the Services to each of ED Operator, RMS, AGNSW and the Principal on the same day as the issue of such certificate or determination;

(i) ensure that only Key Personnel carry out the Services;

(j) carry out the Services within the time limits specified in the D&C Contract and the Interface Deed and if no time limit is specified for the performance of a particular Service then by the date that is 10 Business Days after the date on which the requirement to perform the Service arose; and

(k) carry out the Services in a manner which does not prevent, hinder, disrupt, delay or otherwise interfere with any work or services performed by any person except where it is the unavoidable consequence of performing the Services.

2.3 Key Personnel

The Independent Certifier may appoint different persons to be the Key Personnel for the purposes of this document with the prior written approval of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor. ED Operator, RMS, AGNSW, the Principal and the D&C Contractor must not unreasonably withhold
their approval if the persons nominated by the Independent Certifier hold the same or substantially similar position, skills and qualifications as the Key Personnel named in Schedule 1 ("Document Particulars").

2.4 Binding certificates and determinations

(a) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor acknowledge and agree that all certificates or determinations provided by the Independent Certifier in performing the Services shall, in the absence of manifest error of fact or law or a breach of this document, be final and binding on ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

(b) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor believes a manifest error of fact or law has occurred in relation to a certificate or determination of the Independent Certifier, or the Independent Certifier has breached this document, that party may raise this as a Dispute in accordance with clause 11 ("Dispute Resolution") of this document.

2.5 Progress reports

Throughout the term of this document, the Independent Certifier must provide a monthly progress report to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor, by the seventh day of the following month and in such format as is required by the Principal, containing, identifying or setting out:

(a) a description of the Services undertaken during the reporting period;

(b) a summary of key risks and issues relating to the Services; and

(c) details of any D&C Contractor non-conformances relevant to the Interface Deed raised by the Independent Certifier or AGNSW or the Principal and details on the verification of the rectification by D&C Contractor of non-conformances.

3 Term

3.1 Commencement

The engagement of the Independent Certifier commences on the Commencement Date and, unless terminated earlier under clause 3.2, continues until the Independent Certifier has completed and discharged all of its duties and functions under this document.

3.2 Termination

This document will terminate immediately on:

(a) the termination of the D&C Contract and the Interface Deed (in which case this document terminates automatically); or

(b) termination of this document in accordance with clause 14,

save in relation to any matter which remains outstanding and in progress as at the date of termination, which will continue to be subject to, and be completed in accordance with, the terms of this document.
4 Independent Certifier's acknowledgements

The Independent Certifier acknowledges that:

(a) it has received a copy of the D&C Contract and the Interface Deed;

(b) its obligations under this document extend to and include the obligations, functions, duties and services of the 'independent certifier' arising under the D&C Contract and the Interface Deed; and

(c) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor:

(i) are entitled to, and will, rely on:

(A) the skill and expertise of the Independent Certifier in performing the Services; and

(B) any certificate or determination that the Independent Certifier signs or gives; and

(ii) may suffer loss if the Independent Certifier does not perform the Services in accordance with this document.

5 Representations and warranties

5.1 Authority to act

The Independent Certifier represents and warrants to each of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it is validly existing under the Laws of its place of incorporation or registration;

(b) its obligations under this document are valid, legal and binding obligations enforceable against it in accordance with its terms, subject to equitable remedies and laws in respect of the enforcement of creditor's rights;

(c) other than as expressly set out in this document it has no right or authority to give any directions to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor; and

(d) it has no authority to waive any terms or conditions of the D&C Contract or the Interface Deed, or to amend or vary those terms or conditions or discharge or release:

(i) the Principal or the D&C Contractor from any of their respective obligations under the D&C Contract; or

(ii) the ED Operator, RMS, or AGNSW from any of their respective obligations under the Interface Deed.

5.2 Conflicts of interest

The Independent Certifier represents and warrants to each of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it has disclosed all contractual relationships that it has in connection with the Works to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor;
at the date of its execution and delivery of this document, no conflict of interest exists or is likely to arise in connection with the performance of its obligations and the discharge of its duties and functions under this document; and

if, during the term of this document, any such conflict or risk of conflict of interest arises, the Independent Certifier will notify ED Operator, RMS, AGNSW, the Principal and the D&C Contractor immediately in writing of that conflict or risk of conflict and comply with all reasonable requests or directions of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly in relation to such conflict or risk of conflict.

5.3 Knowledge of requirements

The Independent Certifier represents and warrants to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it has the skill, experience and ability to perform the Services;

(b) it has read, and is familiar with, the terms of the D&C Contract and the Interface Deed in so far as they relate to the Services;

(c) without limiting clause 5.3(a), it has informed itself of all time limits and other requirements for any function that the Independent Certifier must perform under the D&C Contract and the Interface Deed;

(d) it has informed itself of the nature of the work necessary to perform the Services and (so far as possible) the means of access to and facilities on the land on which the Works are to be carried out, including any restrictions on that access; and

(e) it has satisfied itself that the fee payable under this document is sufficient having regard to the costs that it will incur in complying with its obligations under this document.

6 Variation and suspension

6.1 Variation

(a) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may give the Independent Certifier a notice jointly instructing the Independent Certifier:

(i) to vary a Service;

(ii) not to carry out a Service; or

(iii) to carry out a Service that is not listed in Schedule 3 ("Services") at the date of this document.

(b) The Independent Certifier must comply with that notice.

6.2 Meeting with other parties

(a) If any of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor is of the opinion that the Independent Certifier is not performing any of the Services in accordance with this document, that party may call a meeting with the other parties (other than the Independent Certifier) by giving a notice of the meeting (to be held at least 2 Business Days after the notice is given to the other party) to decide on appropriate action to resolve the issue and duly authorised
representatives of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor ("Representatives") must attend the meeting.

(b) Without limiting the discussion or the decision made, the Representatives must consider at that meeting whether to resolve the issue referred to in clause 6.1(a) by any one or more of the following:

(i) requesting the Independent Certifier to comply with this document;

(ii) changing the Services in accordance with clause 6.1(a)(i);

(iii) asking the Independent Certifier not to carry out a Service under clause 6.1(a)(ii);

(iv) appointing a substitute Independent Certifier in connection with those Services in accordance with clause 6.4;

(v) suspending all or any of the Services in accordance with clause 6.2; and

(vi) terminating the appointment of the Independent Certifier in accordance with clause 14.

6.3 Suspension of Services

ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may give the Independent Certifier a notice jointly instructing the Independent Certifier to suspend its performance of any or all of the Services until ED Operator, RMS, AGNSW, the Principal and the D&C Contractor give the Independent Certifier a notice instructing the Independent Certifier to recommence performing those Services. The Independent Certifier cannot make any claim against ED Operator, RMS, AGNSW, the Principal or the D&C Contractor if any or all of the Services are suspended under this clause 6.3.

6.4 Substitute Independent Certifier appointed

(a) Subject to clause 6.2(b)(iv), ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may appoint another independent certifier to carry out Services that they have instructed the Independent Certifier not to carry out under clause 6.1(a)(ii).

(b) As between ED Operator, RMS, AGNSW, the Principal and the D&C Contractor (but not as between ED Operator, RMS, AGNSW, the Principal and the D&C Contractor and the Independent Certifier) decisions of the substitute Independent Certifier are to be treated as if they are decisions of the Independent Certifier.

(c) Subject to any claim that ED Operator, RMS, AGNSW, the Principal or the D&C Contractor may have in respect of the Independent Certifier's performance, the Independent Certifier is not responsible for the substitute Independent Certifier's performance.

6.5 Independent Certifier must continue to perform

Despite any action by ED Operator, RMS, AGNSW, the Principal or the D&C Contractor under this clause 6, the Independent Certifier must continue to perform the Services, as varied under clause 6.1(a)(i), in accordance with this document.
7 Insurance

(a) At least 10 Business Days before commencing the carrying out of the Services, the Independent Certifier must effect and maintain the insurances:

(i) on terms as set out in Schedule 4 ("Insurance") and as are acceptable to ED Operator, RMS, AGNSW and the Principal, acting reasonably;

(ii) with insurer(s) that are regulated by the Australian Prudential Regulation Authority and maintain an external financial security rating of not less than A- Standard and Poors (or equivalent other ratings agency), or are acceptable to ED Operator, RMS, AGNSW and the Principal, acting reasonably;

(iii) with a limit of indemnity of not less than the amount (if any) stated in Schedule 4 ("Insurance"); and

(iv) for the period of time stated in Schedule 4 ("Insurance").

(b) At least 5 Business Days prior to commencing the carrying out of the Services, and as and when otherwise required by ED Operator, RMS, AGNSW, the Principal or the D&C Contractor, the Independent Certifier must produce for inspection documentary evidence that the insurances in sub-clause (a) have been effected and are being maintained in accordance with this document. The effecting of insurance under this clause 7 shall not in any way limit the obligations and liabilities of the Independent Certifier under the provisions of this document.

8 Indemnity

(a) The Independent Certifier indemnifies ED Operator, RMS, AGNSW, the Principal and the D&C Contractor from and against any Claim or Loss which ED Operator, RMS, AGNSW, the Principal and the D&C Contractor or any one of them suffers, incurs or becomes liable for or may suffer, incur or become liable for arising out of or in any way in connection with a breach by the Independent Certifier of this document or any wrongful or negligent act or wrongful or negligent omission of the Independent Certifier.

(b) The Independent Certifiers liability to indemnify the Principal will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of the Principal directly contributed to the relevant Loss or Claim.

(c) The Independent Certifiers liability to indemnify ED Operator will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of ED Operator directly contributed to the relevant Loss or Claim.

(d) The Independent Certifiers liability to indemnify the D&C Contractor will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of the D&C Contractor directly contributed to the relevant Loss or Claim.

(e) The Independent Certifiers liability to indemnify RMS will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of RMS directly contributed to the relevant Loss or Claim.
(f) The Independent Certifier’s liability to indemnify AGNSW will be reduced proportionally to the extent that any act or omission of AGNSW directly contributed to the relevant Loss or Claim.

9 Payment

9.1 Fees

AGNSW is liable to pay the fees set out in Schedule 2 ("Fees") for the performance of the Services by the Independent Certifier.

9.2 Invoices

At the end of each calendar month, the Independent Certifier must submit to AGNSW a detailed payment claim, in a form approved by AGNSW, showing:

(a) the total amount previously paid to the Independent Certifier in respect of the performance of the Services;

(b) the amount claimed by the Independent Certifier for that month or period in relation to the Services; and

(c) such other information as may be reasonably required by AGNSW.

9.3 Payment

Within 20 Business Days after receipt of a claim under clause 9.2, AGNSW must assess and pay to the Independent Certifier the amount properly payable to the Independent Certifier for that month or period in respect of the Services.

10 Goods and services tax

10.1 Interpretation

For the purposes of this clause 10:

(a) "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

(b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 10 unless the contrary intention appears;

(c) unless expressly stated otherwise in this document, all consideration to be provided under this document is exclusive of GST; and

(d) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it were a separate supply.

10.2 Payment of GST

(a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply ("GST Amount").

(b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
(c) This clause 10.2 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

10.3 Adjustment events
If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

10.4 Reimbursements
Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 10.2 will apply to the reduced payment.

10.5 Calculation of payments
If an amount payable under this document is to be calculated by reference to:

(a) the amount payable for a taxable supply then, for the purposes of that calculation, the amount is to be calculated by reference to the GST-exclusive amount payable for the taxable supply; and

(b) the amount payable for an acquisition then, for the purposes of that calculation, the amount payable is calculated by reference to the GST-exclusive amount payable for the acquisition.

10.6 Survival
Clause 10.1 to clause 10.5 inclusive do not merge on the rescission, termination or expiration of this document.

11 Dispute resolution
11.1 Determination of Disputes
Any Dispute will be resolved in accordance with the requirements and procedures set out in this clause 11.

11.2 Negotiation
(a) If any party considers that there is a Dispute, then:

   (i) that party may notify the other parties in writing of the Dispute, setting out full particulars of the Dispute ("Dispute Notice");

   (ii) within 10 Business Days after the Dispute Notice is given under clause 11.2(a)(i), the Representatives of each party will meet and use reasonable endeavours to resolve the Dispute by joint discussions;

   (iii) if the Dispute has not been resolved within 20 Business Days after the date on which the Dispute Notice was given under clause 11.2(a)(i), any party may refer the Dispute to senior representatives of each other party (who must have authority to settle the Dispute and who must not be a Representative under this document) who will meet within 5 Business Days and use
reasonable endeavours to resolve the Dispute by joint discussions; and

(iv) if the Dispute has not been resolved within 20 Business Days after the date on which the Dispute was referred to senior representatives under clause 11.2(a)(i), any party may refer the Dispute to the chief executive officers (or equivalent personnel) of each party who will meet within 5 Business Days and use reasonable endeavours to resolve the Dispute by joint discussions.

(b) Each meeting under clause 11.2(a) will be without prejudice except to the extent of any agreements made, recorded and signed by the attendees.

11.3 Failure to resolve Dispute by negotiation

If the Dispute is not settled by negotiation under clause 11.2, then any party may commence court proceedings in relation to the Dispute.

11.4 Court proceedings and other relief

A party may not start court proceedings in relation to a Dispute until it has complied with the procedures in this clause 11, unless the party seeks injunctive or other interlocutory relief.

11.5 Continuation of rights and obligations

Despite the existence of a Dispute or difference each party will continue to perform its obligations under this document.

12 Assignment and subcontracting

12.1 Independent Certifier

The Independent Certifier:

(a) must not assign this document or subcontract any part of the Services without the prior written consent of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor; and

(b) remains responsible for performing the Services in accordance with this document, despite any subcontracting.

12.2 ED Operator, RMS, AGNSW and the Principal

ED Operator, RMS, AGNSW or the Principal may assign this document where, at the same time of the assignment, ED Operator, RMS or AGNSW (as applicable) assigns to the assignee the Interface Deed and in the case of the Principal, the D&C Contract.

12.3 D&C Contractor

The D&C Contractor may not assign, transfer or otherwise deal with its rights under this document without the prior written consent of the Principal.

13 Information, access and assistance

13.1 Information

ED Operator, RMS, AGNSW, the Principal and the D&C Contractor must each provide such information and documentation to the Independent Certifier as:
(a) is required to be provided under this document, the Interface Deed or the D&C Contract and at the times that information and documentation is required to be provided under this document, the Interface Deed or the D&C Contract; and

(b) otherwise is reasonably required by the Independent Certifier to enable it to perform its obligations and discharge its duties and functions under this document and as soon as reasonably practicable after the Independent Certifier requests that information and documentation.

13.2 Access

(a) The Principal, AGNSW and the D&C Contractor must provide such access to the Works as may be required by the Independent Certifier, or as is necessary, from time to time, to enable the Independent Certifier to perform its obligations and discharge its duties and functions under this document.

(b) The Independent Certifier must, when accessing the Works under clause 13.2(a):

(i) comply with any reasonable access requirements and procedures (including protocols relating to site management, safety, security, insurance and industrial relations matters) stipulated by the Principal, AGNSW or the D&C Contractor, and ensure that its officers, employees, agents and contractors also comply with such requirements and procedures; and

(ii) not, and must use its reasonable endeavours to ensure that its officers, employees, agents and contractors also do not, unreasonably obstruct or interfere with the carrying out of the Works.

(c) If the Independent Certifier requires access to Zone 2B or Zone 3 to enable it to perform its obligations and discharge its duties and functions under this document, then it may only access that land with ED Operator’s prior written consent (not to be unreasonably withheld) and it must, when accessing that land:

(i) comply with any reasonable access requirements and procedures (including protocols relating to site management, safety, security, insurance and industrial relations matters) stipulated by ED Operator, and ensure that its officers, employees, agents and contractors also comply with such requirements and procedures; and

(ii) not, and must ensure that its officers, employees, agents and contractors also do not:

(A) access Zone 3 other than during Planned ED Lane Occupancy Periods agreed between AGNSW and ED Operator under the Interface Deed;

(B) interfere with the operation and use of Zone 2B and Zone 3 and other property (including infrastructure) on those areas; or

(C) cause any traffic adjustment on Zone 3 or impact on Zone 2B and Zone 3 and other property (including infrastructure) on those areas.
13.3 Assistance
ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree to:

(a) promptly provide the Independent Certifier with whatever other assistance the Independent Certifier may reasonably require in connection with the performance of its obligations and the discharge of its duties and functions under this document;

(b) not interfere or attempt to influence the Independent Certifier so that the Independent Certifier breaches its obligations under clause 2.2(c); and

(c) provide to the Independent Certifier on request such information as the Independent Certifier reasonably requires in order to assist the Independent Certifier in carrying out and performing the Services.

13.4 Specialist advice

(a) In carrying out the Services, the Independent Certifier will, if it is necessary to obtain consultant or specialist advice, obtain that advice from sub-consultants and contractors independent of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor, unless ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree otherwise.

(b) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor do not approve the appointment of the sub-consultant or contractor requested by the Independent Certifier, such approval not to be unreasonably withheld or delayed, then the issue of the appointment of the subcontractor or contractor will be treated as a dispute and dealt with in accordance with clause 11.

(c) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree with the Independent Certifier's request or appointment of the sub-consultant or contractor determined under clause 11, then the Independent Certifier must engage that sub-consultant or contractor on terms reasonably approved by the ED Operator, RMS, AGNSW, the Principal and the D&C Contractor at the cost of AGNSW.

14 Termination

14.1 Termination by ED Operator, RMS, AGNSW, the Principal and the D&C Contractor

ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly may terminate this document:

(a) immediately by written notice to the Independent Certifier if a Termination Event occurs; or

(b) upon 30 Business Days written notice to the Independent Certifier.

14.2 Termination by the Independent Certifier

The Independent Certifier may terminate this document upon 30 Business Days' notice to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor if there are persistent material breaches of the payment obligations of AGNSW under clause 9 and such breaches are not promptly remedied or cured after notice from the Independent Certifier.

14.3 Accrued rights or remedies not affected

Termination of this document does not affect any accrued rights or remedies of any party.
14.4 Return of records

(a) Within 5 Business Days after the termination of the engagement of the Independent Certifier, the Independent Certifier must deliver to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly all books, records, plans, specifications and other documents relating to the obligations, functions or duties of the Independent Certifier under this document which are in its possession or under its control. The Independent Certifier may keep for its own records a copy of any such books, records, plans, specifications, or other documents so delivered to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

(b) The Independent Certifier acknowledges that ED Operator, RMS, AGNSW, the Principal and the D&C Contractor have the right to use, for the purposes of the works, all books, records, plans, specifications and other documents the Independent Certifier has delivered to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

15 Confidential Information and privacy

15.1 Confidential Information

Subject to clauses 15.4 and 15.5, no Confidential Information may be disclosed by the Receiving Party to any person except:

(a) to Representatives of the Receiving Party or its Related Bodies Corporate requiring the information for the purposes of this document;

(b) with the prior written consent of the Disclosing Party;

(c) if the Receiving Party is required to do so by law, a stock exchange or any regulatory authority; or

(d) if the Receiving Party is required to do so in connection with legal proceedings relating to this document.

15.2 Disclosure of Confidential Information

If the Receiving Party discloses information under clause 15.1(a) or (b) the Receiving Party must use its reasonable endeavours to ensure that recipients of the Confidential Information do not disclose the Confidential Information except in the circumstances permitted in clause 15.1.

15.3 Use of Confidential Information

The Receiving Party must not use any Confidential Information except for the purpose of performing its obligations under this document.

15.4 Excluded Information

Clauses 15.1, 15.2 and 15.3 do not apply to Excluded Information.

15.5 Privacy

The Independent Certifier agrees:

(a) to comply with all relevant Privacy Laws in connection with Personal Information;

(b) not to disclose Personal Information outside of Australia without written consent from the Principal;
(c) not to do anything with Personal Information that may cause the Principal to be in breach of any relevant Privacy Law; and

(d) not to give access to, or copies of, Personal Information to anyone unless required to do so under a Privacy Law.

This clause 15.5 prevails over the balance of this clause 15 to the extent of any inconsistency in respect of Personal Information which is also Confidential Information.

15.6 Use of Personal Information

If a party is required or authorised by this document or by Law to retain any Personal Information which is part of the Confidential Information, that party may use and disclose that Personal Information for the purpose for which it is required or authorised to be retained under this document or as required by that other Law.

15.7 Survival on termination

This clause 15 will survive termination of this document.

16 Announcements

16.1 Public announcements

Subject to clause 16.2, the Independent Certifier may not make or send a public announcement, communication or circular concerning the matters referred to in this document unless it has first obtained the written consent of ED Operator, RMS, AGNSW and the Principal which consent is not to be unreasonably withheld or delayed.

16.2 Public announcements required by law

Clauses 15.1 and 16.1 do not apply to a public announcement, communication or circular required by Law or a regulation of a stock exchange, if the party required to make or send it has:

(a) provided the other party with sufficient notice to enable it to seek a protective order or other remedy; and

(b) provided all assistance and co-operation that the other party considers necessary to prevent or minimise that disclosure.

17 Communications

17.1 Form

(a) Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications ("Communications") in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

(b) All Communications (other than email Communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

(c) Email Communications must state the first and last name of the sender and are taken to be signed by the named sender.
17.2 Delivery

Communications must be:

(a) left at the address referred to in the Details;

(b) sent by prepaid ordinary post (airmail if appropriate) to the address referred to in the Details; or

(c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then Communications must be sent to the changed contact details.

17.3 Certain Communications not to be sent by email

Despite anything else in this clause 17, the following Communications must not be sent by email:

(a) a notice terminating this document under clause 14; and

(b) a Dispute Notice given under clause 11.

17.4 When effective

Communications take effect from the time they are received or taken to be received under clause 17.5 (whichever happens first) unless a later time is specified in the Communication.

17.5 When taken to be received

Communications are taken to be received:

(a) if sent by post, 5 days after posting (or 10 days after posting if sent from 1 country to another); or

(b) if sent by email:

(i) when the sender receives an automated message confirming delivery; or

(ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

17.6 Receipt outside business hours

Despite anything else in this clause 17, if Communications are received or taken to be received under clause 17.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

18 General

18.1 Prompt performance

If this document specifies when a party agrees to perform an obligation, the party agrees to perform it by the time specified. Each party agrees to perform all other obligations promptly.
18.2 Variation
A provision of this document may not be varied except in writing signed by each party.

18.3 Remedies cumulative
The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by Law independently of this document.

18.4 Consents, approvals or waivers
(a) A provision of this document, or any right, power or remedy created under it, may not be waived except in writing signed by the party giving the waiver. A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A party is not liable for any loss of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

(b) By giving any approval, consent or waiver a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

18.5 No reliance
No party has relied on any statement by any other party that has not been expressly included in this document.

18.6 Further assurances
Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

18.7 Discretion in exercising rights
Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

18.8 Indemnities and reimbursement obligations
Any indemnity, reimbursement or similar obligation in this document given by the Independent Certifier:

(a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;

(b) is independent of any other obligations under this document; and

(c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

18.9 No Merger
The rights and obligations of the parties under this document do not merge after the expiry of this document.
18.10 Counterparts
This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of this document.

18.11 Service of process
Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Communications under this document.

18.12 Entire agreement
This document constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

18.13 Supervening Law
Any present or future Law which operates to vary the obligations of a party in connection with this document with the result that any other party’s rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

18.14 Provisions prohibited by Law
If:
(a) a Law would otherwise make a provision of this document illegal, void or unenforceable; or
(b) a provision of this document would otherwise contravene a requirement of a law or impose an obligation or Loss which is prohibited by Law,

this document is to be read as if that provision were varied to the extent necessary to comply with that Law or, if necessary, omitted.

18.15 Relationship
Except where this document expressly states otherwise, it does not create a relationship of employment, trust, agency, partnership or joint venture between the parties.

18.16 Rights cumulative
Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

18.17 Governing Law and jurisdiction
The Law in force in New South Wales governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

18.18 Inconsistent Law
To the extent the Law permits, this document prevails to the extent it is inconsistent with any Law.

18.19 No liability for Loss
Unless this document expressly states otherwise, ED Operator, RMS, AGNSW, the Principal and the D&C Contractor are not liable for any Loss, or Costs arising
in connection with the exercise or attempted exercise of, failure to exercise, or
delay in exercising, a right, power or remedy in connection with this document.

18.20 Survival

Clauses [insert] and any other clauses which are expressed to survive
termination will survive rescission, termination or expiration of this document.

EXECUTED as a deed
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<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>PARTICULARS</th>
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<td>1</td>
<td>Key Personnel (clause 1)</td>
<td>[insert]</td>
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<tr>
<td>2</td>
<td>Independent Certifiers Representative (clause 1)</td>
<td>[insert]</td>
</tr>
</tbody>
</table>
Independent Certifier Deed

Schedule 2  Fees

1  Fixed fee
   For Services under Item no. [n] in Schedule 3  Fixed fee of $[#]
   For Services under Item no. [n] in Schedule 3  Fixed fee of $[#]

2  Schedule of rates
   Hourly and daily rate and fixed fees for any work in performing the Services or
   any other work instructed by ED Operator, RMS, AGNSW, the Principal and the
   D&C Contractor under clause 6.1(a)(iii):

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<thead>
<tr>
<th>Person</th>
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   Note: The above hourly and daily rates are inclusive of all disbursements and
   other expenses.
Independent Certifier Deed

Schedule 3  Services

1  Services
1.1  Scope of Services
(a)  The Independent Certifier must discharge the functions, obligations, duties and services which the D&C Contract, the Interface Deed and this document contemplate will be discharged by the Independent Certifier, including the following:

(i)  receive and review each revision of the Project Plans within [10] Business Days of submission of the plan from the D&C Contractor or AGNSW or the Principal (as applicable) and, if the Independent Certifier deems the Project Plans to be acceptable then, provide the relevant certification for each Project Plan;

(ii) receive and review all ED IFC Design Documentation and Design Documentation Amendments, attend all design meetings (as required) and obtain access to such premises as may be necessary or reasonably required for the performance of the obligations of the Independent Certifier;

(iii) receive and review the results of the Monitoring Regime as contemplated by item 7 of Schedule 3 to the Interface Deed;

(iv) certify that the ED IFC Design Documentation and each Design Documentation Amendment complies with the Interface Deed and the D&C Contract;

(v)  review the Contractor’s schedule of designated witness points as required by the Interface Deed and obtain RMS and ED Operator acceptance;

(vi) observe, monitor, review and assess the quality of the Works and the durability of the Works to verify the Contractor’s compliance with the requirements of the Design Documentation and the ED IFC Design Documentation;

(vii) independently certify that the Works comply with, and are constructed in accordance with, the Design Documentation and the ED IFC Design Documentation; and

(viii) execute and provide Certificates in the form of:

(A)  Project Plan certificates;

(B)  Design Documentation certificates;

(C)  Temporary Works certificates;

(D)  monthly construction certificates;

(E)  a Certificate of Works Completion;
(b) During the period from the date of this document until the Date of Completion, the Independent Certifier must in accordance with clause 2.5 of this document, provide a monthly progress report within [7] days of the following month.

2 Certification Activities

2.1 Application of certification activities

(a) The provision of certification services in respect of the Works undertaken by the D&C Contractor is the key process to be implemented by the Independent Certifier during the design and construction phases of the Project.

(b) The Independent Certifier must implement and operate systems for undertaking the functions set out below in clauses 2.2, 2.3, 2.4, 2.5 and 2.6 of this Schedule 3.

2.2 Review and certification of Project Plans

(a) The D&C Contractor is required by the D&C Contract to prepare and submit to the Principal, AGNSW, RMS and the ED Operator the Project Plans. The purpose of each Project Plan is for the D&C Contractor to describe in detail how the D&C Contractor intends to carry out the Works in accordance with the requirements of the D&C Contract;

(b) Project Plans are controlled documents that will require ongoing development, amendment and updating throughout the duration of the Works.

(c) The Independent Certifier must:

(i) maintain a register of all Project Plans received from the Contractor;

(ii) make itself familiar with all received Project Plans and raise comments where applicable; and

(iii) in accordance with clause 2.2(h) of this document, issue certificates and provide a copy of any certificate or determination made in the course of performing the Services to each of the ED Operator, RMS, AGNSW and the Principal.

2.3 Risk assessment

(a) The Independent Certifier acknowledges that the level and scope of certification of the design and certification of the construction activity will be based on a continuous risk assessment process taking into account the importance of, without limitation:

(i) commercial, safety and community involvement elements (etc.);

(ii) results of previous audits and surveillance;

(iii) engineering, environmental constraints and difficulties;

(iv) effect on future work; and

(v) any other item identified during the Works.

(b) The Independent Certifier will determine the extent and type of certification required for the Project having regard to the following:
(i) complexity of the design;
(ii) assessed risk and the likelihood and consequence of failure;
(iii) requirements of the D&C Contract, the Interface Deed, the Design Documentation and the ED IFC Design Documentation;
(iv) durability implications;
(v) adequacy of documentation content; and
(vi) compliance with this document, the Interface Deed and the D&C Contract.

2.4 Design certification

(a) The D&C Contractor is required under the D&C Contract to prepare and submit to the Principal, AGNSW, RMS and the ED Operator the ED IFC Design Documentation and any Design Documentation Amendment.

(b) The Independent Certifier will independently verify that the design of the Works (including any Temporary Works) complies with the requirements of the D&C Contract, the Design Documentation and the ED IFC Design Documentation.

(c) Design certification will be carried out to confirm compliance of the design with the current input documents, design criteria, design codes and standards, specifications and accepted engineering practice on all design elements.

Process

(a) The D&C Contractor must provide to the Independent Certifier, ED Operator and RMS a copy of each Design Package.

(b) The Independent Certifier will review, where appropriate, each Design Package (including, but not limited to, drawings, specifications and reports).

(c) During the review process the Independent Certifier is to ensure that any comment by RMS, ED Operator, the Principal or AGNSW (as applicable) on a Design Package has been incorporated or determined before the issue of the certificate for any Design Package.

(d) Following resolution of any outstanding qualifications and issues raised by the Independent Certifier, RMS, ED Operator, the Principal or AGNSW (as applicable), the Independent Certifier will certify that the Design Package complies with the D&C Contract and the Interface Deed.

(e) The design outputs, drawings and technical specifications will be reviewed to verify that the intended design inputs and technical requirements have been incorporated in the Design Package and the design output meets the requirements of the design criteria necessary to comply with the D&C Contract and the Interface Deed and all relevant Statutory Requirements and all relevant codes and standards.

(f) If any of ED IFC Design Documentation or Design Documentation Amendment is rejected, then the design amendments will be subjected to the same certification process outlined above.
(g) The Independent Certifier acknowledges that the response time for reviewing the Design Documentation will be [10] Business Days of receipt of the Design Documentation.

Other Outputs

(h) The Independent Certifier must review and certify amended ED IFC Design Documentation that might arise during the course of construction, including any Design Documentation Amendments.

2.5 Construction works certification

General

(a) The Independent Certifier must independently certify that the Works as constructed (including Temporary Works and product and processes) comply with the requirements of the D&C Contract, the Interface Deed, the Design Documentation and the certified ED IFC Design Documentation.

Works Completion

(b) When Works Completion of the Works has been achieved, the Independent Certifier must issue the Certificate of Works Completion, verifying that the Works have been completed in accordance with the D&C Contract, the Interface Deed, the Design Documentation, and the certified ED IFC Design Documentation.
## Independent Certifier Deed

### Schedule 4  Insurance

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Requirements</th>
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</table>
| **Public and Products Liability Insurance** | (a) Public and products liability policy that covers the liability of the Independent Certifier and indemnifies ED Operator, RMS, AGNSW, the Principal and the D&C Contractor and their Related Bodies Corporate and the Security Trustee, for:  
  (i) loss of or damage to property; and  
  (ii) the death of or injury to any person.  
(b) The limit of liability for public liability must be no less than $20 million for any one occurrence  
(c) The limit of liability for products liability must be $20 for each claim and in the aggregate for all occurrences in any one 12 month policy period.  
(d) The policy must be maintained from the Commencement Date until completion of the Services. |
| **Professional Indemnity**              | (a) Professional indemnity insurance covering the civil liability of the Independent Certifier arising from a breach of duty owed in a professional capacity, by reason of any act or omission of the Independent Certifier or any of its employees or agents.  
(b) The limit of liability must be no less than $10 million for any one claim and in the annual aggregate.  
(c) The policy must be maintained from the Commencement Date until the earlier of the expiry of 7 years after the date of completion of the Services or the expiry of 7 years after the termination of this document. |
| **Worker’s Compensation Insurance**     | (a) Workers’ compensation insurance as required by Law.  
(b) The limit of liability provided by the insurance policy must be not less than that required by Law.  
(c) The policy must be maintained so as to be in force from the Commencement Date until completion of the Services. |
Independent Certifier Deed

Signing page

DATED:____________________

ED Operator

EXECUTED by AIRPORT MOTORWAY LIMITED (ABN 26 057 283 093) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director

......................................................
Name of director (block letters)

......................................................
Signature of director/company secretary

......................................................
Name of director/company secretary (block letters)

EXECUTED by AMT MANAGEMENT LIMITED as trustee of the Airport Motorway Trust (ABN 55 078 953 607) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director/company secretary

......................................................
Name of director/company secretary (block letters)

......................................................
Signature of director

......................................................
Name of director (block letters)
SIGNED SEALED AND DELIVERED

for and on behalf of ROADS AND
MARITIME SERVICES by its
authorised delegate in the presence of:

..............................................  ............................................
Signature of witness  Authorised Delegate Signature

..............................................
Name of witness (block letters)  Print Name

Independent Certifier Deed

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8 November 2018
The monitoring regime will be developed by AGNSW and agreed with RMS and ED Operator once a Building Contractor is appointed, with consideration of Building Contractor's proposed design and construction method.

The monitoring regime will need to consider at least the following disciplines:

- Structural engineering (including, but not limited to, vibration, deflection and crack meters);
- Geotechnical (including, but not limited to, vibration, tilt meters, inclinometers, progressive geological mapping);
- Hydrogeology; and
- Arboriculture.

This will include monitoring the background conditions for an appropriate period to determine the ambient range of parameters at each location where monitoring is being carried out.
Exhibit 3 – Zones

Zone 1
Land identified as Zone 1 in attached drawings, comprising airspace, turf/grass, topsoil surface, subsoil on top of the protection slab, and drainage cells.

Zone 2A
Land identified as Zone 2A in attached drawings, comprising the surfaces of Zone 2B elements where in contact with Zone 1.

Zone 2B
Land identified as Zone 2B in attached drawings, being the ED land bridge structure, comprising any engineered or structural elements of the ED land bridge, including:
- the protection slab below the subsoil;
- the water proof membrane;
- concrete slab;
- girders;
- the sandstone / concrete walls supporting the ED land bridge; and
- balustrade on ED land bridge.

Zone 3
Land identified as Zone 3 in attached drawings, comprising the Eastern Distributor motorway and airspace under the ED land bridge.

Zone definition for Interface_V2.0.pdf

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38553019_51
Art Gallery of NSW Sydney Modern Project – Eastern Distributor Construction Interface and Access Deed
Exhibit 4 – Works for inspection by the Independent Certifier

Draft Extent of Landbridge Works
AREA OF THE PROJECT TO BE INSPECTED PRIOR TO ISSUING CERTIFICATE OF WORKS OF COMPLETION
AREA OF THE PROJECT TO BE INSPECTED PRIOR TO ISSUING CERTIFICATE OF WORKS OF COMPLETION

SANAA ART GALLERY OF NSW EXPANSION PROJECT - SYDNEY MODERN

Lower Level 4 Plan - Proposed Plan

Legend:
- Proposed Site
- Site Area
- Proposed Fences
- Proposed Trees
- Existing Trees to Remove
- Existing Site Lines to Be
- Temporary Fencing Walls

Notes:
- Legend on right side
- Site plan with various sections
- Date: 30 OT 3018

Plan Details:
- Area 4: Site Plan
- Area 3: Site Plan
- Area 2: Site Plan
- Area 1: Site Plan
Schedule 18 – Not used
Schedule 19 - Document Submission Schedule

Refer to clause 39 of the GC21 General Conditions of Contract.

1 Document submission schedule

All documents referred to in the Project Brief and the Preliminaries or other contract documents as requiring to be submitted, reviewed or approved by the Principal, including but not limited to:

- Design Documentation;
- Drawings (Architectural and all other disciplines);
- Specifications;
- Reports;
- Tests, Audits or inspection records; and
- Schedules or Data Sheets.

2 Project Plans

The Contractor must submit updated drafts of the Contractor’s Project Plans in accordance with the Contract, the Principal’s Project Requirements and this schedule.

In addition to the plans detailed below, the Contractor will also be required to prepare and update other Contractor’s Project Plans as required by legislation, regulation, the Principal’s Project Requirements and the Contract:

<table>
<thead>
<tr>
<th>Description</th>
<th>Full Plan submission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work Health and Safety Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Community Engagement Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Stakeholder Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Environmental Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Construction Management Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
</tr>
<tr>
<td>Design Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Demolition Management Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
</tr>
<tr>
<td>Description</td>
<td>Full Plan submission</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td>Construction Traffic Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Risk Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Quality Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Workplace Relations Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Remediation Action Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
</tr>
<tr>
<td>Completion Plan</td>
<td>9 months prior to the Contract Completion Date</td>
</tr>
</tbody>
</table>
Schedule 20 – Site Access Schedule

Refer to clauses 34, 34A and 34B of the GC21 General Conditions of Contract.

Ownership of the Sydney Modern Project development site is split between:

- the Art Gallery of NSW (AGNSW) Trust,
- Royal Botanic Gardens (RBG) and Domain Trust and
- Roads and Maritime Services (RMS).

Additionally, the land bridge structure over the ED, to the North East of the existing AGNSW building, forms part of the site. The operators of the ED are RMS and Airport Motorway Limited (AML).

The site access will be regulated by two documents:

- Development Agreement – between AGNSW, RMS and RBG – land owners, and
- ED Interface Deed – between AGNSW and ED operators (RMS and AML).

Part A - Site Plan

The Construction Site Plan indicates:

- Area 1 – Main Construction Site Area under control of the contractor for the duration of the project and consisting of:
  - Area 1A – General site area (including disused fuel bunker). Access to this area will be regulated by the Development Agreement.
  - Area 1B – land bridge over ED roadway. Access to this area is regulated by the ED Interface Deed.

- Area 2 – Secondary Construction Area. To be accessed by the contractor during the works to upgrade soft and hard landscaping in front of existing AGNSW building. Access of this area to be managed and staged to enable operations of the AGNSW at all times. Access to this area will be available for up to 6 months during the hard and
soft landscaping works. Access to this area will be regulated by the Development Agreement.

- Area 3 - Secondary Construction Area. To be accessed and occupied by the contractor for up to 12 months during installation of the Harbour Heat Rejection system. Access to this area will be regulated by the Development Agreement.

Further definition of the Area 1B – land bridge over ED

Area 1B (land bridge over ED) is further divided into 4 zones as identified below and indicated in the attached Area 1B – Zones Drawing Set.

**Zone 1**

Land identified as Zone 1 in attached drawings, comprising airspace, turf/grass, topsoil surface, subsoil on top of the protection slab, and drainage cells

**Zone 2A**

Land identified as Zone 2A in attached drawings, comprising the surfaces of Zone 2B elements where in contact with Zone 1.

**Zone 2B**

Land identified as Zone 2B in attached drawings, being the ED land bridge structure, comprising any engineered or structural elements of the ED land bridge, including:

- the protection slab below the subsoil;
- the waterproof membrane;
- concrete slab;
- girders;
- suspension;
- throw screens / surface level façade and walls;
- the sandstone / concrete walls supporting the ED land bridge; and
- balustrade on ED land bridge

**Zone 3**

Land identified as Zone 3 in attached drawings, comprising the Eastern Distributor motorway and airspace under the ED land bridge

**Part B - Site Access Dates**

Site access dates are set out in the table below:

| Area 1A and Area 1B – Zones 1 and 2A | 9 September 2019 (for the duration of the works) |
Area 1B – Zone 2B
Where Works are to be performed in Zone 2B, AGNSW must provide 5 Business Days’ prior written notice to the ED Operator and details of the Works intended to be performed.
Where, in the reasonable opinion of ED Operator, Project Activities performed in Zone 2B involve Works that cause or may cause a risk or threat to health or safety of any persons in or on Zone 3, and lanes of the ED Motorway will need to be closed for the duration of these Project Activities in order to limit that risk, then Zone 3 access requirements will apply.

Area 1B – Zone 3
Zone 3 access requirements as stipulated by the \textit{ED Interface Deed}.

Area 2
6 months from the project completion for a period of up to 6 months

Area 3
For up to 12 months from the programmed commencement of Harbour Heat Rejection installation works

\textbf{Part C – Site Access Conditions}

Site access conditions for the following areas will be in accordance with the requirements of \textit{ED Interface Deed} and the \textit{Development Agreement}:

- Area 1A and Area 1B – Zones 1 and 2A
- Area 2
- Area 3

References to the access conditions under \textit{Development Agreement}

| Clause 3.1 | Representatives |
| Clause 3.2 | Precinct Working Group, Meetings and Reports |
| Clause 3.3 | Stakeholder Engagement re RBGDT Land |
| Clause 7.1 | Grant of construction licence |
| Clause 7.2 | Dilapidation and ‘As is where is’ |
| Clause 7.3 | Access for inspection by Owners |
| Clause 7.4 | Access requirements for Owner |
| Clause 7.5 | Principal contractor |
| Clause 7.7 | Use of Mrs Macquaries Road and Art Gallery Road |
| Clause 10.1 | Contamination |
| Clause 10.2 | Relics and archaeological objects |
| Clause 10.3 | Care of Development Works |
| Clause 10.4 | Reinstatement |
| Schedule 8 | Construction Licence Site Plan |
Site access requirements for the Area 1B will be in accordance with the requirements of the *ED Interface Deed*.

Access requirements are specified in the *Schedule 2 – Access Requirements* of the Deed.
AREA 1 - MAIN CONSTRUCTION SITE UNDER CONTROL OF CONTRACTOR FOR DURATION OF PROJECT

AREA 2 - SECONDARY CONSTRUCTION SITE UNDER CONTROL OF CONTRACTOR FOR UP TO 6 MONTHS

AREA 3 - SECONDARY CONSTRUCTION SITE UNDER CONTROL OF CONTRACTOR FOR UP TO 12 MONTHS
Schedule 31 – Not used
Schedule 34 – Certificates

Refer to clauses 37F, 39, 65 and 67A of the GC21 General Conditions of Contract.

Part A – Consultant’s Design Certificate

To: Infrastructure NSW and Art Gallery of NSW

From: [Insert Consultant’s name] (ABN [Insert Consultant’s ABN]) (‘Consultant’)

In accordance with the terms of clauses [insert] of the contract between the Principal and [Insert Contractor’s name] (ABN [Insert Contractor’s ABN]) (“Contractor”) dated [insert date] with respect to the Works, we certify that the attached Design Documentation prepared by or on behalf of the Contractor:

(a) complies with all the requirements of the Contract, including the Project Brief; and

(b) is documented to enable construction of the Works in compliance with the Contract.

Unless otherwise defined in this notice, capitalised terms have the meaning given to them in the Contract.

Signed for and on behalf of [Insert Consultant’s name]
Part B – Certificate of Completion

[ON PRINCIPAL’S LETTERHEAD]

[Insert date]

[Contractor]
[Address]

CERTIFICATE OF COMPLETION

Dear [insert Contractor’s Authorised Person]

Contract for between [insert] and [insert] dated [insert] (reference [insert]) (the “Contract”)

Unless otherwise defined in this notice, capitalised terms have the meaning given to them in the Contract.

We refer to clause 65.5.1 of the Contract. We advise you that on [insert date] Completion was achieved. The Actual Completion is [insert date].

Yours sincerely

[Principal’s Authorised Person]
Part C – Certificate of Final Completion

[ON PRINCIPAL’S LETTERHEAD]

[Insert date]

[Contractor]
[Address]

CERTIFICATE OF FINAL COMPLETION

Dear [insert Contractor’s Authorised Person]

Contract for between [insert] and [insert] dated [insert] (reference [insert]) (the “Contract”)

Unless otherwise defined in this notice, capitalised terms have the meaning given to them in the Contract.

We refer to clause 67A.3 of the Contract. We advise you that on [insert date] Final Completion was achieved.

Yours sincerely


..........................................................

[ ]

[Principal’s Authorised Person]
Part D – Property Owner’s Certificate

(clause 37F)

This Deed Poll is in favour of:

Infrastructure NSW of [insert address] (ABN [insert]) ("Principal")

and

Art Gallery of NSW of [insert address] (ABN [insert]) ("AGNSW”),

and their successors and permitted assigns (together, the Beneficiaries).

PROPERTY ADDRESS: .................................................. ("Property")

1 I/We confirm that we are the registered owner/occupier/lessee of the Property.

2 I/We confirm that the following works have been carried out and completed on my/our property to my/our satisfaction:

   (a) [Insert description of works] ("Works")

3 I/We confirm that:

   (a) the Works have been carried out to my/our satisfaction;

   (b) the Property has been rehabilitated and all damage and degradation on it repaired to my/our satisfaction.

4 I/We release the Beneficiaries from all claims and actions (whether for damages or otherwise and howsoever arising) which l/we may have arising out of or in connection with the works referred to in section 1 above.

Signed as a Deed Poll

Signed, Sealed and Delivered by
[insert name] in the presence of:

______________________________
Signature of witness

______________________________
Name of witness in full
Schedule 35 – Contractor Warranty Deed

Refer to clause 9A of the GC21 General Conditions of Contract.

Contractor Warranty Deed

Dated

Art Gallery of NSW ABN/ACN/ARBN# ("AGNSW")
Infrastructure NSW ABN85 031 302 516 ("Principal")
[insert] ("Contractor")
#insert name and ABN/ACN/ARBN# ("Guarantor")
# Details

<table>
<thead>
<tr>
<th>Parties</th>
<th>AGNSW, Principal and Contractor</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGNSW</td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>[insert]</td>
</tr>
<tr>
<td>ABN/ACN/ARBN</td>
<td>[insert]</td>
</tr>
<tr>
<td>Address</td>
<td>[insert]</td>
</tr>
<tr>
<td>Email</td>
<td>[insert]</td>
</tr>
<tr>
<td>Attention</td>
<td>[insert]</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Principal</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>Infrastructure NSW</td>
</tr>
<tr>
<td>ABN/ACN/ARBN</td>
<td>85 031 302 516</td>
</tr>
<tr>
<td>Address</td>
<td>Level 15, 167 Macquarie St, Sydney NSW 2000</td>
</tr>
<tr>
<td>Email</td>
<td></td>
</tr>
<tr>
<td>Attention</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contractor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>[insert]</td>
</tr>
<tr>
<td>ABN/ACN/ARBN</td>
<td>[insert]</td>
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<td>Address</td>
<td>[insert]</td>
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<tr>
<td>Email</td>
<td>[insert]</td>
</tr>
<tr>
<td>Attention</td>
<td>[insert]</td>
</tr>
</tbody>
</table>

| Recitals   | A The Principal has entered into the Contract with the Contractor for the design and construction of a stand-alone building located north of the existing Art Gallery of NSW, partly extending over the Eastern Distributor land bridge and including two disused WWII naval oil tanks located to the north east of the land bridge ("Project"). |
|           | B Upon completion of the works, AGNSW will become the owner and operator of the Project. |
|           | C AGNSW, the Principal and the Contractor wish to set out additional obligations that the Contractor will owe AGNSW directly, and make certain arrangements relating to the Contract. |

<table>
<thead>
<tr>
<th>Date of deed</th>
<th>See Signing page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governing law</td>
<td>New South Wales</td>
</tr>
</tbody>
</table>
General terms

1 Definitions and Interpretation

1.1 Definitions

In this deed the following words and expressions have the meanings set out below:

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

Contract means the contract between the Principal and the Contractor dated [insert] for the Works.

Details means the section of this deed headed Details.

Related Body Corporate has the meaning it has in the Corporations Act 2001 (Cth).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this deed:

(a) the singular includes the plural and vice versa;

(a) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);

(b) a reference to a document also includes any variation, replacement or novation of it;

(c) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;

(d) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

(e) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;

(f) a reference to a time of day is a reference to Sydney time;

(g) a reference to dollars, $ or A$ is a reference to the currency of Australia;

(h) a reference to "law" includes common law, principles of equity and legislation (including regulations);

(i) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

(j) a reference to "regulations" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);

(k) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
(l) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

(m) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;

(n) a reference to any thing (including an amount) is a reference to the whole and each part of it;

(o) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day; and

(p) if a day on which a party must do something under this deed is not a Business Day, the party must do it on the next Business Day.

1.3 Terms defined in Contract

Unless the contrary intention appears, a term which has a defined meaning in the Contract has the same meaning when used in this deed.

1.4 Inconsistent documents

If a provision of this deed is inconsistent with a provision of the Contract, the provisions of this deed prevail to the extent of the inconsistency.

1.5 Joint and several liability

Where the Contractor comprises two or more entities, each of them is jointly and severally liable for all of the Contractor's liabilities and obligations under the Contract.

2 Commencement

This deed shall become effective on the date this deed is executed by the Contractor and is effective whether or not executed by AGNSW or the Principal.

3 Warranties

3.1 Contractor warranties

(a) The Contractor warrants and guarantees to AGNSW that:

(i) it will carry out the work in connection with the Contract and perform its obligations under the Contract in accordance with the Contract; and

(ii) the Works will:

(A) comply with the Contract;

(B) comply with all Statutory Requirements; and

(C) at the Actual Completion Date and at all times thereafter, meet or exceed the design life standards specified in the Project Brief.

(b) The Contractor gives to AGNSW the benefit of the same warranties, guarantees, undertakings and indemnities that it has given to the Principal under the Contract.

3.2 Additional obligations

The obligations of the Contractor under this deed are additional to and do not derogate or replace the obligations of the Contractor under the Contract.
4 Liquidated Damages

4.1 Acknowledgment
(a) The Contractor and AGNSW acknowledge and agree that:

(i) the Principal is the party responsible for procuring the Project on behalf of the State of New South Wales;

(ii) following Completion of the works, AGNSW will become the owner and operator of the Project;

(iii) AGNSW will suffer loss in the event that the Contractor fails to achieve Completion by the Contractual Completion Date; and

(iv) the liquidated damages payable by the Contractor under clause 51 of the Contract are a genuine pre-estimate of the loss that AGNSW will suffer in the event the Contractor fails to achieve Completion by the Contractual Completion Date (including in respect of liability to tenants and other users of the Works).

4.2 Payment of liquidated damages by the Contractor
(a) The Contractor acknowledges and agrees that:

(i) the Principal may recover liquidated damages from the Contractor pursuant to clause 51 of the Contract on behalf of AGNSW; and

(ii) the Contractor must pay to AGNSW the amount of liquidated damages payable under the Contract on demand, except to the extent that the Contractor has already paid the Principal the amount of such liquidated damages under the Contract.

4.3 Other relief
If it is determined that the Contractor's liability to pay the liquidated damages is deemed to be or becomes, void, invalid or unenforceable for any reason (including because such liquidated damages are a penalty), AGNSW may claim general damages for the Contractor's failure to achieve Completion by the Contractual Completion Date provided that the AGNSW's entitlement to, and the Contractor's obligation to pay, such general damages will not exceed the daily rate stated in Contract Information item 49B of the Contract for every day after the Contractual Completion Date up to and including the Actual Completion Date or the amount set out in Contract Information item 20 of the Contract in the aggregate.

5 Liability
(a) The liability of the Contractor under this deed is not affected by the Principal exercising or refraining from exercising any or all of its rights against the Contractor under the Contract, at law or in equity.

(b) Any information provided to, and any inspection undertaken by, the Principal or any person authorised by the Principal will not:

(i) limit or discharge the obligations of the Contractor under the Contract; or

(ii) relieve the Contractor from any liability which it may have in respect of any defect or default in or relating to the Works under the Contract.

6 Limit of liability
(a) Notwithstanding any other provision of this deed:
(i) the obligations of the Contractor to AGNSW shall be the same as the obligations which the Contractor owes to the Principal under the Contract;

(ii) the provisions of clauses 26.8 and 26.9 of the Contract shall apply to the aggregate liability of:

(A) the Contractor to the Principal under the Contract;

(B) the Contractor to AGNSW under the indemnities referred to in clause 11A of the Contract; and

(C) the Contractor to AGNSW under this deed;

(iii) AGNSW shall not be entitled to recover against the Contractor in respect of any Loss under or in respect of this deed that has already been recovered from the Contractor by the Principal under or in respect of the Contract, and the Principal shall not be entitled to recover against the Contractor in respect of any Loss under or in respect of the Contract that has already been recovered from the Contractor by AGNSW under or in respect of this deed; and

(iv) the provisions of clause 26.10 of the Contract shall apply in respect of any liability of the Contractor to AGNSW under this deed;

7 Representations and warranties

7.1 General representations and warranties

The Contractor represents and warrants to the Principal and AGNSW that:

(a) (incorporation) it is validly incorporated and has the power to carry on its business as it is now being conducted;

(b) (power) it has the power to enter into and perform its obligations under this deed;

(c) (authority) it has taken all action which is necessary to authorise the entry into and performance of its obligations under this deed and; and

(d) (binding obligations) this deed contains legal, valid and binding obligations, enforceable in accordance with its terms.

8 GST

8.1 Consideration GST exclusive

Unless expressly stated otherwise in this deed, all amounts payable or consideration to be provided under this deed are exclusive of GST.

8.2 Payment of GST

If GST is payable on any supply made under this deed, 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 payable at the same time that the consideration for the supply, or the first part of the consideration for the supply (as the case may be), is to be provided. However:

(a) the recipient need not pay the additional amount until the supplier gives the recipient a tax invoice or an adjustment note;

(b) if an adjustment event arises in respect of the supply, the additional amount must 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; and

(c) this clause 8.2 does not apply to the extent that the GST on the supply is payable by the recipient under Division 84 of the GST Act.

8.3 Reimbursements

If a party is required under this deed to indemnify another party, or pay or reimburse costs of another party, that party agrees to pay the relevant amount less any input tax credits to which the other party (or to which the representative member for a GST group of which the other party is a member) is entitled.

8.4 Calculation of payments

If an amount payable under this deed is to be calculated by reference to:

(a) the price to be received for a taxable supply then, for the purposes of that calculation, the price is reduced to the extent that it includes any amount on account of GST; and

(b) the price to be paid or provided for an acquisition then, for the purposes of that calculation, the price is reduced to the extent that an input tax credit is available for the acquisition.

8.5 Interpretation

For the purposes of this clause 8:

(a) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 8;

(b) “GST Act” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and

(c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it is a separate supply.

9 Notices and other communications

9.1 Form - all communications

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

9.2 Form - communications sent by email

(a) Communications sent by email need not be marked for attention in the way stated in clause 9.1. However, the email must state the first and last name of the sender.

(b) Communications sent by email are taken to be signed by the named sender.

9.3 Delivery

Communications must be:

(a) left at the address set out or referred to in the Details; or

(b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
Sydney Modern Project - SCHEDULES

(c) sent by email to the address set out or referred to in the Details.

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

9.4 When effective
Communications take effect from the time they are received or taken to be received under clause 9.5 (whichever happens first) unless a later time is specified.

9.5 When taken to be received
Communications are taken to be received:

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

(b) if sent by email:

(i) when the sender receives an automated message confirming delivery; or

(ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

9.6 Receipt outside business hours
Despite anything else in this clause 9, if communications are received or taken to be received under clause 9.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

10 Assignment

10.1 No assignment by Contractor
The Contractor may not assign or otherwise deal with its rights under this deed or allow any interest in them to arise or to be varied without the prior written consent of the Principal (which may be given or withheld in its absolute discretion).

10.2 Assignment by Principal
The Principal may assign or otherwise deal with its rights under this deed in any way it considers appropriate. If the Principal does this, neither the Contractor nor the Subcontractor may claim against any assignee (or any other person who has an interest in this deed) any right of set-off or other rights the Contractor or the Subcontractor has against the Principal.

10.3 Assignment by AGNSW
AGNSW may assign or otherwise deal with its rights under this deed in any way it considers appropriate. If AGNSW does this, neither the Contractor nor the Principal may claim against any assignee (or any other person who has an interest in this deed) any right of set-off or other rights the Contractor or the Principal has against AGNSW.
11 General

11.1 Costs
The parties agree to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this deed and of other related documentation, except stamp duty.

11.2 Stamp duty
The Contractor agrees to pay all stamp duty (including fines and penalties) chargeable, payable or assessed in relation to this deed and any transaction contemplated by it.

11.3 Governing law
This deed is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

11.4 Counterparts
This deed may be executed in counterparts. All counterparts when taken together constitute one document and the date on which the last counterpart is executed will be the date of the deed.

11.5 Further steps
Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be necessary or desirable to give full effect to the provisions of this deed and the transactions contemplated by it.

11.6 Construction
No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this deed or any part of it.

11.7 Entire agreement
This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject.

11.8 Severability
If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

11.9 Variation and waiver
A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

11.10 Confidentiality
Each party agrees not to disclose information provided by another party that is not publicly available except:

(a) to any person in connection with an exercise of rights or a dealing with rights or obligations under this deed; or

(b) to officers, employees, legal and other advisers and auditors of any party; or

(c) to any party to this deed or any Related Body Corporate of any party to this deed, provided the recipient agrees to act consistently with this clause; or
(d) with the consent of the party who provided the information; or

(e) as allowed by any law or stock exchange.

**EXECUTED** as a deed
Sydney Modern Project - SCHEDULES

Signing page

DATED: _______________________

SIGNED by _______________________

as attorney for [insert] under power of attorney dated 1 September 2016, who declares that the attorney has not received any notice of the revocation of such power of attorney, in the presence of:

........................................................................
Signature of attorney

........................................................................
Signature of witness

........................................................................
Name of witness (block letters)

Signed sealed and delivered by _______________________

as Chief Executive Officer of INFRASTRUCTURE NSW ABN 85 031 302 516 pursuant to the Infrastructure NSW Act 2011 in the presence of:

........................................................................
Signature

........................................................................
Name of witness (block letters)

SIGNED by [AGNSW'S AUTHORISED REP] as authorised representative for [AGNSW] in the presence of:

........................................................................
Signature of witness

........................................................................
Name of witness (block letters)

By executing this document the signatory warrants that the signatory is duly authorised to execute this document on behalf of [AGNSW]
Schedule 36 - Deed of Release

Refer to clause 67A of the GC21 General Conditions of Contract.

This Deed Poll is in favour of:

Infrastructure NSW of [insert address] (ABN [insert]) (“Principal”)

and

Art Gallery of NSW of [insert address] (ABN [insert]) (“AGNSW”),

and their successors and permitted assigns (together, the Beneficiaries).

THIS DEED OF RELEASE IS EXECUTED on [Insert date]

BY: [Insert Contractor’s Name] of [Insert Contractor’s address].

RECITALS

A. By contract dated [insert date] between the Contractor and the Principal, (“Contract”), the Contractor agreed to perform the Works.

B. Pursuant to clause [67A.2] of the Contract, the Contractor must execute and deliver to the Principal a deed of release once it considers the Works have achieved Final Completion.

THE CONTRACTOR AGREES

1 The Contractor warrants to the Beneficiaries that it has lodged with the Principal all Claims that it has which arise out of or in connection with the Contract, the execution of the work in connection with the Contract or associated with the Works and those Claims have been satisfied in full by the Principal.

2 The Contractor releases and forever discharges the Beneficiaries from all causes of action, proceedings, claims or demands which it has or may in the future have against the Beneficiaries arising out of or in connection with the Contract, the execution of the work in connection with the Contract or associated with the Works (Claims).

3 The Contractor acknowledges that the Principal will issue a Certificate of Final Completion pursuant to clause [67A.3] in reliance on the warranties and releases contained in this deed.

4 This deed may be pleaded by the Beneficiaries as a bar to any Claims.

5 The release under this deed does not apply to:

(a) claims the Contractor has already made in writing against the Principal as at the date of this deed;

(b) claims in relation to the Contractor’s entitlement to the return of the Undertakings pursuant to the Contract;

(c) the extent that the grant of the release would prevent the Contractor from enforcing its rights under any policy of insurance required to be effected under the Contract; or

(d) prevent the Contractor from:

(i) raising a defence, or any cross-claim or counter-claim by way of a defence, to any claim brought against the Contractor by a Beneficiary; or
(ii) making any claim against a Beneficiary arising solely from a third party claim first brought against or communicated to the Contractor after the date of this deed.

6 Unless the context otherwise requires, defined terms used but not defined in this deed have the same meaning as defined in the Contract.

EXECUTED as a deed.

EXECUTED by [CONTRACTOR] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

..........................................................
Signature of director

..........................................................
Name of director (block letters)

..........................................................
Signature of director/company secretary*
*delete whichever is not applicable

Name of director/company secretary*
(block letters)
*delete whichever is not applicable
Schedule 37 – Consultant’s Deed of Covenant

Refer to clause 31 of the GC21 General Conditions of Contract.

This Deed Poll is in favour of:

Infrastructure NSW of [insert address] (ABN [insert]) (“Principal”)

and

Art Gallery of NSW of [insert address] (ABN [insert]) (“AGNSW”),

and their successors and permitted assigns (together, the Beneficiaries).

Recitals

A The Principal has engaged [Insert Contractor’s name] (ABN [Insert Contractor’s ABN]) of [Insert Contractor’s address] (“Contractor”) to carry out certain works for the Principal by contract dated [insert date] (“Contract”).

B The Contractor has engaged [Insert Consultant’s name] (“Consultant”) to carry out the design work specified in the Schedule for the purposes of its obligations under the Contract (“Design Work”).

C Under the Contract the Contractor is required to procure the Consultant to execute this deed poll in favour of the Beneficiaries.

Operative

1 Duty of care

The Designer warrants to the Beneficiaries that in performing the Design Work and in providing any certificate under clause [insert] of the Contract:

(a) it will owe a duty of care to the Beneficiaries;

(b) it will exercise reasonable skill and care; and

(c) it is aware that the Beneficiaries will be relying upon the skill and judgement of the Consultant in performing the Design Work.

2 Governing law and jurisdiction

This deed poll will be construed in accordance with the law of New South Wales and the Consultant irrevocably submits to the jurisdiction of the Courts of New South Wales.

Executed as a deed poll
EXECUTED by [CONTRACTOR] in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

..........................................................
Signature of director

..........................................................
Name of director (block letters)

SCHEDULE
[insert description of design work]
Schedule 39 – Preliminaries

1 General

1.1 Electronic communications
The parties agree and consent that notices and communications may be by electronic communication in accordance with the *Electronic Transactions Act 2000* (NSW).

1.2 Use of Qualified Designers
Use persons professionally qualified in the relevant disciplines when completing the design of the Works. The use of such persons shall not relieve the Contractor of liability for the fitness of the Works for the purposes required by the Contract.

1.3 Use of Qualified Tradepersons
Use qualified tradepersons to carry out the Works. The use of such persons shall not relieve the Contractor of liability for the fitness of the Works for the purposes required by the Contract.

1.4 Licences and approvals
The following licences, approvals and consents for the Site and the Works have been obtained:
- A State Significant Development Application (SSD14_6471). Conditions of Consent Responsibility Matrix is appended to this document.
- Art Gallery of NSW Modern – Eastern Distributor Construction Interface and Access Deed;
- Royal Botanic Gardens and Domain Trust and Art Gallery of New South Wales Development Deed;
- Review of Environmental Effects for Early Works Package.
The Contractor must provide the Principal with a copy of all other licences and approvals required, and pay all associated fees prior to commencing the affected work.

1.5 Certification of compliance with building and fire regulations
Provide a certificate obtained from a consultant appropriately accredited as an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979* (NSW) stating that the Works fully comply with all applicable building and fire regulation statutory requirements.

1.6 Contractor performance reporting
During the course of the Contract, the Contractor’s performance may be monitored and assessed in accordance with the *Performance management practice guide* which is available on the ProcurePoint website.

1.7 Exchange of information between government agencies
The Contractor authorises the Principal and its employees and agents to make information concerning the Contractor and its performance available to other government agencies and local government authorities, which may take such information into account in considering whether to offer the Contractor future opportunities for work.
The Principal regards the provision of information about the Contractor to any government agency or local government authority as privileged under the *Defamation Act 2005* (NSW). The Contractor agrees that it will have no entitlement to make any claim against the Principal in respect of any matter arising out of the provision or receipt of such information.

2 Documents

2.1 Inclusions in Contractor’s documents
- The Contractor’s Documents must include, without limitation:
• Construction drawings;
• Any reports, calculations and modelling required to demonstrate proposed design meets performance requirements;
• Specifications;

2.2 Not used

2.3 Work as executed drawings

Progressively produce work as executed drawings. Submit work as executed drawings showing work which has been completed within 28 days after completion of that work. Endorse each drawing certifying accuracy and correctness.

Submit two (2) copies of the drawings on electronic media using identical and portable Solid State Drive/s of sufficient capacity and with at least 30% spare capacity in each. Ensure the included data is complete and identical. Label each of them with:
- “Confidential”; and
- Respectively:
  • “SMP WAE ORIGINAL – COPY 1” and
  • “SMP WAE ORIGINAL – COPY 2”.

Maintain all as executed information, including access for the Principal, on the selected electronic document management system for 12 months following Final Completion (ex post-completion/maintenance) for this contract.

Any CAD files submitted must be in DGN, DWG, or DXF format with an identical .pdf version. The Contractor must ensure that any CAD files submitted will correctly display and print in Microstation.

The drawings must, as a minimum, include:
• heights based on AHD;
• boundary details;
• details of structures, improvements, notations, including height and dimensions;
• asset identification for all new, salvaged and re-used equipment;
• contour interval at 0.5m
• standard topography details and RL’s throughout the site;
• details of any trees/plants;
• details of all services, including man-holes, services and services pits/covers;
• service inspection outlets
• disconnected and services left in-situ;
• valves and meter locations.

Submit the drawings electronically on formatted standard sized sheets acceptable to the Principal. Endorse each drawing certifying its accuracy, completeness and correctness. Re-submit revised and corrected drawings within 7 days after receiving any comments from the Principal.

LOD 500 As Built BIM Model to be submitted at the completion of the project.

2.4 Operation and maintenance manuals

General

Produce operation and maintenance manuals written in clear, concise English covering the various building elements, assemblies, equipment, service installations and systems incorporated into the Works. Comply with this Clause - Operation and Maintenance Manuals and any detailed requirements contained in the Technical Specification.

Contents

Include the following documents and information:
- **Table of Contents**: A table of contents for each volume.
- **Directory**: Names, addresses, telephone, email and facsimile numbers of the Contractor and relevant subcontractors, suppliers and consultants. Include emergency contact details.
- **Certificates**: Certificates from relevant authorities, copies of manufacturers' warranties and product certificates.
- **Drawings and Technical Data**.
- **Equipment Descriptions**.
- **Operation and Maintenance Procedures**: Operating instructions, including technical maintenance information; preventive and corrective maintenance procedures and manufacturers' technical literature.
- **Maintenance Records**: Records of any maintenance completed by the Contractor.

**Format – Hard Copy**

Bind each copy of the manuals in A4 size, 4 ring binders, no more than 75 mm thick, with durable, commercial quality, hard plastic covers. Limit the filling of binders to 85% of capacity. Index each binder and mark the spine and cover with relevant building elements. Divide and subtitle each section. Number all pages. Include manufacturers' printed data and associated diagrams.

**Format – Electronic Copy**

Provide the specified documentation in PDF or equivalent electronic file format.

**Submission**

Not less than 7 days before Completion of the Works is reached, submit 3 hard copies and 1 electronic copy of the operation and maintenance manuals.

As a condition of achieving Completion, operation and maintenance manuals that comply with the specification must be submitted.

2.5 **Restricted documents**

All documents marked "Restricted", and any other documents the Principal notifies as "Restricted" are classified maximum security documents. No copies are to be made or retained by the Contractor, subcontractors, suppliers, agents or anyone else other than for the Contract.

All originals and copies of restricted classification documents are to be returned to the Principal on Completion.

2.6 **NATSPEC subscription**

If any of the Contractor's Documents are based on NATSPEC, then the Contractor must provide to the Principal proof of the Contractor's current NATSPEC subscription.

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3 **Not used**

4 **Administration**

4.1 **Quality management requirements**

**Quality Management System**

Maintain the Contractor's Quality Management System. Obtain evidence from proposed subcontractors and certify that subcontractors' quality management systems meet the requirements of the Contractor's Quality Management System.

**Project Quality Management Plan**

Develop and implement a Project Quality Management Plan that complies with the current NSW Government *Quality Management Systems Guidelines (QMS Guidelines)*. The *QMS Guidelines* are available on the ProcurePoint website.

Submit the Project Quality Management Plan within 28 days of the Date of Contract together with *QMS Guidelines Appendix, Quality Management Plan assessment*
checklist, completed by the Contractor, with cross-referencing of the AS/NZS ISO 9001:2008 clause numbers to the Contractor's Project Quality Management Plan.

The Project Quality Management Plan must cover the relevant elements of the Contractor's Quality Management System and include an index of the Contractor's quality procedures and proposed Inspection and Test Plans and associated checklists.

Include a schedule of internal audits for the Contract. Submit a copy of each audit report within 14 days of the date of audit.

**Design Plan**

Prior to commencing design work, prepare and submit a Design Management Plan to the Principal's Authorised Representative in accordance with clause 32A and the Contractor's Management Plan section of this Preliminaries.

**Managing work quality**

Prepare and implement Inspection and Test Plans, complying with the QMS Guidelines, incorporating the Hold and Witness points specified in the Contract.

Submit copies of Inspection and Test Plans and checklists not less than 7 days before commencing the work to which they apply. Also submit certification that the relevant quality management plans and Inspection and Test Plans of subcontractors and Consultants meet the requirements of the QMS Guidelines. Do not start any work before the relevant documentation is submitted.

Give at least 24 hours notice prior to reaching a Hold or Witness point.

The Contractor must not proceed beyond a Hold point without endorsement by the Principal or its authorised representative.

The Principal, at its discretion, may inspect the work at a Witness point, but work may proceed without endorsement.

Endorsement by the Principal at a Hold or Witness point does not release the Contractor from its obligations to achieve the specified requirements of the Contract.

The Principal, at its discretion, may undertake surveillance (monitoring) of any or all work associated with the Contract.

**Conformance records**

Submit copies of conformance records as specified, including:

<table>
<thead>
<tr>
<th>Conformance records</th>
<th>Time when records are required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verified and Completed Inspection &amp; Test Plans and associated checklists</td>
<td>With each Payment Claim</td>
</tr>
<tr>
<td>Requirements detailed in the Project Brief (Architectural, Electrical, Mechanical, Fire, Hydraulic, Structural, etc.)</td>
<td>Refer to the Project Brief</td>
</tr>
<tr>
<td>Heritage related works including impact statements, certification and approvals</td>
<td>Progressively</td>
</tr>
<tr>
<td>Dilapidation surveys and related documents and records</td>
<td>Before commencing any other physical works on site</td>
</tr>
<tr>
<td>Noise, Movement, Vibration and air monitoring results, including any clearance certificates</td>
<td>With each payment claim, unless required sooner, due to a breach or notifiable concern.</td>
</tr>
<tr>
<td>Approvals from Regulatory Authorities including Road Opening and closure permits, and payment of fees</td>
<td>5 Business Days before the related work is due to commence</td>
</tr>
<tr>
<td>Set-out and survey records:</td>
<td>Progressively</td>
</tr>
<tr>
<td>Services Rough-in records</td>
<td>Progressively</td>
</tr>
<tr>
<td>Conformance records</td>
<td>Time when records are required</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>As-built performance testing records</td>
<td>Prior to Construction Completion and with the as-executed information, including correct integration into the relevant Operation and Maintenance Manuals</td>
</tr>
<tr>
<td>All quality, test and compliance records of materials to be incorporated into the works (including from manufacturers).</td>
<td>2 Business days before being incorporated into the works</td>
</tr>
<tr>
<td>Records associated for the disposal of contaminated fill</td>
<td>With each Payment Claim</td>
</tr>
<tr>
<td>Register of product conformity records</td>
<td>At Construction Completion and with the as-executed information, including correct integration into the relevant Operation and Maintenance Manuals</td>
</tr>
<tr>
<td>Temporary Services metered consumption</td>
<td>With each Payment Claim</td>
</tr>
<tr>
<td>Environmental Clearance certificate/s</td>
<td>Within 3 Business Days following receipt</td>
</tr>
<tr>
<td>Geotechnical Compliance certificates</td>
<td>Within 3 Business Days following receipt</td>
</tr>
<tr>
<td>Operation and Maintenance Manuals</td>
<td>Within 3 Business Days following receipt</td>
</tr>
</tbody>
</table>

**Failure to Comply**

If the Contractor fails to comply with the requirements of this clause – **Quality Management**, the Principal may implement such inspections and tests as the Principal determines and the cost incurred by the Principal shall be a debt due from the Contractor.

**4.2 Aboriginal participation**

The Contractor must comply with the NSW Government *Policy on Aboriginal Participation in Construction*, which is available from the Policy framework for construction page in the ProcurePoint website:


A minimum amount of 1.5% of the Contract Price (as at the Date of Contract) must be spent on employment and education activities for Aboriginal people. At least 50% of this expenditure must be allocated to activities directly related to the Contract.

An Aboriginal Participation Plan must be submitted to the Principal within 60 days after the Date of Contract and a Participation Report must be submitted when the Contract is 90% complete. Templates for the Aboriginal Participation Plan and Participation Report are available on the web page referenced above. Click on the Information for contractors link.

The Aboriginal Participation Plan and Participation Report must also be submitted to the NSW Procurement Board.

The Aboriginal Participation Plan and Report must be in the format specified by the Procurement Board, which is found at:


**4.3 Skills development and training**

The Contractor’s attention is drawn to the requirements of the NSW Government Procurement Guideline *Skills and Training in the Construction Industry*. The Guideline is attached to NSW Procurement Board Direction PBD 2016-02 - *Construction apprenticeships*, which is available on the ProcurePoint website.
The Contractor is required to meet the following targets:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apprentice hours as a percentage of hours worked by qualified trades.</td>
<td>20% of hours worked</td>
</tr>
<tr>
<td>Trainee hours as a percentage of hours worked by occupations with recognised traineeships</td>
<td>20% of hours worked</td>
</tr>
</tbody>
</table>

From the Date of Contract until Completion, at intervals no greater than three months, the Contractor must provide reports to the Principal, giving details of the apprentices and trainees engaged on work under the Contract and demonstrating that the Contractor is meeting (or will meet at Completion) its commitments to skills development.

**4.4 Audit and review**

Make available, on request, all records, including those of or relating to subcontractors or suppliers, relevant to compliance with requirements of the Contract, for the purposes of audit, review or surveillance. Provide all reasonable assistance during the audits or reviews including attendance by the Contractor.

Promptly implement effective corrective action on matters disclosed by audit or review.

**4.5 Dilapidation Report**

Carry out and submit a completed Dilapidation Report for the work areas, its surroundings and each property or asset adjacent to which the work is to be carried out. No works are to be started prior to the Dilapidation Report being submitted to the Principal.

Arrange for an inspection of any neighbouring and/or existing property and assets at a time that suits the owner (may be outside normal working hours). In the course of a single visit, recover all the information required to prepare the Dilapidation Report. The condition of the adjacent items prior to construction of the works is to be recorded.

The Dilapidation Report will take the form of a report with digital photographs and a video recording (on a DVD) of all the items within and adjacent to the work and also including both exterior and interior of neighbouring facilities, including tunnels and basements; all pits (including interiors). All photos in the report must be suitably labelled with a statement of the extent and severity of the defect, its exact location, street name, direction faced, and any other relevant comments annotated.

The Dilapidation Report must clearly state the exact location of the defects so that the records can be used efficiently on a later date by anyone. Video and still photography may be required is to be of sufficient high quality to show all defects clearly, and must be provided to the principal in a format compatible with DVD or generic media player.

Any cracks that are identified in the Dilapidation Report will be measured and marked with glass “tell tales” under the supervision of a structural engineer, engaged by the Contractor. Comply with the (City of Sydney) Sydney Streets Technical Specifications B1. Preliminaries / General Version 3: 18.12.2013 Page 12, relevant for this project. Particular attention must be paid to the condition of basements, tunnels, and waterproofing membranes. Any evidence of leakage or water damage must be recorded.

Carry out and submitted post-completion dilapidation reports.

**4.6 Scope of Dilapidation Report**

The Dilapidation Report must cover the following items as a minimum:

- All existing fences within the site and adjoining area;
- Art Gallery of New South Wales Existing Building
- Land bridge structure
- RBG Pavilion on western side of Mrs Macquaries Road
- RBG offices on western side of Mrs Macquaries Road
- The entirety of Art Gallery Road and Mrs Macquaries Road ie the full circular loop
- Oil tanks
- Ausgrid Zone substation facade
- Lincoln Crescent footpaths, roadways
- Western elevation of The Wharf Terraces building adjoining Lincoln Crescent
- Trees, shrubs and grasses;
- All existing street furniture and signage including seats, public telephones, post boxes, parking meters, and the like;
- All existing lighting poles, traffic poles and signs;
- All existing footpaths and kerbstones;
- All existing services and utilities where recording is possible;
- All existing pit covers that are to be reused;
- Interiors of all existing service pits;
- Traffic facilities, e.g. thresholds, speed humps etc.;
- Inspect the interior of all existing services and utility pits with the relevant utility authority representative and record the outcome of the inspection.
- Any other areas/items as required under the SSDA approval.

Typically the Dilapidation Report is to include details of the following:
- Materials of construction;
- General condition of materials;
- Location and description of any defects including structural defects; and
- Location, sizes, and description of any cracking.

4.7 Record Of Damage

The Contractor is required to create a Record of Damage for the site. This is required to determine who is responsible for damage to any assets should matters be raised in the future. The Record of Damage must document any damage to property or assets within the extent of area occupied by the Contractor during the works, or affected by the works, including areas proposed for storage and floating of plant.

4.8 Green Star As-Built Certification

The Contractor is required to appoint a Green Star accredited consultant and manage the process of obtaining Green Star As-built Certification.

5 Site

5.1 Site access and limitations

Note that the land bridge has limited loading capacity. Refer to the land bridge documentation and Art Gallery of NSW Modern – Eastern Distributor Construction Interface and Access Deed to ensure that the load on the bridge never exceeds rated capacity.

Note that the existing Oil Tank roof has a loading capacity as advised in the Design Documents. Contractor to ensure that the loading capacity of the Oil Tank roof is not exceed during construction.

All site access related to demolition and excavation works will be via Lincoln Crescent. Contractor will comply with all site access requirements of:
- SSDA Approval;
- Early Works REF;
• Art Gallery of NSW Modern – Eastern Distributor Construction Interface and Access Deed;
• Royal Botanic Gardens and Domain Trust and Art Gallery of New South Wales Development Deed;

5.2 Item to be Salvaged
Preliminaries Schedule 11.4 Items to be Salvaged, lists the items that the contractor will be responsible for salvaging and handing over to AGNSW.

5.3 Maintaining Egress Requirements of the Existing AGNSW Building
The contractor will ensure that egress requirements of the existing AGNSW building are maintained during delivery of the project. Current egress and evacuation plan as well as draft egress and evacuation plan during construction are provided in the Information Documents.

5.4 Art Gallery Road Bridge and Eastern Distributor Land Bridge
The contractor is responsible to obtain and review all as-built documentation required to comply with the limitations of the existing Art Gallery Road bridge and the Eastern Distributor Land Bridge. As-built information is provided in the Information Documents.

Note: No cutting or milling of the Art Gallery Road bridge pavement (footpath or roadway) is permitted, with the exception of the installation of the pram ramp as documented.

5.5 Existing services
Preventing Unplanned Contact with Live Services
The Contractor is responsible for locating existing services, including underground essential services, and isolating them where necessary to prevent unplanned contact with live services. In doing so, the Contractor must comply with the NSW Government Construction Work Code of Practice.

Locating Existing Services
Before starting construction work:
• appoint a site manager to be responsible for locating and preventing unplanned contact with existing services; and
• establish and verify the precise locations of all underground and other existing services at the Site, and in areas adjacent to the Site that may be affected by the work under the Contract.

To locate existing services:
• obtain advice from Dial Before You Dig and the owners of the services;
• engage a services locator;
• examine the Site and surrounding areas for indications of services; and
• where any service is underground, use pot-holing (or equivalent non-destructive techniques) to locate the service.

Mark prominently on the Site the locations of all existing services. Document the locations of services on a site plan and provide a copy of the plan to each subcontractor before the subcontractor starts work on the Site.

Provide written confirmation to the Principal that these actions have been completed.
**Isolation of Existing Services**

Before undertaking any work involving cutting into, penetrating, or otherwise breaking into building fabric (floor, walls or ceiling), ensure the services are isolated in the relevant work area.

Wherever reasonably practical and with the prior approval of the Principal’s Authorised Person, isolate electrical and gas services for the whole building where work is being carried out, before starting work on existing building services.

Notify the Principal’s Authorised Person and the appropriate persons within the facility of any proposed disruption of services in sufficient time to enable affected personnel to be informed and any changes to operations to be made. Wherever possible, consult with the Principal’s Authorised Person prior to issuing the notification.

Include in the notification:

- details of the service to be disrupted;
- the date and time that the disruption will commence;
- the estimated duration of the disruption and when the service will resume operation;
- the possible impact of the disruption (eg loss of power, loss of gas); and
- any other relevant information.

On completion of the work and the resumption of the services, check all penetrations for live or damaged services and give the following to the Principal’s Authorised Person:

- a clearance certificate that affected utilities and equipment (eg heaters, boilers) have been tested and are functioning appropriately; and
- the name and phone number of a responsible person who can be contacted if problems are experienced with any of the affected utilities or equipment.

**Interference with Existing Services**

Deal with existing services (such as drains, watercourses, public utilities, telecommunications and other services) obstructing the Works or damaged in the course of the Contract as follows:

- if the service is to be continued: repair, divert or relocate as required;
- if the service is to be abandoned: cut and seal or disconnect and make safe as required;

**Cost and Delay**

Where an existing service is damaged by the Contractor for any reason whatsoever, the Contractor shall bear all costs and any delays for repairing or disconnecting the service.

**Notification**

Notify the Principal immediately upon discovering any damaged services or services that obstruct the Works and are not shown in the Principal’s Documents.

5.6 **Heritage and Archaeology**

The site has defined heritage and archaeological significance and the Contractor is required to fully inform himself and undertake the Works in accordance with the requirements defined in the Heritage Impact Statement (HIS) Maritime Archaeological Assessment and Aboriginal Cultural Heritage Assessment (ACHA) that form part of the SSDA approval.

The Contractor will comply with the requirements identified in these reports, the SSDA consent conditions and Early Works REF.

5.7 **Tree Protection**

The contractor will comply with the requirements of the Arborist Report that forms part of the SSDA application.
5.8 Work health and safety management

Accreditation under the Australian Government Building and Construction WHS Accreditation Scheme

The Contractor must maintain accreditation under the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) established by the Building and Construction Industry Improvement Act 2005 (BCII Act) while building work (as defined in section 5 of the BCII Act) is carried out. The Contractor must comply with all conditions of Scheme accreditation.

Design

The Contractor must consult with the Principal's Authorised Person to identify any risks to health and safety arising from the design.

The Contractor must ensure, in carrying out the design that, so far as is reasonably practicable, the structure and plant are designed to be without risks to anyone who constructs, uses, maintains, or demolishes the structure and plant.

When undertaking design, the Contractor must carry out any calculations, analysis, testing or examination that may be necessary to eliminate or minimise risks. The Contractor must provide current relevant information on any risks arising from the design to anyone who constructs the structure or plant.

The Contractor must provide a Safe Design Report for the designed structure and plant to record any hazards not eliminated in the design that may impose a risk to those constructing, using, maintaining or demolishing the structure and plant.

An up to date copy of the Safe Design Report must be provided to the Principal at the Actual Completion Date of the Works or the date the Works are occupied or taken over, whichever is earlier.

WHS Management Monthly Report

No later than the fifth (5th) Business Day of each month, submit a WHS Management Monthly Report, detailing Inspection, testing and servicing activities, Internal reviews and Incident management and corrective action, as evidence of the implementation of the Project WHS Management Plan during the previous month.

As a minimum, the WHS Management Monthly Report must include the following information:

Contract Details
- Contract
- Contractor
- Contractor's representative
- Signature and Date
- Period Covered

Implementation of Inspection, testing and servicing procedures

Summary of WHS inspections and tests carried out for:
- plant and equipment
- incoming products
- work site conditions
- adherence to and completeness of Risk Assessments, Safe Work Method Statements and Site Safety Rules
- work site access and exits
- personal protective equipment

Implementation of Incident management and corrective action procedures

Details of:
- any WHS incidents or WHS issues, including non-compliance with WHS processes and procedures and near misses
- implementation of incident management
- implementation of corrective action
• WHS statistics for entire the Contract including:

<table>
<thead>
<tr>
<th></th>
<th>This Month</th>
<th>Total Cumulative</th>
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<tr>
<td>Number of Lost Time Injuries</td>
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<td>Number of Hours Worked</td>
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<tr>
<td>Number of WHS Management Audits</td>
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<tr>
<td>Number of WHS Inspections</td>
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</table>

**Implementation of Internal Reviews**

Details of internal reviews, including audits and inspections, undertaken to verify that on-site WHS processes and practices conform with the Project WHS Management Plan including:

- System element(s) and activities audited and/or reviewed
- Non-conformance(s), improvement(s) identified and corrective action(s) taken
- Details of auditors and reviewers and dates and durations of audits and reviews
- Copies of third party audit reports and details of the Contractor’s responses to the reports.

**Incident Reports**

Ensure compliance with the notification and other requirements of the *WHS Act 2011* (NSW) sections 35-39 for any notifiable incident, including immediate notification to SafeWork NSW.

Notify the Principal of any notifiable incident and any incident requiring medical treatment or involving lost time as soon as reasonably practicable after the incident.

Provide a written report to the Principal within twenty-four hours after the incident, giving details of the incident and evidence that requirements of the *WHS Act* have been met.

When requested, provide to the Principal an incident investigation report, including identification of the root cause of the incident and corrective actions taken, in the form directed.

**Prohibition, Improvement, Non-disturbance and Penalty Notices**

Immediately notify the Principal of any Prohibition, Improvement, Non-disturbance or Penalty Notice issued by SafeWork NSW for any work under the Contract. Provide the Principal with a copy of the Notice and written details of the corrective action taken by the Contractor and/or the applicable subcontractor to rectify the breach and to prevent recurrence.

**Electrical work**

In compliance with clauses 154-156 of the *WHS Regulation 2011*, ensure that electrical work is not carried out on electrical equipment while the equipment is energised, except when, in accordance with clauses 157–162 of the *WHS Regulation*, it is necessary in the interests of health and safety that the electrical work be carried out on the equipment while the equipment is energised.

At the completion of electrical work, provide a Certificate of Compliance – Electrical Work (CCEW) signed by a licensed electrician, setting out details of the installation work that has been carried out and confirming that the work complies with AS/NZS 3000 and is suitable for its intended use.
Independent Certification of Formwork

Ensure that formwork complies with AS 3610-1995 *Formwork for Concrete* and is designed, constructed and maintained so as to support safely all loads that are to be placed on it.

The Contractor must ensure that, for both horizontal and vertical formwork, before a concrete pour where:

- the formwork surface is 3 metres or more above the lowest surrounding; or
- the area of the formwork surface is 16 square metres or greater,

an independent qualified engineer inspects and certifies that the formwork complies with AS 3610–1995 *Formwork for Concrete*.

‘Qualified engineer’ means a person qualified for member grade of the Australian Institution of Engineers, having not less than 4 years post-qualification professional engineering experience in formwork.

The qualified engineer must not be a proprietor, director, officer, or employee either of the entity carrying out the formwork erection or a related entity. If the Contractor carries out the design of the formwork, then the qualified engineer must not be a proprietor, director, officer or employee either of the Contractor or a related entity to the Contractor.

The Contractor and any subcontractors involved must include the inspection and certification as actions in Safe Work Method Statements for the erection and use of formwork, and they must be hold points in the Contractor’s and subcontractors’ Inspection and Test Plans.

Submit formwork certification before commencing the use of the formwork. Do not use the formwork before this certification is submitted.

5.9 Hazardous substances discovered unexpectedly on the Site

Definition


Asbestos, material containing asbestos, polychlorinated biphenyl (PCB) and lead based paints are hazardous substances. For the purposes of this clause, these substances are referred to as ‘Nominated Hazardous Substances’.

Other substances in certain situations are also considered hazardous and therefore require controlled handling in accordance with statutory requirements. Examples are glues, solvents, cleaning agents, paints, water treatment chemicals and materials containing silica.

Response to unexpected discovery

The requirements of this clause apply when a Nominated Hazardous Substance whose presence is not identified in the Contract Documents is discovered unexpectedly on the Site. General Conditions of Contract clause – Site Conditions does not apply.

If any Nominated Hazardous Substance is discovered unexpectedly on the Site, the Contractor must suspend all work that may result in exposure to the substance and notify the Principal immediately of the type of substance and its location. The suspension shall be deemed to be a suspension by the Principal under General Conditions of Contract clause – Principal’s suspension to the extent that it was required to prevent such exposure.

With the initial notification, or as soon as practicable thereafter, submit details including:

- the additional work and resources the Contractor estimates will be necessary to deal with the Nominated Hazardous Substance so that work and subsequent use of the Works may proceed safely and without risk to health;
- the Contractor’s estimate of the cost of the measures necessary to deal with the Nominated Hazardous Substance;
- the Contractor’s estimate of the anticipated effect on Contractual Completion Dates; and
- other details reasonably required by the Principal.
In planning and carrying out any work dealing with the Nominated Hazardous Substance, the Contractor must take all reasonable steps to:

- carry out the work concurrently with other work wherever possible; and
- otherwise minimise the effects of the work on the Contractual Completion Date(s).

**Control and decontamination**

When the Contractor notifies that a Nominated Hazardous Substance has been discovered unexpectedly on the Site, the Principal may:

- suspend the whole or any part of the work, in accordance with General Conditions of Contract clause - Principal's suspension, until the substance is isolated or removed; or
- instruct the Contractor to take responsibility for the control of the Nominated Hazardous Substance and decontamination of the Site, and treat any necessary additional work as a Variation.

Where the Contractor is required, under the Contract or following an instruction from the Principal, to take responsibility for the control of hazardous substances and decontamination of the Site, the Contractor must handle, use, isolate, remove and dispose of such substances in accordance with statutory requirements.

The Environment Protection Authority or Waste Service NSW may advise suitable disposal sites.

**5.10 Asbestos removal**

**Requirement**

Comply with the relevant statutory requirements, standards, codes and guidelines in respect of any asbestos removal work, including but not limited to:

- SafeWork NSW requirements
- WorkCover Code of Practice *How to manage and control asbestos in the workplace*
- WorkCover Code of Practice *How to safely remove asbestos*
- Environmentally Hazardous Chemicals Act 1985 (NSW)
- Waste Avoidance and Resource Recovery Act 2001 (NSW)
- WorkCover Guide *Managing Asbestos in or on Soil*

Comply with the requirements of any Asbestos Management Plan that applies to the Site or the building where removal is taking place.

**Notification and Permit**

Not less than 7 days prior to starting any asbestos removal work, notify the Principal of the intention to carry out that work. Provide to the Principal a copy of the asbestos removal contractor's licence and a copy of any permit required for the work.

**Monitoring**

For all friable asbestos removal and for non-friable asbestos removal in occupied areas, provide air monitoring by an independent, licensed asbestos assessor:

- on each day during asbestos removal, immediately before asbestos removal work starts; and
- on completion of each area where removal has been undertaken.

**Clearance Certificate**

Submit to the Principal a clearance certificate from an independent licensed asbestos assessor at the completion of the asbestos removal work.

**5.11 Principal's site office**

Provide an office for the use of the Principal and nominees, in a position agreed with the Principal. Make the office ready for occupation before any major site activities start. If during the progress of the Works it becomes necessary to move the office, do so without charge and with the minimum of inconvenience. Service, clean and maintain the office for
the duration of the Works. Provide safe access to the office at all times. Remove the office at Completion, but not until the Principal's permission is obtained. The office will provide workspace accommodation for 6 occupants and include suitable spatial provisions for printing and storage.

5.12 Temporary services provided by the Principal
The Contractor must make all arrangements and pay all costs (including for connection, metering and disconnection) associated with the provision of temporary services necessary to carry out and complete the Works.
AGNSW has commenced the process for obtaining approval for the installation of a temporary padmount kiosk substation as a temporary power supply. Design documents for these works are included in the Principals Documents. The existing Ausgrid chamber substation must remain in situ and operational until the kiosk substation is complete and commissioned.
The Contractor is responsible for all works associated with installation of the temporary kiosk substation and connection of all existing services to the temporary substation.
The Contractor is responsible for all works associated with removal of the temporary kiosk substation and connection of all existing services to the permanent chamber substation.
The Contractor is responsible for all associated make good works.

5.13 Hoarding
The Contractor is required to comply with the provisions of the SMP Hoarding Strategy document.

5.14 Signboard
Signboard will be provided in accordance with the specification in the Hoarding Requirements.
All signboards and signage will be submitted for approval prior to installation.

6 Environmental protection
6.1 Environmental management

Environmental Management Monthly Report
Submit an Environmental Management Monthly Report with each claim for payment, signed by the Contractor's representative and including the information specified below, as evidence of implementation of the Environmental Management Plan.

Contract details - the names of the Contract, Contractor and Contractor's representative, the report date and the period covered.

Implementation of environmental management - details of:
- the environmental risks and opportunities, and significant environmental impacts associated with the work;
- environmental objectives, targets and measures of performance (where practical); and
- management actions, including environmental controls, training, inspections and testing.

Implementation of incident management, including emergency response - details of all environmental incidents or emergencies, including non-compliance with environmental procedures and near misses, implementation of incident and emergency response management, and implementation of corrective action.

Implementation of reviews - details of internal reviews, audits and inspections undertaken to verify that on-site environmental processes and practices conform with the Environmental Management Plan, including:
- monitoring, measurement, evaluation and review of activities;
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- the consequences of non-conformances;
- investigation, analysis, evaluation and follow-up verification; and
- corrective and preventive action taken.

**Incident reports**

Ensure compliance with the notification and other requirements of the *Protection of the Environment Operations Act 1997* (NSW) (POEO Act).

Immediately notify the Principal of any pollution incident that may cause material harm to the environment, providing evidence that notification requirements of the POEO Act have been met, where applicable.

Report immediately the details of any waste removed from the Site and not disposed of at a lawful facility.

When requested, provide an incident investigation report, including identification of the cause of the incident and corrective actions taken, in the form directed.

### 6.2 Ecologically sustainable development

**Requirement**

The Contractor is required to achieve As Built 6 Greenstar Rating, in accordance with the GBCA Greenstar Design Certification 6 Greenstar Rating received. Existing Greenstar rating documentation is provided as part of design documents.

Apply strategies to maximise the achievement of ecologically sustainable development in the design, construction and operation of the Works, including reducing pollutants, greenhouse gas emissions and demand on non-renewable resources such as energy sources and water.

**Restricted timbers**

Do not use the following timbers or their products for work under the Contract:

- rainforest timbers, unless certification is provided that they are plantation grown;
- timber from Australian high conservation forests.

### 6.3 Waste management

**Requirement**

Implement waste minimisation and management measures, including:

- recycling and diverting from landfill surplus soil, rock, and other excavated or demolition materials, wherever practical;
- separately collecting and streaming quantities of waste concrete, bricks, blocks, timber, metals, plasterboard, paper and packaging, glass and plastics, and offering them for recycling where practical.

Ensure that no waste from the Site is conveyed to or deposited at any place that cannot lawfully be used as a waste facility for that waste.

**Monitoring**

Monitor and record the volumes of waste and the methods and locations of disposal. Submit a progress report every two months, and a summary report before Completion, on the implementation of waste management measures, including the total quantity of material purchased, the quantity purchased with recycled content, the total quantity of waste generated, the total quantity recycled, the total quantity disposed of and the method and location of disposal in the form of a *Waste Recycling and Purchasing Report* available on the ProcurePoint website.

With the *Waste Recycling and Purchasing Report*, submit waste disposal certificates and/or company certification confirming appropriate, lawful disposal of waste.

### 6.4 Pest control

Do not use any chemical pesticides or termicides for new construction work. Use preventive treatment by physical means to minimise the risk of pest infestations.

Chemical treatments may be used in existing buildings only as a last resort for the eradication of pest and termite infestations. Chemical pesticides used for this purpose...
must be registered by the National Registration Authority for Agricultural and Veterinary
Chemicals and applied by a Pest Control Operator licensed by SafeWork NSW or the NSW
Environment Protection Authority.

Pest preventive methods must comply with AS 3660.1-2014 Termite management – New
building work (except for references to chemical soil barriers), as well as supplementary
standards for existing buildings.

7 Materials and workmanship

7.1 Standards

Where the Contract requires compliance with a standard or code, unless otherwise
specified that standard or code shall be the one current at the closing date for tenders,
except for the Building Code of Australia, which shall be the one current at Completion.

Where the Contract refers to an Australian Standard it does not preclude the adoption of a
relevant international standard.

7.2 Cleaning up

At Completion, all visible external and internal surfaces, including fittings, fixtures and
equipment, must be free of marks, dirt, dust, vermin and unwanted materials.

7.3 Samples

Match any approved samples throughout the Works. Do not commence work that requires
approval of samples until the samples have been approved.

Approved samples will be tagged, signed and dated by the relevant design consultant,
principal representative and the contractor. Keep approved samples in a locked room on
site for the duration of the project.

Samples required for approval are listed in the Architectural Specifications that form part
of Contract Documents.

7.4 Testing

Independent Testing Authority

Any testing required to be by an independent authority shall be carried out by an authority
registered with the National Association of Testing Authorities Australia (NATA) to perform
the specified testing.

7.5 Proprietary items

Identification by the Principal of a proprietary item does not necessarily imply exclusive
preference for that item, but indicates the required properties of the item.

The Contractor may offer an alternative to any proprietary item. Apply in writing for
approval to use the alternative. Provide details, including sufficient technical information,
to describe how, if at all, the alternative differs from the proprietary item and how it would
affect other parts of the Works, including performance and operation.

Except to the extent that the approval, if any, of the Principal includes a contrary provision,
the approval is deemed to include the conditions that:

• use of the alternative must not directly or indirectly result in any increase in the cost to
  the Principal of the Works;
• the Contractor must indemnify the Principal against any increase in costs;
• use of the alternative must not directly or indirectly cause any delay to the Works and
  if it does, the Contractor will compensate the Principal for any loss which the delay
  causes.

7.6 Items supplied by the Principal

Generally

The items in the Preliminaries schedule - Schedule of Principal Supplied Items will be
supplied free to the Contractor for incorporation into the Works.
Take delivery, unload and inspect the items for defects. Notify the Principal if the items are defective or unsuitable for the proposed use. Provide storage suitable to maintain the condition of the items until incorporated into the Works. Record the storage location on the delivery documents and submit copies of the delivery documents to the Principal. Notify the Principal if items are not delivered 5 Business Days before they are due to be incorporated into the Works or if items are lost from storage. Return unused items to the Principal.

**Responsibility**

If in the opinion of the Principal any damage to items supplied was due to defects existing at the time of receipt, but not discoverable upon reasonable inspection, the Contractor shall not be held responsible for such damage.

7.7 **Plant and equipment details**

**Requirement**

As a minimum, submit the following details of Plant and Equipment listed prior to ordering:

- Chiller Plant
- Lifts
- Escalators
- Gallery Lighting
- Kitchen Equipment

Additional requirements are identified in the Contract Documents.

8 **Electronic Document & Contract Management System**

8.1 **Communications and Document Management system**

The Contractor, must as soon as practicable from date of contract award, establish (including relevant licensing) an online document and contract communications management system, without limitation.

The Contractor must, arrange, manage, pay for and utilise an electronic system for this project, including for the Principal and its personnel.

The Contractor must ensure, for the duration of the works:

- Secure access is available from a web-based browser, supported by the Principal;
- Secure separation of communications is enabled between organisations, so confidentiality is maintained at all times;
- Current versions of documents and drawings (in both CAD and .pdf) are updated and loaded on the system, as soon as they become available;
- The drawings and documents must follow a logical naming convention agreed with the Principal. The naming convention must be enforced by the Contractor across their advisors, consultants and sub-contractors.
- Each document transmittal is to contain a bound pdf of the documents contained in that transmittal.
- Previous versions of documents are not deleted and remain accessible;
- Integration with any system previously used by the Principal;
- Written communications can be facilitated, searched and accessed, as required.
- Maintain full operation throughout the works including throughout the post completion period and for 6 months beyond the final post-completion period.
- At Completion, provide the Principal with a full electronic version of the electronic records on a separate Solid State Hard-Disk Drive (SSD).
9 Contractor's Project Plans

The requirePreliminary drafts of the Contractor's Project Plans are contained in Schedules 21-30 and 32 and 33 of the Contract. The Contractor must submit updated drafts of these Contractor's Project Plans in accordance with the Contract and the Project Brief and in accordance with the following schedule. In addition to the plans detailed below, the Contractor will also be required to prepare and update other Contractor's Project Plans as required by legislation, regulation, the Project Brief and the Contract.

<table>
<thead>
<tr>
<th>Description</th>
<th>Full Plan submission</th>
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<tr>
<td>Work Health and Safety Management Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Community Engagement Plan</td>
<td>30 Days after Contract Award</td>
</tr>
<tr>
<td>Stakeholder Management Plan</td>
<td>30 Days after Contract Award</td>
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<tr>
<td>Environmental Management Plan</td>
<td>30 Days after Contract Award</td>
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<tr>
<td>Construction Management Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
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<tr>
<td>Design Management Plan</td>
<td>30 Days after Contract Award</td>
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<tr>
<td>Demolition Management Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
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<tr>
<td>Construction Traffic Management Plan</td>
<td>30 Days after Contract Award</td>
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<td>Risk Management Plan</td>
<td>30 Days after Contract Award</td>
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<td>Quality Management Plan</td>
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<td>Industrial Relations management Plan</td>
<td>30 Days after Contract Award</td>
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<tr>
<td>Remediation Action Plan</td>
<td>30 Days prior to commencement of any activities on the Site</td>
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<tr>
<td>Completion Plan</td>
<td>9 months prior to the Contract Completion Date</td>
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9.1 Work Health and Safety Management Plan

(a) The Contractor must develop, implement and maintain a Work Health and Safety (WHS) Management Plan, which identifies how the
Contractor will pro-actively manage safety in all the Contractor's activities and comply with the requirements of the Contract and the NSW Government OHS Management System Guidelines.

(b) WHS Management Plan must, as a minimum, address and detail:

(i) a WHS policy statement;

(ii) the WHS team organisation including:

(A) WHS personnel including Key Personnel;

(B) authorities and roles of WHS personnel including Key Personnel;

(C) lines of responsibility and communication; and

(D) interfaces with the overall project organisational structure.

(iii) notifications and registration requirements;

(iv) process of safety risk management and mitigation, or references to other documents that address safety, risk management and mitigation;

(v) emergency planning;

(vi) consultative processes;

(vii) prescribed and restricted occupations;

(viii) hazard identification and risk analysis processes;

(ix) hazardous substance management;

(x) WHS training;

(xi) induction procedures for all workers before they commence on site;

(xii) safe work method processes and statements;

(xiii) Subcontractor controls;

(xiv) accident and incident recording, reporting, investigation and analysis including corrective action;

(xv) periodic team meetings to identify occupational health, safety and rehabilitation issues;

(xvi) site vehicle, equipment and plant movement plans and processes; and

(xvii) safety audits.

(c) The WHS Management Plan must, as a minimum:

(i) address safety in the design, documentation and specification of the Works and the Contractor's activities;
(ii) establish systems that ensure that health and safety issues will be identified, recorded and responded to throughout the performance of the Contractor's activities;

(iii) demonstrate the orderly management of health and safety throughout the performance of the Contractor's activities, and provide evidence that the Contractor has met its legal health and safety responsibilities;

(iv) establish procedures that ensure continuing involvement of the designers in the construction stages of the Works and must include, when applicable;

(A) health and safety implications of design elements of the Works;

(B) unforeseen risk eventualities resulting in substantial design change which might affect health and safety and resources; and

(C) health and safety implications of design where design work is carried out in stages.

(v) ensure that health and safety issues that are a function of or result from the Design Documentation form part of and are included in the health and safety assessment process for construction. These health and safety issues must be included in construction documentation and procedures to ensure that they are effectively managed during construction activities.

(d) The WHS Management Plan must be further developed and updated:

(i) to take into account changes in site conditions and work, generally accepted occupational health and safety and rehabilitation practices and changes in Law;

(ii) where reasonably requested or required by Project Director or any Authority;

(e) the following risks are covered:

(i) Demolition;

(ii) Removal of Contaminated material;

(iii) Public/Contractor interface including park users;

(iv) Traffic and Vehicles management and work close to transport corridors;

(v) Noise, Dust and Vibration;

(vi) Underground Services;

(vii) Formwork;

(viii) Heavy and overhead lifting;

(ix) Moving Plant and Machinery; and

(x) Deep Excavation and Working at heights.
This list of risks is not exhaustive and must not be relied upon by the Contractor. The Contractor must undertake its own detailed analysis of all work health and safety risks under the Contract;

(f) Include a program indicating the timetable and resources allocated for Inspection, testing and servicing and Internal review (WHSMS Guidelines, elements 7 and 11); and

(g) Nominate the resources allocated for Incident management and corrective action (WHSMS Guidelines, element 8).

9.2 Community Engagement Plan

(a) The Contractor must develop, implement and maintain a Community Engagement Plan.

(b) The Community Engagement Plan must:

(i) be informed by and sit within the State’s Overarching Stakeholder and Community Engagement Strategy;

(ii) ensure alignment with the Contract Program;

(iii) describe ways that community interests and issues will be addressed; and

(iv) describe ways the community will be informed of design and project impacts;

(c) The Contractor must ensure the communications and engagement process is robust and will:

(i) demonstrate a willingness to listen and consider community concerns;

(ii) provide high-quality information;

(iii) create opportunities for community feedback, where possible;

(iv) ensure participants are aware of what they can and cannot influence; and

(v) respond to emergent issues and correct erroneous information in a timely fashion.

(d) The Community Engagement Plan must, as a minimum, address and detail:

(i) the stakeholder and community engagement management team structure including:

(A) Key Personnel and other significant appointees;

(B) authority and roles of Key Personnel and other significant appointees;

(C) lines of responsibility and communication;

(D) minimum skill levels of each role; and
(E) interfaces with the overall project organisation structure including INSW.

(ii) principles and methodologies for proactive community engagement;

(iii) strategies for responding to and accommodating the reasonable expectations of the community;

(iv) community engagement and communication activities;

(v) in a schedule, the key issues which are likely to be of concern/interest to the community and how these issues will be managed proactively;

(vi) key messages to be used in the preparation of information materials and responding to enquiries and complaints;

(vii) communication and consultation tools to be used for keeping the stakeholders and community informed and to seek input on specific issues;

(viii) communication protocols and procedures, including those associated with approvals and handling enquiries from media and political representatives;

(ix) a strategy for communicating traffic and access changes and ensuring integration across the communications and traffic and transport management functions;

(x) processes for monitoring, evaluation and reporting; and

(xi) community engagement site induction information to be provided to the Contractor’s personnel and the Subcontractor’s personnel.

(xii) stakeholders who may be affected, messages that should be communicated and when they should be communicated.

(e) When preparing the Community Engagement Plan, the Contractor may wish to consider, but not limit itself to, the following:

(i) the deployment of a Stakeholder and Community Relations Manager;

(ii) ongoing community liaison;

(iii) community meetings;

(iv) public displays, local events and activities;

(v) website and social media;

(vi) complaints management;

(vii) incident and crises management;

(viii) media relations and events; and

(ix) response to community representations.
9.3 Stakeholder Management Plan

(a) The Contractor must develop, implement and maintain a Stakeholder Management Plan.

(b) The Stakeholder Management Plan must:

(i) be informed by and sit within the Principal's Stakeholder and Community Engagement Strategy;

(ii) ensure alignment with the Contract Program;

(iii) describe ways that stakeholder issues will be addressed; and

(iv) describe ways stakeholders will be informed of design and project impacts.

(c) The Contractor must ensure the communications and engagement is robust and will:

(i) demonstrate a willingness to listen and consider concerns;

(ii) provide high-quality information;

(iii) create opportunities for feedback, where possible;

(iv) ensure participants are aware of what they can and cannot influence; and

(v) respond to emergent issues and correct erroneous information in a timely fashion.

(d) The Stakeholder Management Plan must, as a minimum, address and detail:

(i) the stakeholder management team structure including:

(A) Key Personnel and other significant appointees;

(B) authority and roles of Key Personnel and other significant appointees;

(C) lines of responsibility and communication;

(D) minimum skill levels of each role; and

(E) interfaces with the overall project organisation structure including INSW;

(ii) principles and methodologies for proactive stakeholder involvement;

(iii) strategies for responding to and accommodating the reasonable expectations of stakeholders;

(iv) stakeholder communication activities;

(v) all stakeholders with an interest in, or directly affected by, the Project;
(vi) in a schedule, the key issues which are likely to be of concern/interest to stakeholders and how these issues will be managed proactively;

(vii) key messages to be used in the preparation of information materials and responding to enquiries and complaints;

(viii) communication and consultation tools to be used for keeping the stakeholders informed and to seek input on specific issues;

(ix) communication protocols and procedures, including those associated with approvals and handling enquiries from media and political representatives;

(x) processes for monitoring, evaluation and reporting; and

(xi) stakeholder site induction information to be provided to the Contractor's personnel and the Subcontractor's personnel.

(e) When preparing the Stakeholder Management Plan, the Contractor may wish to consider, but not limit itself to, the following:

(i) the deployment of a Stakeholder and Community Relations Manager;

(ii) stakeholder meetings;

(iii) Construction Site visits by external personnel;

(iv) incident and crisis management; and

(v) response to stakeholder representations.

9.4 Environmental Management Plan

(a) The Contractor must develop, implement and maintain an Environmental Management Plan that must include, as a minimum:

(i) identification of the statutory and other obligations which the Contractor is required to fulfil, including all licences, approvals, consultations and agreements required from Authorities and other stakeholders, and the key legislation and policies applying to the Project;

(ii) monitoring, inspection and test plans for all activities and environmental qualities which are important to the environmental performance of the Works and any other development activities, including a description of potential site impacts, performance criteria, specific tests and monitoring requirements, protocols and procedures;

(iii) steps to ensure compliance with all plans and procedures;

(iv) strategies for the management of carbon and energy, water resources, noise, water quality, access and traffic, groundwater, settlement, waste, removal and disposal, hydrology including flooding, visual screening, landscaping and rehabilitation, hazards and risks, and energy use, resource use and recycling; and
how the Contractor will comply with the environmental management requirements of the Contract and the Project Brief, at a standard that satisfies all relevant Authorities.

(b) The Environmental Management Plan must, as a minimum:

(i) identify and assess the risk, provide protection from and mitigate any adverse environmental effect which may result from the performance of any component of the Contractor’s activities;

(ii) define the environmental responsibilities of the Contractor and each position within the Contractor’s management team;

(iii) include schedules of available resources, including personnel to deal with environmental incidents at all stages of the Project;

(iv) address the need for environmental safeguards and the adoption of environmentally sensitive work practices during any of the Contractor’s activities including, but not limited to, procedures for:

(A) on-going noise, water, air quality, vibration and groundwater monitoring and control;

(B) management measures to reduce noise levels;

(C) management measures to avoid, reduce, reuse and recycle waste;

(D) dust control including monitoring, mitigation and remedial actions;

(E) detection, treatment and disposal of contaminated materials and water;

(F) water quality control measures and facilities; and

(G) erosion and sediment control plans.

(c) The Environmental Management Plan must be further developed and updated:

(i) to take into account changes to the environment or generally accepted environmental management practices, new risks to the environment, any pollution, contamination or changes in Law; and

(ii) where requested or required by the Department of Planning and Environment or any other Authority.

9.5 Construction Management Plan

(a) The Contractor must develop, implement and maintain a Construction Management Plan, which identifies how the Contractor will comply with the requirements of the Contract.

(b) The Construction Management Plan must, as a minimum, address and detail:

(i) the construction team organisational structure including:
(A) construction personnel including Key Personnel;
(B) authority and roles of construction personnel including Key Personnel;
(C) roles and lines of responsibility and communication;
(D) the minimum skill levels of each role; and
(E) interfaces with overall project organisational structure.

(ii) how design performance and durability requirements are to be addressed and satisfied during construction;
(iii) construction methods and planned resource levels;
(iv) detailed staging diagrams to show visually how the Works will be built.
(v) technical specifications and construction standards applicable to each construction element and package;
(vi) construction program development, monitoring, review and management;
(vii) construction documentation applicable to each construction package;
(viii) processes for the development and management of work method statements;
(ix) processes for construction risk mitigation and management;
(x) access to the Site and to affected properties;
(xi) in a schedule, the necessary property works and utility service works;
(xii) processes for the development and storage of "As-Built" information and document requirements;
(xiii) provision of up-to-date information to the Principal's Authorised Person as required by the Contract;
(xiv) management of safety and incidents during construction, including reporting of incidents and near-misses;
(xv) interfaces with other Contractor's Project Plans;
(xvi) procurement and subcontractor management strategies;
(xvii) in a schedule, the required Approvals and certifications and a process and program for obtaining those Approvals and certification;
(xviii) safe processes for each element of work, and how outcomes in the Design Management Plan are to be incorporated into construction to ensure these outcomes are achieved; and
(xix) maintenance methods for temporary facilities and equipment to be used during construction.
(c) The Construction Management Plan must be further developed and updated:

(i) for changes in design or construction sequence, staging, methodology or resourcing;

(ii) to take into account progress of the Contractor’s activities;

(iii) for changes in access to the Site; and

(iv) to take into account changes directed by the Principal under the Contract.

9.6 Design Management Plan

(a) The Contractor must develop, implement and maintain a Design Management Plan that complies with the QMS Guidelines and which identifies how the Contractor will comply with the design requirements of the Contract.

(b) The Design Management Plan must include a BIM Manual, which sets out the drawing standards, and protocols, which must be used by all designers preparing Design Documentation and Construction Documentation.

(c) The Design Management Plan must, as a minimum, address and detail:

(i) the Contractor’s design team organisational structure including:

(A) lead design personnel including Key Personnel;

(B) authority and roles of lead design personnel including Key Personnel;

(C) lines of responsibility and communication;

(D) the minimum skill and competency levels of each role; and

(E) relationships and interfaces with the overall project organisational structure.

(ii) design management processes including processes for the integration of relevant design disciplines into each area or element of work and communication between design teams;

(iii) design standards to be adopted for each design component and design package;

(iv) in a schedule, the design packages including the scope and package numbering;

(v) Design Development Program giving details of, the design review process, including the timing and Design Documentation to be provided for each design package;

(vi) the strategy for achieving compliance with all relevant codes and standards for accessibility;
(vii) design strategies for ensuring functionality, performance, durability, design life and fitness for purpose, survey and other requirements are met;

(viii) processes for design risk assessment and design risk mitigation;

(ix) processes for addressing the safe construction of the works through the design stage (safety in design principles within the design);

(x) processes for identifying and incorporating utility services requirements and adjustments;

(xi) processes for the development of specifications for the construction of all elements of the Works;

(xii) processes for design presentations including timing, level of documentation to be presented, presentation methods and feedback procedures;

(xiii) design management processes for the internal verification and certification of each design package and how integrated verification and certification will occur;

(xiv) processes for the management of requests for information, modifications and updating of Design Documentation;

(xv) processes for submission, certification, verification and storing of samples, prototypes, models and other similar submissions;

(xvi) design management processes for the review of proposed design changes and adjustments during construction to ensure the requirements of the Contract are met;

(xvii) processes for ensuring that maintainability requirements have been addressed;

(xviii) process for review and certification of IFC Design Documentation;

(xix) processes for the development of as built information; and

(xx) interfaces with other Contractor's Project Plans.

(d) The Design Management Plan must include the establishment of design packages. The design packaging selection must take into account:

(i) the Project Brief;

(ii) the Principal's Design;

(iii) the requirements of the Contract Program;

(iv) the design and construction processes and activities;

(v) the logical sequence of design definition;

(vi) the interfaces and inter-relationships between packages;

(vii) the identification and resolution of interfaces with the relevant Authorities;
(viii) the processes for managing the interface between design teams and between different design disciplines within the packages;

(ix) the transition of completed Design Documentation packages to IFC Design Documentation packages; and

(x) the roles, skills and competencies of the personnel proposed to undertake design work and the resources to be applied.

(e) The Design Management Plan must be further developed and updated as necessary to address the design of new elements not covered by the existing Design Management Plan.

9.7 Demolition Management Plan

(a) The Contractor must develop, implement and maintain a Demolition Management Plan which identifies how the Contractor will comply with the requirements of the Contract.

(b) The Demolition Management Plan must, as a minimum, address and detail:

(i) the demolition team organisational structure including:

(A) construction personnel including Key Personnel;

(B) authority and roles of construction personnel including Key Personnel;

(C) roles and lines of responsibility and communication;

(D) the minimum skill levels of each role; and

(E) interfaces with overall project organisational structure.

(ii) demolition methods and planned resources

(iii) demolition program

(iv) processes for the development and management of work method statements;

(v) processes for risk mitigation and management;

(vi) access to the Site and to affected properties;

(vii) management of safety and incidents, including reporting of incidents and near-misses;

(viii) procurement and subcontractor management strategies; and

(ix) in a schedule, the required Approvals and certifications and a process and program for obtaining those Approvals and certification;

(c) The Demolition Management Plan must be further developed and updated:

(i) for changes in design or construction sequence, staging, methodology or resourcing;
To take into account progress of the Contractor’s activities;

(ii) for changes in access to the Project Site; and

(iv) to take into account Changes directed by the Principal under the Contract.

9.8 Construction Traffic and Management Plan

(a) The Contractor must develop, implement and maintain a Construction Traffic Management Plan which identifies how the Contractor will comply with the traffic management and traffic safety requirements of the Contract.

(b) The Construction Traffic Management Plan must contain a draft of all traffic control plans to be submitted for review.

(c) Controlled copies of the Construction Traffic Management Plan must be issued to Project Director and the relevant construction, operation and maintenance staff of the Contractor.

(d) The Construction Traffic Management Plan must be further developed and updated:

(i) to address changes in the design and construction processes;

(ii) for design and construction processes which the existing Construction Traffic Management Plan does not address;

(iii) to respond to any incidents or traffic disruptions arising from the Contractor’s activities; and

(iv) to avoid recurrence of any identified risks to the safety of road users and the public.

(e) The Construction Traffic Management Plan must provide for constant monitoring and review of the Contractor’s activities to ensure continued compliance with the Traffic and Pedestrian Management Plan.

(f) The Construction Traffic Management Plan must comply with the requirements of the Contract and the Project Brief and address the following key issues as a minimum:

(i) safety and amenity of road users and the public;

(ii) temporary lane or road closures, detours and other disruptions to public transport services and traffic flows including identification of additional traffic generated as a consequence of these disruptions;

(iii) access for people using the Precinct;

(iv) access for disabled persons, pedestrians, cyclists and public transport passengers;

(v) site security, site access;

(vi) signage, including:

(A) Project identification including signs to acknowledge Government initiatives;
(B) traffic (or road user) delay management;
(C) information signage, distance information and advance warning signs;
(D) speed limit signage; and
(E) changes to existing signage locations and provisions for emergency and incident response; and

(vii) frequency of inspections.

9.9 Risk Management Plan

(a) The Contractor must develop, implement and maintain a Risk Management Plan which identifies how the Contractor will comply with the Risk Management Plan requirements of the Contract.

(b) For the purposes of the Risk Management Plan, a risk is defined as any event or uncertainty that has the potential to impact the achievement of either the Principal's or the Contractor's objectives with regard to the Project.

(c) The Risk Management Plan must be consistent with the requirements of Australian/New Zealand Standard AS/NZS ISO 31000:2009, Risk management - Principles and guidelines.

(d) Risk identification and assessment by the Contractor must be a continuous process throughout the Project. The Contractor must report on identified risks and associated risk management matters as follows:

(i) in respect of monthly reporting associated with the status and progress of the design, construction and commissioning, include a summary of key risks (threats and opportunities) and corresponding current and planned risk treatments. Key risk reporting areas include but are not limited to:

(A) timely completion of the design (including intermediate milestones);

(B) status of risk management implementation; and

(C) achievement of project objectives including those associated with:

1. operational outcomes;

2. key stakeholders including the community;

3. key interfaces; and

4. environment and cultural heritage.

(ii) Where information is to be provided to the Principal for the purposes of decision making, justification or information, the Contractor must include all associated and relevant risk-related information pertaining to the particular matter.

9.10 Quality Management Plan

(a) The Contractor must develop, implement and maintain a Quality Management Plan (Development Phase) in accordance with ISO 9001,
which identifies how the Contractor will comply with the quality requirements of the Contract.

(b) The Quality Management Plan must, as a minimum, address and detail:

(i) the Contractor's quality team organisational structure including:
   (A) quality management personnel;
   (B) authority and roles of quality management personnel;
   (C) lines of responsibility and communication;
   (D) the minimum skill levels of each role; and
   (E) interfaces with the overall project organisational structure.

(ii) quality risk management and mitigation processes;

(iii) how inspection, witnessing, monitoring and reporting will be undertaken;

(iv) procedures for the production, management and control of quality records;

(v) the Contractor's proposed design methodology and scope for the review and witnessing of the carrying out of the construction of the Works;

(vi) procedures in respect of non-conformances, improvement opportunities and the taking of corrective action, including reporting procedures;

(vii) auditing procedures for the Quality Management Plan; and

(viii) interfaces with other Contractor's Project Plans.

(c) The Quality Management Plan must be further developed and updated to address:

(i) changes in the design and construction process including the use of and development of new designs and materials; and

(ii) design and construction processes requiring documentation which the existing Quality Management Plan does not address.

9.11 Industrial Relations Management Plan

(a) The Contractor must develop, implement, and maintain an Industrial Relations and Management Plan which identifies how the Contractor will comply with the Industrial Relations requirements of the Contract.

(b) The Industrial Relations Management Plan must include arrangements for the Contractor's employees and the Contractor's Subcontractors' employees, including permanent, contract and casual staff.

(c) The Industrial Relations Management Plan must cover, on an individual or collective basis as appropriate, selection, recruitment, termination, consultation, negotiation, discipline, grievance and welfare arrangements.
9.12 Remediation Action Plan and Acid Sulfate Soil Management Plan

(a) Remediation Action Plan (RAP) and Site Audit Report have been developed and are provided as part of SSDA Documents.

(b) Acid Sulfates Soil Management Plan has been developed and is provided as part of the SSDA Documents.

(b) The Contractor will review provided documents, comply with identified assessments and investigations and develop RAP, Site Audit Report and Acid Sulfates Soil Management Plan.

(c) The Contractor must implement, and maintain a Remediation Action Plan, Site Audit Report and Acid Sulfates Soil Management Plan which identifies how the Contractor will comply with the contamination management requirements of the Contract and the Project Brief, at a standard that satisfies all relevant Authorities.

(d) The Remediation Plan must be developed in accordance with the requirements of the following:

(i) Authorities:
   (A) NSW Department of Planning and Environment; and
   (B) NSW Environment Protection Authority;

(ii) Guidelines:

(e) The Contractor must not commence any work upon the Project Site until the Contractor has:

(i) received approval for the Remediation Action Plan from the relevant Authorities or have been advised by the relevant Authorities that such approval is not required; and

(ii) provided a copy of such approval or advice (as the case may be) to Principal.

9.13 Completion Plan

(a) The Contractor must develop, implement and maintain a Completion Plan which identifies how the Contractor will achieve Completion in accordance with the requirements of the Contract including how the Contractor will verify to the Principal that:

(i) all functional components have been tested, commissioned and operated to ensure that they are operating as intended and have been designed and constructed in accordance with the applicable standards and codes;

(ii) the Works meet the requirements of the Contract; and

(iii) all statutory certifications of and Approvals in respect of all relevant systems have been obtained;

(b) The Completion Plan must include:

(i) the Contractor’s strategy for achieving Completion;
(ii) details of all activities the Contractor will and must undertake to achieve Completion;

(iii) details of the parties involved in achieving each of the Completion criteria and the Contractor’s strategy for managing the interfaces between those various parties;

(iv) details of Contractor’s dedicated Completion team including the names, roles and responsibilities of key personnel in this regard;

(v) details of each of the Completion criteria and Contractor’s proposed methodology for achieving each of the Completion criteria;

(vi) details of each of the Completion tests including a methodology for the conduct of each test, details of the systems and parties involved in the conduct of each and the objectives of each test;

(vii) a documented procedure for reporting the conduct and outcome of all Completion Tests which must include details of the parties present at the tests and details of the area systems tested;

(viii) a list of all Approvals, certificates and permits required from all Authorities for the Project including details of which parties are responsible for obtaining such Approvals, certificates and permits, their status and the time at which they are required;

(ix) a list of all Approvals and certificates of compliance required for the Project and the time at which they are required;

(x) the manner in which the Contractor will involve the Principal in Completion;

(xi) the Contractor’s testing and commissioning methodology for:

(A) carrying out commissioning processes generally;

(B) confirming that all control systems including building management systems are in place, fully commissioned and operational;

(C) the method of recording and distribution of test results;

(D) success and failure metrics of each test;

(E) information nominating the scheduling frequency of all testing and commissioning activities; and

(F) testing schedules for all systems and infrastructure including:

1. a description of the nature and purpose of each test;

2. the location at which each test is to be conducted; and

3. identification of any tests where input and assistance is required from Other Contractors, Authorities and any other parties identified by the Contractor.
(xii) the process for testing and commissioning of all FF&E to ensure that they are ready for operation;

(xiii) confirmation that all warranties have been obtained or otherwise are in place; and

(xiv) a process for ensuring that all documentation that must be provided by the Contractor as a condition precedent to Completion has been completed and provided.

(c) As part of the Completion Plan the Contractor must produce and keep updated a Completion Program. The Completion Program must:

(i) clearly identify all activities associated with Completion together with planned timing and sequence of activities;

(ii) be sufficiently detailed to enable the Principal to plan, program and co-ordinate its obligations; and

(iii) be regularly updated to show planned versus actual progress and submitted to the Principal.

(d) The Completion Test Plan must contain test and commissioning plans for all systems and services including:

(i) electrical distribution network;

(ii) electrical services;

(iii) mechanical services;

(iv) central plant system;

(v) power generation systems;

(vi) fire services;

(vii) evacuation systems;

(viii) duress systems;

(ix) security and access control services;

(x) CCTV systems;

(xi) hydraulic services;

(xii) food and beverage services;

(xiii) audio visual systems;

(xiv) communications systems;

(xv) technology systems;

(xvi) integration between systems;

(xvii) telephony systems;

(xviii) building envelope performance;
(xix) building management system;
(xx) asset management system;
(xxi) signage and information system;
(xxii) acoustics performance;
(xxiii) other systems and services.

(e) Without limiting the Contractor’s obligation to comply with the requirements under the Contract, the testing and commissioning aspects of the Completion Plan must comply with the following standards and codes of practice:

(i) AS 1851-2005;
(ii) AS/NZS 3000:2007;
(iii) AS 2670:1990;
(iv) ISO 2631:2003;
(v) IEC 60268-16:2003;
(vi) AS/NZS 2460:2002;
(vii) NEBB Commissioning Codes; and
(viii) TAB Manual for Technicians;
(ix) CIBSE Commissioning Codes:
   (B) Code B: 2002 Boilers;
   (C) Code C: 2001 Automatic Controls
   (D) Code M: 2003 Commissioning Management;
   (E) Code R: 2002 Refrigerant Systems; and
   (F) Code W: 2003 Water Distribution Systems

10 Schedules to Preliminaries

10.1 Schedule of Samples for Approval

Requirement
Samples are required for the following items:
- Refer to Project Brief and Principal’s Design

10.2 Schedule of Principal Supplied Items

Supply by Principal
The following items will be supplied by the Principal:
- Nil
10.3 Not Used

10.4 Items to be Salvaged

Trees and plants to be salvaged for art commissions
The following trees are to be salvaged and provided to the Principal for the purpose of being used in artworks (creating shields and boomerangs) to be commissioned by the Principal:
- mix of gum and banksia trees from those identified for removal in the landscape documentation;
- Trees are to have a trunk diameter of 150mm or more. Leafy vegetation should be removed. Roots are not required;
- Trunks and major limbs with bends are required, to be cut into 1.5m lengths, with cuts at least 500mm from either side of the bend.

The following plants are to be salvaged and provided to the Principal for the purpose of being used in artworks (weaving) to be commissioned by the Principal:
- 5 x Lomandra grass plants, cut at the base. Roots are not required.

RBG items to be salvaged
The following items are to be carefully removed and delivered to a designated location on the RBG Access Road at a time and location to be agreed with the RBG via the Principals Authorised Person:
- Street light poles and Bega light fittings
- Metal crowd control barriers
- RBG padlocks
- Red slatted public seating
- Cast iron bollards
- Round traffic mirror and pole
- CCTV camera pole (once decommissioned)
- Blue stone paving and treads – RBGDT will supply timber pallets, quantities will depend on quality after removal
- Wayfinding signage
- RMS dedication plaque

END OF SECTION – PRELIMINARIES
Schedule 40 – Independent Certifier Deed of Appointment

Refer to clauses 2A, 2B, 2C and 73 of the GC21 General Conditions of Contract.
Sydney Modern Project - Deed of Appointment of Independent Certifier

Dated

Infrastructure NSW (ABN 86 031 302 516) ("Principal")
Airport Motorway Limited (ABN 26 057 283 093) and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607) ("ED Operator")
The Art Gallery of New South Wales Trust (ABN 24 934 492 575) ("AGNSW")
Roads and Maritime Services of New South Wales ("RMS")
[insert] (ABN [insert]) ("D&C Contractor")
[insert] (ABN [insert]) ("Independent Certifier")
# Independent Certifier Deed

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Independent Certifier Deed

Details

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<tr>
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<th>Name</th>
<th>Infrastructure NSW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>ABN</td>
<td>85 031 302 516</td>
</tr>
<tr>
<td></td>
<td>Address</td>
<td>Level 15, 167 Macquarie St, Sydney NSW 2000</td>
</tr>
<tr>
<td></td>
<td>Fax</td>
<td>+ 61 2 8016 0101</td>
</tr>
<tr>
<td></td>
<td>Attention</td>
<td>David Riches</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ED Operator</th>
<th>Name</th>
<th>Airport Motorway Limited and AMT Management Limited as trustee of the Airport Motorway Trust (ABN 55 078 953 607)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Address</td>
<td>Level 23, Tower One, Collins Square, 727 Collins Street, Docklands Victoria 3008</td>
</tr>
<tr>
<td></td>
<td>Telephone</td>
<td>(02) 9254 4918</td>
</tr>
<tr>
<td></td>
<td>Email</td>
<td><a href="mailto:edassetmanager@transurban.com">edassetmanager@transurban.com</a> and <a href="mailto:lbeer@transurban.com">lbeer@transurban.com</a></td>
</tr>
<tr>
<td></td>
<td>Attention</td>
<td>Louise Beer, ED Asset Manager</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RMS</th>
<th>Name</th>
<th>Roads and Maritime Services of New South Wales, a NSW Government agency and corporation incorporated under section 46 of the Transport Administration Act 1988 (NSW)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Address</td>
<td>99 Phillip Street, Parramatta 2150</td>
</tr>
<tr>
<td></td>
<td>Telephone</td>
<td>(02) 8837 0901</td>
</tr>
<tr>
<td></td>
<td>Email</td>
<td><a href="mailto:Felicity.FINLAYSON@rms.nsw.gov.au">Felicity.FINLAYSON@rms.nsw.gov.au</a></td>
</tr>
<tr>
<td></td>
<td>Attention</td>
<td>Director Motorway Partnerships &amp; Planning</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGNSW</th>
<th>Name</th>
<th>The Art Gallery of New South Wales Trust, a statutory corporation constituted under section 5 of the Art Gallery of New South Wales Act 1980 (NSW)</th>
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<tbody>
<tr>
<td></td>
<td>Address</td>
<td>24 934 492 575</td>
</tr>
<tr>
<td></td>
<td>Telephone</td>
<td>(02) 9225 1852</td>
</tr>
</tbody>
</table>
### Recitals

**A** ED Operator, RMS and AGNSW have entered into the Interface Deed.

**B** The Principal and the D&C Contractor have entered into the D&C Contract.

**C** The Interface Deed and the D&C Contract contemplate that an independent certifier will be engaged to carry out the Services.

**D** ED Operator, RMS, AGNSW, the Principal and the D&C Contractor wish to engage an independent certifier to carry out the Services.

**E** The Independent Certifier has represented to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that it has the experience and expertise in the carrying out of services equivalent to the Services.

**F** The Independent Certifier has agreed to carry out the Services and its other obligations arising out of or in any way in connection with this document in accordance with the terms and conditions of this document.
General terms

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this document are set out below.

**Authorised Officer** means:

(a) in the case of the Principal, the mayor, the chief executive officer, chief financial officer and any other officer of the Principal nominated by the Principal to act as an authorised officer for the purposes of this document; and

(b) in the case of any other party, a director or secretary of that party or any other person nominated by that party to act as an authorised officer for the purposes of this document.

**Business Day** means a day on which banks are open for general banking business in Sydney, New South Wales (not being a Saturday, Sunday or public holiday in that place).

**Certificate** means a certificate issued by the Independent Certifier under this document.

**Certificate of Works Completion** has the meaning given in the Interface Deed.

**Claim** means any claim, loss, suit, proceeding, action, cause of action, demand, notice, litigation, investigation, judgment, execution, liability or responsibility, including for any Damages or for any injury or death, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), in equity, statute or otherwise.

**Commencement Date** means the date that this document is executed by all of the parties to this document.

**Communications** has the meaning given in clause 17.1(a).

**Confidential Information** means all Information disclosed to the Receiving Party or any Related Body Corporate of the Receiving Party, under or in connection with this document, including:

(a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential Information of the Disclosing Party or any of its Related Bodies Corporate;

(b) information derived or produced partly or wholly from the Information including any calculation, conclusion, summary or computer modelling; or

(c) trade secrets or information which is capable of protection at law or equity as confidential information,

whether the Information was disclosed:
(d) orally, in writing or in electronic or machine readable form;

(e) before, on or after the date of this document;

(f) as a result of discussions between the parties concerning or arising out the matters the subject of this document; or

(g) by the Disclosing Party or its Representative, any of its Related Bodies Corporate, or by any third person.

Corporations Act means the Corporations Act 2001 (Cth).

Costs means all costs, expenses, losses, charges and payments including any fees payable to consultants, agents or contractors, legal fees (on a full indemnity basis) and any administration costs.

Current Design Documentation has the meaning given in the Interface Deed

Damages means any loss, Costs or damage whatsoever including, but not limited to, direct, indirect, incidental, consequential or special damages, damage to property or to land.

Date of Works Completion means the date specified by the Independent Certifier in a Certificate of Works Completion as the date on which Works Completion was achieved.

Design Documentation has the meaning given to it in the Interface Deed.

Design Documentation Amendment has the meaning given to it in the Interface Deed.

Design Package has the meaning given to it in clause 2 of Schedule 6 of the Interface Deed.

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

Disclosing Party means the party disclosing Confidential Information.

Dispute includes any dispute, controversy, difference or Claim arising out of or in connection with this document or the subject matter of this document, including any question concerning its formation, validity, interpretation, performance, breach and termination.

Dispute Notice has the meaning given in clause 11.2(a)(i).

document means the agreement between the parties as set out in this document.

Document Particulars means the particulars set out in Schedule 1 ("Document Particulars").

D&C Contract means the contract between the Principal and the D&C Contractor dated [insert] for the design and construction of the Works.

ED IFC Design Documentation has the meaning given to it in the D&C Contract.

ED Land has the meaning given in the Interface Deed.

Excluded Information means Confidential Information which:
(a) is in or becomes part of the public domain other than through breach of this document or an obligation of confidence owed to the Disclosing Party or any Related Body Corporate of the Disclosing Party;

(b) the Receiving Party can prove by contemporaneous written documentation was already known to it at the time of disclosure by the Disclosing Party or its Related Bodies Corporate or Representatives (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality); or

(c) the Receiving Party acquires from a source other than the Disclosing Party or any Related Body Corporate or Representative of the Disclosing Party where such source is entitled to disclose it.

Good Industry Practice means the exercise of that degree of skill, diligence and prudence which would reasonably and ordinarily be expected from a prudent, experienced, properly qualified and competent person carrying out the role of independent certifier seeking in good faith to comply with its contractual obligations.

GST includes amounts defined as “GST” under the GST Act and “GST equivalents” payments under the GST and Related Matters Act 2000 (Qld) (or similar payments under corresponding legislation of any State or Territory).

GST Amount has the meaning given in clause 10.2(a).

Information means all information regardless of its Material Form relating to or developed in connection with:

(a) the business, technology or other affairs of the Disclosing Party or any Related Body Corporate of the Disclosing Party; or

(b) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is marked “confidential” or is otherwise indicated to be subject to an obligation of confidence owned or used by or licensed to the Disclosing Party or a Related Body Corporate of the Disclosing Party.

A person is Insolvent if:

(a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);

(b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller (as defined in the Corporations Act) appointed to its property;

(c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);

(d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed or any other action taken, in each case in connection with that person, in respect of any of the things described in paragraphs (a), (b) or (c);
(e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;

(f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);

(g) it is otherwise unable to pay its debts when they fall due; or

(h) something having a substantially similar effect to any of the things described in paragraphs (a) to (g) happens in connection with that person under the law of any jurisdiction.

Interface Deed means the deed entitled “Art Gallery of NSW Modern – Eastern Distributor Construction Interface and Access Deed” entered into between the ED Operator, RMS and AGNSW dated [insert].

Key Personnel means any of the people named in Item 1 of Schedule 1 (“Document Particulars”).

Loss means, in relation to any person, any loss (including loss of reputation), liability, Damages, Cost, fine or penalty incurred by the person however arising and whether present or future, fixed or unascertained, actual or contingent whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.

Material Form includes any form (whether visible or not) of storage from which reproductions can be made.

Personal Information has the meaning given in the Privacy Act 1988 (Cth).

Planned ED Lane Occupancy Period has the meaning given in the Interface Deed.

Privacy Laws means:

(a) the Privacy Act 1988 (Cth); and

(b) any other requirement under Australian law, industry code, policy or statement relating to the handling of Personal Information.

Project has the meaning given to it in the Interface Deed.

Project Brief has the meaning given to it in the D&C Contract.

Project Plan has the meaning given to it in the Interface Deed.

Receiving Party means the recipient of Confidential Information.

Related Body Corporate has the meaning it has in the Corporations Act.

Representative means a duly authorised representatives of either ED Operator, RMS, AGNSW, the Principal and the D&C Contractor (as applicable).

Review Period has the meaning given to it in the Interface Deed.

Services means:

(a) all of the powers, obligations, duties, functions, services and tasks conferred on, or contemplated to be carried out by the Independent Certifier under this document and the Interface Deed and the D&C
Contract (including the functions as described in Schedule 3 ("Services")) as varied from time to time in writing by the parties; and

(b) without limiting paragraph (a) above, all other things and tasks not described in this document or the Interface Deed or the D&C Contract if those things or tasks should have been reasonably anticipated by an experienced and professional provider of services equivalent to the Services as being necessary for the carrying out of the Services or which are otherwise capable of inference from this document or the Interface Deed or the D&C Contract.

Site has the meaning given to it in the D&C Contract.

Statutory Requirements has the meaning given to it in the D&C Contract.

Temporary Works has the meaning given to it in the D&C Contract.

Termination Event means:

(a) the Independent Certifier is Insolvent;

(b) the Independent Certifier fails or refuses to perform all or any part of its obligations, duties and functions under this document, the Interface Deed and the D&C Contract within the time required under this document, the Interface Deed or the D&C Contract (as applicable); or

(c) the Independent Certifier commits a material breach of any of its obligations, duties and functions under this document and fails promptly to remedy such breach after notice jointly from the Principal, ED Operator and RMS to the Independent Certifier requesting it to do so.

Test has the meaning given to it in the D&C Contract.

Works has the meaning given in the Interface Deed.

Works Completion has the meaning given to it in the Interface Deed.

Zone 1 has the meaning given in the Interface Deed.

Zone 2 has the meaning given in the Interface Deed.

Zone 2B has the meaning given in the Interface Deed.

Zone 3 has the meaning given in the Interface Deed.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

(a) the singular includes the plural and vice versa;

(b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);

(c) a reference to a document or an agreement (including this document) includes the document or agreement as varied, novated, supplemented, extended, replaced or restated;
(d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;

(e) a reference to a party is to a party to this document, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes and, in the case of a trustee, includes a substituted or additional trustee;

(f) a reference to an Authority includes that Authority's successors and substitutes or any agency that performs substantially the same functions and powers;

(g) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;

(h) a reference to a time of day is a reference to Sydney, New South Wales time;

(i) a reference to dollars, $ or A$ is a reference to the currency of Australia;

(j) a reference to "Law" includes common law, principles of equity and legislation (including regulations);

(k) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

(l) a reference to "regulations" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);

(m) an agreement, representation, warranty or indemnity by 2 or more persons binds them jointly and each of them individually;

(n) an agreement, representation, warranty or indemnity in favour of 2 or more persons is for the benefit of them jointly and each of them individually;

(o) a reference to any thing (including an amount) is a reference to the whole and each part of it;

(p) a rule of construction does not apply to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it;

(q) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;

(r) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;

(s) if the day on which a party must do something under this document is not a Business Day, the party must do it on the next Business Day;

(t) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually; and

(u) labels used for definitions are for convenience only and do not affect interpretation.
2 Appointment

2.1 Engagement of Independent Certifier

The Independent Certifier is engaged by ED Operator, RMS, AGNSW, the Principal and the D&C Contractor as an independent certifier to carry out the obligations, functions, duties and services of an independent certifier in accordance with the Interface Deed and the D&C Contract, which obligations, functions, duties and services include the carrying out of the Services.

2.2 Services

In carrying out the Services, the Independent Certifier must:

(a) comply with all Laws;
(b) act as an expert and not as an arbitrator;
(c) at all times act independently of ED Operator, RMS, AGNSW, D&C Contractor and the Principal;
(d) at all times act impartially, reasonably, fairly, honestly and with due expedition and without delay (and in any event within the time requirements for the carrying out of its obligations specified in this document, the Interface Deed and the D&C Contract);
(e) exercise all reasonable skill, care and diligence expected of a properly qualified and competent professional rendering services of an equivalent nature to the Services and experienced in projects of a similar size, scope and complexity as the Works and in accordance with Good Industry Practice;
(f) not waive or vary any requirements in the D&C Contract or the Interface Deed;
(g) not discharge or release a party from any of its obligations arising out of the D&C Contract or the Interface Deed;
(h) provide a copy of any certificate or determination made in the course of performing the Services to each of ED Operator, RMS, AGNSW and the Principal on the same day as the issue of such certificate or determination;
(i) ensure that only Key Personnel carry out the Services;
(j) carry out the Services within the time limits specified in the D&C Contract and the Interface Deed and if no time limit is specified for the performance of a particular Service then by the date that is 10 Business Days after the date on which the requirement to perform the Service arose; and
(k) carry out the Services in a manner which does not prevent, hinder, disrupt, delay or otherwise interfere with any work or services performed by any person except where it is the unavoidable consequence of performing the Services.

2.3 Key Personnel

The independent Certifier may appoint different persons to be the Key Personnel for the purposes of this document with the prior written approval of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor. ED Operator, RMS, AGNSW, the Principal and the D&C Contractor must not unreasonably withhold
their approval if the persons nominated by the Independent Certifier hold the same or substantially similar position, skills and qualifications as the Key Personnel named in Schedule 1 ("Document Particulars").

2.4 Binding certificates and determinations

(a) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor acknowledge and agree that all certificates or determinations provided by the Independent Certifier in performing the Services shall, in the absence of manifest error of fact or law or a breach of this document, be final and binding on ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

(b) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor believes a manifest error of fact or law has occurred in relation to a certificate or determination of the Independent Certifier, or the Independent Certifier has breached this document, that party may raise this as a Dispute in accordance with clause 11 ("Dispute Resolution") of this document.

2.5 Progress reports

Throughout the term of this document, the Independent Certifier must provide a monthly progress report to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor, by the seventh day of the following month and in such format as is required by the Principal, containing, identifying or setting out:

(a) a description of the Services undertaken during the reporting period;
(b) a summary of key risks and issues relating to the Services; and
(c) details of any D&C Contractor non-conformances relevant to the Interface Deed raised by the Independent Certifier or AGNSW or the Principal and details on the verification of the rectification by D&C Contractor of non-conformances.

3 Term

3.1 Commencement

The engagement of the Independent Certifier commences on the Commencement Date and, unless terminated earlier under clause 3.2, continues until the Independent Certifier has completed and discharged all of its duties and functions under this document.

3.2 Termination

This document will terminate immediately on:

(a) the termination of the D&C Contract and the Interface Deed (in which case this document terminates automatically); or
(b) termination of this document in accordance with clause 14,

save in relation to any matter which remains outstanding and in progress as at the date of termination, which will continue to be subject to, and be completed in accordance with, the terms of this document.
4 Independent Certifier's acknowledgements

The Independent Certifier acknowledges that:

(a) it has received a copy of the D&C Contract and the Interface Deed;

(b) its obligations under this document extend to and include the obligations, functions, duties and services of the 'independent certifier' arising under the D&C Contract and the Interface Deed; and

(c) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor:

   (i) are entitled to, and will, rely on:

       (A) the skill and expertise of the Independent Certifier in performing the Services; and

       (B) any certificate or determination that the Independent Certifier signs or gives; and

   (ii) may suffer loss if the Independent Certifier does not perform the Services in accordance with this document.

5 Representations and warranties

5.1 Authority to act

The Independent Certifier represents and warrants to each of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it is validly existing under the Laws of its place of incorporation or registration;

(b) its obligations under this document are valid, legal and binding obligations enforceable against it in accordance with its terms, subject to equitable remedies and laws in respect of the enforcement of creditor's rights;

(c) other than as expressly set out in this document it has no right or authority to give any directions to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor; and

(d) it has no authority to waive any terms or conditions of the D&C Contract or the Interface Deed, or to amend or vary those terms or conditions or discharge or release:

   (i) the Principal or the D&C Contractor from any of their respective obligations under the D&C Contract; or

   (ii) the ED Operator, RMS, or AGNSW from any of their respective obligations under the Interface Deed.

5.2 Conflicts of interest

The Independent Certifier represents and warrants to each of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it has disclosed all contractual relationships that it has in connection with the Works to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor;
(b) at the date of its execution and delivery of this document, no conflict of interest exists or is likely to arise in connection with the performance of its obligations and the discharge of its duties and functions under this document; and

(c) if, during the term of this document, any such conflict or risk of conflict of interest arises, the Independent Certifier will notify ED Operator, RMS, AGNSW, the Principal and the D&C Contractor immediately in writing of that conflict or risk of conflict and comply with all reasonable requests or directions of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly in relation to such conflict or risk of conflict.

5.3 Knowledge of requirements

The Independent Certifier represents and warrants to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor that:

(a) it has the skill, experience and ability to perform the Services;

(b) it has read, and is familiar with, the terms of the D&C Contract and the Interface Deed in so far as they relate to the Services;

(c) without limiting clause 5.3(a), it has informed itself of all time limits and other requirements for any function that the Independent Certifier must perform under the D&C Contract and the Interface Deed;

(d) it has informed itself of the nature of the work necessary to perform the Services and (so far as possible) the means of access to and facilities on the land on which the Works are to be carried out, including any restrictions on that access; and

(e) it has satisfied itself that the fee payable under this document is sufficient having regard to the costs that it will incur in complying with its obligations under this document.

6 Variation and suspension

6.1 Variation

(a) ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may give the Independent Certifier a notice jointly instructing the Independent Certifier:

(i) to vary a Service;

(ii) not to carry out a Service; or

(iii) to carry out a Service that is not listed in Schedule 3 ("Services") at the date of this document.

(b) The Independent Certifier must comply with that notice.

6.2 Meeting with other parties

(a) If any of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor is of the opinion that the Independent Certifier is not performing any of the Services in accordance with this document, that party may call a meeting with the other parties (other than the Independent Certifier) by giving a notice of the meeting (to be held at least 2 Business Days after the notice is given to the other party) to decide on appropriate action to resolve the issue and duly authorised
representatives of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor ("Representatives") must attend the meeting.

(b) Without limiting the discussion or the decision made, the Representatives must consider at that meeting whether to resolve the issue referred to in clause 6.1(a) by any one or more of the following:

(i) requesting the Independent Certifier to comply with this document;

(ii) changing the Services in accordance with clause 6.1(a)(i);

(iii) asking the Independent Certifier not to carry out a Service under clause 6.1(a)(ii);

(iv) appointing a substitute Independent Certifier in connection with those Services in accordance with clause 6.4;

(v) suspending all or any of the Services in accordance with clause 6.2; and

(vi) terminating the appointment of the Independent Certifier in accordance with clause 14.

6.3 Suspension of Services
ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may give the Independent Certifier a notice jointly instructing the Independent Certifier to suspend its performance of any or all of the Services until ED Operator, RMS, AGNSW, the Principal and the D&C Contractor give the Independent Certifier a notice instructing the Independent Certifier to recommence performing those Services. The Independent Certifier cannot make any claim against ED Operator, RMS, AGNSW, the Principal or the D&C Contractor if any or all of the Services are suspended under this clause 6.3.

6.4 Substitute Independent Certifier appointed
(a) Subject to clause 6.2(b)(iv), ED Operator, RMS, AGNSW, the Principal and the D&C Contractor may appoint another independent certifier to carry out Services that they have instructed the Independent Certifier not to carry out under clause 6.1(a)(ii).

(b) As between ED Operator, RMS, AGNSW, the Principal and the D&C Contractor (but not as between ED Operator, RMS, AGNSW, the Principal and the D&C Contractor and the Independent Certifier) decisions of the substitute Independent Certifier are to be treated as if they are decisions of the Independent Certifier.

(c) Subject to any claim that ED Operator, RMS, AGNSW, the Principal or the D&C Contractor may have in respect of the Independent Certifier’s performance, the Independent Certifier is not responsible for the substitute Independent Certifier’s performance.

6.5 Independent Certifier must continue to perform
Despite any action by ED Operator, RMS, AGNSW, the Principal or the D&C Contractor under this clause 6, the Independent Certifier must continue to perform the Services, as varied under clause 6.1(a)(i), in accordance with this document.
7 Insurance

(a) At least 10 Business Days before commencing the carrying out of the Services, the Independent Certifier must effect and maintain the insurances:

(i) on terms as set out in Schedule 4 ("Insurance") and as are acceptable to ED Operator, RMS, AGNSW and the Principal, acting reasonably;

(ii) with insurer(s) that are regulated by the Australian Prudential Regulation Authority and maintain an external financial security rating of not less than A- Standard and Poors (or equivalent other ratings agency), or are acceptable to ED Operator, RMS, AGNSW and the Principal, acting reasonably;

(iii) with a limit of indemnity of not less than the amount (if any) stated in Schedule 4 ("Insurance"); and

(iv) for the period of time stated in Schedule 4 ("Insurance").

(b) At least 5 Business Days prior to commencing the carrying out of the Services, and as and when otherwise required by ED Operator, RMS, AGNSW, the Principal or the D&C Contractor, the Independent Certifier must produce for inspection documentary evidence that the insurances in sub-clause (a) have been effected and are being maintained in accordance with this document. The effecting of insurance under this clause 7 shall not in any way limit the obligations and liabilities of the Independent Certifier under the provisions of this document.

8 Indemnity

(a) The Independent Certifier indemnifies ED Operator, RMS, AGNSW, the Principal and the D&C Contractor from and against any Claim or Loss which ED Operator, RMS, AGNSW, the Principal and the D&C Contractor or any one of them suffers, incurs or becomes liable for or may suffer, incur or become liable for arising out of or in any way in connection with a breach by the Independent Certifier of this document or any wrongful or negligent act or wrongful or negligent omission of the Independent Certifier.

(b) The Independent Certifier's liability to indemnify the Principal will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of the Principal directly contributed to the relevant Loss or Claim.

(c) The Independent Certifier's liability to indemnify ED Operator will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of ED Operator directly contributed to the relevant Loss or Claim.

(d) The Independent Certifier's liability to indemnify the D&C Contractor will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of the D&C Contractor directly contributed to the relevant Loss or Claim.

(e) The Independent Certifier's liability to indemnify RMS will be reduced proportionally to the extent that any wrongful or negligent act or wrongful or negligent omission of RMS directly contributed to the relevant Loss or Claim.
(f) The Independent Certifier’s liability to indemnify AGNSW will be reduced proportionally to the extent that any act or omission of AGNSW directly contributed to the relevant Loss or Claim.

9 Payment

9.1 Fees
AGNSW is liable to pay the fees set out in Schedule 2 ("Fees") for the performance of the Services by the Independent Certifier.

9.2 Invoices
At the end of each calendar month, the Independent Certifier must submit to AGNSW a detailed payment claim, in a form approved by AGNSW, showing:

(a) the total amount previously paid to the Independent Certifier in respect of the performance of the Services;

(b) the amount claimed by the Independent Certifier for that month or period in relation to the Services; and

(c) such other information as may be reasonably required by AGNSW.

9.3 Payment
Within 20 Business Days after receipt of a claim under clause 9.2, AGNSW must assess and pay to the Independent Certifier the amount properly payable to the Independent Certifier for that month or period in respect of the Services.

10 Goods and services tax

10.1 Interpretation
For the purposes of this clause 10:

(a) "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

(b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause 10 unless the contrary intention appears;

(c) unless expressly stated otherwise in this document, all consideration to be provided under this document is exclusive of GST; and

(d) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as though it were a separate supply.

10.2 Payment of GST

(a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply ("GST Amount").

(b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
This clause 10.2 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

10.3 Adjustment events

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

10.4 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 10.2 will apply to the reduced payment.

10.5 Calculation of payments

If an amount payable under this document is to be calculated by reference to:

(a) the amount payable for a taxable supply then, for the purposes of that calculation, the amount is to be calculated by reference to the GST-exclusive amount payable for the taxable supply; and

(b) the amount payable for an acquisition then, for the purposes of that calculation, the amount payable is calculated by reference to the GST-exclusive amount payable for the acquisition.

10.6 Survival

Clause 10.1 to clause 10.5 inclusive do not merge on the rescission, termination or expiration of this document.

11 Dispute resolution

11.1 Determination of Disputes

Any Dispute will be resolved in accordance with the requirements and procedures set out in this clause 11.

11.2 Negotiation

(a) If any party considers that there is a Dispute, then:

(i) that party may notify the other parties in writing of the Dispute, setting out full particulars of the Dispute ("Dispute Notice");

(ii) within 10 Business Days after the Dispute Notice is given under clause 11.2(a)(i), the Representatives of each party will meet and use reasonable endeavours to resolve the Dispute by joint discussions;

(iii) if the Dispute has not been resolved within 20 Business Days after the date on which the Dispute Notice was given under clause 11.2(a)(i), any party may refer the Dispute to senior representatives of each other party (who must have authority to settle the Dispute and who must not be a Representative under this document) who will meet within 5 Business Days and use
reasonable endeavours to resolve the Dispute by joint discussions; and

(iv) if the Dispute has not been resolved within 20 Business Days after the date on which the Dispute was referred to senior representatives under clause 11.2(a)(i), any party may refer the Dispute to the chief executive officers (or equivalent personnel) of each party who will meet within 5 Business Days and use reasonable endeavours to resolve the Dispute by joint discussions.

(b) Each meeting under clause 11.2(a) will be without prejudice except to the extent of any agreements made, recorded and signed by the attendees.

11.3 Failure to resolve Dispute by negotiation
If the Dispute is not settled by negotiation under clause 11.2, then any party may commence court proceedings in relation to the Dispute.

11.4 Court proceedings and other relief
A party may not start court proceedings in relation to a Dispute until it has complied with the procedures in this clause 11, unless the party seeks injunctive or other interlocutory relief.

11.5 Continuation of rights and obligations
Despite the existence of a Dispute or difference each party will continue to perform its obligations under this document.

12 Assignment and subcontracting
12.1 Independent Certifier
The Independent Certifier:

(a) must not assign this document or subcontract any part of the Services without the prior written consent of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor; and

(b) remains responsible for performing the Services in accordance with this document, despite any subcontracting.

12.2 ED Operator, RMS, AGNSW and the Principal
ED Operator, RMS, AGNSW or the Principal may assign this document where, at the same time of the assignment, ED Operator, RMS or AGNSW (as applicable) assigns to the assignee the Interface Deed and in the case of the Principal, the D&C Contract.

12.3 D&C Contractor
The D&C Contractor may not assign, transfer or otherwise deal with its rights under this document without the prior written consent of the Principal.

13 Information, access and assistance
13.1 Information
ED Operator, RMS, AGNSW, the Principal and the D&C Contractor must each provide such information and documentation to the Independent Certifier as:
(a) is required to be provided under this document, the Interface Deed or the D&C Contract and at the times that information and documentation is required to be provided under this document, the Interface Deed or the D&C Contract; and

(b) otherwise is reasonably required by the Independent Certifier to enable it to perform its obligations and discharge its duties and functions under this document and as soon as reasonably practicable after the Independent Certifier requests that information and documentation.

13.2 Access

(a) The Principal, AGNSW and the D&C Contractor must provide such access to the Works as may be required by the Independent Certifier, or as is necessary, from time to time, to enable the Independent Certifier to perform its obligations and discharge its duties and functions under this document.

(b) The Independent Certifier must, when accessing the Works under clause 13.2(a):

(i) comply with any reasonable access requirements and procedures (including protocols relating to site management, safety, security, insurance and industrial relations matters) stipulated by the Principal, AGNSW or the D&C Contractor, and ensure that its officers, employees, agents and contractors also comply with such requirements and procedures; and

(ii) not, and must use its reasonable endeavours to ensure that its officers, employees, agents and contractors also do not, unreasonably obstruct or interfere with the carrying out of the Works.

(c) If the Independent Certifier requires access to Zone 2B or Zone 3 to enable it to perform its obligations and discharge its duties and functions under this document, then it may only access that land with ED Operator's prior written consent (not to be unreasonably withheld) and it must, when accessing that land:

(i) comply with any reasonable access requirements and procedures (including protocols relating to site management, safety, security, insurance and industrial relations matters) stipulated by ED Operator, and ensure that its officers, employees, agents and contractors also comply with such requirements and procedures; and

(ii) not, and must ensure that its officers, employees, agents and contractors also do not:

(A) access Zone 3 other than during Planned ED Lane Occupancy Periods agreed between AGNSW and ED Operator under the Interface Deed;

(B) interfere with the operation and use of Zone 2B and Zone 3 and other property (including infrastructure) on those areas; or

(C) cause any traffic adjustment on Zone 3 or impact on Zone 2B and Zone 3 and other property (including infrastructure) on those areas.
13.3 Assistance

ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree to:

(a) promptly provide the Independent Certifier with whatever other assistance the Independent Certifier may reasonably require in connection with the performance of its obligations and the discharge of its duties and functions under this document;

(b) not interfere or attempt to influence the Independent Certifier so that the Independent Certifier breaches its obligations under clause 2.2(c); and

(c) provide to the Independent Certifier on request such information as the Independent Certifier reasonably requires in order to assist the Independent Certifier in carrying out and performing the Services.

13.4 Specialist advice

(a) In carrying out the Services, the Independent Certifier will, if it is necessary to obtain consultant or specialist advice, obtain that advice from sub-consultants and contractors independent of ED Operator, RMS, AGNSW, the Principal and the D&C Contractor, unless ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree otherwise.

(b) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor do not approve the appointment of the sub-consultant or contractor requested by the Independent Certifier, such approval not to be unreasonably withheld or delayed, then the issue of the appointment of the subcontractor or contractor will be treated as a dispute and dealt with in accordance with clause 11.

(c) If ED Operator, RMS, AGNSW, the Principal and the D&C Contractor agree with the Independent Certifier’s request or appointment of the sub-consultant or contractor determined under clause 11, then the Independent Certifier must engage that sub-consultant or contractor on terms reasonably approved by the ED Operator, RMS, AGNSW, the Principal and the D&C Contractor at the cost of AGNSW.

14 Termination

14.1 Termination by ED Operator, RMS, AGNSW, the Principal and the D&C Contractor

ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly may terminate this document:

(a) immediately by written notice to the Independent Certifier if a Termination Event occurs; or

(b) upon 30 Business Days written notice to the Independent Certifier.

14.2 Termination by the independent Certifier

The Independent Certifier may terminate this document upon 30 Business Days’ notice to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor if there are persistent material breaches of the payment obligations of AGNSW under clause 9 and such breaches are not promptly remedied or cured after notice from the Independent Certifier.

14.3 Accrued rights or remedies not affected

Termination of this document does not affect any accrued rights or remedies of any party.
14.4 Return of records

(a) Within 5 Business Days after the termination of the engagement of the Independent Certifier, the Independent Certifier must deliver to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor jointly all books, records, plans, specifications and other documents relating to the obligations, functions or duties of the Independent Certifier under this document which are in its possession or under its control. The Independent Certifier may keep for its own records a copy of any such books, records, plans, specifications, or other documents so delivered to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

(b) The Independent Certifier acknowledges that ED Operator, RMS, AGNSW, the Principal and the D&C Contractor have the right to use, for the purposes of the works, all books, records, plans, specifications and other documents the Independent Certifier has delivered to ED Operator, RMS, AGNSW, the Principal and the D&C Contractor.

15 Confidential Information and privacy

15.1 Confidential Information

Subject to clauses 15.4 and 15.5, no Confidential Information may be disclosed by the Receiving Party to any person except:

(a) to Representatives of the Receiving Party or its Related Bodies Corporate requiring the information for the purposes of this document;

(b) with the prior written consent of the Disclosing Party;

(c) if the Receiving Party is required to do so by law, a stock exchange or any regulatory authority; or

(d) if the Receiving Party is required to do so in connection with legal proceedings relating to this document.

15.2 Disclosure of Confidential Information

If the Receiving Party discloses information under clause 15.1(a) or (b) the Receiving Party must use its reasonable endeavours to ensure that recipients of the Confidential Information do not disclose the Confidential Information except in the circumstances permitted in clause 15.1.

15.3 Use of Confidential Information

The Receiving Party must not use any Confidential Information except for the purpose of performing its obligations under this document.

15.4 Excluded Information

Clauses 15.1, 15.2 and 15.3 do not apply to Excluded Information.

15.5 Privacy

The Independent Certifier agrees:

(a) to comply with all relevant Privacy Laws in connection with Personal Information;

(b) not to disclose Personal Information outside of Australia without written consent from the Principal;
(c) not to do anything with Personal Information that may cause the Principal to be in breach of any relevant Privacy Law; and

(d) not to give access to, or copies of, Personal Information to anyone unless required to do so under a Privacy Law.

This clause 15.5 prevails over the balance of this clause 15 to the extent of any inconsistency in respect of Personal Information which is also Confidential Information.

15.6 Use of Personal Information

If a party is required or authorised by this document or by Law to retain any Personal Information which is part of the Confidential Information, that party may use and disclose that Personal Information for the purpose for which it is required or authorised to be retained under this document or as required by that other Law.

15.7 Survival on termination

This clause 15 will survive termination of this document.

16 Announcements

16.1 Public announcements

Subject to clause 16.2, the Independent Certifier may not make or send a public announcement, communication or circular concerning the matters referred to in this document unless it has first obtained the written consent of ED Operator, RMS, AGNSW and the Principal which consent is not to be unreasonably withheld or delayed.

16.2 Public announcements required by law

Clauses 15.1 and 16.1 do not apply to a public announcement, communication or circular required by Law or a regulation of a stock exchange, if the party required to make or send it has:

(a) provided the other party with sufficient notice to enable it to seek a protective order or other remedy; and

(b) provided all assistance and co-operation that the other party considers necessary to prevent or minimise that disclosure.

17 Communications

17.1 Form

(a) Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications ("Communications") in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

(b) All Communications (other than email Communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

(c) Email Communications must state the first and last name of the sender and are taken to be signed by the named sender.
17.2 Delivery
Communications must be:

(a) left at the address referred to in the Details;
(b) sent by prepaid ordinary post (airmail if appropriate) to the address referred to in the Details; or
(c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then Communications must be sent to the changed contact details.

17.3 Certain Communications not to be sent by email
Despite anything else in this clause 17, the following Communications must not be sent by email:

(a) a notice terminating this document under clause 14; and
(b) a Dispute Notice given under clause 11.

17.4 When effective
Communications take effect from the time they are received or taken to be received under clause 17.5 (whichever happens first) unless a later time is specified in the Communication.

17.5 When taken to be received
Communications are taken to be received:

(a) if sent by post, 5 days after posting (or 10 days after posting if sent from 1 country to another); or
(b) if sent by email:
   (i) when the sender receives an automated message confirming delivery; or
   (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

17.6 Receipt outside business hours
Despite anything else in this clause 17, if Communications are received or taken to be received under clause 17.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

18 General

18.1 Prompt performance
If this document specifies when a party agrees to perform an obligation, the party agrees to perform it by the time specified. Each party agrees to perform all other obligations promptly.
18.2 Variation
A provision of this document may not be varied except in writing signed by each party.

18.3 Remedies cumulative
The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by Law independently of this document.

18.4 Consents, approvals or waivers
(a) A provision of this document, or any right, power or remedy created under it, may not be waived except in writing signed by the party giving the waiver. A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A party is not liable for any loss of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.
(b) By giving any approval, consent or waiver a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

18.5 No reliance
No party has relied on any statement by any other party that has not been expressly included in this document.

18.6 Further assurances
Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

18.7 Discretion in exercising rights
Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

18.8 Indemnities and reimbursement obligations
Any indemnity, reimbursement or similar obligation in this document given by the Independent Certifier:
(a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
(b) is independent of any other obligations under this document; and
(c) continues after this document, or any obligation arising under it, ends.
It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

18.9 No Merger
The rights and obligations of the parties under this document do not merge after the expiry of this document.
18.10 Counterparts

This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of this document.

18.11 Service of process

Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Communications under this document.

18.12 Entire agreement

This document constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

18.13 Supervening Law

Any present or future Law which operates to vary the obligations of a party in connection with this document with the result that any other party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

18.14 Provisions prohibited by Law

If:

(a) a Law would otherwise make a provision of this document illegal, void or unenforceable; or

(b) a provision of this document would otherwise contravene a requirement of a law or impose an obligation or Loss which is prohibited by Law,

this document is to be read as if that provision were varied to the extent necessary to comply with that Law or, if necessary, omitted.

18.15 Relationship

Except where this document expressly states otherwise, it does not create a relationship of employment, trust, agency, partnership or joint venture between the parties.

18.16 Rights cumulative

Except as expressly stated otherwise in this document, the rights of a party under this document are cumulative and are in addition to any other rights of that party.

18.17 Governing Law and jurisdiction

The Law in force in New South Wales governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

18.18 Inconsistent Law

To the extent the Law permits, this document prevails to the extent it is inconsistent with any Law.

18.19 No liability for Loss

Unless this document expressly states otherwise, ED Operator, RMS, AGNSW, the Principal and the D&C Contractor are not liable for any Loss, or Costs arising
in connection with the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this document.

18.20 Survival

Clauses [insert] and any other clauses which are expressed to survive termination will survive rescission, termination or expiration of this document.

EXECUTED as a deed
## Independent Certifier Deed

### Schedule 1 Document Particulars

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>PARTICULARS</th>
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<tbody>
<tr>
<td>1</td>
<td>Key Personnel (clause 1)</td>
<td>[insert]</td>
</tr>
<tr>
<td>2</td>
<td>Independent Certifiers Representative (clause 1)</td>
<td>[insert]</td>
</tr>
</tbody>
</table>
## 1 Fixed fee

For Services under Item no. [##] in Schedule 3 Fixed fee of $[#]

For Services under Item no. [##] in Schedule 3 Fixed fee of $[#]

## 2 Schedule of rates

Hourly and daily rates and fixed fees for any work in performing the Services or any other work instructed by ED Operator, RMS, AGNSW, the Principal and the D&C Contractor under clause 6.1(a)(iii):

<table>
<thead>
<tr>
<th>Person</th>
<th>Role</th>
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<th>$/day</th>
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<td>[insert]</td>
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Note: The above hourly and daily rates are inclusive of all disbursements and other expenses.
1 Services

1.1 Scope of Services

(a) The Independent Certifier must discharge the functions, obligations, duties and services which the D&C Contract, the Interface Deed and this document contemplate will be discharged by the Independent Certifier, including the following:

(i) receive and review each revision of the Project Plans within [10] Business Days of submission of the plan from the D&C Contractor or AGNSW or the Principal (as applicable) and, if the Independent Certifier deems the Project Plans to be acceptable then, provide the relevant certification for each Project Plan;

(ii) receive and review all ED IFC Design Documentation and Design Documentation Amendments, attend all design meetings (as required) and obtain access to such premises as may be necessary or reasonably required for the performance of the obligations of the Independent Certifier;

(iii) receive and review the results of the Monitoring Regime as contemplated by item 7 of Schedule 3 to the Interface Deed;

(iv) certify that the ED IFC Design Documentation and each Design Documentation Amendment complies with the Interface Deed and the D&C Contract;

(v) review the Contractor's schedule of designated witness points as required by the Interface Deed and obtain RMS and ED Operator acceptance;

(vi) observe, monitor, review and assess the quality of the Works and the durability of the Works to verify the Contractor's compliance with the requirements of the Design Documentation and the ED IFC Design Documentation;

(vii) independently certify that the Works comply with, and are constructed in accordance with, the Design Documentation and the ED IFC Design Documentation; and

(viii) execute and provide Certificates in the form of:

(A) Project Plan certificates;

(B) Design Documentation certificates;

(C) Temporary Works certificates;

(D) monthly construction certificates;

(E) a Certificate of Works Completion;
(b) During the period from the date of this document until the Date of Completion, the Independent Certifier must in accordance with clause 2.5 of this document, provide a monthly progress report within [7] days of the following month.

2 Certification Activities

2.1 Application of certification activities

(a) The provision of certification services in respect of the Works undertaken by the D&C Contractor is the key process to be implemented by the Independent Certifier during the design and construction phases of the Project.

(b) The Independent Certifier must implement and operate systems for undertaking the functions set out below in clauses 2.2, 2.3, 2.4, 2.5 and 2.6 of this Schedule 3.

2.2 Review and certification of Project Plans

(a) The D&C Contractor is required by the D&C Contract to prepare and submit to the Principal, AGNSW, RMS and the ED Operator the Project Plans. The purpose of each Project Plan is for the D&C Contractor to describe in detail how the D&C Contractor intends to carry out the Works in accordance with the requirements of the D&C Contract;

(b) Project Plans are controlled documents that will require ongoing development, amendment and updating throughout the duration of the Works.

(c) The Independent Certifier must:

(i) maintain a register of all Project Plans received from the Contractor;

(ii) make itself familiar with all received Project Plans and raise comments where applicable; and

(iii) in accordance with clause 2.2(h) of this document, issue certificates and provide a copy of any certificate or determination made in the course of performing the Services to each of the ED Operator, RMS, AGNSW and the Principal.

2.3 Risk assessment

(a) The Independent Certifier acknowledges that the level and scope of certification of the design and certification of the construction activity will be based on a continuous risk assessment process taking into account the importance of, without limitation:

(i) commercial, safety and community involvement elements (etc.);

(ii) results of previous audits and surveillance;

(iii) engineering, environmental constraints and difficulties;

(iv) effect on future work; and

(v) any other item identified during the Works.

(b) The Independent Certifier will determine the extent and type of certification required for the Project having regard to the following:
(i) complexity of the design;
(ii) assessed risk and the likelihood and consequence of failure;
(iii) requirements of the D&C Contract, the Interface Deed, the Design Documentation and the ED IFC Design Documentation;
(iv) durability implications;
(v) adequacy of documentation content; and
(vi) compliance with this document, the Interface Deed and the D&C Contract.

2.4 Design certification

(a) The D&C Contractor is required under the D&C Contract to prepare and submit to the Principal, AGNSW, RMS and the ED Operator the ED IFC Design Documentation and any Design Documentation Amendment.

(b) The Independent Certifier will independently verify that the design of the Works (including any Temporary Works) complies with the requirements of the D&C Contract, the Design Documentation and the ED IFC Design Documentation.

(c) Design certification will be carried out to confirm compliance of the design with the current input documents, design criteria, design codes and standards, specifications and accepted engineering practice on all design elements.

Process

(a) The D&C Contractor must provide to the Independent Certifier, ED Operator and RMS a copy of each Design Package.

(b) The Independent Certifier will review, where appropriate, each Design Package (including, but not limited to, drawings, specifications and reports).

(c) During the review process the Independent Certifier is to ensure that any comment by RMS, ED Operator, the Principal or AGNSW (as applicable) on a Design Package has been incorporated or determined before the issue of the certificate for any Design Package.

(d) Following resolution of any outstanding qualifications and issues raised by the Independent Certifier, RMS, ED Operator, the Principal or AGNSW (as applicable), the Independent Certifier will certify that the Design Package complies with the D&C Contract and the Interface Deed.

(e) The design outputs, drawings and technical specifications will be reviewed to verify that the intended design inputs and technical requirements have been incorporated in the Design Package and the design output meets the requirements of the design criteria necessary to comply with the D&C Contract and the Interface Deed and all relevant Statutory Requirements and all relevant codes and standards.

(f) If any of ED IFC Design Documentation or Design Documentation Amendment is rejected, then the design amendments will be subjected to the same certification process outlined above.
The Independent Certifier acknowledges that the response time for reviewing the Design Documentation will be [10] Business Days of receipt of the Design Documentation.

Other Outputs

The Independent Certifier must review and certify amended ED IFC Design Documentation that might arise during the course of construction, including any Design Documentation Amendments.

2.5 Construction works certification

General

The Independent Certifier must independently certify that the Works as constructed (including Temporary Works and product and processes) comply with the requirements of the D&C Contract, the Interface Deed, the Design Documentation and the certified ED IFC Design Documentation.

Works Completion

When Works Completion of the Works has been achieved, the Independent Certifier must issue the Certificate of Works Completion, verifying that the Works have been completed in accordance with the D&C Contract, the Interface Deed, the Design Documentation, and the certified ED IFC Design Documentation.
### Schedule 4 Insurance

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Requirements</th>
</tr>
</thead>
</table>
| **Public and Products Liability Insurance** | (a) Public and products liability policy that covers the liability of the Independent Certifier and indemnifies ED Operator, RMS, AGNSW, the Principal and the D&C Contractor and their Related Bodies Corporate and the Security Trustee, for:  
(i) loss of or damage to property; and  
(ii) the death of or injury to any person.  
(b) The limit of liability for public liability must be no less than $20 million for any one occurrence  
(c) The limit of liability for products liability must be $20 for each claim and in the aggregate for all occurrences in any one 12 month policy period.  
(d) The policy must be maintained from the Commencement Date until completion of the Services. |
| **Professional Indemnity**   | (a) Professional indemnity insurance covering the civil liability of the Independent Certifier arising from a breach of duty owed in a professional capacity, by reason of any act or omission of the Independent Certifier or any of its employees or agents.  
(b) The limit of liability must be no less than $10 million for any one claim and in the annual aggregate.  
(c) The policy must be maintained from the Commencement Date until the earlier of the expiry of 7 years after the date of completion of the Services or the expiry of 7 years after the termination of this document. |
| **Worker's Compensation Insurance** | (a) Workers' compensation insurance as required by Law.  
(b) The limit of liability provided by the insurance policy must be not less than that required by Law.  
(c) The policy must be maintained so as to be in force from the Commencement Date until completion of the Services. |
Independent Certifier Deed

Signing page

DATED:____________________

ED Operator

EXECUTED by AIRPORT MOTORWAY LIMITED (ABN 26 057 283 093) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director

......................................................
Name of director (block letters)

..............................................................
Signature of director/company secretary

..............................................................
Name of director/company secretary (block letters)

EXECUTED by AMT MANAGEMENT LIMITED as trustee of the Airport Motorway Trust (ABN 55 078 953 607) in accordance with section 127(1) of the Corporations Act 2001 (Cth) by authority of its directors:

......................................................
Signature of director

......................................................
Name of director (block letters)

..............................................................
Signature of director/company secretary

..............................................................
Name of director/company secretary (block letters)
<table>
<thead>
<tr>
<th>Signature of witness</th>
<th>Authorised Delegate Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of witness (block letters)</td>
<td>Print Name</td>
</tr>
</tbody>
</table>
Attachments

Attachments 1, 2, 2A and 3 do not form part of the Contract.

Attachment 1  GC21 Start-up Workshop
Attachment 2  Performance Evaluation (Example)
Attachment 2A  Performance Evaluation
Attachment 3  Performance Evaluation Record
Attachment 1 – The GC21 Start-up Workshop

The start-up workshop is held to encourage the parties and others concerned with the Contract and the Works to work co-operatively to achieve a successful contract. This Attachment 1 is intended as a guide for the participants.

The workshop takes place within 28 days after the Date of Contract. The workshop should take half a day, although large or complex contracts may require longer.

Refer to clause 32 of the GC21 General Conditions of Contract.

Participants

The workshop participants include representatives of the Principal, the Contractor and others concerned with the Works. This might include representatives of authorities, eventual users of the Works, the local community, Consultants, Subcontractors and Suppliers.

Agenda

The agenda should include:
- welcome by the facilitator;
- introduction of participants;
- workshop purpose and, guidelines;
- review of the proposed workshop agenda;
- overview of the Contract;
- co-operative contracting - overview;
- co-operative contracting applied to the Contract;
- monitoring and evaluation;
- development of a communications framework and directory;
- identification of key concerns and solutions;
- opportunities for innovation;
- closing comments and feedback; and
- close of workshop.

A copy of the Procurement Practice Guide GC21 meetings and workshops may be obtained from the NSW Government Procurement System for Construction on the ProcurePoint website.
Attachment 2 – Performance Evaluation (example)

Refer to clause 6 of the GC21 General Conditions of Contract.

Evaluation and monitoring meetings should focus on achievable improvements in contract communication and management. Attachments 1 and 2 provide a structure for evaluation and discussion.

Attachment 2 indicates topics that are suitable for assessing performance and monitoring progress as the Contract proceeds.

They are provided for guidance only, and the topics are suggestions only. Each evaluation team should choose its own topics to reflect issues specific to the Contract. Use Attachment 2A on the next page to develop a Contract-specific Performance Evaluation form.

<table>
<thead>
<tr>
<th>Contract name:</th>
<th>Rating system</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5 excellent</td>
</tr>
<tr>
<td></td>
<td>4 above expectation</td>
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<tr>
<td></td>
<td>3 meeting expectation</td>
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<tr>
<td></td>
<td>2 below expectation</td>
</tr>
<tr>
<td></td>
<td>1 unsatisfactory</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Topic</th>
<th>Objectives</th>
<th>Your rating (this period)</th>
<th>Team rating (this period)</th>
<th>Main Issue &amp; Agreed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication</td>
<td>• co-operation between parties</td>
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<td></td>
<td>• duty not to hinder performance</td>
<td>□</td>
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<td></td>
<td>• early warning</td>
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<td></td>
<td>• evaluation and monitoring</td>
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<tr>
<td>Time</td>
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<td></td>
<td>• extensions of time</td>
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<td></td>
<td>• expected completion dates</td>
<td>□</td>
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<tr>
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<td>• issues affecting the budget</td>
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<td>□</td>
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<tr>
<td></td>
<td>• extra work</td>
<td>□</td>
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<td></td>
<td>• payments</td>
<td>□</td>
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<td></td>
<td>• additional information required</td>
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<tr>
<td>Quality</td>
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<td>□</td>
<td>□</td>
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<td></td>
<td>• design requirements</td>
<td>□</td>
<td>□</td>
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<tr>
<td></td>
<td>• fitness for purpose, innovation</td>
<td>□</td>
<td>□</td>
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<td></td>
<td>• Faults, Defects rectification</td>
<td>□</td>
<td>□</td>
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<tr>
<td>Safety</td>
<td>• issues affecting safety on the Site</td>
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<td>• safety outside the Site</td>
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<td>• safety risks</td>
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<td></td>
<td>• safety equipment</td>
<td>□</td>
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<tr>
<td>Relationships</td>
<td>• open discussion</td>
<td>□</td>
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<td></td>
<td>• actions effective</td>
<td>□</td>
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<td></td>
<td>• working together</td>
<td>□</td>
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<td></td>
<td>• attendance</td>
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<td>Environment</td>
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<td>• noise and dust issues</td>
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<td>• healthy environment</td>
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<td></td>
<td>• waste management</td>
<td>□</td>
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<tr>
<td>Contract Relations</td>
<td>• Subcontractor and Supplier issues</td>
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<td></td>
<td>• workplace relations and Site amenities</td>
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<td>• interaction of workers with others</td>
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</table>

- **IMPORTANT**: During each meeting, the evaluation team should decide on an action plan for items needing improvement.
# Attachment 2A – Performance Evaluation

Insert in the form below topics that are important to the Contract.

**Contract name:** .............................................

**Contract number:** .................................

**Date:** ..........................................

**Rating system**
- 5 excellent
- 4 above expectation
- 3 meeting expectation
- 2 below expectation
- 1 unsatisfactory

<table>
<thead>
<tr>
<th>Topic</th>
<th>Objectives</th>
<th>Your rating (this period)</th>
<th>Team rating (this period)</th>
<th>Main Issue &amp; Agreed Action</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

Suggested topics are: Communication, Time, Relationships with others affected by the Works, Budget and Financial Issues, Scope Management, Quality, Safety, Environment, Contract Relations, Community Consultation, Aboriginal Participation, Maintenance of Asset Operation.

- **IMPORTANT:** During each meeting, the evaluation team should decide on an action plan for topics needing improvement.
Attachment 3 – Performance Evaluation Record

Insert the Contract-specific topics. Record the participants' ratings for each topic to illustrate trends in the Team's performance.

<table>
<thead>
<tr>
<th>Contract name:</th>
<th>Contract number:</th>
<th>Date:</th>
</tr>
</thead>
</table>

Rating system:
- 5 excellent
- 4 above expectation
- 3 meeting expectation
- 2 below expectation
- 1 unsatisfactory

<table>
<thead>
<tr>
<th>Meeting Number</th>
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<th>2</th>
<th>3</th>
<th>4</th>
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<th>6</th>
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<th>TOPIC</th>
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<tbody>
<tr>
<td>Communication</td>
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</tbody>
</table>
Evaluation trends: scenarios

The Team ratings for each topic are recorded here so that overall performance can be assessed.

Contract name: ........................................
Contract number: ....................................
Date: ...................................................

Rating system
5 excellent
4 above expectation
3 meeting expectation
2 below expectation
1 unsatisfactory

<table>
<thead>
<tr>
<th>Meeting number</th>
<th>1</th>
<th>2</th>
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Deteriorating Performance

Communication

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<tbody>
<tr>
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Steady Performance

Communication

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Improving Performance

Communication

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