

Schedule 1 – Conditions precedent

Schedule 2 – Consumer Price Index and Indexation

(Clause 1.1)

Consumer Price Index or CPI means:

- (a) the "All Groups Consumer Price Index Weighted Average of Eight Capital Cities" published quarterly by the Australian Bureau of Statistics, as long as there is no change in the coverage, periodicity or reference base from those applying at the date of this deed. Subject only to paragraph 3 of Schedule 26, the base CPI for the purposes of this deed will be the "All Groups Consumer Price Index Weighted Average of Eight Capital Cities" published by the Australian Bureau of Statistics for the last full quarter ending immediately prior to the date of this deed;
- (b) if there is a change in the coverage of the All Groups Consumer Price Index Weighted Average of Eight Capital Cities from that applying at the date of this deed and the new All Groups Consumer Price Index Weighted Average of Eight Capital Cities is linked to previous All Groups Consumer Price Indexes, CPI is the new All Groups Consumer Price Index Weighted Average of Eight Capital Cities;
- (c) if there is a change in the reference base of the All Groups Consumer Price Index Weighted Average of Eight Capital Cities from that applying at the date of this deed and the Australian Bureau of Statistics provides a conversion factor, that conversion factor must be applied to calculate revised CPI figures for the purpose of this deed, in terms of the new reference base;
- (d) if there is a change in the reference base of the All Groups Consumer Price Index Weighted Average of Eight Capital Cities from that applying at the date of this deed and the Australian Bureau of Statistics does not provide a conversion factor, the parties must request the President of The Institute of Actuaries Australia (or his nominee) to calculate revised CPIs for the purposes of this deed, and his determination is final and binds the parties;
- (e) if the All Groups Consumer Price Index Weighted Average of Eight Capital Cities is published and:
 - (i) there is a change in its coverage and it is not linked to previous All Groups Consumer Price Indexes; or
 - (ii) there is a change in its periodicity,
 the parties must request the President of the Institute of Actuaries Australia (or his nominee) to determine:
 - (iii) whether the new All Groups Consumer Price Index Weighted Average of Eight Capital Cities is appropriate as a general indicator of the rate of price change for consumer goods and services; or
 - (iv) if it is not, what other index should be used as a substitute index for the purpose of this deed,
 and his determination is final and binds the parties;
- (f) if the All Groups Consumer Price Index Weighted Average of Eight Capital Cities is not published and the Australian Bureau of Statistics publishes another index which is:
 - (i) a replacement of the All Groups Consumer Price Index Weighted Average of Eight Capital Cities; and
 - (ii) linked to the All Groups Consumer Price Index Weighted Average of Eight Capital Cities,

all CPIs relevant to this deed must be re-calculated to the same reference base as the replacement index;

- (g) if the All Groups Consumer Price Index Weighted Average of Eight Capital Cities is not published and the Australian Bureau of Statistics publishes another index which is not linked to the All Groups Consumer Price Index Weighted Average of Eight Capital Cities, the parties must request the President of the Institute of Actuaries Australia (or his nominee) to calculate revised CPIs for the purposes of this deed, and his calculation is final and binds the parties; or
- (h) if the All Groups Consumer Price Index Weighted Average of Eight Capital Cities is not published and the Australian Bureau of Statistics does not publish another index in replacement of the All Groups Consumer Price Index Weighted Average of Eight Capital Cities, the parties must request the President of the Institute of Actuaries Australia (or his nominee) to determine an appropriate index which is a general indicator of the rate of price change for consumer goods and services, and his determination is final and binds the parties.

If paragraph (e), (g) or (h) applies, paragraphs (a) to (h) will apply to the index determined in accordance with paragraph (e), (g) or (h) (as the case may be) as if all references to the "All Groups Consumer Price Index Weighted Average of Eight Capital Cities" are references to that replacement index.

Schedule 3 – Approvals

(Clause 4)

Part A: Approvals to be obtained by RMS

The Planning Approval.

Part B: Conditions of Planning Approval to be undertaken by RMS

The Project Company must fulfil, and ensure that the State Works Contractor fulfils, all the conditions and requirements of the Planning Approval except where the following table allocates responsibilities to RMS. The Project Company must also fulfil, and ensure that the State Works Contractor fulfils, the requirements of the following table to the extent that responsibilities are allocated to the Project Company. Each of RMS and the Project Company must fulfil those responsibilities which are allocated to it in the following table.

Planning Approval condition and condition number	Extent of RMS's responsibility for the Planning Approval condition specified

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Schedule 4 – Project Insurances

(Clause 24.6)

1. Insurances during the Project Works

- (a) On and from Financial Close, the Project Company must effect and maintain (or cause to be effected and maintained) the following:
- (i) a contract works or construction risks policy of insurance:
 - A. in respect of the Project Works, the Temporary Works, the existing improvements on the Project Site and all things brought on to the Project Site by the Project Company, the State Works Contractor or a Contractor for the purpose of the Project Works or the Temporary Works, including tunnelling equipment;
 - B. against such risks as are reasonably required by RMS and on the basis set out in Exhibit I; and
 - C. for, as a minimum, the reinstatement costs of the works under this deed plus escalation of %, an additional amount to cover the cost of demolition and removal of debris, fees for the project managers and other consultants and an amount to cover additional costs and expenses to expedite the commencement or completion or repair;
 - (ii) inland transit and/or overseas transit insurance in respect of relevant items intended to be employed about or used in the Project Works;
 - (iii) public and products liability insurance covering claims in respect of:
 - A. loss of, loss of use of, destruction or damage to, real or personal property; and
 - B. injury to, or disease or death of, persons, arising out of or in connection with the Project Activities (including third party property damage for plant, equipment and motor vehicles that are not road registered) for a minimum of \$ for any single occurrence and unlimited in the aggregate as to the number of occurrences for any one period of insurance;
 - (iv) project specific professional indemnity insurance for any breach of a duty owed in a professional capacity or for any act or omission in the rendering of or failure to render professional services (including design) by the State Works Contractor, the Contractor, the Tolling Equipment Works Contractor and their professional consultants and the Project Company Group's professional consultants for a minimum of \$ for any one claim and \$ aggregated during the insurance period;
 - (v) workers' compensation insurance as required by Law under any statute relating to workers' or accident compensation;
 - (vi) vehicle insurance covering third party property damage for all road registered plant, equipment and motor vehicles used in connection with

the Project for a minimum of \$: for any one occurrence and unlimited in the aggregate as to the number of occurrences; and

- (vii) Delay in start-up (advance business interruption) insurance in respect of losses covered by the contract works policy described in paragraph 1(a)(i) for a indemnity period and losses covered by the overseas transit policy described in paragraph 1(a)(ii) for a indemnity period covering all standing charges and loss of anticipated net revenue.
- (b) The Project Company must maintain (or cause to be maintained) the insurances referred to in paragraph 1(a) until:
 - (i) in the case of the professional indemnity insurance,
 - (ii) in the case of the public and products liability insurance ,
 - (iii) in the case of contract works or construction risks insurance, and
 - (iv) in the case of the other insurances,

2. Insurances during the Term

From the Date of Completion until the end of the Term, the Project Company must effect and maintain (or cause to be effected and maintained) in respect of the Motorway the following:

- (a) an industrial special risks policy of insurance covering the Motorway against physical loss or damage and such other risks as are reasonably required by RMS from time to time (plus an additional amount to cover the cost of demolition and removal of debris, fees for the project managers and other consultants) of the works under this deed including testing and commissioning activities in connection with the Project, and an amount to cover additional costs and expenses to expedite the commencement or completion or repair, provided that the minimum limit of such coverage will be based on a maximum foreseeable loss analysis procured by the Project Company from an independent third party and approved by RMS (such approval not to be unreasonably withheld);
- (b) public and product liability insurance covering claims in respect of:
 - (i) loss of, loss of use of, destruction or damage to, real or personal property; and
 - (ii) injury to, or disease or death of, persons,

arising out of or in connection with the operation, use, repair or maintenance of the Motorway for at least \$ for any single occurrence and unlimited in the aggregate as to the number of occurrences for any one period of insurance;
- (c) workers' compensation insurance as required by Law under any statute relating to workers' or accident compensation;
- (d) vehicle insurance covering third party property damage for all plant, equipment and motor vehicles used in connection with the Project for at least \$ for any one occurrence and unlimited in the aggregate as to the number of occurrences; and

- (e) business interruption insurance for a _____ indemnity period covering all standing charges (including debt service obligations) and loss of anticipated net revenue;
- (f) any other insurances which RMS reasonably requires and which are commonly effected by land owners, lessees or contractors in the position of the Project Company provided those insurances can be obtained on payment of a reasonable premium.

3. General requirements

- (a) All insurances which the Project Company is required to effect or maintain (or cause to be effected and maintained) under this deed:
 - (i) must be effected with insurers approved by RMS (which approval will not be unreasonably withheld or delayed);
 - (ii) must be on the terms required by this Schedule 4 (and, in respect of the insurances referred to in paragraph 1, Exhibit I) and otherwise as approved by RMS (which approval will not be unreasonably withheld or delayed);
 - (iii) must not contain any exclusion, endorsement or alteration, unless it is first approved by RMS;
 - (iv) in the case of the:
 - A. insurances specified in paragraphs 1(a)(i), 1(a)(ii), 1(a)(iii) and 1(a)(vi); and
 - B. insurances specified in paragraphs 2(a), 2(b) and 2(d),
 must be in the joint names of the Project Company and RMS (and, in the case of the insurance specified in paragraph 1(a)(iii) only, RailCorp) and such others as have an insurable interest under the Project Documents (including the Security Trustee, once the Debt Financing Documents come into effect) for their respective rights, interests and liabilities and in which the insurer waives all rights of subrogation which it may have or acquire against all or any of the persons comprising the insured;
 - (v) except in the case of the insurances referred to in paragraphs 1(a)(v) and 2(c), must contain a term which requires the insurer to give RMS 20 Business Days' notice in writing prior to:
 - A. the insurer giving the Project Company a notice of cancellation;
 - B. the insurer cancelling the policy on the request of the Project Company;
 - C. the Project Company allowing the policy to expire; or
 - D. the insurer giving the Project Company any other notice in respect of the policy.
 - (vi) in the case of the insurance specified in paragraph 1(a)(i), must specify RMS, the Project Company, the State Works Contractor and the Contractor as joint loss payees;

- (vii) in the case of the insurances specified in paragraphs 2(a) and 2(f) (as applicable), must specify RMS and the Project Company as joint loss payees;
 - (viii) in the case of the insurances specified in paragraphs 1(a)(iii) and 2(b), must contain:
 - A. a waiver of subrogation clause in which the insurer agrees to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured; and
 - B. a cross liability clause for the purposes of which the insurer accepts the term "insured" as applying to each of the persons comprising 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);
 - (ix) in the case of the insurances specified in paragraphs 1(a)(i) and 2(a) must be endorsed to note and allow the Project Company's obligations under clause 24.10, to the effect that compliance by the Project Company with the provisions of that clause will not prejudice the Project Company's or any other insured parties' rights to indemnity under the insurances; and
 - (x) in the case of the insurance specified in paragraph 1(a)(iv) must include a principal's indemnity endorsement in favour of the Project Company Group and RMS (to the extent that RMS has any liability as a principal), in a form approved by RMS (which approval will not be unreasonably withheld or delayed).
- (b) The Project Company must:
- (i) except in the case of the insurances referred to in paragraphs 1(a)(v) and 2(c), give RMS (and any other person in whose name a Project Insurance is effected) certificates of currency when requested by RMS and certified copies of all:
 - A. policies, including policy schedules;
 - B. renewal certificates;
 - C. endorsements ; and
 - D. cover notes and slips,
 as soon as it receives them from the insurer; and
 - (ii) where a policy is in joint names or there are two or more insureds, have each such policy endorsed to the effect that the insurer agrees that any act, error, omission, neglect, fraud, misrepresentation, misdescription, non-disclosure or breach of condition or warranty by any one insured party shall not prejudice or invalidate the rights of the other parties comprising the insured who are themselves not guilty of such act, error, omission, neglect, fraud, misrepresentation, misdescription, non-disclosure or breach of condition or warranty.
- (c) The Project Company must ensure that all policies of insurance specified in paragraph 1(a)(iii) (subject to the limitations in cover provided by the insurance market and policy terms, conditions and deductibles):

- (i) cover the Project Company and the State Works Contractor for potential liability to RMS assumed by reason of the exclusion of Part 4 of the Civil Liability Act 2002 (NSW); and
- (ii) do not exclude any potential liability the Project Company may have had to RMS under or by reason of this deed, or the State Works Contractor may have had to RMS under or by reason of the State Works Deed.

Schedule 5 - Environmental Requirements

(Clause 7.12)

1. Environment Protection Licence

The Project Company must:

- (a) obtain an Environment Protection Licence in respect of the Project Activities from the date on which the Project Company or the State Works Contractor is given access to the Project Site (or any part thereof) pursuant to clause 9.1; and
- (b) hold an Environment Protection Licence in respect of the Project Activities until the Date of Completion.

2. Crown Building Work

- (a) The Project Company must, in relation to any part of the Project Works or the Temporary Works that is Crown Building Work (as defined in section 109R of the EP&A Act), certify (on behalf of RMS) as required by section 109R of the EP&A Act.
- (b) Any certification under paragraph 2(a) of this Schedule 5 will not lessen or otherwise affect:
 - (i) the other Liabilities or responsibilities of:
 - A. the Project Company under this deed or otherwise according to Law; or
 - B. the State Works Contractor under the State Works Deed or otherwise according to Law; or
 - (ii) RMS's rights against:
 - A. the Project Company, whether under this deed or otherwise according to Law; or
 - B. the State Works Contractor, whether under the State Works Deed or otherwise according to Law.

3. Environmental requirements

- (a) The Project Company must not use the Project Site or any Extra Land, or allow the State Works Contractor or either of their respective Related Parties to use the Project Site or any Extra Land, so that:
 - (i) any Hazardous Substance is abandoned or dumped on the Project Site or any Extra Land;
 - (ii) any Hazardous Substance is handled in a manner which is likely to cause a state of danger to human beings or the Environment whether imminent or otherwise resulting from the location, storage, handling or release of any substance having toxic, corrosive, flammable, explosive, infectious or otherwise dangerous characteristics; or
 - (iii) any other substance is released from, deposited to, or emanates from, the Project Site or any Extra Land such that a state of Contamination occurs.

- (b) The Project Company must at all times carry out, and ensure that the State Works Contractor and their respective Related Parties carry out, the Project Activities in an environmentally responsible manner, in accordance with Good Industry Practice, and so as to protect the Environment.
- (c) The Project Company must, without limiting clause 4.1:
- (i) comply with, and ensure that the State Works Contractor and their respective Related Parties in performing the Project Activities comply with:
 - A. all Laws relating to the Environment;
 - B. all Environmental Notices; and
 - C. the Project Plans; and
 - (ii) obtain and comply with all requirements of, and ensure that the State Works Contractor and their respective Related Parties in performing the Project Activities obtain and comply with all requirements of, any Approvals required in order to release or emit anything from the Project Site or any Extra Land into the air or water or onto the ground or otherwise into the Environment, including to emit any substantial noise or vibrations.
- (d) Unless otherwise specified in Schedule 3 and without limiting the Project Company's other obligations under this deed or the State Works Contractor's other obligations under the State Works Deed, and insofar as they apply to the Project Works, the Temporary Works or the Project Activities, the Project Company must comply with, carry out and fulfil, and ensure that the State Works Contractor complies with, carries out and fulfils, the conditions and requirements of all Environmental Documents, including those conditions and requirements which RMS is expressly or impliedly required under the terms of the Environmental Documents to comply with, carry out and fulfil but only to the extent that those conditions and requirements relate to the scope and extent of the Project Works, the Temporary Works and the Project Activities.
- (e) The Project Company must immediately notify RMS in writing as soon as the Project Company or the State Works Contractor:
- (i) becomes aware of any breach or potential breach or non-compliance or potential non-compliance with the conditions or requirements of any Law, Approval or Environmental Document regarding the Environment in the performance of the Project Activities;
 - (ii) becomes aware of any information, fact or circumstance where, if RMS were to be aware of such information, fact or circumstance, RMS would be required to notify any Authority of that information, fact or circumstance pursuant to any Law relating to the Environment (without limiting any other obligation of the Project Company or the State Works Contractor in relation to the information, fact or circumstance); or
 - (iii) notifies any Authority of any matter pursuant to any Law relating to the Environment, in which case the Project Company must provide to RMS a copy of such notification and of any subsequent correspondence with the Authority in relation to the subject of the notification.
- (f) The Project Company must indemnify RMS from and against any Claims against RMS, or Loss suffered or incurred by RMS, arising out of or in any way in connection with a failure by the Project Company to comply, or ensure that the State Works Contractor complies, with any obligation under this paragraph 3.

4. Provision of Emissions and Energy Data to RMS

- (a) The Project Company must provide the Project Company's Emissions and Energy Data to RMS's Representative:
 - (i) at such times as may be agreed by RMS and the Project Company, or, if no such agreement is reached, within 10 Business Days of receiving written notice from RMS indicating that it requires the Project Company's Emissions and Energy Data to be provided; and
 - (ii) on each occasion that the Project Company is required to provide the Project Company's Emissions and Energy Data to an Authority under the NGER Legislation or any other applicable Law.
- (b) The Project Company acknowledges and agrees that RMS may use the Project Company's Emissions and Energy Data for any purpose as it sees fit.

5. Reporting Emissions and Energy Data

- (a) This paragraph 5 applies if, despite the operation of clause 7.13, RMS incurs a Liability under or in connection with the NGER Legislation as a result of or in connection with the Project Activities, the Project Works or the Temporary Works.
- (b) If RMS notifies the Project Company in writing that the Project Company is required to provide the Project Company's Emissions and Energy Data to RMS, then the Project Company must:
 - (i) provide the Project Company's Emissions and Energy Data to RMS's Representative in the same manner, form and level of detail, based on the same methods and at the same times:
 - A. as if the Project Company or the State Works Contractor was obliged under the NGER Legislation or any other applicable Law to provide Emissions and Energy Data to an Authority and RMS was that Authority;
 - B. in accordance with the requirements or approvals of any Authority and any reasonable directions by RMS's Representative; and
 - C. without limiting paragraphs 5(b)(i)A and B, as may be required to enable RMS:
 - 1) to discharge, as and when they fall due, any obligations that it may have to provide the Project Company's Emissions and Energy Data to any Authority; and
 - 2) to provide to the Clean Energy Regulator, any Project Company's Emissions and Energy Data concerning any greenhouse gas project;
 - (ii) keep all such Project Company's Emissions and Energy Data as may be required to enable it to discharge its obligations under paragraph 5(b)(i);
 - (iii) retain records of its activities that are the basis of its Project Company's Emissions and Energy Data for any financial year, for a period of not less than 7 years from the end of the year in which the relevant activities take place; and

- (iv) permit the Project Company's Emissions and Energy Data to be examined, monitored, measured, copied, audited and verified by any persons appointed or authorised for that purpose by RMS or any Authority, and co-operate with and provide all reasonable assistance to any such persons, including giving access to premises, plant and equipment, producing and giving access to documents (including any records kept and retained under paragraphs 5(b)(ii) and (iii) and answering questions.
- (c) Without limiting paragraph 5(b), the Project Company must assist, and ensure that the State Works Contractor assists, RMS to comply with the NGER Legislation in relation to any aspect of the Project Activities.
- (d) The Project Company acknowledges and agrees that:
 - (i) the Project Company's Emissions and Energy Data is provided to RMS:
 - A. to discharge any obligations that RMS may have to provide such Data to an Authority; and
 - B. so that RMS may provide to the Clean Energy Regulator any Project Company's Emissions and Energy Data concerning any greenhouse gas project;
 - (ii) RMS may provide or otherwise disclose the Project Company's Emissions and Energy Data to any applicable Authority; and
 - (iii) nothing in this paragraph 5 is to be taken as meaning that RMS has agreed to perform on behalf of the Project Company or the State Works Contractor, any obligation that the Project Company or the State Works Contractor itself may have under any Law regarding the provision of Emissions and Energy Data to any Authority (including any obligation under the NGER Legislation).

6. Sustainability

- (a) The Project Company must comply, and ensure that the State Works Contractor complies, with the sustainability requirements set out in sections 5.1 and 7.1.4 of the SWTC.
- (b) Without limiting paragraph 6(a), the Project Company must achieve, and ensure that the State Works Contractor achieves:
 - (i) a "Design" rating score of at least Excellent for the design of the Project Works and the Temporary Works; and
 - (ii) an "As Built" rating score of at least Excellent for the construction of the Project Works and the Temporary Works,
 from the Infrastructure Sustainability Council of Australia.
- (c) Without limiting paragraph 6(b), in order to achieve the ratings referred to in paragraph 6(b) the Project Company must:
 - (i) register, and ensure that the State Works Contractor registers, with the Infrastructure Sustainability Council of Australia for the purposes of obtaining a rating;

- (ii) cooperate and liaise, and ensure that the State Works Contractor cooperates and liaises, with the Infrastructure Sustainability Council of Australia as required; and
- (iii) provide, and ensure that the State Works Contractor provides, any documentation required by the Infrastructure Sustainability Council of Australia.

7. Waste disposal

- (a) The Project Company must:
 - (i) remove from the Project Site and any Extra Land; and
 - (ii) dispose of,

any Contamination or other waste pursuant to its obligations under this deed to a licensed waste facility in accordance with all relevant Law and Approvals.
- (b) The Project Company must:
 - (i) ensure that the entity that carries out the storage, treatment, transport and disposal of the Contamination or other waste from the Project Site or Extra Land holds all relevant Approvals that are necessary or desirable; and
 - (ii) procure and provide evidence of such Approvals to RMS's Representative upon request.
- (c) The Project Company must ensure that its employees and agents, and the employees and agents of the State Works Contractor, as applicable, are suitably trained in correct and safe methods of loading, unloading and handling any Contamination or other wastes and that they comply with all applicable Laws.
- (d) The Project Company must indemnify RMS from and against any claims against RMS, or Loss suffered or incurred by RMS, arising out of or in any way in connection with any failure by the Project Company to comply with any obligation under this paragraph, provided that the Project Company's liability to indemnify RMS will be reduced proportionally to the extent that an act or omission of RMS or any of its Related Parties contributed to the claim or Loss.

Schedule 6 – Project Plans

(Clause 7.5)

1. Project Plans

- (a) Each Project Plan must:
- (i) where an initial plan exists for the relevant Project Plan and is contained in an Appendix to the SWTC, be based upon that initial plan;
 - (ii) whether or not an initial plan exists for the relevant Project Plan, be prepared and further developed in accordance with this Schedule 6 and section 2.10 of the SWTC; and
 - (iii) contain any relevant contents required under this deed, including as specified in Appendix 60 of the SWTC.
- (b) Each Project Plan must be initially submitted to the Independent Certifier and RMS's Representative within any relevant time period specified in this deed (including as specified in Appendix 60 of the SWTC).
- (c) Without limiting any other provision of this deed, the parties acknowledge and agree that any Project Plan developed, updated or amended in accordance with this Schedule 6 may contain content that is relevant to:
- (i) this Project only;
 - (ii) both this Project and the M2 Integration Project; and
 - (iii) the M2 Integration Project only.

For the purposes of this paragraph (c), "M2 Integration Project" means the design, construction, commissioning, finance, operation and maintenance of one additional lane for general traffic on the westbound carriageway of the M2 Motorway from the connection with the Motorway to Windsor Road pursuant to the document entitled "M2 Integration Project Deed" dated on or about the date of this deed between RMS, the Minister for Roads and Freight, The Hills Motorway Limited (ABN 28 062 329 828) and Hills Motorway Management Limited (ABN 89 064 687 645).

2. Review of Project Plans

- (a) RMS's Representative may:
- (i) review any Project Plan submitted under this Schedule 6; and
 - (ii) if the Project Plan submitted does not comply with this deed, notify the Project Company of that within 15 Business Days of the initial submission of the Project Plan.
- (b) If the Project Company receives a notice under paragraph 2(a)(ii) of this Schedule 6, the Project Company must promptly submit an amended Project Plan, or relevant part or component of it, to the Independent Certifier and RMS's Representative.
- (c) RMS's Representative owes no duty to the Project Company to review any Project Plan submitted by the Project Company for errors, omissions or compliance with this deed.

3. Purpose of Project Plans

The Project Company acknowledges and agrees that:

- (a) an intended purpose of each Project Plan is for the Project Company to provide a detailed description of how the Project Company intends to carry out the Project Company's Activities in accordance with the requirements of this deed, and ensure that the State Works Contractor carries out the SWC Activities in accordance with the requirements of the State Works Deed, with respect to the subject matter of each Project Plan; and
- (b) the Project Plans will require ongoing development, amendment and updating throughout the duration of the Project Activities to take into account:
 - (i) Changes;
 - (ii) changes in Law;
 - (iii) the commencement of new phases or stages of design and construction as shown in the Overall D&C Program and the Subsidiary D&C Programs;
 - (iv) those events or circumstances expressly identified for each Project Plan including as specified in Appendix 60 of the SWTC; and
 - (v) any other events or circumstances which occur or come into existence and which have, or may reasonably be expected to have, a material effect on the manner in which the Project Company carries out the Project Company's Activities or the State Works Contractor carries out the SWC Activities.

4. Warranties and undertakings

The Project Company:

- (a) warrants that each Project Plan will be fit for its intended purpose and that compliance by it with the Project Plans will enable it to fulfil its obligations under this deed and the State Works Contractor to fulfil its obligations under the State Works Deed;
- (b) must not decrease or otherwise reduce the scope of any Project Plan, or the scope of work or level of effort or expertise required by a Project Plan, or the number of personnel or extent of surveillance required, including any initial Project Plan and any revision of a Project Plan, without the prior written approval of RMS's Representative (which must not be unreasonably withheld); and
- (c) must continue to develop and promptly amend or update the Project Plans:
 - (i) to take into account:
 - A. the circumstances and events referred to in paragraph 3(b) as those circumstances and events occur or come into existence; and
 - B. any breach or potential breach of the warranties referred to in paragraph 4(a); and
 - (ii) as otherwise specified in the SWTC, including Appendix 60 of the SWTC,

and promptly submit each further Project Plan to the Independent Certifier and RMS's Representative as it is further developed, amended or updated.

5. RMS direction

If RMS's Representative (acting reasonably) believes that:

- (a) any Project Plan does not comply with the requirements of this deed; or
- (b) the Project Company has not further developed, updated or amended any Project Plan in accordance with the requirements of paragraph 3(b),

RMS's Representative may by written notice direct the Project Company to further develop, update or amend the Project Plan so that the Project Plan will comply with the requirements of this deed, specifying:

- (c) the reasons why such development, updating or amending is required; and
- (d) the time within which such development, updating or amending must occur,

and the Project Company must:

- (e) further develop, update or amend the Project Plan as directed by RMS's Representative and so that it complies with the requirements of this deed; and
- (f) submit the further developed, updated or amended Project Plan to the Independent Certifier and RMS's Representative within the time specified in paragraph 5(d).

Schedule 7 – Form of Unconditional Undertaking

(Clause 8)

THIS DEED POLL (Undertaking) made the _____ day of _____ 20

IN FAVOUR OF: **Roads and Maritime Services** of 101 Miller Street, North Sydney, New South Wales (**RMS**)

GIVEN BY: _____ (**Financial Institution**)

Project Company » NorthConnex Company Pty Ltd

ACN » 602 719 513

Security Amount \$ »

The Contract: The Project Deed between RMS and the Project Company

Contract Title: NorthConnex Project Deed

Other words and phrases in this Undertaking have the meanings given in the Project Deed.

Undertaking

1. At the request of the Project Company, and in consideration of RMS accepting this Undertaking from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by RMS to the maximum aggregate sum of the Security Amount.
2. The Financial Institution unconditionally agrees that, upon receipt from RMS of a notice in writing purportedly signed by RMS (or someone authorised by RMS) that it requires all or some of the Security Amount, the Financial Institution will pay RMS at once, without reference to the Project Company and despite any notice from Project Company not to pay.
3. RMS must not assign this Undertaking without the prior written agreement of the Financial Institution, which will not be unreasonably withheld.
4. This Undertaking continues until one of the following occurs:
 - (a) RMS notifies the Financial Institution in writing that the Security Amount is no longer required;
 - (b) this Undertaking is returned to the Financial Institution; or
 - (c) the Financial Institution pays RMS an amount which, in aggregate with all other amounts previously paid by the Financial Institution under this Undertaking, equals the Security Amount, or as much as RMS may require overall.
5. At any time, without being required to, the Financial Institution may pay RMS the Security Amount less any amounts previously paid under this Undertaking, and the liability of the Financial Institution will then immediately end.
6. This Undertaking is governed by the laws of the State of New South Wales.

SIGNED as a deed poll.

Signed sealed and delivered for and on behalf of
by its Attorney under a Power of Attorney
dated _____, and the Attorney
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 Attorney in full

Name of Witness in full

Schedule 8 – Terms of Access

(Clause 9)

1. Project Company acknowledgements

- (a) The Project Company acknowledges and agrees that:
- (i) it and the State Works Contractor may not be given exclusive access to the Project Site; and
 - (ii) access to the Project Site or any part thereof will be subject to the Project Company complying, and ensuring that the State Works Contractor complies, with clause 9.1, this Schedule 8 and the Site Schedule.
- (b) The Project Company acknowledges that:
- (i) its rights, and the State Works Contractor's rights, under clause 9.1 and this Schedule 8 are subject to any restrictions upon the access, possession and use of the Project Site, the Motorway Site and the Motorway imposed by; and
 - (ii) it must comply with, and ensure that the State Works Contractor complies with:
all:
 - (iii) access conditions that apply to an area of the Project Site as specified in the Site Schedule; and
 - (iv) subject to the terms of the Site Schedule and the RMS Interface Site Access Schedule, terms of any easement burdening the land contained in the Project Site as recorded in the register maintained by Land and Property Information New South Wales under the Real Property Act 1900 (NSW).
- (c) The Project Company acknowledges that it and the State Works Contractor will have no entitlement to access the Project Site under clause 9.1 and this Schedule 8 until the Project Company has submitted the Project WHS Management Plan to RMS's Representative and RMS's Representative has had 15 Business Days to review the Project WHS Management Plan and has not rejected the Project WHS Management Plan.

2. No warranty by RMS

Subject to the express terms of this deed, RMS makes no express or implied warranty that the Project Site or the Motorway Site are now or will remain suitable or adequate for all or any of the purposes contemplated in this deed and save as aforesaid all warranties (if any) implied by Law are, to the extent permitted by Law, hereby expressly negated.

Schedule 9 – Property Owner's Certificate

(Clause 9.3)

This Deed Poll is in favour of Roads and Maritime Services (RMS).

PROPERTY ADDRESS:

1. I/We confirm that the following works have been carried out and completed on my/our property to my/our satisfaction:

[Insert description of property works]

2. I/We confirm that our land has been rehabilitated and all damage and degradation on it repaired.

3. I/We release RMS from all claims and actions which I/we may have arising out of or in connection with the works referred to in item 1.

SIGNED as a Deed Poll.

Signed sealed and delivered by
in the presence of:

Signature

Signature of Witness

Name of Witness in full

Schedule 10 – Quality Management

(Clause 10.1)

1. Quality management, verification and certification

- (a) RMS and the Project Company acknowledge that the design and construct project delivery method chosen for the Project Works and the Temporary Works:
 - (i) requires the Project Company, together with the State Works Contractor (to the extent applicable) to assume responsibility for all aspects of quality for the Project Activities and for the durability of the Project Works and the Temporary Works;
 - (ii) allows the Independent Certifier to observe, monitor, audit and test all aspects of quality in the Project Activities and the durability of the Project Works and the Temporary Works to certify compliance with the requirements of this deed and the State Works Deed;
 - (iii) requires the Independent Certifier by reviewing and assessing quality in the Project Activities and the durability of the Project Works, the Temporary Works and the Motorway, to certify the Project Company's compliance with the requirements of this deed and the State Works Contractor's compliance with the requirements of the State Works Deed; and
 - (iv) allows RMS's Representative to monitor compliance of the Project Activities with the requirements of this deed and the State Works Deed.
- (b) The Project Company must ensure a Quality Manager is engaged who must:
 - (i) independently certify the effectiveness and integrity of the Project Company's quality system in achieving conformance with the requirements of this deed;
 - (ii) report to RMS's Representative and the Independent Certifier on quality issues in accordance with the requirements of this deed; and
 - (iii) have the requisite experience and ability to carry out the functions described in paragraphs 1(b)(i) and (ii).
- (c) The Project Company must provide to RMS's Representative a certificate executed by the Quality Manager:
 - (i) in the form of Appendix A, within 3 months after the date of this deed;
 - (ii) in the form of Appendix B, every 3 months from the date of this deed until the Date of Completion;
 - (iii) in the form of Appendix C, as a condition precedent to Completion; and
 - (iv) in the form of Appendix D, upon the expiry of the last Defects Correction Period.
- (d) The Project Company must provide to RMS's Representative a certificate executed by the Independent Certifier:
 - (i) in the form of Appendix E, within 3 months after the date of this deed;

- (ii) in the form of Appendix F, every 3 months from the date of this deed until the Date of Completion; and
 - (iii) in the form of Appendix G, upon the expiry of the last Defects Correction Period.
- (e) The Independent Certifier must audit and review each revision of the Quality Plan within 10 Business Days after submission of that plan to RMS's Representative.
 - (f) The Project Company must provide to RMS's Representative a certificate executed by the Project Company's Environmental Manager in the form of Appendix H every 3 months from the date of this deed until the Date of Completion.

2. Hold Points

The Project Company must comply with the Hold Point procedures required by this deed, and ensure that the State Works Contractor complies with the Hold Point procedures required by this deed and the State Works Deed, including as inserted in Project Plans by the Independent Certifier pursuant to clause 10.2(d)(iii).

3. Project quality non-conformance

- (a) The Project Company must comply with, and ensure that the State Works Contractor complies with, the procedure for non-conformances set out in the SWTC and the Quality Plan. Further to the provisions of clause 8.3(b) of AS/NZS ISO 9001-2008, the use, release or acceptance of nonconforming work can only be given by RMS's Representative, in its absolute discretion and without being under any obligation to do so.
- (b) Corrective actions implemented under the Project Company's quality system must comply with the requirements of this deed including the SWTC.
- (c) The Project Company must promptly issue all documents relating to quality non-conformances to RMS's Representative.

4. Monitoring and audits

The Project Company must:

- (a) have its and the State Works Contractor's compliance with the Project Plans audited at intervals not exceeding 6 months during the carrying out of the Project Works and its compliance with the Project Plans audited at intervals not exceeding 12 months during the Term at its cost by an independent auditor who is acceptable to RMS;
- (b) permit representatives of RMS and the Independent Certifier to be present during such audits; and
- (c) deliver 2 copies of each audit report to RMS and the Independent Certifier within 5 Business Days of its completion.

5. Testing

The Project Company must carry out, and ensure that the State Works Contractor carries out, all tests required:

- (a) by this deed; or

(b) otherwise directed by RMS's Representative.

The costs of a test which is directed by RMS's Representative and which is not otherwise required by this deed will be borne by RMS unless the test detects a Defect or is upon a Defect.

Appendix A

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: Quality Manager

In accordance with the terms of paragraph 1(c)(i) of Schedule 10 to the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**) with respect to the Project, I hereby certify that the Project Company's Quality Management System under clause 10.1 and Schedule 10 of the deed is in accordance with RMS's General Specification Q6 and AS/NZS ISO 9001 Quality management systems - Requirements.

.....

Signed by

Quality Manager

Appendix B

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: Quality Manager

In accordance with the terms of paragraph 1(c)(ii) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (Project Company) dated [] with respect to the Project, I hereby certify that between the following dates [Insert dates of preceding 3 month period]:

- (a) the Project Company's quality system under clause 10.1 and Schedule 10 of the deed was in accordance with AS/NZS ISO 9001 - 2008 Quality management systems - Requirements;
- (b) any Subcontractors' quality systems which form a part of the Project Company's quality system were in accordance with AS/NZS ISO 9001 - 2008;
- (c) the Project Company complied with and satisfied the requirements of RMS's General Specification Q6;
- (d) the release of Hold Points was undertaken in accordance with the deed;
- (e) the design, construction, inspection, repairs and monitoring by the Project Company was undertaken in accordance with the deed; and
- (f) that documentation was recorded and submitted to the RMS's Representative and the Independent Certifier in accordance with the deed.

.....

Signed by

Quality Manager

Appendix C

Completion - NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: Quality Manager

In accordance with the terms of paragraph 1(c)(iii) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**) dated [] with respect to the Project, I hereby certify in relation to the Project Works that:

- (a) the Project Company has complied with and satisfied the requirements of RMS's General Specification Q6;
- (b) the Project Company has completed construction in accordance with the Design Documentation it was entitled to use for construction purposes under clause 11.3 of the deed, subject to minor Defects as referred to in paragraph 1 of Schedule 15;
- (c) the release of all Hold Points has been undertaken in accordance with the deed; and
- (d) all documentation has been recorded and submitted to the Independent Certifier and RMS's Representative in accordance with the deed.

.....

Signed by
Quality Manager

Appendix D

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: Quality Manager

In accordance with the terms of paragraph 1(c)(iv) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**) dated [] with respect to the Project, I hereby certify that as at the date of expiration of the last "Defects Correction Period" as defined in the deed:

- (a) the release of all Hold Points has been undertaken in accordance with the deed;
- (b) all design, construction, inspection, repairs and monitoring by the Project Company has been undertaken in accordance with this deed; and
- (c) all documentation has been recorded and submitted to the Independent Certifier and RMS's Representative in accordance with the deed.

.....

Signed by
Quality Manager

Appendix E

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: APP Corporation Pty Limited (ABN 003 764 770)

In accordance with the terms of paragraph 1(d)(i) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**) dated [] with respect to the Project, we hereby certify that the Project Company's quality system under clause 10.1 and Schedule 10 of the deed is in accordance with RMS's General Specification Q6 and AS/NZS ISO 9001 Quality management systems - Requirements.

.....

Signed for and on behalf of

APP Corporation Pty Limited

Appendix F

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: APP Corporation Pty Limited (ABN 003 764 770)

In accordance with the terms of paragraph 1(d)(ii) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (Project Company) dated [] with respect to the Project, we hereby certify that between the following dates [Insert dates of preceding 3 month period]:

- (a) the Project Company's quality system under clause 10.1 and Schedule 10 of the deed is in accordance with AS/NZS ISO 9001 Quality management systems - Requirements;
- (b) any Subcontractors' quality systems which form a part of the Project Company's quality system are in accordance with AS/NZS ISO 9001;
- (c) the Project Company has complied with and satisfied the requirements of RMS's General Specification Q6;
- (d) the release of Hold Points has been undertaken in accordance with the deed;
- (e) the design, construction, inspection, repairs and monitoring by the Project Company has been undertaken in accordance with the deed, including the SWTC; and
- (f) that documentation has been recorded and submitted to RMS's Representative in accordance with the deed.

.....

Signed for and on behalf of

APP Corporation Pty Limited (ABN 003 764 770)

Appendix G

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: APP Corporation Pty Limited (ABN 003 764 770)

In accordance with the terms of paragraph 1(d)(iii) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**) dated [] with respect to the Project, we hereby certify that as at the date of expiration of the last "Defects Correction Period" as defined in the deed:

- (a) the release of all Hold Points has been undertaken in accordance with the deed;
- (b) all design, construction, inspection, repairs and monitoring by the Project Company has been undertaken in accordance with this deed; and
- (c) all documentation has been recorded and submitted to RMS's Representative in accordance with the deed.

.....

Signed for and on behalf of
APP Corporation Pty Limited

Appendix H

NorthConnex Project (Project)

(Clause 10.1 and Schedule 10)

To: RMS's Representative

From: [Environmental Manager]

In accordance with the terms of paragraph 1(f) of Schedule 10 of the deed between RMS and NorthConnex Company Pty Ltd (ACN 602 719 513) (Project Company) dated [] with respect to the Project, I hereby certify that between the following dates [Insert dates of preceding 3 month period]:

- (a) the Project Company's Environmental Management System under section 2.6.1 of the SWTC was in accordance with AS/NZS ISO 14001;
- (b) any Subcontractors' Environmental Management Systems which form a part of the Project Company's Environmental Management System were in accordance with AS/NZS ISO 14001;
- (c) the Project Company complied with and satisfied the requirements of RMS set out in the Environmental Documents for which the Project Company is responsible under Schedule 3;
- (d) the release of Hold Points was undertaken in accordance with the deed;
- (e) the design, construction, inspection, repairs and monitoring by the Project Company was undertaken in accordance with the deed; and
- (f) that documentation was recorded and submitted to the Independent Certifier and the RMS's Representative in accordance with the deed.

.....

Signed by
[Environmental Manager]

Schedule 11 – Senior Project Group

(Clause 6.4)

1. Constitution

- (a) The Senior Project Group will consist of:
- (i) prior to the Date of Completion:
 - A. a person appointed under:
 - 1) clause 6.1 as the representative of RMS; and
 - 2) clause 6.2 as the representative of the Project Company.
 - B. 2 persons from each party holding positions more senior to the persons referred to in paragraph 1(a)(i)A; and
 - C. such other members as the parties may from time to time agree; and
 - (ii) after the Date of Completion:
 - A. a person appointed under:
 - 1) clause 6.1 as the representative of RMS; and
 - 2) clause 6.2 as the representative of the Project Company; and
 - B. such other members as the parties may from time to time agree.
- (b) The persons referred to in paragraph 1(a) may appoint delegates to attend Senior Project Group meetings in their absence and to otherwise discharge their responsibilities under clause 6.4 and this Schedule 11.

2. Objectives

The objectives of the Senior Project Group will be to monitor and review the progress of the Project, including to:

- (a) assist in the resolution of any special matters referred to the Senior Project Group by a party, including issues arising in respect of the Third Party Agreements;
- (b) monitor the progress of the Project Activities; and
- (c) review all progress reports provided in accordance with the Project Company Documentation Schedule.

3. Meetings

- (a) The Senior Project Group will meet:
- (i) monthly prior to the Date of Completion; and

- (ii) at six monthly intervals between the Date of Completion and the second anniversary of the Date of Completion; and
 - (iii) at such other times as are agreed between the parties between the second anniversary of the Date of Completion and the Expiry Date.
- (b) RMS will convene and chair meetings of the Senior Project Group and will take the minutes of all meetings and distribute the minutes to members of the Senior Project Group.
- (c) RMS:
 - (i) has the right to have representatives of any Authority attend any meeting of the Senior Project Group as observers; and
 - (ii) may request the Project Company to procure the attendance of representatives of the State Works Contractor, the Operator, Subcontractors or any subcontractor, supplier or consultant of them at any meeting of the Senior Project Group and the Project Company must comply with any such request.
- (d) The Project Company has the right to have a representative of the State Works Contractor, the Subcontractors and the Operator attend any meeting of the Senior Project Group as an observer.

Schedule 12 – Change Procedure

(Clause 12)

1. Changes Proposed by RMS

1.1 Change Proposal

- (a) RMS may at any time issue to the Project Company a notice titled "Change Proposal" setting out the details of a proposed Change which RMS is considering, including RMS's proposed requirements for the implementation of the proposed Change.
- (b) The Project Company acknowledges that RMS may issue a Change Proposal that decreases, omits, deletes or removes work from the scope of the:
 - (i) Project Works; or
 - (ii) O&M Work;

(Excluded Works) and may carry out that Excluded Work itself or may engage another person to carry out the Excluded Work on its behalf.
- (c) Except as directed in a Change Order or in respect of a Change contemplated in clauses

the

Project Company will not be entitled to:

- (i) make any Claim against RMS arising out of, or in any way in connection with, a Change proposed by the RMS; or
- (ii) vary or change the Project Works, the Temporary Works or the O&M Work.

1.2 Project Company Change Notice

As soon as practicable and in any event within 30 Business Days after receipt of a "Change Proposal" from RMS under paragraph 1.1(a)), the Project Company must provide RMS with a notice (**Project Company Change Notice**) setting out detailed particulars of:

- (a) the Project Company's estimate of the Change Costs it or the State Works Contractor will incur, or the Change Savings it or the State Works Contractor will derive, by carrying out the proposed Change, substantiated (to the full extent possible) with a detailed breakdown;
- (b)
- (c) the effect (if any) the Project Company and the State Works Contractor anticipate the Change will have on the Overall D&C Program, the Subsidiary D&C Programs and the Project Company and the State Works Contractor achieving Completion by the Date for Completion and the Sunset Date;
- (d) if the Change is proposed to be carried out after the Date of Completion, the time within which the proposed Change will be implemented;

- (e) the effect the Project Company and the State Works Contractor anticipate the Change will have on the performance of the Project Activities, the Project Works, the Temporary Works and the O&M Work (including specific details of the work that will be affected and how and to what extent it will be affected);
- (f) the effect the Project Company and the State Works Contractor anticipate the Change will have on the functionality or integrity of the elements of the Project Activities, the Project Works, the Temporary Works and the O&M Work and the quality or performance standards required by this deed, including specific details of:
 - (i) the elements of the Project Activities, the Project Works, the Temporary Works and the O&M Work that will be affected;
 - (ii) how and to what extent the functionality or integrity of those elements will be affected;
 - (iii) the quality or performance standards affected and how and to what extent they will be affected;
 - (iv) any adverse effect which the Change will have on the ability of the Project Company to satisfy its obligations under this deed or the State Works Contractor to satisfy its obligations under the State Works Deed (including any warranties the Project Company is required to give under this deed or the State Works Contractor is required to give under the State Works Deed); and
 - (v) any adverse effect which the Change will have on the Project Company's ability to achieve Final Handover in accordance with the requirements of this deed;
- (g) any other information concerning the proposed Change which RMS's Representative reasonably requires, including:
 - (i) sufficient detail to allow RMS to reconsider the need for the Change; and
 - (ii) whether any land in addition to the Project Site is required to implement the Change; and
- (h) the period within which the Project Company Change Notice remains valid for acceptance by RMS, which must be a reasonable period of not less than 20 Business Days after the date of the Project Company Change Notice (**Validity Period**).

RMS will not be obliged to proceed with any Change proposed in a "Change Proposal".

1.3 Project Company Change Notice Requirements

- (a) The Project Company must ensure that the Project Company Change Notice is prepared:
 - (i) so as to avoid, as far as practicable, the need for a new Approval or a Change to an existing Approval for the implementation of the Change;
 - (ii) on an open book basis with respect to:
 - A. the Project Company's and the State Work's Contractor's internal costs; and
 - B. the costs of the Contractor, the Operator, the Technology Operator, the Tolling Equipment Works Contractor and the

Tolling and Customer Management Contractor (and to this end the Project Company must allow RMS review and audit rights sufficient to verify that the Project Company Change Notice has been prepared in accordance with the requirements of this deed (including the definitions of "Change Costs" and "Change Savings"));

- (iii) assuming the Project Company and/or the State Works Contractor is a willing, efficient and competent provider of the Change in an efficient and competitive market;
 - (iv) in a manner which is consistent with the reasonable requirements of RMS for the implementation of the Change;
 - (v) having regard to minimising:
 - A. the disruption to road users;
 - B. delay in achieving Completion, to the extent that it has not yet been achieved; and
 - C. any adverse safety impacts of the Change;
 - (vi) in a manner which ensures that all appropriate insurances relevant to the Change are taken out and maintained consistently with those that would have been required by RMS if the Change had been included in the Project Works as applicable, as at the date of this deed (unless RMS otherwise determines); and
 - (vii) in a manner so that there is no double counting.
- (b) If RMS issues a Change Proposal after the Date of Completion:
- (i) RMS may require the Project Company to conduct a tender process for all or part of the works which would be required to effect the Change;
 - (ii) the tender process must be conducted consistently with the NSW Government's procurement policies in their form as at the date of RMS's Change Proposal (subject to necessary changes agreed between RMS and the Project Company (acting reasonably) to reflect that the Project Company is a private company rather than an Authority); and
 - (iii) the Project Company must:
 - A. have regard to the outcome of the tender process (including the tender costs) in the Project Company Change Notice; or
 - B. if the Project Company has issued the Project Company Change Notice, amend the Project Company Change Notice to have regard to the outcome of the tender process (including the tender costs) and re-issue the Project Company Change Notice to RMS.

1.4 Election by RMS

Within the Validity Period, RMS must either:

- (a) advise the Project Company that RMS:

- (i) requires further information and/or clarification with respect to the Project Company Change Notice; and/or
- (ii) has altered the scope of the Change Proposal;
- (b) accept the Project Company Change Notice and, if the Project Company Change Notice contains any options, nominate which option or options RMS accepts;
- (c) reject the Project Company Change Notice; or
- (d) except in the case of a Change contemplated in clauses

withdraw the proposed Change,

by notice in writing to the Project Company (which in the case of paragraph 1.4(b) must be titled "Change Order").

1.5 Further information or altered scope

If RMS issues a notice in accordance with paragraph 1.4(a), the Project Company must provide RMS with an updated Project Company Change Notice addressing the issues raised by RMS within 30 Business Days after receipt of RMS's notice.

1.6 Acceptance of the Project Company Change Notice

If RMS accepts the Project Company Change Notice in accordance with paragraph 1.4(b):

- (a) the Project Company must proceed to implement (or procure the implementation of) the Change on the basis of the Project Company Change Notice (as accepted by RMS); and
- (b) the Project Company will be relieved of its obligations under this deed, and the State Works Contractor will be relieved of its obligations under the State Works Deed, and the Project Company's obligations under this deed, and the State Works Contractor's obligations under the State Works Deed, will be varied, in each case to the extent specified in the Project Company Change Notice (as accepted by RMS).

1.7 Rejection of the Project Company Change Notice

- (a) If RMS rejects the Project Company Change Notice in accordance with paragraph 1.4(c), RMS may require that:
 - (i) within a period of 5 Business Days after the date of RMS's notice under paragraph 1.4, the parties commence consultation in good faith, and use their reasonable endeavours to agree on a mutually acceptable resolution to the matters set out in the Project Company Change Notice which are in dispute; and/or
 - (ii) if the Date of Completion has occurred, the Project Company conduct a tender process (if it has not already done so) in accordance with paragraph 1.3(b).
- (b) If the parties reach agreement on the disputed matters in the Project Company Change Notice and RMS directs the Project Company to proceed with the Change (by notice titled "Change Order"):
 - (i) the Project Company must proceed to implement (or procure the implementation of) the Change on the basis of the Project Company

Change Notice (as varied by the parties' agreement, as recorded in the "Change Order", on the matters in the Project Company Change Notice which were in dispute); and

- (ii) the Project Company will be relieved of its obligations under this deed, and the State Works Contractor will be relieved of its obligations under the State Works Deed, and the Project Company's obligations under this deed, and the State Works Contractor's obligations under the State Works Deed, will be varied, in each case to the extent specified in the Project Company Change Notice (as varied by the parties' agreement, as recorded in the "Change Order", on the matters in the Project Company Change Notice which were in dispute).
- (c) If the parties are unable to reach agreement under paragraph 1.7(a) within 10 Business Days after the later of:
- (i) the commencement of the consultation; or
 - (ii) the outcome of the tender process is advised to RMS (if applicable),
- RMS may refer the matter for dispute resolution in accordance with the Dispute Resolution Procedure. In resolving the dispute under the Dispute Resolution Procedure, the parties will, and will direct the expert or arbitrator to:
- (iii) have regard to the principles set out in paragraph 1.3, to the extent relevant;
 - (iv) assume that funding for the Change will be provided by RMS, unless the parties otherwise agree; and
 - (v) determine all matters required to enable the Change to be implemented.
- (d) If RMS refers the matter for dispute resolution, RMS may also direct the Project Company to proceed to implement (or procure the implementation of) the Change by a notice titled "Change Order" whether or not the matters in dispute have been agreed or determined in accordance with the Dispute Resolution Procedure. If RMS gives such a notice:
- (i) the disputed matters will, until RMS and the Project Company otherwise agree or a determination is made in accordance with the Dispute Resolution Procedure, be reasonably determined by RMS. In making its determination, RMS will:
 - A. have regard to the principles set out in paragraph 1.3, to the extent relevant;
 - B. assume that funding for the Change will be provided by RMS, unless the parties otherwise agree; and
 - C. determine all disputed matters required to enable the Change to be implemented, including the changes required to any Project Documents;
 - (ii) the Project Company must proceed to implement (or procure the implementation of) the Change on the basis determined by RMS, notwithstanding that the matters in dispute have not been agreed or determined in accordance with the Dispute Resolution Procedure; and
 - (iii) any necessary adjustments will be made following the resolution of the matters in dispute.

- (e) Following resolution of the dispute referred for dispute resolution under paragraph 1.7(c), RMS may (unless it has already exercised its right under paragraph 1.7(d)) elect to do either of the following:
- (i) require the Project Company to proceed to implement (or procure the implementation of) the Change in accordance with the Project Company Change Notice as varied by the resolution; or
 - (ii) except in the case of a Change contemplated in clause
 - withdraw the proposed Change,
 by notice to the Project Company (which in the case of paragraph 1.7(e)(i) must be titled "Change Order").
- (f) If RMS gives the Project Company a Change Order pursuant to paragraph 1.7(e)(i):
- (i) the Project Company must proceed to implement (or procure the implementation of) the Change in accordance with the Project Company Change Notice (as varied by the resolution, once made); and
 - (ii) the Project Company will be relieved of its obligations under this deed, and the State Works Contractor will be relieved of its obligations under the State Works Deed, and the Project Company's obligations under this deed, and the State Works Contractor's obligations under the State Works Deed, will be varied, in each case to the extent specified in the Project Company Change Notice (as varied by the resolution, once made).

1.7A Withdrawal of the proposed Change

If RMS withdraws the Change Proposal in accordance with paragraph 1.4(d) or paragraph 1.7(e)(ii), neither the Project Company nor the State Works Contractor is obliged or permitted to carry out the Change Proposal.

1.8 RMS may instruct the Project Company to proceed

- (a) Whether or not:
- (i) RMS has issued a Change Proposal under paragraph 1.1(a); or
 - (ii) the Project Company has issued a Project Company Change Notice in response to a Change Proposal under paragraph 1.2,

RMS may at any time instruct the Project Company to implement a Change by issuing a notice titled "Change Order". In these circumstances the matters set out in paragraphs 1.2(a) and 1.2(c) will, until RMS and the Project Company otherwise agree or a determination is made in accordance with the Dispute Resolution Procedure, be reasonably determined by RMS.

- (b) In making its determination, RMS will:
- (i) have regard to the principles set out in paragraph 1.3, to the extent relevant;
 - (ii)

and

- (iii) determine all matters required to enable the Change to be implemented.
- (b) If the Project Company disagrees with a matter determined by RMS under this paragraph 1.8:
- (i) the Project Company may refer the matter for dispute resolution in accordance with the Dispute Resolution Procedure;
 - (ii) the Project Company must proceed to implement (or procure the implementation of) the Change on the basis determined by RMS notwithstanding that the matters in dispute have not been agreed or determined in accordance with the Dispute Resolution Procedure; and
 - (iii) any necessary adjustments will be made following the resolution of the matters in dispute.

2. Changes proposed by the Project Company

2.1 No Change without consent

The Project Company must not, and must procure that the State Works Contractor and their respective Related Parties do not, undertake any Change without RMS's prior consent.

2.2 Project Company proposal

- (a) The Project Company may propose a Change to RMS by giving RMS a written notice with details of:
- (i) the proposed Change;
 - (ii) the reason for the proposed Change;
 - (iii) the Project Company's estimate of the Change Costs it or the State Works Contractor will incur, or the Change Savings it or the State Works Contractor will derive, by carrying out the proposed Change, substantiated (to the full extent possible) with a detailed breakdown;
 - (iv) the effect of the proposed Change on the Project Activities;
 - (v) the time within which the proposed Change will be implemented and the manner in which the Project Company proposes to implement (or procure the implementation of) the Change;
 - (vi) the effect of the proposed Change on the Overall D&C Program, the Subsidiary D&C Programs and the Date for Completion; and
 - (vii) the effect the Project Company and the State Works Contractor anticipate the Change will have on the functionality or integrity of the elements of the Project Activities, the Project Works, the Temporary Works and the O&M Work and the quality or performance standards required by this deed and the State Works Deed, including specific details of:
 - A. the elements of the Project Activities, the Project Works, the Temporary Works and the O&M Work that will be affected;
 - B. how and to what extent the functionality or integrity of those elements will be affected;

- C. the quality or performance standards affected and how and to what extent they will be affected;
 - D. any adverse effect which the Change will have on the ability of the Project Company to satisfy its obligations under this deed (including any warranties the Project Company is required to give under this deed), or the State Works Contractor to satisfy its obligations under the State Works Deed (including any warranties the State Works Contractor is required to give under the State Works Deed); and
 - E. any adverse effect which the Change will have on the Project Company's ability to achieve Final Handover in accordance with the requirements of this deed.
- (b) If the Project Company proposes a Change under this paragraph 2.2, the Project Company will, if required by RMS, give to RMS:
- (i) a written statement from the Project Company and/or the State Works Contractor stating that the proposed Change:
 - A. will not adversely affect the functional integrity of any of the elements of the Project Activities and the performance standards required by this deed and/or the State Works Deed; and
 - B. will not adversely affect the quality standards, warranties and other obligations required under this deed and/or the State Works Deed;
 - (ii) a written statement confirming that the Project Company and/or the State Works Contractor has appropriate financial and technical resources to undertake the proposed Change; and
 - (iii) any other information and supporting documentation RMS's Representative reasonably requires.

2.3 RMS may approve or reject

- (a) Subject to paragraph 2.3(b), RMS:
- (i) (in its absolute discretion) may, by notice in writing, approve (with or without conditions) or reject any Change the Project Company proposes; and
 - (ii) will be under no obligation to approve any such Change for the convenience of, or to assist, the Project Company or the State Works Contractor.
- (b) If, prior to the Date of Completion:
- (i) an event or circumstance occurs which prevents the Project Company from achieving Completion, other than an event or circumstance arising as a consequence of:
 - A. either of the Project Company's or the State Works Contractor's failure to comply with its obligations under a Project Document;

- B. a breach by either of the Project Company or the State Works Contractor of their warranties under a Project Document;
 - C. a wrongful act or omission of the Project Company, the State Works Contractor or their respective Related Parties; or
 - D. a failure by the Project Company, the State Works Contractor or any of their respective Related Parties to comply with any Law; and
- (ii) the Project Company proposes a Change to the SWTC pursuant to paragraph 2.2 to enable the Project Company to complete the Motorway at the Project Company's cost and risk,

then RMS must act reasonably in considering the proposed Change.

- (c) Prior to giving any notice under paragraph 2.3(d), RMS's Representative may seek to negotiate with the Project Company over the amount of the Change Costs or Change Savings arising from the proposed Change. If the parties agree the amount of the Change Costs or Change Savings arising from the proposed Change, the Project Company's notice will be deemed to be amended by the inclusion of this different amount of Change Costs or Change Savings in place of the original Change Costs or Change Savings notified by the Project Company.
- (d) If RMS approves a Change proposed by the Project Company:
- (i) RMS will issue a written notice entitled "Change Order";
 - (ii) the Project Company must thereafter implement (or procure the implementation of) the Change on the basis approved by RMS; and
 - (iii) the Project Company's obligations under this deed, and the State Works Contractor's obligations under the State Works Deed, will be varied, in each case to the extent specified in the Project Company's notice issued under paragraph 2.2(a) and approved by RMS.

2.4 Project Company's risk

Unless otherwise agreed in writing by RMS, the Project Company will:

- (a) bear all risk and costs:
- (i) associated with proposing a Change and providing the details under paragraph 2.2(a) and complying with paragraph 2.2(b);
 - (ii) reasonably incurred by RMS (or RMS's Representative) in assessing the proposed Change (such costs to be a debt due and payable from the Project Company to RMS); and
 - (iii) associated with implementing (or procuring the implementation of) the proposed Change, including obtaining and maintaining any Approvals necessary to implement the Change; and
- (b) not be entitled to make any Claim against RMS arising out of or in connection with the Change proposed by the Project Company and approved by RMS under paragraph 2.3.

3. Changes after the Date of Completion

If the Project Company implements a Change under this Schedule 12 after the Date of Completion, the Project Company must:

- (a) in the case of a Change proposed by RMS, at RMS's cost; or
- (b) in the case of a Change proposed by the Project Company, at the Project Company's cost,

provide RMS with a certificate from an independent certifier satisfactory to RMS (acting reasonably) certifying that the Change has been carried out in accordance with the Change Order and this deed.

Schedule 13 – Pre-Agreed Changes

(Clause 12.2)

Subject to the following paragraph, the following table sets out the Pre-Agreed Changes that may be directed by RMS's Representative pursuant to clause 12.2. RMS's Representative must direct the relevant Pre-Agreed Change by the "Exercise Date" identified in the table below.

The amounts in the column titled "Change Cost (excluding GST)"

Any required amendments to the SWTC (or the SWTC Appendices) resulting from the Pre-Agreed Changes below to be agreed between the parties.

Item	Pre-Agreed Change	Description of Pre-Agreed Change	Change Cost	Impact on Project Deed	Exercise Date
1	Hornsby quarry spoil disposal CAPEX	The quantity of spoil to be delivered is to be determined at the time of award of the Pre Agreed Change with the knowledge of the Approval Conditions and the knowledge of the availability of Hornsby Quarry, Wilson and Trelawney Street tunnelling sites. If this Pre-Agreed Change is directed by RMS, the Project Company will be required to undertake this Pre-Agreed Change in accordance with the requirements set out in Appendix 1 to this Schedule 13.	\$	No other impact	
2	Hornsby quarry spoil disposal operational cost/month	The quantity of spoil to be delivered is to be determined at the time of award of the Pre Agreed Change with the knowledge of the Approval	\$ /month	No other impact	

		<p>Conditions and the knowledge of the availability of Hornsby Quarry, Wilson and Trelawney Street tunnelling sites.</p> <p>If this Pre-Agreed Change is directed by RMS, the Project Company will be required to undertake this Pre-Agreed Change in accordance with the requirements set out in Appendix 1 to this Schedule 13.</p>			
3	<p>Hornsby quarry spoil disposal rebate on truck haulage cost.</p>	<p>The Project Company must credit for reduced haulage cost for each cubic metre[^] installed in the quarry.</p> <p>If this Pre-Agreed Change is directed by RMS, the Project Company will be required to undertake this Pre-Agreed Change in accordance with the requirements set out in Appendix 1 to this Schedule 13.</p>	(\$	No other impact	

4	Safeguarding for future M2 Easterly Connections	<p>The Project Company must provide the design and construction of the safeguarding Y junctions, inclusive of the stub tunnel.</p> <p>If this Pre-Agreed Change is directed by RMS, the Project Company will be required to undertake this Pre-Agreed Change in accordance with the requirements set out in Appendix 36 of the SWTC.</p>	\$	No other impact	
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^All cubic meter values in the table above are in-tunnel bank cubic-meters

Appendix 1 – Pre-Agreed Change requirements

The parties acknowledge and agree that:

1. Hornsby quarry is capable of receiving 1,000,000m³ of spoil from the NorthConnex Tunnelling operations, and the parties intend that 1,000,000m³ of spoil will be placed in Hornsby quarry. The quantity of spoil to be delivered is to be determined at the time of RMS directing the Pre Agreed Change with the knowledge of the Planning Approval conditions and the knowledge of the availability of Hornsby Quarry, Wilson and Trelawney Street tunnelling sites;
2. Hornsby Council have approved the use of the quarry for this activity; and
3. the Project Company will not be obliged to undertake a Pre-Agreed Change referred to in item 1, 2 or 3 of this Schedule 13 unless the Planning Approval has been modified to permit spoil to be placed in Hornsby quarry on the basis that, subject to the conditions of the Planning Approval (as modified):
 - (a) spoil will be transported by road direct to the Old Man Valley via Bridge Road with trucks exiting via Quarry Road, subject to Planning Approval conditions;
 - (b) the flats at Old Man Valley Park will be utilised as an unloading, stockpiling and load to conveyor facility;
 - (c) the flats will store temporary stockpiles;
 - (d) a conveyor would be established to transport material from the stockpile area to the quarry floor, and clearing along the conveyor routes will be carried out in accordance with the Planning Approval (as modified);
 - (e) Bridge Road will be utilised as an entry road for laden truck and dogs;
 - (f) parking restrictions will be imposed on Bridge Road and minor works will be undertaken at the hair pin bend entering the site, subject to Planning Approval conditions;
 - (g) the access track from Bridge Road down to Old Man Valley Park will be upgraded to a 7m wide sealed road;
 - (h) Quarry Road, Fredrick Street and William Street will be utilised as an exit road for empty truck and dogs, subject to the Planning Approval;
 - (i) the access track from Old Man Valley Park to Quarry Road will be upgraded to a 7 m wide sealed road, subject to the Planning Approval;
 - (j) all spoil from the NorthConnex Project disposed of within Hornsby quarry will be tunnel spoil or road base/recycled road base;
 - (k) the Hornsby quarry facilities will be operated only while significant quantities of spoil continue to be generated from the Project
 - (l)
 - (m) the operation of pumping water from the quarry to Old Man's Creek will be in accordance with the conditions of the Planning Approval (as modified);
 - (n) the Project Company will be responsible for localised temporary stabilisation works associated with the conveyor installations if required to enable it to carry out the works; and.

- (o) the Project Company shall assess of the impacts of the heavy plant movements and stockpiling on the stability of the quarry edge and implement stabilisation if required to enable it to carry out its works; and
4. subject to paragraph 7, the Project Company has assumed that in respect of the Pre-Agreed Changes relating to Hornsby quarry:
- (a) there will be an unimpeded flow of laden spoil trucks and empty spoil trucks to and from the associated sites in and around the quarry;
- (b) Bridge Road does not have sufficient capacity for use by spoil trucks in both directions;
- (c) it will be entitled to dump spoil over any mud and silt layers that remain after pumping out the quarry;
- (d) noise mitigation measures will not be required to carry out filling of the quarry;
- (e) the clearing required to do this work will not result in a requirement for biodiversity off-sets;
- (f) given the nature of the work, the SWTC will not apply to this section of the work;
- (g) the Hornsby quarry facilities will be operated only while significant quantities of spoil continue to be generated from the Project
- (h) the Project Company will not be required to receive spoil from sources other than the Project;
- (i) no allowance has been made for the removal of the conveyor footings or temporary road upgrades, but an allowance has been made for the removal of the conveyor superstructure, all temporary offices, worker facilities, workshops, the reinstatement of the stockpile areas and the quarry fill area using hydromuch seeding;
- (j) working hours of 7am to 6 pm week days and 8am to 3pm on Saturdays are subject to the conditions of the Planning Approval (as modified); and
- (k) the quantity of spoil that can be delivered and installed depends on the above factors; and
5. subject to paragraph 7, the impact of the Pre-Agreed Changes on access to the TAFE college buildings has not been quantified and appropriate mitigation measures will be determined following the modification of the Planning Approval and prior to RMS issuing a direction to proceed with such Pre-Agreed Changes;
6. subject to paragraph 7, except for the stabilisation works described in paragraphs 3(n) and 3(o) the Project Company has assumed that no further stabilisation measures are required;
7. the Project Company's proposal for the Pre-Agreed Changes is based on baseline conditions of approval agreed between the parties prior to the date of this deed. No conditions specific to filling Hornsby Quarry have been issued and the impact of any such conditions can only be assessed once those conditions have been received. RMS must not issue a direction to proceed with such Pre-Agreed Changes until the conditions and impacts of such conditions, the cost impacts that may arise from the assumptions in paragraphs 4, 5 and 6 and any other authority requirements that may be imposed are agreed between the parties;
8. approval to proceed with the Pre-Agreed Changes must be granted no later than

- 9. implementation of the Pre-Agreed Change will require an agreement with Hornsby Council that allocates risks and the responsibility for costs in respect of the Pre-Agreed Change. This agreement must be executed by the Project Company, RMS and Hornsby Council prior to the commencement of the Pre-Agreed Change.

Schedule 14 – Extension of Sunset Date

(Clauses 14.8)

1. Claim for extension of time

To claim an extension of time, the Project Company must:

- (a) within 10 Business Days after the commencement of the Excusable Cause of Delay causing the delay, submit a written claim to RMS's Representative for an extension to the Sunset Date which:
 - (i) gives detailed particulars of the delay and the occurrence causing the delay, including whether the Excusable Cause of Delay is a Compensation Event;
 - (ii) where the Excusable Cause of Delay is a Compensation Event, details of the likely reasonable costs referred to in clause 14.9(d) and how those costs have been calculated; and
 - (iii) states the number of days for which the extension of time to the Sunset Date is claimed together with the basis of calculating that period, including evidence that:
 - A. the delay involves an activity which is critical to the maintenance of progress in the execution of the Project Activities and which will delay it and/or the State Works Contractor in achieving Completion in the manner described in paragraph 2(a)(iii); and
 - B. the conditions precedent to any extension of time to the Sunset Date in paragraph 2 have been satisfied;
- (b) if the effects of the delay continue beyond the 10 Business Day period referred to in paragraph 1(a) and the Project Company wishes to claim an extension of time to the Sunset Date in respect of the further delay, submit a further written claim to RMS's Representative:
 - (i) every 10 Business Days after the first written claim until 5 Business Days after the end of the effects of the delay; and
 - (ii) containing the information required by paragraph 1(a).

RMS's Representative may, within 10 Business Days after receiving the Project Company's claim or further claim for an extension of time to the Sunset Date, by written notice to the Project Company, request additional information in relation to the claim or further claim. The Project Company must, within 10 Business Days of receiving such request, provide RMS's Representative with the information requested.

2. Condition precedent to extension of time

- (a) It is a condition precedent to the Project Company's entitlement to an extension of time that:
 - (i) the Project Company must give the notices and claims required by paragraph 1 as required by that paragraph;

- (ii) the cause of the delay was beyond the reasonable control of the Project Company, the State Works Contractor and their respective Related Parties; and
 - (iii) the Project Company and/or the State Works Contractor is actually, or will be, delayed in achieving Completion by the Excusable Cause of Delay.
- (b) If the conditions precedent in paragraph 2(a) are not satisfied:
- (i) RMS will not be liable upon any Claim by the Project Company, the State Works Contractor or their respective Related Parties; and
 - (ii) the Project Company, the State Works Contractor and their respective Related Parties will be absolutely barred from making any Claim against RMS,
- arising out of or in any way in connection with the event giving rise to the delay and the delay involved.

3. Extension of Sunset Date

- (a) Subject to paragraph 3(b), if the conditions precedent in paragraph 2(a) have been satisfied, RMS's Representative must extend the Sunset Date by:
- (i) if the cause of delay is a Change, any period stated by RMS's Representative in a Change Order; or
 - (ii) otherwise, a reasonable period, such period to be as stated by RMS's Representative and notified to RMS and the Project Company within 15 Business Days after the latest of the:
 - A. Project Company's last claim under paragraph 1(b); or
 - B. provision by the Project Company of any additional information requested by RMS's Representative under paragraph 1.
- (b) In respect of each claim for an extension of time under paragraph 1, the Project Company's entitlement to an extension of time will be reduced to the extent to which the Project Company, the State Works Contractor or any of their respective Related Parties:
- (i) could have lessened or avoided the delay if they had taken all reasonable steps both to preclude the cause of the delay and to avoid or minimise the consequences of the delay, including the expenditure of reasonable sums of money and taking reasonable steps to Mitigate the cause of the delay or re-schedule within the Overall D&C Program the Project Activities affected by the delay; or
 - (ii) caused or contributed to the delay.

Schedule 15 – Conditions precedent to Completion

(Clause 14)

1. The Project Works are complete in accordance with this deed except for minor Defects which:
 - (a) do not prevent the Project Works from being reasonably capable of being used for their intended purposes;
 - (b) can be corrected without prejudicing the convenient or intended use of the Project Works; and
 - (c) the Project Company or the State Works Contractor has reasonable grounds for not promptly rectifying,

provided that the completion of each discrete part of the Third Party Works in accordance with this deed (except for minor Defects described in paragraphs 1(a) to (c) above) will be determined:

 - (d) if the Third Party Works are Local Area Works or Utility Service Works, upon RMS and the Independent Certifier being provided with a copy of the notice referred to in clause 15.2(a)(ii) or clause 15.3(a)(ii) (as applicable); or
 - (e) if the Third Party Works are Property Works, upon RMS's Representative being provided with a certificate or statement referred to in clause 9.4(a)(ii).

2. The Project Company and the State Works Contractor have:
 - (a) carried out and passed all tests which:
 - (i) are required under this deed to be carried out and passed before the Project Works reach Completion;
 - (ii) must necessarily be carried out and passed before the Project Works can be used for its intended purpose; or
 - (iii) must necessarily be carried out to verify that the Project Works are in the condition this deed requires them to be in at Completion;
 - (b) obtained all Approvals that are required to be obtained by the Project Company under this deed or the State Works Contractor under the State Works Deed before Completion of the Project Works and provided such Approvals to RMS's Representative;
 - (c) given to RMS's Representative all documents or other information in respect of the design, construction, testing, commissioning, completion, occupation, use and maintenance of the Project Works which:
 - (i) are required by this deed to be given to RMS's Representative before Completion; or
 - (ii) must necessarily be handed over before the Project Works can be used for their intended purpose,

including copies of all documentation in accordance with the requirements of the SWTC;
 - (d) executed a certificate in the form of Schedule 16 and provided it to RMS's Representative and the Independent Certifier;

- (e) removed all rubbish, surplus materials (including Materials), Construction Plant and Temporary Works from the Project Site and Extra Land except where the retention of any of these are required for the correction of Defects during the Defects Correction Period and this is approved in writing by RMS's Representative; and
 - (f) removed all signs erected in accordance with clause 13.5 and made good any damage caused by the removal of those signs.
3. The Quality Manager has executed a certificate in the form of Appendix C to Schedule 10 and provided it to RMS's Representative.
4. The Project Company or the State Works Contractor have, in respect of any Extra Land occupied or used in connection with the Project Works:
- (a) rehabilitated the Extra Land in accordance with the requirements of all relevant Authorities and other relevant persons; and
 - (b) provided RMS's Representative with:
 - (i) properly executed releases on terms satisfactory to RMS's Representative from all claims or demands from the owners or occupiers of the Extra Land and from other persons having an interest in such land; or
 - (ii) if the Project Company or the State Works Contractor are unable to obtain such a release despite using its best endeavours to do so, a statement from the Project Company or the State Works Contractor to the effect that such owner or occupier, or other person having an interest in the Extra Land, has failed or refused to execute such a release within 15 Business Days of it being provided by the Project Company or the State Works Contractor to the owner, occupier or other person following completion of the work on the Extra Land.
5. The Project Company or the State Works Contractor have reinstated the Temporary Areas and any other land affected by or used for the purposes of the Temporary Works to a condition at least equivalent to the condition existing before that occupation or use except for such parts of the Temporary Area which this deed (including the SWTC) specifies need not be reinstated (including where the Project Company or the State Works Contractor is required to demolish buildings on the Temporary Area).
6. RMS has been provided with:
- (a1) a copy of all certificates required under the Building Code of Australia in respect of any buildings forming part of the Motorway;
 - (a) all other certificates required by this deed and the State Works Deed;
 - (b) a copy of all signed independent road safety audits required by section 7.18 of the SWTC;
 - (c) a summary prepared by the Quality Manager pursuant to paragraph 1(b)(ii) of Schedule 10 on all quality issues;
 - (d) all documents relating to all non-conformances pursuant to paragraph 3(c) of Schedule 10;
 - (e) copies of all site investigation reports and property conditions surveys pursuant to section 4 of the SWTC;
 - (f) details of the location of Utility Services pursuant to section 6.3 of the SWTC; and

- (g) copies of Approvals from Authorities for the drainage design pursuant to section 7.13 of the SWTC.
7. RMS has been provided with:
- (a) a copy of the O&M Manuals and the revised O&M Plan, each as prepared in accordance with this deed;
 - (b) copies of all Approvals required to open, use and operate the Motorway;
 - (c) evidence of the insurance policies required by paragraph 2 of Schedule 4 being effected in accordance with this deed;
 - (d) notices in accordance with clause 14.13(c);
 - (e) a written notice of the kind referred to in clause 15.2(a)(i) from the relevant Authority for each discrete part of the Local Area Works which is required to be completed or a notice from the Project Company in accordance with clause 15.2(a)(i)B;
 - (f) a written notice of the kind referred to in clause 15.3(a)(i)A from the relevant Authority for of each discrete part of the Utility Service Works which is necessary or required to be completed so that the Motorway may be opened to the public for the safe, efficient and continuous passage of motor vehicles or a notice from the Project Company in accordance with clause 15.3(a)(i)B;
 - (g) the inventory details required in accordance with Appendix 26 to the SWTC; and
 - (h) a copy of "as built" drawings of the Project Works pursuant to Appendix 59 of the SWTC.
8. Fire and Rescue NSW has accepted the structure and materials of the Motorway and all systems within the Motorway, including the automatic fire protection system, the capacity of the deluge system, any fire hydrant system booster points not located at the portals of the Motorway and all other fire fighting equipment.
9. RMS has approved the Project Company's Asset Management System as required under section 9.8 of the SWTC.
10. RMS has received and approved the durability assessment reports required by section 1.3 of Appendix 59 to the SWTC.
11. RMS has been provided with the unconditional undertakings referred to in clause 8.1(a)(ii) which satisfy the requirements of clause 8.1 of this deed.

Schedule 16 – Project Company's certificate

(Clause 14.10(d))

Completion - NorthConnex Project (Project)

Clauses 1.1 and 14.10(d)

To: [RMS's Representative / the Independent Certifier]

From: NorthConnex Company Pty Ltd (ACN 602 719 513) (**Project Company**)

In accordance with the terms of clause 14.10(d) of the deed between RMS and the Project Company dated [], we hereby certify that Completion of the Project Works has been achieved by the Project Company on [] in accordance with the terms and conditions of the deed between RMS and the Project Company dated [] with respect to the Project.

.....

Signed for and on behalf of

NorthConnex Company Pty Ltd

Schedule 17 – Independent Certifier's certificate

(Clause 14.10(e)(i))

Completion - NorthConnex Project (Project)

Clause 14.19(e)(i)

[ON INDEPENDENT CERTIFIER LETTERHEAD]
<p>[insert date]</p> <p>Roads and Maritime Services 101 Miller Street North Sydney NSW</p> <p>Project Company [insert address]</p> <p>Dear [insert name]</p> <p style="text-align: center;">NOTICE OF COMPLETION NorthConnex Project Deed (Project Deed) Project Works</p> <p>We refer to clause 14.10(e)(i) of the Project Deed and hereby advise you that the Project Works reached the stage of Completion on [insert date].</p> <p>This Notice of Completion does not relieve the Project Company of its obligation to rectify Defects under clause 15 of the Deed and to complete other outstanding obligations under the Deed.</p> <p>Yours sincerely</p> <p>.....</p> <p>[]</p> <p>for and on behalf of the Independent Certifier</p>

Schedule 18 – Motorway Site Lease

(Clause 16.1)

1. Definitions

In this Schedule 18:

Additional Land means any land notified to RMS pursuant to clause 9.5(a)(iii), and acquired or obtained by the Project Company or RMS pursuant to clause 9.5.

LPI means Land and Property Information NSW.

Motorway Structure means:

- (a) the excavated areas for permanent works including those for the tunnels, walls, columns, footings, beams, retaining walls, ramps, cross passages, ventilation systems, plant room, sub-stations and emergency access tunnels which will form part of the Motorway and which are generally as shown in the "Typical Cross Sections" in Appendix 13 to the SWTC; and
- (b) the rock anchors, columns, footings, beams, structural support and other structures installed for the purposes of protecting and/or supporting the permanent works referred to in paragraph (a).

Real Property Act means the Real Property Act 1900 (NSW).

Registered Surveyor means the surveyor appointed by the Project Company (or its Subcontractor) for the purposes of paragraph 2 and who is:

- (a) registered under New South Wales law; and
- (c) appointed on terms and conditions reasonably acceptable to RMS (which terms must include an acknowledgement that the surveyor owes a duty of care to RMS).

RMS Surveyor means the registered land surveyor nominated by RMS to the Project Company.

Termination Date means the earlier to occur of:

- (a) the Expiry Date; and
- (b) the date upon which this deed is terminated pursuant to clause 9.10(c) or clause 27.

2. "As built" engineering surveys

- (a) The Project Company must, before the date which is 12 months after the Date of Completion:
 - (i) carry out an "as built" engineering survey, in accordance with RMS Specifications G71 and G73, of:
 - A. the works comprising the Motorway Structure;
 - B. the areas of land required for the Easements; and
 - C. any Additional Land on which the Project Company has constructed permanent works; and

- (ii) as a consequence of carrying out the "as built" engineering survey in accordance with paragraph 2, prepare and deliver to each of RMS and the RMS Surveyor:
- A. one hard copy of the "work as executed" drawings and one electronic copy of them in .pdf format and in .dxf format (or such other format as may be agreed by the parties); and
 - B. one three dimensional computer model in .dxf format (or such other format as may be agreed by the parties),
- of the Motorway Structure;
- (iii) ensure that the "work as executed" drawings and the computer model referred to in paragraph 2(a)(ii) specify:
- A. all stratum heights, widths and depths of the Motorway Structure referenced in the Map Grid of Australia (**MGA**) and the Australian Height Datum (**AHD**);
 - B. the three dimensional co-ordinates referenced to MGA and AHD defining the location of the Motorway Structure;
 - C. the three dimensional co-ordinates referenced to MGA and AHD defining the boundaries of the Licensed Maintenance Areas which will be the parcels of land and airspace determined having regard to the matters referred to in paragraph 2(c);
 - D. the three dimensional co-ordinates referenced to MGA and AHD of all Utility Service Works in accordance with Australian Standard AS5488 requirements:
 - 1) to the extent the relevant Utility Service has been relocated during construction of the Motorway Structure; or
 - 2) where the relevant Utility Service remains in its original position, to the extent the location of the relevant Utility Service is identified in undertaking the Project Activities; and
 - E. the three dimensional co-ordinates referenced to MGA and AHD defining the interface boundaries between the Motorway Structure and the M2 Motorway;
- (iv) ensure that the "work as executed" drawings referred to in this paragraph 2:
- A. include cross-section plans at 20 metre chainage intervals including sectional changes and a long section plan for each carriageway of the Motorway and cross passages within the Motorway Structure; and
 - B. are certified by a Registered Surveyor:
 - 1) to be complete and accurate;
 - 2) to have been prepared in accordance with and to meet the requirements of this paragraph 2; and

- 3) to be adequate for the determination by RMS of all boundaries of the Easements; and
- 4) to be adequate for the determination by RMS that the Motorway Structure has been constructed, or are situated, within the Motorway Site; and
- (v) the obligations of the Project Company under this paragraph 2 do not include the preparation of cadastral drawings or surveys, the provision of information relating to titles or title surveys.
- (b) The parties acknowledge and agree that the Licensed Maintenance Areas will only comprise those areas of land generally as shown in the indicative outline plans and drawings which appear in Appendix 2 to the SWTC, subject to any changes to those areas of land which are agreed by the parties in writing.
- (c) Without limiting paragraph 2, the Project Company must commence the "as built" engineering survey and use its best endeavours to prepare the "work as executed" drawings and computer model referred to in paragraph 2 in relation to those parts of the Motorway Structure required for the Easements that are within the areas of land the subject of the Site Schedule, prior to the opening of the Motorway pursuant to clause 14.14.

3. Motorway Site Lease

- (a) Subject to paragraph 3(e), on the earlier of the Motorway Opening Date and the Date of Completion, RMS must grant the Project Company, and the Project Company must accept from RMS:
 - (i) the Motorway Site Lease; and
 - (ii) a licence to access the Licensed Maintenance Areas, commencing on the earlier of the Motorway Opening Date and the Date of Completion upon and subject to the terms, covenants and conditions set out in the draft lease comprising Exhibit H.
- (b) The commencement of the Motorway Site Lease will not relieve or discharge either RMS or the Project Company from the performance of any of its obligations hereunder which remain to be performed at or after the earlier of the Motorway Opening Date and the Date of Completion.
- (c) RMS must either insert, or authorise the insertion of, the following in the Motorway Site Lease:
 - (i) the earlier of the Motorway Opening Date and the Date of Completion, the Termination Date and the Term;
 - (ii) the date of execution of the Motorway Site Lease;
 - (iii) the then current title reference for the Motorway Site to be demised by the Motorway Site Lease; and
 - (iv) such other necessary information and formal matters as may be reasonably required to give effect thereto.
- (d) RMS and the Project Company must execute the Motorway Site Lease in the following manner:

- (i) RMS must give the Motorway Site Lease and a duplicate of it to the Project Company as soon as practicable after the completion of the documentation contemplated by paragraph 3;
 - (ii) the Project Company or its solicitors must return the Motorway Site Lease and the duplicate of it within 10 Business Days of receiving it;
 - (iii) RMS must, within 10 Business Days of receiving the Motorway Site Lease and the duplicate of it from the Project Company, execute and then return the Motorway Site Lease and the duplicate copies to the Project Company;
 - (iv) RMS must promptly produce certificates of title for the Motorway Site to the LPI when the Project Company requests it to allow the Project Company to register the Motorway Site Lease; and
 - (v) the Project Company must have the Motorway Site Lease and the duplicate of it stamped and registered (at the Project Company's cost) and must give to RMS the stamped duplicate of the Motorway Site Lease within 10 Business Days of it being stamped as well as a copy of the registered Motorway Site Lease certified as true and correct by the LPI within 10 Business Days of it being registered.
- (e) RMS reserves the right to make any necessary alterations to the Motorway Site Lease in form or layout to comply with any present or future requirements of the LPI or any other appropriate authority and the Project Company authorises RMS to make those alterations.

4. Additional Land Lease

If Additional Land has been acquired, RMS must:

- (a) if that Additional Land has been acquired or obtained in the form of an easement, grant the benefit of that easement to the Project Company for the benefit of the Project Company and in favour of any other person who is at any time entitled to an estate or interest in possession in the benefited land and every person authorised by any of them, the rights and obligations under such easements being reasonably acceptable to the Project Company, and register that easement; or
- (b) otherwise, grant a lease of that Additional Land to the Project Company on substantially the same terms and conditions as the Motorway Site Lease, except that:
 - (i) the definition of "Rent" in the Motorway Site Lease will be amended to read "means, in respect of any Rent Period, the amount of \$;
 - (ii) clauses 2.2(c), 2.2(d), 2.2(e), 2.2(f) and the defined terms "Actual Toll Revenue", "Base Toll Revenue", "M7 Actual Revenue", "M7 Additional Rent", "M7 Base Revenue", "Non-toll Business" and "NorthConnex Additional Rent" will not be included;
 - (iii) the Term of the lease of such Additional Land will commence on the date of its grant and expire on the Termination Date of the Motorway Site Lease; and
 - (iv) paragraph 3 will apply in respect of any lease of such Additional Land as if:
 - A. references to "Motorway Site Lease" in that clause were references to the lease contemplated under this paragraph 4;

- B. references to "Motorway Site" in that clause were references to the Additional Land;
- C. no references were made to "Licensed Maintenance Areas"; and
- D. references to "the earlier of the Motorway Opening Date and the Date of Completion" were to the date on which the Additional Land was acquired.

Schedule 19 – Easements

(Clause 16.2)

1. Easements reserved by RMS over the Motorway Site

RMS reserves the right at all times for the purposes set out in Appendix A to:

- (a) create any Easements benefiting or burdening the Motorway Site or any Additional Land with:
 - (i) any of the owners, lessees, tenants or occupiers of the land adjacent to or in the vicinity of the Motorway Site or any Additional Land; or
 - (ii) any public or other Authority,
 and to release, vary, modify or give waivers of such Easements; and
- (b) dedicate land of which it is the owner of the fee simple estate for road, rail and other purposes,

which may be effective no earlier than the Date of Completion, upon such terms and conditions as RMS thinks fit, provided that where any such Easement (or release, variation, modification or waiver of such Easement) or dedication could reasonably be expected to have:

- (c) a material adverse effect on the design, construction, maintenance, repair or operation of the Motorway or upon the ability of the Project Company to undertake the Project in accordance with the Project Documents; or
- (d) an adverse effect on the patronage or capacity or use of the Motorway or the ability of the Project Company or its subtenants to levy and collect tolls or as against RMS and the NSW Government to keep tolls,

RMS must obtain the prior written consent of the Project Company to the creation of any such Easement (or release, variation, modification or waiver in respect of such Easement) or dedication of land, which consent must not be unreasonably withheld.

2. Easements for the Project Company's benefit

Without limiting the Project Company's obligations under clause 9.5 and if, but only if, RMS is the owner of the estate in fee simple of, and there are no inconsistent interests in, the land which is to be benefited or burdened by such Easement, upon request after the Date of Completion, RMS undertakes to the Project Company that it will, at the Project Company's cost, create Easements benefiting or burdening the Motorway Site or any Additional Land in favour of:

- (a) the Project Company or any other person who is at any time entitled to an estate or interest in possession in the benefited land and every person authorised by any of them; or
- (b) any relevant provider of services and utilities, or any relevant infrastructure owner, or any relevant third party as agreed by RMS,

where such Easements are proposed on reasonable terms and are reasonably required by any of those parties and at no cost to RMS for the purposes set out in Appendix B.

3. Notice of location and dimensions

- (a) Each of RMS and the Project Company must notify the other party of the exact location and dimensions of any Easement it requires under paragraph 1 or 2 (as the case may be) as soon as practicable.
- (b) A notice under paragraph 3(a) must be accompanied by a diagram showing:
 - (i) the location and dimensions of the three dimensional envelope which accommodates the site of the Easement; and
 - (ii) the location of the Easement relative to existing structures and public services.
- (c) Where RMS receives a notice under paragraph 3(a) it will:
 - (i) approve the location and dimensions of the Easement; or
 - (ii) reject the location and dimensions of the Easement,and in each case must act reasonably and must communicate its approval or rejection to the Project Company as soon as practicable but in any event within 8 weeks of the date of receipt of the notice.
- (d) In the event that RMS rejects the location and dimensions of any easement under paragraph 3(c):
 - (i) RMS may, at the time of such rejection, notify the Project Company of an alternate or amended location and dimensions of the Easement;
 - (ii) the Project Company may notify RMS of an alternative or amended location and dimensions of the Easement, in which case such notice will be treated as a notice under paragraph 3(a); and
 - (iii) either of RMS or the Project Company may refer the matter to be resolved in accordance with the Dispute Resolution Procedure.

4. No Claim

The Project Company may not make any Claim or requisition, rescind or terminate this deed, the Motorway Site Lease or any lease of Additional Land because it receives notice from RMS pursuant to paragraph 3 or because any Easement is created.

5. Registration

The parties will use reasonable endeavours to execute and obtain the registration of any Easements which are granted by RMS in favour of the Project Company or any provider of services and utilities or any infrastructure owners or any third parties under this Schedule 19 as soon as practicable after the earlier of the Motorway Opening Date and the Date of Completion. In the event that any Easement which RMS has granted to the Project Company cannot be registered, the parties agree that such Easement will take effect as a binding deed between them until the termination of this deed. The parties will register any such Easement as soon as practicable if it becomes registrable at a later date.

Appendix A - Easements which may be created by RMS benefiting or burdening the Motorway Site

Easements created for the purposes of:

- (a) providing public or private access to or egress from the Motorway Site, the Licensed Maintenance Areas, any Additional Land or other land adjacent to or in the vicinity of that land (**adjacent land**);
- (b) providing access to or support for the structures of the M2 Motorway or any railway infrastructure;
- (c) providing any Utility Service to, or to pass through, the Motorway Site or any Additional Land or to pass through the Licensed Maintenance Areas or the adjacent land and access to any such Utility Service;
- (d) providing any statutory easements; and
- (e) satisfying any requirements of the Project Deed or the SWTC,

or for any other purpose reasonably requested by an owner of adjacent land (including for drainage purposes) or provided under Division 4 of Part 6 of the Conveyancing Act.

Appendix B - Easements to be created benefiting or burdening the Motorway Site at the request of the Project Company

Easements created (and contemplated by paragraph 2) which benefit or burden the Motorway Site for:

- (a) access to structural support for rock anchors, columns, footings, beams, structural support and other structures protecting and/or supporting the Motorway Structure;
- (b) access to adjacent land to connect Utility Services from the Motorway Site to the Motorway Control Centre;
- (c) access to adjacent land for maintenance purposes for:
 - (i) access to and egress from the ventilation stack buildings; and
 - (ii) access to and egress from the Motorway Control Centre;
- (d) access to the land and airspace within a 2 metre radius of outside of the ventilation stack for the purposes of maintaining the façade of the ventilation stack;
- (e) providing support for structures and access for maintenance purposes to the M2 Motorway; and
- (f) other than as referred to in this Appendix B, satisfying any requirements to be satisfied by the Project Company pursuant to this deed or the SWTC.

Schedule 20 – Connections to the Motorway

(Clause 20.4)

1. From the southbound carriageway of the existing M1 Motorway (to the extent shown on the plan which is Exhibit G) to the southbound carriageway of the Motorway.
2. To the northbound carriageway of the existing M1 Motorway (to the extent shown on the plan which is Exhibit G) from the northbound carriageway of the Motorway.

Schedule 21 – Payments for

(Clause 20.5(d)(ii)C)

1. Definitions

In this Schedule 21:

Traffic Adjustment means a change to the traffic capacity of the Motorway which is made for the purposes of facilitating a Permitted RMS Activity. It includes an adjustment to:

2. Traffic Adjustments

If any type of Traffic Adjustment occurs on the Motorway as a direct result of a Permitted RMS Activity then RMS will pay to the Project Company an amount in respect of that Traffic Adjustment calculated in accordance with paragraph 4 of this Schedule 21.

3. Traffic Adjustments

3.1 Compensable Traffic Adjustments

If a Traffic Adjustment of a type described below occurs on the Motorway as a direct result of a Permitted RMS Activity then RMS will pay to the Project Company an amount in respect of that Traffic Adjustment calculated in accordance with paragraph 4 of this Schedule 21:

3.2 Non-compensable Traffic Adjustments

RMS will not be liable to pay any amount to the Project Company in respect of the following types of Traffic Adjustments, if they occur

4. Formula for calculation of compensation

The amount which RMS must pay the Project Company in respect of a Traffic Adjustment referred to in paragraph 2 or 3.1 of this Schedule 21 will be calculated in accordance with the following formula (notwithstanding traffic anomalies due to concurrent events):

Payment =

Where:

Payment is the amount payable by RMS in respect of the Traffic Adjustment (exclusive of GST).

Period is a span of time either during weekdays or weekends. Periods shall be calculated separately for weekdays and weekends.

Schedule 22 – Reporting Requirements

(Clause 18)

The Project Company must provide a Monthly Operational Management Report which:

- (a) is in a format;
 - (i) consistent with the monthly report provided by the Project Company to its board of directors; and
 - (ii) otherwise acceptable to RMS, acting reasonably; and
- (b) includes details of the Project Company's and its Related Parties':
 - (i) compliance with its obligations under WHS Legislation, the Project WHS Management Plan and clauses 7.7 to 7.9 (inclusive), including a summary of safety statistics meetings, work health and safety issues, safety processes, initiatives and training;
 - (ii) operations and traffic management, including traffic data and performance, significant incidents and operational issues and maintenance lane closures (other than information which is not publicly available);
 - (iii) maintenance activities, broken down into the key areas of work, including toll equipment, mechanical, electrical, IT systems, tunnel fire systems, civil and building, graffiti management and landscaping;
 - (iv) maintenance management activities, including details of any Subcontracts entered into in respect of maintenance activities, improvements, expansions, shutdown works and risk management;
 - (v) training activities;
 - (vi) quality, environment and community issues, including environmental monitoring, incidents of hazardous spills and queries or complaints from members of the community;
 - (vii) traffic volumes for the month to which the Monthly Operational Management Report relates, and historical traffic volumes for the 12 months preceding that month;
 - (viii) issues relating to the availability and reliability of the Motorway; and
 - (ix) any emerging issues, including technical and commercial issues.

Schedule 23 – Commercially Sensitive Information

Schedule 24 – Dispute Resolution Procedure

(Clause 28)

1.1 Disputes

Unless otherwise expressly provided in this deed, all Disputes between RMS (on the one hand) and the Project Company (on the other hand) must be resolved in accordance with this Dispute Resolution Procedure.

1.2 Notice of Dispute

Where a Dispute arises, either party may serve a notice in writing on the other party specifying:

- (a) that it is a Notice of Dispute under paragraph 1.2 of this Schedule 24;
- (b) the Dispute;
- (c) particulars of the Dispute; and
- (d) the position which the party believes is correct,

(Notice of Dispute).

1.3 Negotiation

- (a) If a Notice of Dispute is served, the persons holding the position of chief executive officer of RMS (on the one hand) and chief executive officer of the Project Company (on the other hand) or their nominees (the **Representatives**) must meet and undertake good faith negotiations for the purpose of attempting to resolve the Dispute (the **Negotiation**).
- (b) Unless otherwise agreed in writing, all communications at or related to the Negotiation are without prejudice and are inadmissible in any process under the Dispute Resolution Procedure or in any other legal proceeding.
- (c) Any agreement reached at the Negotiation must be in writing and signed by both parties.

1.4 Referral to expert determination

If the Dispute has not been resolved within 20 Business Days after the date on which the Notice of Dispute was given (or such longer period of time as the Representatives or the parties may have agreed in writing), then, whether or not a meeting under paragraph 1.3 has occurred, the Dispute must be and is referred to expert determination in accordance with this Schedule 24.

1.5 Expert Determination

- (a) The parties agree that any dispute which is referred to expert determination will be determined in accordance with this clause and the Institute of Arbitrators and Mediators Australia (**IAMA**) Expert Determination Rules (2010 Edition), as modified by Appendix A to this Schedule 24.
- (b) The expert's determination:
 - (i) will be final and binding, unless a party serves a notice of dissatisfaction on the other party within 7 days of the expert's determination; and

- (ii) must be complied with unless and until it is overturned, reversed, varied or otherwise changed by an arbitral award.

1.6 Referral to arbitration after expert determination

- (a) If a notice of dissatisfaction is served under paragraph 1.5(b)(i), the Dispute must be referred to arbitration under paragraph 1.7.
- (b) If a party fails or refuses to comply with the expert's determination, then the other party may, without prejudice to any other rights it may have, refer any such non-compliance as a Dispute, to arbitration under paragraph 1.7. Paragraphs 1.1 to 1.5 will not apply to this type of Dispute.

1.7 Arbitration

- (a) If any Dispute is referred to arbitration:
 - (i) the seat of the arbitration shall be Sydney, Australia;
 - (ii) the arbitration shall be conducted in accordance with the Australian Centre for International Commercial Arbitration (**ACICA**) Arbitration Rules 2011, as modified by Appendix B to this Schedule 24;
 - (iii) the number of arbitrators shall be one;
 - (iv) the language of arbitration shall be English; and
 - (v) the arbitration shall be administered by ACICA.
- (b) The parties agree that an appeal may be made in accordance with section 34A of the Commercial Arbitration Act 2010 (NSW) on a question of law arising out of any award issued pursuant to this paragraph Schedule 24.
- (c) Subject to paragraph 1.8, this paragraph 1.7 is governed by the laws of New South Wales, Australia.

1.8 Exclusion of proportionate liability from determination or award

In respect of any expert or arbitrator appointed in relation to a Dispute, the parties agree that, to the extent permitted by law:

- (a) the powers conferred and restrictions imposed on a court (as that term is defined in the Civil Liability Act 2002 (NSW)) by any Relevant Proportionate Liability Legislation are not conferred or imposed on him or her; and
- (b) the expert or arbitrator (as the case may be) has no power to make any determination or award by applying or considering the provisions of any Relevant Proportionate Liability Legislation.

1.9 Urgent relief

Nothing in this Schedule 24 will prejudice any right a party may have to seek urgent interlocutory relief from a court in respect of a Dispute.

1.10 Limitation Periods

If a limitation period applicable to a cause of action relating to a Dispute expires during any of the processes set out in paragraphs 1.3 to 1.5, each party agrees that:

- (a) the limitation period will be deemed to be extended by a period equal to the number of days between the date the Notice of Dispute was served and the later of the date the negotiation process concludes and the date the expert determination process concludes; and
- (b) it will not rely, in any proceeding, on the expiry of a limitation period other than as calculated in accordance with this paragraph.

1.11 Survive termination

This Dispute Resolution Procedure will survive termination of this deed.

1.12 Severance

If at any time any provision of this Schedule 24 is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Schedule 24; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Schedule 24.

1.13 Continuation of contractual obligations

Despite the existence of a Dispute between the parties to this deed, the parties must continue to comply with and perform their obligations under this deed.

1.14 Role of Security Trustee

- (a) The parties acknowledge that, on and from the date the Debt Financing Documents come into effect, the Debt Financiers and the Security Trustee may have an interest in the outcome of certain Disputes and claims under this deed.
- (b) On and from the date the Debt Financing Documents come into effect, the Project Company:
 - (i) will be entitled to give the Security Trustee copies of all documents, information and other material given to the expert under paragraph 1.5 or to the arbitrator for the purposes of arbitration under paragraph 1.7; and
 - (ii) may, with RMS's prior written consent or as otherwise provided in the Financier Tripartite Deed (from the date the Financier Tripartite Deed comes into effect):
 - A. allow the Security Trustee to:
 - 1) attend and participate at any meetings or negotiations between the Project Company and RMS and any hearing held by the expert or other meetings between any party and the expert in relation to the Dispute or claim and at any arbitration of the Dispute under paragraph 1.7; and
 - 2) make submissions in the expert hearing or meetings or arbitration (as the case may be); and
 - 3) have proceedings between the Project Company and the Security Trustee consolidated or heard

together with the proceedings between RMS and the Project Company.

Appendix A - Modification to the IAMA Expert Determination Rules

Pursuant to sub-Rule 4(2)(b) of the Institute of Arbitrators and Mediators Australia (IAMA) Expert Determination Rules (2010 Edition), the parties agree to modify the application of those Rules as follows. All Rules that are not referred to below remain unchanged.

1. RULE 1 Definitions

Insert the following new definitions after the definition of "the Process":

"Relevant Proportionate Liability Legislation" means:

- (a) Part IV of the Civil Liability Act 2002 (NSW);
- (b) Part IVAA of the Wrongs Act 1958 (Vic);
- (c) Chapter 2, Part 2 of the Civil Liability Act 2003 (QLD);
- (d) Part 1F of the Civil Liability Act 2002 (WA);
- (e) the Proportionate Liability Act 2005 (NT);
- (f) Chapter 7A of the Civil Law (Wrongs) Act 2002 (ACT);
- (g) Part 3 of the Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001 (SA);
- (h) Part 9A of the Civil Liability Act 2002 (Tas); and
- (i) any Regulations enacted pursuant to the Acts listed in paragraphs (a) to (h) above.

"Relevant Security of Payment Legislation" means:

- (a) the Building and Construction Industry Security of Payment Act 1999 (NSW);
- (b) the Building and Construction Industry Security of Payment Act 2002 (Vic);
- (c) the Building and Construction Industry Payments Act 2004 (Qld);
- (d) the Construction Contracts Act 2004 (WA);
- (e) the Construction Contracts (Security of Payment) Act 2004 (NT);
- (f) the Building and Construction Industry (Security of Payment) Act 2009 (ACT);
- (g) the Building and Construction Industry Security of Payment Act 2009 (SA);
- (h) the Building and Construction Industry Security of Payment Act 2009 (Tas); and
- (i) any Regulations enacted pursuant to the Acts listed in paragraphs (a) to (h) above.

2. RULE 5 Role of the Expert

Insert the wording "*the Contract, the requirements of procedural fairness,*" in sub-Rule 1. as follows:

1. The Expert shall determine the Dispute as an expert in accordance with these Rules, *the Contract, the requirements of procedural fairness,* and according to law.

Sub-Rule 4. shall be renumbered sub-Rule 4.(a) and insert after sub-Rule 4(a) additional sub-Rules 4.(b), (c) and (d) as follows:

4. (b) The Expert must take all reasonable steps to avoid any conflict of interest, potential conflict of interest or other circumstances that might reasonably be considered to adversely affect the Expert's independence or capacity to act fairly and impartially in relation to the Dispute.

(c) If at any time during the Process, the Expert becomes aware of any circumstances that might reasonably be considered to adversely affect the Expert's independence or capacity to act fairly or impartially in relation to the Dispute, the Expert must notify the parties immediately in writing.

(d) The Expert's mandate will be terminated 7 days after the notice is provided by the Expert under Rule 5.4(c) above, unless the parties agree otherwise.

3. RULE 9 Conduct of the Process

Insert additional sub-Rule 2A, after sub-Rule 2, as follows:

2A. The rules of evidence do not apply to the Process.

4. RULE 10 The Expert's Determination

Replace sub-Rule 3. with the following:

3. Unless otherwise agreed by the parties, the Expert's determination:

(a) may include for the payment of interest on any monetary sum determined, in such amount as the Expert considers reasonable;

(b) must allow for any amount already paid to a party under or for the purposes of any Relevant Security of Payment Legislation;

(c) may make such orders as he or she considers appropriate for the restitution of any amount so paid, and such other orders as he or she considers appropriate; and

(d) to the extent permitted by law, will not apply or have regard to the provisions of any Relevant Proportionate Liability Legislation.

5. RULE 12 Waiver of Right to Object

Delete Rule 12 in its entirety.

6. RULE 14 Extension of Limitation Period

Delete Rule 14 in its entirety.

Appendix B - Modification of the ACICA Arbitration Rules

Pursuant to sub-Rule 2.1 of the rules of arbitration of the Australian Centre for International Commercial Arbitration (2011 edition), the parties agree to modify the application of those Rules as follows. All Rules that are not referred to below remain unchanged.

1. RULE 17 General Provisions

Delete sub-Rule 17.1 and replace it as follows:

17.1 Subject to these rules, the Arbitral Tribunal may conduct the arbitration in such manner as it considers appropriate, provided that it is conducted with a view to providing the parties with an arbitration that is quick, cost effective and fair, considering especially the amounts in dispute and the complexity of issues or facts involved.

2. RULE 31 Waiver of Rules

Delete Rule 31 in its entirety.

Schedule 25 – Moral Rights Consent

(Clause 25.4)

MORAL RIGHTS CONSENT

THIS DEED POLL is made on the _____ day of _____.

BY: [Name of individual] of [address], [occupation] (Author)

IN FAVOUR OF Roads and Maritime Services (RMS)

and

NorthConnex Company Pty Ltd (the Project Company)

WHEREAS:

- A. RMS proposes to contract out the design, construction, commissioning and operation of the M1M2 Motorway (the **Project**).
- B. The Project Company is responsible for the Project under the deed dated [] between RMS and the Project Company (**Project Deed**) and has engaged Lend Lease Engineering Pty Limited (ABN 40 000 201 516) and Bouygues Construction Australia Pty Ltd (ABN 37 144 013 801) (together the **Construction Contractor**) under the deed dated [] (**D&C Deed**) to carry out the Contractor's Activities (as defined in the D&C Deed) for which the Project Company is responsible under the Project Deed.
- C. The Author may create or have created one or more literary works, artistic works or other copyright material (whether created before or after the date of this Moral Rights Consent) for the purposes of or otherwise for use in connection with the Project (**Copyright Material**).

THE AUTHOR COVENANTS as follows:

The Author in consideration of RMS or the Project Company paying the Author one dollar (\$1) (receipt of which is hereby acknowledged):

1. agrees, to the extent permitted by law, not to sue, enforce any claim, bring any action or exercise any remedy in respect of any, or any alleged, breach, infringement or other wrongdoing, howsoever or whatsoever occurring, including without limitation for the breach or alleged breach of any of the Author's "moral rights" under the Copyright Act 1968 (Cth) (as amended), (whether before or after the date of this Moral Rights Consent) by:
 - (a) RMS, the Project Company or the State Works Contractor;
 - (b) any contractor which RMS, the Project Company or the State Works Contractor engages;
 - (c) any third party to whom RMS, the Project Company or the State Works Contractor sub-licenses (whether express or implied), or grants any other right to use, possess, modify, vary or amend any of the Copyright Material; or
 - (d) any third party to whom RMS or the Project Company assigns rights it has in, or in relation to any of the Copyright Material,

(together, **RMS, the Project Company and Associated Persons**) in relation to any of the Copyright Material;

- 2. without limiting paragraph 1 above, consents to any of RMS, the Project Company and Associated Persons:
 - (a) failing to acknowledge or attribute the Author's authorship of any of the Copyright Material;
 - (b) falsely attributing authorship of any of the Copyright Material;
 - (c) making any modification, variation or amendment of any nature whatsoever to any of the Copyright Material, whether or not it:
 - (i) results in a material distortion, destruction or mutilation of any of the Copyright Material; or
 - (ii) is prejudicial to the honour or reputation of the Author; and

- 3. without limiting Paragraphs 1 or 2, consents to any of RMS, the Project Company and Associated Persons:
 - (a) using any of the Copyright Material for any purpose for which it was intended at the time the Copyright Material was created;
 - (b) altering any of the Copyright Material by adding to, removing elements from, or rearranging elements of, the Copyright Material, including without limitation by combining elements of any of the Copyright Material with any other material; and
 - (c) changing, relocating, demolishing or destroying any building which incorporates, is based on, or is constructed in accordance with, any of the Copyright Material.

Nothing in this Deed amounts to an obligation on RMS to comply, or a warranty by RMS that it will comply, with the *Competition and Consumer Act 2010* (Cth) or any equivalent provision of State or Territory legislation.

In this Deed Poll:

Executed as a deed poll.

Signed, sealed and delivered by [*insert full name of Author*] in the presence of:

Signature of Author

Signature of Witness

Name of Author in full

Name of Witness in full

Schedule 26 - Toll Calculation Schedule

(Clause 19.1)

1. Definitions

The following terms where used in this Schedule 26 will have the meanings given below:

Administration Charge means a fee for administering the use of the Motorway by Casual Users, as determined in accordance with paragraph 7 of this Schedule 26.

Base Toll means, for a Tollable Section, the toll specified in the table set out in paragraph 3 of this Schedule 26 as adjusted in accordance with paragraph 5 of this Schedule 26.

Casual User means a user of the Motorway who does not pay for that use with a Tag at the time of their trip.

Casual User System means the system and equipment used to manage, process and administer revenue collection from Casual Users including office premises and fitout, hardware, software and office systems.

Charge Toll means, for a Tollable Section and Vehicle Class and Quarter, the toll calculated in accordance with paragraph 6(a) of this Schedule 26.

Heavy Vehicle means a Vehicle which is not a Passenger Vehicle.

Passenger Vehicle means any Vehicle (including any trailer or caravan) which is:

- (a) 2.8 meters or less in height; and
- (b) 12.5 meters or less in length.

Tag means an electronic device which enables the user to pay tolls on tollroads (including the Motorway) by means of an electronic toll collection system.

Theoretical Toll means, for a Tollable Section and Quarter, the theoretical toll calculated in accordance with paragraph 4 of this Schedule 26.

Tollable Section means:

- (a) Tollable Section A; or
- (b) Tollable Section B,

each being a part of the Motorway as described in the table set out in paragraph 3 of this Schedule 26.

Vehicle means a vehicle which is used or intended to be used on a road which has its own motive power (other than human or animal power) including buses, cars, taxis, motor cycles and trucks.

Vehicle Class means each category of Vehicle referred to in the table in paragraph 6 of this Schedule 26.

2. Toll

Subject to paragraphs 6(b) and 6(c) of this Schedule 26, the Project Company may levy a toll for use of the Motorway (or part of it) for the passage of a Vehicle in a Tollable Section during

the Term which does not exceed the Charge Toll for a Vehicle of that Vehicle Class for that Tollable Section for the relevant Quarter.

3. Base Toll

The Base Toll for a Tollable Section is set at the date of 1 October 2013 and is the amount specified in the table below in relation to the relevant Tollable Section.

Tollable Section	Description	Base Toll per Vehicle (GST inclusive)
Tollable Section A	Northbound journey	\$6.0361
Tollable Section B	Southbound journey	\$6.0361

4. Theoretical Toll

- (a) The Project Company must review and re-calculate the Theoretical Toll for each Tollable Section once each Quarter in accordance with this paragraph 4 of this Schedule 26.
- (b) The Theoretical Toll for a Tollable Section and a Quarter must be calculated in accordance with the following formula:

$$\text{Theoretical Toll}_n = \text{Theoretical Toll}_{n-1} \times \text{Growth Factor}_n$$

provided that Theoretical Toll_n cannot be less than Theoretical Toll_{n-1}

Where:

Theoretical Toll_n = the Theoretical Toll for the Tollable Section for the current Quarter;

Theoretical Toll_{n-1} = the Theoretical Toll for the Tollable Section for the immediately preceding Quarter (or the Base Toll for the Tollable Section for the first calculation after 31 December 2013);

Growth Factor_n = the greater of:

- (i) CPI_{n-2}/CPI_{n-3}; and
- (ii) 1.01;

CPI_{n-2} = at any date, the CPI for the Quarter which is 2 Quarters prior to the current Quarter; and

CPI_{n-3} = at any date, the CPI for the Quarter which is 3 Quarters prior to the current Quarter.

5. GST Rate Changes

- (a) If, at any time during the period between the date of this deed and the end of the Term, the rate of applicable GST under GST law changes from the GST applicable at the date of this deed (**GST Rate Change**), the Base Toll which will apply for the purposes of paragraph 4 of this Schedule 26 after the date on which the GST Rate Change becomes effective will be the Base Toll for the relevant Tollable Section adjusted in accordance with the following formula:

$$\text{Base Toll} = Y \times [1 + X]$$

Where:

the Base Toll amount is rounded to 4 decimal places (rounding upward amounts ending in 0.0005).

X = the rate of GST (expressed as a decimal) under GST law applicable after the GST Rate Change; and

Y = \$5.48736.

- (b) Under paragraph 4(b) of this Schedule 26, that first calculation after 31 December 2013 must be re-calculated using the revised Base Toll calculated in accordance with paragraph 5(a) and the series of Quarterly calculations that has taken place under paragraph 4 of this Schedule 26 after that first calculation after 31 December 2013 (if any) must also be re-calculated, by reference to the revised first calculation and the series of relevant Growth Factors that were used for the initial series of Quarterly calculations.

6. Calculating the Charge Toll

- (a) The Charge Toll for a Tollable Section and Vehicle Class in a Quarter must be calculated in accordance with the following formula:

$$\text{Charge Toll} = \text{Theoretical Toll} \times \text{Charge Toll Multiplier}$$

Where:

the Charge Toll amount is rounded to the nearest whole cent (rounding upwards amounts ending in 0.5¢);

Theoretical Toll = the Theoretical Toll for that Tollable Section and Quarter, calculated in accordance with paragraph 4 of this Schedule 26; and

Charge Toll Multiplier = the factor specified as the "Charge Toll Multiplier" for that Vehicle Class in the following table:

Vehicle Class	Charge Toll Multiplier
Passenger Vehicle	1.0
Heavy Vehicle	3.0

- (b) If the Project Company wishes to change the toll for the passage of a Vehicle in a Tollable Section, the Project Company must provide RMS with written notice of:
 - (i) the new toll for that Tollable Section and Vehicle Class for the next Quarter; and
 - (ii) the date on which the Project Company proposes to commence levying the new toll, which must not be earlier than the next Quarterly Date,

at least 20 Business Days prior to such date.
- (c) The Project Company may levy the new toll from the time which is no earlier than 12.00 am on the date referred to in paragraph 6(b)(ii) of this Schedule 26.

7. Administration Charges for Casual Users

- (a) The Project Company must give Casual Users an opportunity or opportunities to pay the toll as a deferred toll consistent with the procedures adopted by other private tollway operators from time to time.
- (b) RMS consents to the Project Company levying an Administration Charge for providing a temporary tag or allowing a Casual User to pay the toll as a deferred toll.
- (c) An Administration Charge for any Quarter (including the initial Administration Charge) will be as reasonably determined by the Project Company in consultation with RMS having regard to:
 - (i) different Casual User products that the Project Company may wish to implement from time to time;
 - (ii) the actual and anticipated number of Casual Users; and
 - (iii) the anticipated recovery rate of tolls and Administration Charges payable by Casual Users in comparison to tolls and Administration Charges actually received from Casual Users,

and so as to enable the recovery of the actual direct and indirect costs of operating and maintaining the Casual User System and processing, administrating and collecting revenue from Casual Users.

- (d) The Project Company must give Casual Users prior notice of the amount of an Administration Charge.
- (e) The Project Company may review an Administration Charge once each Quarter. If the Project Company wishes to change an Administration Charge, the Project Company must provide RMS with written notice of:
 - (i) the new Administration Charge for the next Quarter and provide in reasonable detail supporting information for the basis of calculating the new Administration Charge having regard to the principles outlined in paragraph 7(c) of this Schedule 26; and
 - (ii) the date on which the Project Company proposes to commence charging the new Administration Charge, which must not be earlier than the next Quarterly Date,at least 20 Business Days prior to such date.
- (f) The new Administration Charge may be charged from the time which is no earlier than 12.00am on the date referred to in paragraph 7(e)(ii) of this Schedule 26.

8. Exempt Vehicles

Notwithstanding anything else in this deed, the Project Company must not levy any toll, fee or charge for or in connection with the use of the Motorway by any bus being used to provide a regular passenger service (as defined in the *Passenger Transport Act 1990* (NSW)) or any other vehicle which is exempt under the Roads Act or its Regulations as at the date of this deed.

Schedule 27 - *not used*

Schedule 28 - Design Review Schedule

(Clause 11.3)

1. Definitions

In this Schedule 28:

Developed Concept Design means the Design Documentation required to be completed for the Developed Concept Design Stage.

Developed Concept Design Stage means that stage (approximately 20% to 30%) in the development of the Design Documentation at which the Design Documentation for any discrete design element or part thereof has been developed to a fixed design concept in relation to general details and any special details, including those details associated with foundation conditions, tunnel and structure geometry and interfaces with adjacent land formations and infrastructure.

Substantial Detailed Design means the Design Documentation required to be completed for the Substantial Detailed Design Stage.

Substantial Detailed Design Stage means that stage (approximately 70% to 80%) in the development of the Final Design Documentation at which the Design Documentation for any discrete design element or part thereof has been developed to a stage at which the principal design analysis, design details and drawings demonstrate that the Final Design Documentation, when fully developed, will comply with and satisfy all the requirements of this deed, and includes all the design standards, design reports, specifications, models, calculations and drawings for the discrete design element or part thereof.

2. Design Review

- (a) The Project Company must submit, and must procure that the State Works Contractor submits, to the Independent Certifier and RMS:
- (i) two sets of all Design Documentation in hard copy format; and
 - (ii) two electronic copies of Design Documentation,
- in accordance with the requirements of this deed and paragraph 2(g) of this Schedule at the:
- (iii) Developed Concept Design Stage;
 - (iv) Substantial Detailed Design Stage (where applicable); and
 - (v) Final Design Documentation Stage,
- including all Design Documentation for the Reviewable Temporary Works and model verification for each discrete design element of the Project Works and the Reviewable Temporary Works.
- (b) Design Documentation submitted at the Developed Concept Design Stage must be supported by a written report from the Project Company or the State Works Contractor (as applicable) which identifies:

- (i) any difference between the Concept Design and the Developed Concept Design for each design element and the reasons for those differences;
 - (ii) the durability and maintainability requirements for the design element;
 - (iii) the performance criteria selected for the design element;
 - (iv) the design loadings and design standards that will be adopted for detailed design of the design element; and
 - (v) how the design element complies with the performance criteria stipulated in the Scope of Works and Technical Criteria.
- (c) Design Documentation submitted at the Substantial Detailed Design Stage must be supported by a written report from the Project Company or the State Works Contractor (as applicable) which:
- (i) identifies any changes from the previously submitted Developed Concept Design and the reasons for the changes made; and
 - (ii) where changes have been made, provides an update on any changes to the durability requirements, performance criteria, design loadings or design standards to be applied to the design element or operation and maintenance requirements.

The Project Company or the State Works Contractor (as applicable) may request in writing for the Substantial Detailed Design Stage for certain design submission packages to be omitted.

- (d) Design Documentation submitted at the Final Design Documentation Stage must be supported by a written report from the Project Company or the State Works Contractor (as applicable) which:
- (i) identifies any changes from the previous submitted Substantial Detailed Design and the reasons for the changes made; and
 - (ii) where changes have been made, provides an update on any changes to the durability requirements, performance criteria, design loadings or design standards to be applied to the design element or operation and maintenance requirements.
- (e) For the purposes of the preparation of Design Documentation in accordance with this Schedule, the design elements include:
- (i) structures;
 - (ii) geotechnical design (including foundations, earthworks, subgrade and matters);
 - (iii) electrical design;
 - (iv) lighting design;
 - (v) tunnel design (including all services and facilities within tunnels);
 - (vi) geometric road design;
 - (vii) stormwater and drainage design;

- (viii) pavements;
 - (ix) management, control and monitoring infrastructure and systems;
 - (x) tolling system;
 - (xi) signage, furniture and roadside furniture;
 - (xii) environmental works design;
 - (xiii) architectural and landscape design;
 - (xiv) services relocations; and
 - (xv) all other elements of the Project Works or Reviewable Temporary Works carried out by the Project Company or the State Works Contractor.
- (f) The Project Company must submit, or procure that the State Works Contractor submits (as applicable):
- (i) a schedule of the design submissions and proposed submission dates (which may be amended from time to time) within the Design Plan; and
 - (ii) all Design Documentation in accordance with the requirements of:
 - A. in respect of the Operations Management and Control System, Appendix 8 of the Scope of Works and Technical Criteria;
 - B. in respect of the Toll Collection System, Appendix 15 of the Scope of Works and Technical Criteria;
 - C. in respect of traffic control signals, Appendix 63 of the Scope of Works and Technical Criteria; and
 - D. in respect of the development of information and communications technology systems, Appendix 43 of the Scope of Works and Technical Criteria.
- (g) The Project Company must certify, or must procure that the State Works Contractor certifies (as applicable), the Final Design Documentation for each discrete design element of the Project Works and the Reviewable Temporary Works in accordance with the requirements of clause 11.3(c) and this must be shown on the Final Design Documentation.
- (h) The Project Company must, or must procure that the State Works Contractor (as applicable):
- (i) allow 15 Business Days from the date a set of Design Documentation (**Design Package**) is submitted to RMS for RMS (if it so desires) to consult with the Project Company or the State Works Contractor (as applicable) and make comments to the Project Company or the State Works Contractor (as applicable) and the Independent Certifier on that Design Documentation;
 - (ii) allow 15 Business Days from the date a Design Package is submitted to the Independent Certifier for the Independent Certifier to provide comments on the Developed Concept Design and Substantial Detailed Design;

- (iii) allow 15 Business Days from the date a Design Package is submitted to the Independent Certifier for the Independent Certifier to verify the Final Design Documentation as required under clause 11.3(c);
 - (iv) not use Final Design Documentation as IFC Design Documentation until the Independent Certifier has verified the Final Design Documentation as required under clause 11.3(c);
 - (v) not amend any Final Design Documentation which has been:
 - A. submitted to RMS and the Independent Certifier in accordance with this paragraph (h); and
 - B. verified by the Independent Certifier,
 unless it first submits the proposed amendments (duly certified by the Project Company or the State Works Contractor (as applicable) under clause 11.3(c)) to RMS and the Independent Certifier and the process in this paragraph (h) (other than paragraph (h)(vi)) has been reapplied to the proposed amendments; and
 - (vi) not amend any IFC Design Documentation other than to reflect a Change which has been proposed by the Project Company or the State Works Contractor (as applicable) and approved by RMS in accordance with clause 12.1 and paragraph 2 of the Change Procedure.
- (i) The Independent Certifier must, within the 15 Business Day period referred to in paragraph (h)(iii), either:
- (i) verify the Final Design Documentation in accordance with clause 11.3(c); or
 - (ii) give reasons why the Final Design Documentation:
 - A. is not appropriate for construction purposes; or
 - B. does not comply with this deed,
- and if the Independent Certifier verifies the Final Design Documentation in accordance with clause 11.3(c), the Independent Certifier must:
- (iii) do so using the form in Appendix A to this Schedule 28; and
 - (iv) address any comments made by RMS under paragraph (h)(i) in the verification.
- (j) Subject to paragraph (l), if any Final Design Documentation is not verified by the Independent Certifier under paragraph (i) or paragraph (k), the Project Company must amend, or must procure that the State Works Contractor amends, the Final Design Documentation and:
- (i) re-certify it under clause 11.3(c); and
 - (ii) re-submit it to RMS and the Independent Certifier and after this, the process in paragraph (k) will be applied to the amended Final Design Documentation.

- (k) If any Final Design Documentation is resubmitted to RMS and the Independent Certifier pursuant to paragraph (j), the Independent Certifier must, within 10 Business Days, either:
- (i) verify the Final Design Documentation under clause 11.3(c); or
 - (ii) give reasons why the Final Design Documentation:
 - A. is not appropriate for construction purposes; or
 - B. does not comply with this deed,
- and if the Independent Certifier verifies the resubmitted Final Design Documentation in accordance with clause 11.3(c), the Independent Certifier must:
- (i) do so using the form Appendix A to this Schedule 28; and
 - (ii) address any comments made by RMS under paragraph (k) in the verification.
- (l) Notwithstanding clause 10.2(c)(iii), if the Project Company, the State Works Contractor or the Contractor wishes to discuss with RMS any comments or notices received from the Independent Certifier, the Project Company or the State Works Contractor (as applicable) must notify RMS to request a meeting to discuss the issue(s). The meeting between RMS and the Project Company or the State Works Contractor (as applicable) must take place within 5 Business Days of the request being received by RMS and be undertaken in good faith to try to resolve the issues raised in such comments or notices (and the parties agree that the Contractor is entitled to attend such meeting), which may only result in:
- (i) the Project Company or the State Works Contractor (as applicable) requesting a Change in accordance with clause 12 and paragraph 2 of the Change procedure and, if that Change is approved by RMS, resubmitting the Final Design Documentation; or
 - (ii) the Project Company or the State Works Contractor (as applicable) addressing the comments or notices and resubmitting the Final Design Documentation in accordance with paragraph (j).
- (m) In considering any Final Design Documentation submitted under this Schedule, RMS is entitled to consult with and take into account any views and requirements of any relevant Authority.

Appendix A: Independent Certifier's Certificate - Final Design Documentation

To: RMS's Representative
From: APP Corporation Pty Limited (ABN 003 764 770)

Terms used in this certificate have the meaning given to them in the deed entitled "NorthConnex Project Project Deed" entered into between RMS and Project Company dated [insert] (**Project Deed**).

In accordance with the terms of clause 11.3(c) of the Project Deed, we hereby verify that the attached Final Design Documentation:

- (a) is appropriate for construction; and
- (b) complies with all the requirements of the Project Deed (including the Scope of Works and Technical Criteria) or the State Works Deed (as appropriate) and, in particular, the durability requirements of section 5.5 and the design life requirements of section 5.2 of the Scope of Works and Technical Criteria.

.....
Signed for and on behalf of
APP Corporation Pty Limited

Schedule 29 - Time Periods

(Clause 20.4(d))

Day Type	Period Type	Period
Weekday	Peak	
Weekday	Off Peak	
Weekday	Shoulder	
Weekend	Peak	
Weekend	Off Peak	
Weekend	Shoulder	

Note - for Eligible Truck trips, the time at the commencement of the journey is taken to apply to determine the applicable time period of the journey. "Weekend" includes a day that is not a Business Day.

Schedule 30 -

Schedule 31 - Deed of Engagement of Principal Contractor

(Clause 1.1)

NorthConnex Project

Deed of Engagement of Principal Contractor

Roads and Maritime Services
ABN 76 236 371 088

NorthConnex Company Pty Ltd

ACN 602 719 513 Lend Lease Engineering Pty Limited
ABN 40 000 201 516

Deed of Engagement of Principal Contractor

Date

Parties

Roads and Maritime Services ABN 76 236 371 088 (**RMS**)

NorthConnex Company Pty Ltd ACN 602 719 513 (**Project Company**)

Lend Lease Engineering Pty Limited ABN 40 000 201 516 (the **Contractor**)

Recitals

- A. RMS and:
- (a) the Project Company have entered into a deed entitled "NorthConnex Project - Project Deed" (**Project Deed**); and
 - (b) the State Works Contractor have entered into a deed entitled "NorthConnex Project - State Works Deed" (**State Works Deed**),
- under which the Project Company and the State Works Contractor are responsible for, amongst other things, designing and constructing:
- (c) two new road tunnels to be located under Pennant Hills Road and the Northern Railway in Sydney linking the M2 Motorway and the M1 Motorway; and
 - (d) associated Third Party Works,
- (**Project Works**).
- B. In order to carry out their respective obligations under the Project Deed and the State Works Deed, the Project Company and the State Works Contractor have entered into a contract (**Contract**) with the Contractor and Bouygues Construction Australia Pty Ltd ABN 37 144 013 801 (**Bouygues**) pursuant to which the Contractor and Bouygues are to design and construct the Project Works (other than the PC Works, the O&M Works and the PC Tolling Equipment Works, each as defined in the Contract).
- C. RMS has agreed to engage the Contractor as the principal contractor under clause 293 of the WHS Regulation for the Construction Project(s) the subject of the Contract.
- D. The Contractor has agreed to carry out the obligations of a principal contractor under the WHS Regulation for all Construction Project(s) the subject of the Contract.
- E. The parties have agreed to enter into this deed to give effect to the engagement of the Contractor as the principal contractor as set out in this deed.

Operative Provisions

1. Definitions

In this deed:

Construction Project has the same meaning as in the WHS Regulation.

Construction Work has the same meaning as in the WHS Regulation.

Contract has the meaning given to it in recital B.

Date of Completion has the same meaning as in the Contract.

Independent Certifier has the same meaning as in the Project Deed.

Project Deed has the meaning given to it in recital A.

Project Works has the meaning given to it in recital A.

Third Party Works has the same meaning as in the Project Deed.

WHS Regulation means the *Work Health and Safety Regulation 2011* (NSW).

Workplace has the same meaning as in the *Work Health and Safety Act 2011* (NSW).

Capitalised terms not otherwise defined in this deed have the same meaning as those terms in the Project Deed.

2. Principal contractor engagement

2.1 Engagement of principal contractor under WHS Regulation

- (a) For the purposes of Chapter 6 of the WHS Regulation RMS:
- (i) engages the Contractor as the principal contractor under clause 293 of the WHS Regulation for the Construction Project(s) to be carried out under the Contract and Project Deed, and the Contractor accepts such engagement; and
 - (ii) authorises the Contractor to have management or control of each Workplace at which the Construction Work the subject of the Contract and Project Deed is to be carried out, and to discharge the duties of a principal contractor under Chapter 6 of the WHS Regulation.
- (b) The Contractor must carry out, and ensure compliance with, its obligations as principal contractor under the WHS Regulation in respect of the engagement referred to in clause 2.1(a). If the Contractor fails to comply with any of its obligations in clause 2.1(b), RMS may have the Contractor's principal contractor obligations carried out by RMS, the Project Company or by others and the cost incurred by RMS in having those obligations carried out will be a debt due from the Contractor to RMS.
- (c) If the engagement of the Contractor as principal contractor under this clause is not effective for any reason, the RMS appoints the Project Company as principal contractor in accordance with clause 7.7 of the Project Deed.
- (d) The Contractor's engagement and authorisation as principal contractor will continue:
- (i) subject to clause 2.1(d)(ii), until the earlier of:
 - A. the termination of this deed or the Contract;
 - B. the Date of Completion;
 - C. in respect of each discrete part of the Third Party Works, the point in time when:

- 1) if the Third Party Works are Local Area Works or Utility Service Works, RMS, the Project Company, the Independent Certifier have been provided with a copy of the notice referred to in clause 15.2(a)(ii) or 15.3(a)(ii) of the Contract (as applicable); or
 - 2) if the Third Party Works are Property Works, the Project Representative has been provided with a certificate or statement referred to in clause 9.4(a)(ii) of the Contract; or
- D. in respect of the areas specified in the Site Schedule, the RMS Interface Site Access Schedule, the RMS Traffic Site Access Schedule or the M2 Interface Site Access Schedule, the termination or expiry of the rights referred to in clause 9.1(a) or clause 9.3 of the Contract (as applicable),
- (unless sooner revoked by RMS); and
- (ii) in respect of any defect rectification work carried out after the Date of Completion that is Construction Work by the Contractor, during the period any such work is carried out.
- (e) The Project Company and the Contractor warrant that the Construction Work to be carried out under the Contract, the PC Works (as defined in the Contract) and the works to be undertaken by the Tolling Equipment Works Contractor encompasses all Construction Work that the Project Company must carry out under the Project Deed (other than the O&M Works).

2.2 Owner and Project Company not liable

The Contractor acknowledges and agrees that neither RMS nor the Project Company will be liable to the Contractor for any damage, expense, loss or liability suffered or incurred by it arising out of or in connection with the engagement of the Contractor as principal contractor, the performance by it of its obligations as principal contractor under the WHS Regulation or any breach thereof.

2.3 Indemnity

- (a) To the full extent permitted by law, the Project Company and the Contractor jointly and severally indemnify RMS against any damage, expense, loss or liability suffered or incurred by RMS arising out of or in connection with a breach by the Contractor of clauses 2.1, 2.4 or 2.5.
- (b) Subject to clause 2.3(c), the indemnity in clause 2.3(a) survives termination, completion or expiration of this deed.
- (c) Notwithstanding anything to the contrary in this deed, the last date upon which RMS's cause of action in respect of the indemnity in clause 2.3(a) may accrue is the last day of the Term for the purposes of sections 14 and 16 of the Limitation Act 1969 (NSW) and RMS will have no right to make a demand on any indemnity in this deed 12 years after the last day of the Term.

2.4 Manage risks

Without limiting the Contractor's obligations elsewhere under the Contract or this deed, the Contractor must, so far as is reasonably practicable:

- (a) manage risks associated with the carrying out of the Construction Project(s) the subject of the Contract; and
- (b) ensure that all Workplaces are secured from unauthorised access, and in doing so, have regard to all relevant matters including risks to health and safety arising from unauthorised access to the Workplace, the likelihood of unauthorised access occurring and to the extent that unauthorised access to the Workplace cannot be prevented, how to isolate hazards within the Workplace.

2.5 Reporting

Without limiting the Contractor's reporting or other obligations elsewhere under the Contract, upon request by either RMS or the Project Company from time to time, the Contractor must promptly provide that requesting party with a copy of:

- (a) the written WHS management plan for each Workplace, including any revisions that are made to the WHS management plan under clause 311 of the WHS Regulation;
- (b) the Contractor's records in relation to the steps the Contractor has taken to make persons carrying out work aware of the content of the WHS management plan in accordance with clause 310 of the WHS Regulation;
- (c) any safe work method statements which have been obtained under clause 312 of the WHS Regulation;
- (d) the Contractor's records in relation to the steps the Contractor has taken to comply with clause 314 of the WHS Regulation;
- (e) the Contractor's records in relation to the steps the Contractor has taken to comply with clause 315 of the WHS Regulation; and
- (f) any other registers, records and documents,

that the Contractor prepares, maintains, keeps or obtains in connection with its obligations as a principal contractor under the WHS Regulation.

3. Substitution of Project Company as Principal Contractor

If the Contract is terminated for any reason before all Construction Project(s) the subject of the Contract are complete:

- (a) the Contractor's engagement and authorisation as principal contractor is terminated; and
- (b) RMS engages the Project Company as principal contractor from the date of such termination in accordance with clause 7.7 of the Project Deed.

4. General

4.1 Governing law and jurisdiction

- (a) This deed is governed by the law in force in New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this deed, and waives any right it might have to claim that those courts are an inconvenient forum.

4.2 Liability for expenses

Each party must pay its own expenses incurred in negotiating and executing this deed.

4.3 Giving effect to this deed

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this deed.

4.4 Goods and Services Tax

- (a) A party must pay GST on a taxable supply made to it under this deed, in addition to any consideration (excluding GST) that is payable for that taxable supply. The party making the taxable supply must provide a valid tax invoice to the other party at or before the time that the other party is required to pay the GST.
- (b) Terms used in this clause 4.4 have the meaning given to them in A New Tax System (Goods and Services Tax) Act 1999.

4.5 Joint and Several Liability

The obligations of the Contractor under this deed, are joint and several and each person constituting the Contractor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breaches of this deed) of the other as if those acts or omissions were its own.

Executed as a deed.

The Seal of Roads and Maritime Services (ABN 76 236 371 088) was hereunto affixed by its authorised signatory:

Name

Signature

Executed by NorthConnex Company Pty Ltd (ACN 602 719 513) in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Executed by Lend Lease Engineering Pty Limited (ABN 40 000 201 516) in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Schedule 32 - RMS Cost Recovery Reconciliation - Calculation Methodology

(clause 27.9)

Part A: Reconciliation following completion of the Motorway

RMS's entitlement to its cost recovery on default, or any entitlement of in the event that RMS issues a Pre-Completion Termination Notice to the Project Company and completes the construction of the Motorway will be calculated in accordance with the following template.

Set out below is a worked example of the use of the template.

Part B: Reconciliation following completion of Reinstatement

RMS's entitlement to its cost recovery on default, or any entitlement of in the event that RMS issues an Abandonment Notice to the Project Company and completes Reinstatement will be calculated in accordance with the following template:

Set out below is a worked example of the use of the template.

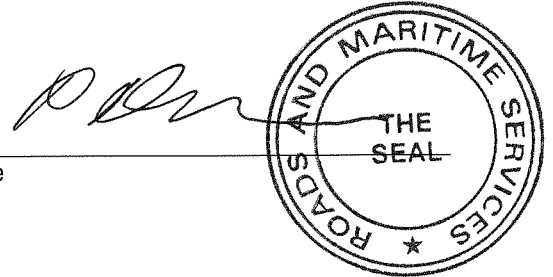
Each attorney executing this deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

Executed as a deed.

The Seal of Roads and Maritime Services
ABN 76 236 371 088 was hereunto affixed by its
authorised signatory:

PETER DUNN

Name



Signature

Executed by NorthConnex Company Pty Ltd in
accordance with section 127 of the Corporations
Act 2001 (Cth):

Andrew Sims

Signature of director

Andrew Sims

Full name of director

Andrew Head

Signature of company secretary/director

Andrew Head

Full name of company secretary/director