

CLAYTON UTZ

Deed of Variation No. 1  
RailCorp Rolling Stock PPP  
Project Contract No C01645

Rail Corporation New South Wales  
ABN 59 325 778 353

RailCorp

Reliance Rail Pty Limited as trustee of the Reliance Rail Trust  
ABN 48 077 619 824

PPP Co

BNY Trust (Australia) Registry Limited  
ACN 000 334 636

Security Trustee

Permanent Custodians Limited  
ACN 001 426 384

Intercreditor Agent

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Deed of Variation No. 1 made at Sydney on

15 February

2007<sup>8</sup> JNH

**Parties**

**Rail Corporation New South Wales ABN 59 325 778 353** of Level 6, 18 Lee Street, Chippendale, New South Wales

("RailCorp")

**Reliance Rail Pty Limited ABN 48 077 619 824** as trustee of the Reliance Rail Trust, of Level 6, ABN AMRO Tower, 88 Phillip Street, Sydney, New South Wales

("PPP Co")

**BNY Trust (Australia) Registry Limited ACN 000 334 636** of Level 4, 35 Clarence Street, Sydney, New South Wales

("Security Trustee")

**Permanent Custodians Limited ACN 001 426 384** of Level 4, 35 Clarence Street, Sydney, New South Wales

("Intercreditor Agent")

**Background**

- A. On 3 December 2006, RailCorp and PPP Co entered into the RailCorp Rolling Stock PPP Project Contract No CO1645 (the "**Project Contract**").
- B. Attachment 4 to Exhibit 2 (Contract Management Requirements) to the Project Contract sets out the minimum requirements for what PPP Co must include in its design submissions to RailCorp.
- C. RailCorp and PPP Co wish to amend these minimum design submission requirements.
- D. Pursuant to clause 10.2 of the Debt Finance Side Deed, the Security Trustee's consent is required for any variations to the Project Contract.
- E. Pursuant to clause 4.3(c)(i) of the Common Terms Deed, the Intercreditor Agent's consent is required for any material variations to the Project Contract.

**Operative provisions**

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**1. Definitions and interpretation**

**1.1 Definitions from Project Contract**

Unless otherwise defined in this deed, words defined in the Project Contract have the same meaning when used in this deed.

**1.2 Interpretation**

In this deed:

- (a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (d) a reference to a document (including this deed) is to that document as updated, varied, novated, ratified or replaced from time to time;
- (e) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re enactments and replacements;
- (f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (g) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (h) a reference in a schedule, exhibit, attachment or annexure to a clause, paragraph, section, schedule, exhibit, attachment or annexure is a reference to a clause, paragraph, section, schedule, exhibit, attachment or annexure to or of that schedule, exhibit, attachment or annexure;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "includes" or "such as" in any form are not words of limitation; and
- (k) a reference to "\$" or "dollar" is to Australian currency.

### **1.3 No bias against drafting party**

Each provision of this deed will be interpreted without disadvantage to the party who (or whose representative) drafted that provision.

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## **2. Amendment to Project Contract**

RailCorp and PPP Co agree that Attachment 4 to Exhibit 2 to the Project Contract is amended with effect from the date of this deed as set out in Schedule 1 of this deed.

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## **3. Effect of amendments**

PPP Co acknowledges that the amendment to the Project Contract described in clause 2 will:

- (a) incur no Variation Costs nor derive any Variation Savings; and
- (b) have no effect on:
  - (i) the Delivery Programme;

- (ii) the workmanship, durability or functional integrity of any element of the Project Works (including the Maintenance Facility Works), a Car, the Maintenance Facility or the Simulators;
- (iii) PPP Co's ability to provide the Required Availability;
- (iv) the Maintenance Facility;
- (v) the use of the Cars by RailCorp and its passengers;
- (vi) any Accreditation held or required by RailCorp, PPP Co or its Associates;
- (vii) the safety of the Cars;
- (viii) RailCorp's Facilities;
- (ix) any training requirements;
- (x) PPP Co's ability to return the Maintenance Facility to RailCorp (or its nominee) in accordance with the requirements of the Project Contract;
- (xi) PPP Co's ability to:
  - A. satisfy any warranty given by PPP Co under the Project Contract; or
  - B. perform any of its other obligations under the Project Contract; or
- (xii) the quality standards, warranties and other obligations required under the Project Contract.

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#### **4. Consent of Security Trustee and Intercreditor Agent**

The Security Trustee and the Intercreditor Agent consent to the amendment to the Project Contract described in clause 2.

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#### **5. Governing law and jurisdiction**

##### **5.1 Governing law**

This deed is governed by and must be construed according to the laws in force in New South Wales.

##### **5.2 Jurisdiction**

- (a) Each party irrevocably submits to the jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to this deed.
- (b) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 5.2(a).

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## **6. Miscellaneous**

### **6.1 Further acts**

Each party must promptly do all further acts and execute and deliver all further documents (in a form and content reasonably satisfactory to that party) required by law or reasonably requested by the other party to give effect to this deed.

### **6.2 Expenses**

Each party must bear its own costs and expenses in connection with negotiating, preparing, executing and performing this deed.

### **6.3 Counterparts**

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

**Schedule 1  
Amendment to Attachment 4 to Exhibit 2**

**ATTACHMENT 4**

**MINIMUM DESIGN SUBMISSION REQUIREMENTS**

**This schedule represents a list of requirements that must be included in PPP Co design submissions and the items included are additional to any requirements included in the RailCorp Train Performance Specification**

**Each submission must be developed to a level of detail and completeness commensurate with the Technical Review stage concerned. At CDR, each submission must be complete and must form part of the Final Design Documentation.**

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
General	Prototypes, Pilot Lots and Samples	<p>Unless RailCorp agrees otherwise during PDR, PPP Co must provide functioning prototypes of the following equipment:</p> <ul style="list-style-type: none"> <li>a) Train Operating System, (basic operation that will be subject to stages of further development during the design process).</li> <li>b) Event Recorder;</li> <li>c) remote latching Trip Gear;</li> <li>d) Passenger Emergency Intercom;</li> <li>e) destination indicators, both internal and external;</li> <li>f) Digital Voice Annunciator;</li> <li>g) Intercar door control;</li> <li>h) Emergency Door Release;</li> <li>i) wheelchair boarding ramp;</li> <li>j) end detrainment ramp;</li> <li>k) Seats including Saloon, tip-up and Crew seats;</li> <li>l) CCTV Camera Systems.</li> </ul>		X	X



Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
General	Software	<p>PPP Co must confirm the following:</p> <ul style="list-style-type: none"> <li>a) the software to be developed or modified for use in the Set;</li> <li>b) previous experience with the development, application and support of similar software;</li> <li>c) the programming languages to be used, including interpreters, compilers, databases and 4GLs;</li> <li>d) the software development environment, including hardware and software components.</li> <li>e) whether all aspects of the communications protocol and data transfer are totally open for other equipment suppliers to use without license fees or other charges, and if not, the details of license fees or other charges.</li> </ul>	X	X	X
2.1	Standards to be used	PPP Co must propose suitable recognised national or international standards for acceptance by RailCorp where no standards relevant to the requirements are indicated in the Train Performance Specification.	X	X	X
2.1	Alternative Standards	If PPP Co wishes to use alternative standards a list of relevant standards and clauses must be provided to RailCorp for review.	X	X	X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
3.2.3	Material and End of Life Disposal	<p>PPP Co must advise, which items are considered capable of being recycled, a component cost to de-commission the train including an estimate of labour and resources required to disassemble, recycle or scrap. The estimate must be current day dollars. These requirements must be reviewed and confirmed at the CDR.</p> <p>PPP Co must advise the need for the disposal of any toxic or hazardous materials during the de-commissioning of the Set.</p> <p>PPP Co must supply a trade-off study to support the use of toxic or hazardous materials for the Set during its life cycle. PPP Co's proposed methods for the use of such materials and any changes to such proposed methods must be submitted to RailCorp for review.</p>		X	X
4.5	Rolling Stock Outline	The theoretical maximum Kinematic Rolling Stock Outline of each car type under the stated operating conditions, including the calculation and assumptions must be provided.		X	X
5.2.1	Energy Consumption	PPP Co must confirm the energy consumption of the proposed Set design.	X	X	X
6.2.1	Mass	PPP Co must conduct a trade-off study to demonstrate how the overall train mass can be minimised. PPP Co must submit the trade-off study and declare the expected mass configuration.	X	X	X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
6.2.8	Passenger Seats	<p>PPP Co must provide an assessment report of all seating for review by RailCorp. This assessment must ensure that the design of the seats addresses each of the following:</p> <ul style="list-style-type: none"> <li>a) ergonomics, comfort and maximising seat space and access,</li> <li>b) maintainability, including cleanability</li> <li>c) reliability,</li> <li>d) Vandalism and Graffiti resistance,</li> <li>e) aesthetics, including with respect to the livery of the Set, and</li> <li>f) trade-offs between cost, durability, longevity and each of the above throughout its operating life.</li> </ul>		X	X
6.2.10	Flooring	Proposals for flooring including details adjacent to stairs, doors and other potential hazards for cues, both visual and textual must be submitted for review.		X	X
6.2.14	Design Loads	Detailed calculations associated with all load cases must be submitted for review to RailCorp.		X	X
6.2.15	Car body Fatigue Life Evaluation	PPP Co must supply a complete FEA model of the Car body and other Car body structural components, together with loadings, stress concentrations and fatigue analysis generally as detailed in Appendix E.		X	X
6.2.18	Centre of Gravity and Roll Centre	PPP Co must nominate and show by full analysis the location of the centre of gravity and roll centre of each car type under AW0 and AW3 loaded conditions.		X	X
6.2.21	Livery	The external appearance, signage and livery of Set must be submitted for review.	X	X	X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
6.2.22	Vehicle and Major Component Identification and Labelling	The design, location and legends of all signage must be submitted to RailCorp for review. Character fonts must be submitted for review.			X
6.2.23	Protective Coating	PPP Co must provide for acceptance by RailCorp, samples which reflect the agreed quality standards of flatness, surface finish, maximum allowable local defect, attachment methods applicable to external and internal panels and fixtures.		X	X
6.4.7	Bogie Fatigue Life Evaluation	PPP Co must supply a complete FEA model of the bogie and other bogie structural components, together with loadings, stress concentrations and fatigue analysis generally as detailed in Appendix E.		X	X
6.4.4	Curving Performance	Details of positive features specifically included to minimise wheel squeal when negotiating curves. The expected performance of these features must be verified by simulation methods to ensure their effectiveness.		X	X
6.4.8	Listing and Justification of Applied Bogie Loads	PPP Co must identify and describe all bogie loads, including bogie to body connection loads, used during the design. The descriptions must include the basis for nominating the particular values adopted.			X
6.4.9	Axleboxes and Bearings	PPP Co must advise the proposed methodology to prevent axlebox bearings from overheating for review. This should include methods to monitor axlebox temperatures if provided.	X	X	X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
6.4.14	Ride	<p>A graph showing theoretical maximum curving force versus curve radius (down to 200m) for superelevation deficiencies of 75, 110, 140 and 175mm for all car types must be supplied.</p> <p>The calculations, including formulae and examples on which the graph is based must also be provided.</p> <p>PPP Co must provide a detailed simulation of the ride qualities including the following:</p> <ul style="list-style-type: none"> <li>a) dynamic loads and their effect on bogie performance,</li> <li>b) wheel unloading, curving performance and stability;</li> </ul> <p>The above simulations must be performed at various speeds and passenger loadings using the track data supplied by RailCorp covering a range of track, varying from straight track to 200m curves.</p>		X	X
6.7.3.6	Intercar Door Obstruction Detection System	PPP Co must provide calculations to show that intercar doors meet the same injury avoidance requirement as for bodyside Passenger doors.		X	X
6.7.4.2	Door open when running	Where the design of the Crew doors would result in the car width exceeding the kinematic envelope with the doors open, PPP Co must advise the details of the dimensions.		X	X
6.8	Crashworthiness	Validation of crashworthiness at all speed ranges must be fully verified by computer simulation modelling of the structural behaviour / collapse, using 2D and 3D, static and dynamic, linear and non-linear models and loadings for review.			X
6.9.2	Fire Resistance and Toxicity	Toxicity values, and the quantity and location of each material used must be provided for review.		X	X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
6.11.1	Cleaning Materials	The cleaning materials proposed for use on the Set interior must be submitted for acceptance by RailCorp.		X	X
6.12	Corporate Information and Advertising	The design, location and legends of all signage must be submitted to RailCorp for review. Character fonts must be submitted for review.			X
7.3.3	Power/Brake Controller	Details of the feature that permits the Driver to test the holding power of the friction brake system by the application of a full service EP brake whilst allowing the Driver to apply up to full tractive power.		X	X
7.4	Train Operating System	<p>PPP Co must provide a schedule of the signals monitored or controlled by the TOS, including:</p> <ul style="list-style-type: none"> <li>a) the name and description of the signal,</li> <li>b) the source of the signal,</li> <li>c) the type of signal (e.g. analog or digital) and the range of possible values which may be recorded or displayed,</li> <li>d) the normal state or range of the signal,</li> <li>e) details of the alarms and messages generated by the signal.</li> </ul>		X	X
7.4	Train Operating System	A fully functioning sample of the TOS must be provided by PPP Co for review of the proposed system including the ability of the Driver to interrogate various levels of the TOS while the train is moving.		X	X
7.6	Event Recorder	A Reliability assessment in accordance with Military Handbook MIL-HDBK-217E must be provided for the Event Recorder System.			X

Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
8.1	EMC	Set electromagnetic emissions, radiation and immunity shall be in accordance with the requirements of SC0018 00 00 SP, EN 50121 and ENV 50166.	X	X	X
8.3	High Speed Circuit Breaker	The details of the High Speed Circuit Breaker and arc box design must be submitted.		X	X
9.2.4	EAPS Batteries	The timing of equipment power down after loss of OHW power must be submitted for review.		X	X
9.4.1	EAPS Protection	PPP Co must nominate the fault conditions to be detected, the protection devices used, setpoints and time delays and submit this information for review.		X	X
9.7.9	Piping	PPP Co to submit a piping schedule identifying all piping locations and materials.		X	X
9.16	Guard's Blue Light	PPP Co must supply the colour to be used.		X	X
9.25	Heating Ventilation and Air Conditioning	The air velocity impinging on standing passengers must be advised.		X	X
9.25.14	Condensation	The proposed design features to minimise the formation of condensation must be submitted.		X	X
10.2.18	50 Hz Detection System	Details of the design of the 50 Hz line ripple current detector including ripple current detection level and time period settings.		X	X
10.3	Braking	Brake simulations to show that the most suitable trade-off for brake disc material, pad composition, performance and life cycle cost is provided.	X	X	X
10.3.15.2	Emergency Brake	PPP Co must state the pressure at which the Automatic Emergency Brakes are fully applied.		X	X
10.4	Wheel Slide Protection	PPP Co must nominate the WSP system and provide on-train or test rig simulation report for review.		X	X

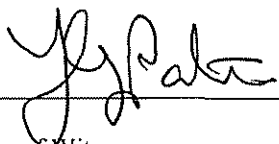
Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
11.1.2	Communications Requirement Protection	For each protection device the operating values, any time delays and the means of detecting the fault must be provided for review.			X
11.7	Door Warning Device	PPP Co must submit details of the Door Closing Warning tone.			X
11.11	Digital Voice Annunciator	PPP Co must demonstrate the messages, chimes, volume levels and tones for review. PPP Co must provide text of the DVA messages.		X	X
11.13	Data Link	The international standards used for the data link system interface must be detailed by PPP Co and submitted.	X	X	X
13.2	Driver Only Operation	<p>PPP Co must describe the provisions for one-person operation of the Set addressing:</p> <ul style="list-style-type: none"> <li>a) Driver's ability to monitor and operate doors,</li> <li>b) ability to view the entire train - platform interface;</li> <li>c) passenger safety while boarding or leaving the Set,</li> <li>d) passenger security,</li> <li>e) train preparation and continuity tests,</li> <li>f) Driver's operation of announcements inside and outside the Set,</li> <li>g) ability of passengers to communicate with the Driver, and vice-versa,</li> <li>h) safe and ergonomic access to the controls used during normal operation of the train,</li> <li>i) safe operation of the train in the event of an accident,</li> <li>j) receiving of video signals from on-board cameras,</li> <li>k) modifications necessary to receive and process video signals from equipment on the platform.</li> </ul>	X	X	X



Clause in RailCorp Train Performance Specification	Clause Heading	Clause Description	SDR	PDR	CDR
13.3	Spare Cables and Wiring	Spare wiring provisions to be detailed.	X	X	X
13.9	Future Train Protection and Automatic Train Control	Advise likely space requirements and possible integration methods with potential Automatic Train Control (ATO and ATP) equipment.	X	X	X
Appendix V	Acceleration Performance	<p>For both performance characteristics in Appendix V, the expected achievable speeds in a 5 km, 10 km, and 15 km long tunnel based on a residual acceleration level of 0.05m/s<sup>2</sup> must be confirmed at SDR and subsequent reviews, for</p> <p>Single track tunnel of 36 m<sup>2</sup> cross section</p> <p>Single track tunnel of 58 m<sup>2</sup> cross section</p> <p>Double track tunnel of 67 m<sup>2</sup> cross section.</p> <p>These tabulations must be provided for gradients of 1 in 30, 1 in 40, 1 in 50 and 1 in 60.</p>	X	X	X

Executed as a deed.

Signed for and on behalf of Rail Corporation  
New South Wales in the presence of:

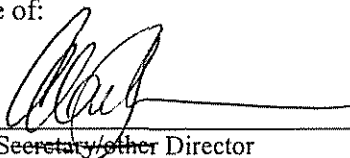


Signature of Witness

F. G. PATON

Name of Witness in full


Executed by Reliance Rail Pty Limited as  
trustee of the Reliance Rail Trust in accordance  
with section 127 of the *Corporations Act* by or in  
the presence of:



Signature of Secretary/other Director

ALAN CAMERON

Name of Secretary/other Director in full



Signature



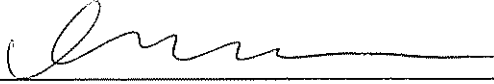
Signature of Director and Secretary

GRAEME BELL

Name of Director and Secretary in full

**Signed sealed and delivered** for and on behalf  
of **BNY Trust (Australia) Registry Limited** by  
**MARGARET LUBY**  
its Attorney under a Power of Attorney  
dated 1 SEPTEMBER 2007

and registered Book 4528 No. 947 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 Witness

**DAVID ABLEN**

Name of Witness in full

**Signed sealed and delivered** for and on behalf  
of **Permanent Custodians Limited** by  
**MARGARET LUBY**  
its Attorney under a Power of Attorney  
dated 1 SEPTEMBER 2007

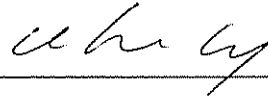
and registered Book 4528 No. 947 and  
the Attorney declares that the Attorney has not  
received any notice of the revocation of such Power  
of Attorney, in the presence of:



Signature of Witness

**DAVID ABLEN**

Name of Witness in full



Signature of Attorney



Signature of Attorney