

Transport for NSW (ABN 18 804 239 602)
(**TfNSW**)

and

Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353)
(**TAHE** and together with TfNSW, the **Principal**)

and

UGL Regional Linx Pty Ltd (ACN 646 771 011)
(the **Service Provider**)

Deed of Amendment, Settlement and Release

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This Deed is made on 1 November 2024

Parties

- 1 **Transport for NSW** (ABN 18 804 239 602), registered in New South Wales of 231 Elizabeth Street, Sydney NSW 2000 (**TfNSW**).
 - 2 **Transport Asset Holding Entity of New South Wales** (ABN 59 325 778 353), registered in New South Wales of 470 Pitt Street, Haymarket NSW 2000 (**TAHE** and together with TfNSW, the **Principal**).
 - 3 **UGL Regional Linx Pty Ltd** (ACN 646 771 011), registered in New South Wales of Level 8, 40 Miller Street, North Sydney NSW 2060 (the **Service Provider**).
- (each a **Party**, and together the **Parties**).

Recitals

- A The Parties entered into an Operations and Maintenance Deed in relation to the Country Regional Network (the **Project**) dated 16 February 2021, as amended by the Deed of Amendment No. 1 dated 21 December 2021 (the **O&M Deed**). Pursuant to the O&M Deed, the Service Provider has agreed to manage, operate and upgrade the CRN Assets.

- E The Parties have agreed to amend the O&M Deed and Scope of Works in the manner set out in this Deed.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

Unless expressed to the contrary, terms defined in the O&M Deed have the same meaning in this document. The following definitions apply unless the context requires otherwise.

Amended O&M Deed means the document set out in Schedule 2, and includes schedules, attachments, annexures, exhibits and appendices to that document.

Best Endeavours means:

- (a) acting in good faith;
- (b) devoting all reasonable efforts, skills, expertise and resources where appropriate or necessary;

- (c) responding, providing approvals and consents and taking action promptly and reasonably and without unreasonably withholding or delaying a response, approval or consent; and
- (d) promptly resolving any difficulties or differences, including, if necessary, escalating any disagreements for resolution by its senior representatives.

[REDACTED]

Conditions Precedent means the conditions set out in Schedule 1.

Conditions Precedent Sunset Date means the date that is three months after the date on which this Deed is signed by all Parties.

Confidential Information means the existence and terms of this Deed.

[REDACTED]

Effective Date Notice means the notice issued by the Principal pursuant to clause 2(a).

Employee means any former, current or future employees, agents, consultants, secondees, contractors or officers of the Principal or the Service Provider or a Related Party of the Service Provider.

O&M Deed has the meaning set out in Recital A.

[REDACTED]

Principal Condition Precedent mean the conditions precedent that the Principal must satisfy as set out in section 2 to Schedule 1.

Regular Payments means:

- (a) the Service Provider's entitlement to the Monthly Service Fee under clause 17.1(a)(iv) of the O&M Deed, including as adjusted as a result of Modifications directed by the Principal or approved by the Principal under clauses 14.1(a)-(b) or 14.3(b) of the O&M Deed respectively; and
- (b) the Service Provider's entitlement to Transition Out Costs under clause 17.1(a)(v) of the O&M Deed,

but excluding any adjustments to the amounts set out in the Payment Schedule to the O&M Deed (including the Variation Payment) arising as a result of Adjustment Events.

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

[REDACTED]

Service Provider Condition Precedent mean the conditions precedent that the Service Provider must satisfy as set out in section 1 to Schedule 1.

Submitted 3MWP means the 3MWP for CY1, CY2 and CY3 submitted on 31 October 2023.

Third Party means any person or entity not a Party to this Deed.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Nothing in this Deed is to be interpreted against a Party solely on the ground that the Party put forward this Deed or a relevant part of it.
- (c) The following rules apply unless the context requires otherwise:
 - (i) a gender includes all other genders;
 - (ii) any Law, NSW Government Policy or Standards and Codes is to that Law, NSW Government Policy or Standards and Codes as amended, re-enacted or replaced from time to time and, in respect of legislation, includes any subordinate legislation issued under it;
 - (iii) any document (such as a deed (including this Deed), agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;
 - (iv) writing includes writing in digital form;
 - (v) 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;
 - (vi) a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Deed;
 - (vii) any property or assets of a person includes the legal and beneficial interest of that person of those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise;
 - (viii) a person includes a firm, partnership, joint venture, association, corporation or other body corporate;
 - (ix) a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee;
 - (x) any person, body or agency which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the person, body or agency which most closely serves the purposes or objects of the original person, body or agency;
 - (xi) the Minister for Regional Transport and Roads includes any Minister or Ministers that replaces, or whose powers or functions (in whole or in part) have been transferred from, that Minister;
 - (xii) "shall" will be construed as references to "must"; and
 - (xiii) a term that is defined in any Schedule has the meaning attributed to it in that Schedule.

2 Conditions Precedent

- (a) The Principal must issue a written notice to the Service Provider confirming that each of the Conditions Precedent have been satisfied, or waived by the relevant Party, as soon as reasonably possible (and in any event within 2 Business Days) after the Principal becomes aware of the fact that the last of those Conditions Precedent has been satisfied or waived (the **Effective Date Notice**).
- (b) The Principal will make any determination as to whether:
 - (i) a Service Provider Condition Precedent has been satisfied, acting reasonably; and
 - (ii) it wishes to waive a Service Provider Condition Precedent in its sole and absolute discretion.
- (c) The Service Provider will make any determination as to whether:
 - (i) a Principal Condition Precedent has been satisfied, acting reasonably; and
 - (ii) it wishes to waive a Principal Condition Precedent in its sole and absolute discretion.
- (d) Despite anything stated to the contrary, the Principal is not required to issue the Effective Date Notice unless all Conditions Precedent have been satisfied or waived in accordance with clause 2(b) and 2(c).
- (e) The Parties must use Best Endeavours to ensure their respective Conditions Precedent have been satisfied as soon as reasonably practicable and on or before the Conditions Precedent Sunset Date.
- (f) The relevant Party must give the other Party, in relation to each Condition Precedent which the relevant Party must satisfy, a written notice informing the other Party of its belief that the Condition Precedent has been satisfied.
- (g) Subject to clause 2(h), the Deed takes effect from the date on which the Principal issues the Effective Date Notice.
- (h) Clauses 1, 2, 12, 20 and 21 take effect on the date of this Deed.
- (i) If the Effective Date Notice is not issued by the Conditions Precedent Sunset Date, this Deed terminates with immediate effect, after which time no Party will have any rights, obligations or entitlements arising under or in connection with this Deed other than in relation to clause 12.

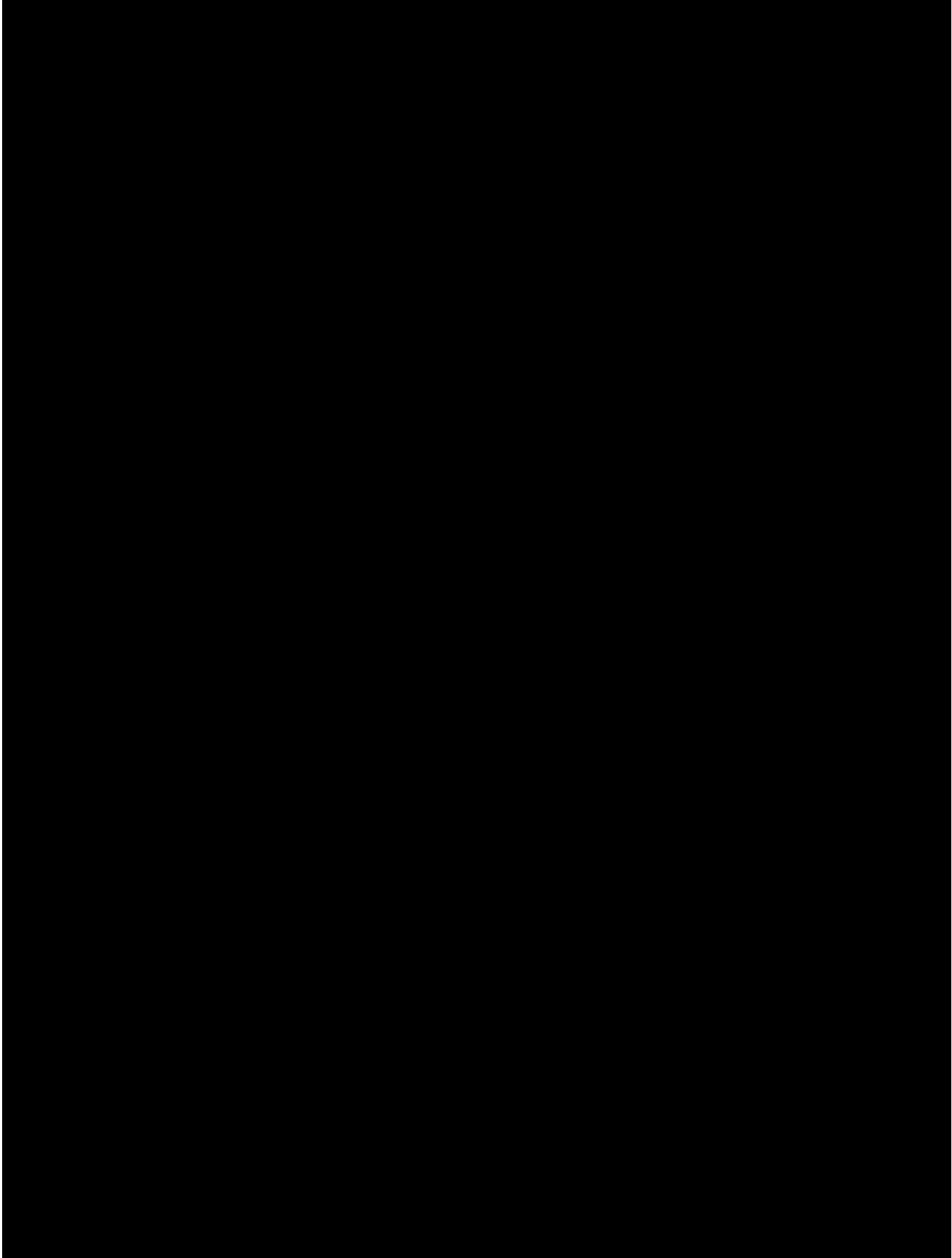
3 Amended O&M Deed

- (a) Subject to clause 3(b), with effect from the Effective Date, the O&M Deed is amended as set out in Schedule 2.
- (b) The amendments set out in clause 5.1A, 5.1B and 5.1C of Schedule 2 (and all consequential changes to the O&M Deed which refer to those clauses as identified in Schedule 2) take effect and operate retrospectively from 16 February 2021 so that those amendments and consequential changes are deemed to apply to the Service Provider's performance of the Services throughout the Term.
- (c) Subject to clause 4 below, the Parties acknowledge and agree that:
 - (i) except as specifically amended by this Deed, the provisions of the O&M Deed and its schedules, attachments, annexures, exhibits and appendices (including the Scope of Works and its Appendixes) remain in full force and effect;

- (ii) without limiting clause 3(c)(i), any schedules, attachments, annexures, exhibits and appendices or other documents forming part of the O&M Deed remain in full force and effect in the form included in the O&M Deed prior to the Effective Date;
- (iii) certain clauses in the O&M Deed may have no further operation or may be redundant due to the passage of time, or otherwise in accordance with their terms, even though they remain in the Amended O&M Deed;
- (iv) for the purposes of execution, and without limiting clause 3(c)(i) or (ii), only the provisions of the O&M Deed and its schedules, attachments, annexures, exhibits and appendices specifically amended by this Deed will be printed; and
- (v) despite clause 3(iv), those provisions of the O&M Deed and its schedules, attachments, annexures, exhibits and appendices not printed for execution still form part of the O&M Deed and remain in full force and effect.

5 Updates to plans

The Parties acknowledge and agree that they will each use reasonable endeavours to create or update the plans listed in Schedule 6 that are allocated to them, and to provide those plans to the other Party for review, within 90 Business Days from the Effective Date. The approval and/or resolution of each plan will otherwise be in accordance with the relevant provisions of the O&M Deed and Scope of Works.



10 Warranties

(a) Each Party warrants that:

- (i) it has relied on its own enquiries and has not entered into this Deed in reliance on or as a result of any representation, promise, statement, conduct or inducement to that Party by or on behalf of any other Party otherwise than as set out in this Deed; and
- (ii) it is aware that each other Party is entering into this Deed in reliance upon the acknowledgements, warranties, representations and agreements given by the other Party in this Deed and would not have entered into this Deed but for these acknowledgements, warranties, representations and agreements.

12 Confidentiality

12.1 Confidentiality

- (a) Confidential Information must be kept confidential and not disclosed to a Third Party except with the prior agreement of the other Party to this Deed or as permitted pursuant to this clause 12.1 or clause 12.2.
- (b) Each Party must ensure that each of its Associates complies with the terms of this clause 12.1.
- (c) Without limiting its other obligations under this clause 12.1, neither Party may:
 - (i) disclose to any person; or
 - (ii) in the case of the Service Provider, use for any purpose other than the carrying out of the Services,the Confidential Information referred to in 12.1(a) unless:
 - (iii) the other Party has given its prior consent in writing; or
 - (iv) it is permitted to do so pursuant to clauses 12.1 or 12.2.
- (d) A Party (the **Disclosing Party**) may disclose Confidential Information:
 - (i) which is in the public domain through no default of the Disclosing Party;
 - (ii) if the disclosure is:

- (A) required by Law;
 - (B) given with the written consent of the other Party;
 - (C) given to a court in the course of proceedings for which the Disclosing Party is a party or to an expert or mediator agreed or nominated under the O&M Deed (if the Effective Date Notice has not been issued) or Amended O&M Deed (if the Effective Date Notice has been issued); or
 - (D) to any of its financial, technical, legal or other advisers who agree to keep the Confidential Information confidential in accordance with this clause 12.1; or
- (iii) if:
- (A) the Disclosing Party has obtained a confidentiality deed relating to the Confidential Information from the Third Party to whom it intends to disclose in favour of the other Party to this Deed; and
 - (B) the information is for the purposes of assigning or transferring the Disclosing Party's rights, interests and obligations under this Deed.
- (e) The Principal may also disclose Confidential Information to the Secretary of TfNSW (or equivalent), the Principal's shareholding or responsible Ministers and the New South Wales Government.
- (f) Subject to clause 12.1(b), each Party may disclose Confidential Information to its Associates to the extent necessary to enable the Party to perform its obligations under this Deed.

12.2 Disclosure by the Principal

- (a) The Service Provider acknowledges and agrees that:
- (i) the Principal may publish or otherwise disclose parts of this Deed and information concerning the terms of this Deed to NSW Government departments or agencies or as otherwise required by Law; and
 - (ii) the Principal may be required to publish information concerning this Deed:
 - (A) in accordance with the GIPA Act in response to an access application under Part 4 of the GIPA Act or as part of its disclosure obligations for government contracts in the government contracts register under Part 3, Division 5 of the GIPA Act;
 - (B) under any similar or replacement legislation to the GIPA Act; or
 - (C) by the Auditor-General or NSW Parliament.

13 Relationship between TAHE and TfNSW

TAHE has appointed TfNSW as its agent for the purposes of managing its functions under this Deed and any function of TAHE under this Deed may be exercised by TfNSW on its behalf.

14 Entire Agreement

To the extent permitted by law, this Deed supersedes any prior written or other agreement of the Parties in respect of the subject matter of this Deed.

15 Assignment

A Party cannot assign, charge, encumber or otherwise deal with any of its rights or obligations under this Deed, or attempt or purport to do so, without the prior written consent of the other Party. The consent of a Party may be withheld in its absolute discretion without giving any reason for doing so.

16 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Deed by a Party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Deed.
- (b) A waiver or consent given by a Party under this Deed is only effective and binding on that Party if it is given or confirmed in writing by that Party.
- (c) No waiver of a breach of a term of this Deed operates as a waiver of another breach of that term or of a breach of any other term of this Deed.

17 Further Assurances

Each Party must do anything necessary or desirable (including executing agreements and documents) to give full effect to this Deed.

18 No Merger

The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

19 Costs and Stamp Duty

Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Deed. All stamp duty (including fines, penalties and interest) payable on or in connection with this Deed and any instrument executed under or any transaction evidenced by this Deed must be borne equally by the Parties.

20 Governing Law and Jurisdiction

This Deed is governed by and will be construed according to the laws of New South Wales and each Party irrevocably submits to the jurisdiction of the courts of New South Wales.

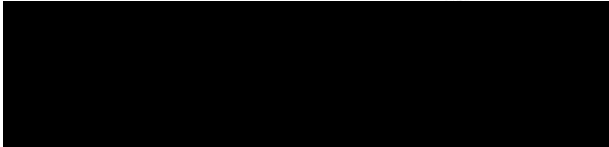
21 Execution and Counterparts

This Deed may be executed electronically and may be executed in counterparts.

Executed and delivered as a Deed

Signed by Transport for NSW
ABN 18 804 239 602 by its Authorised
Delegate:

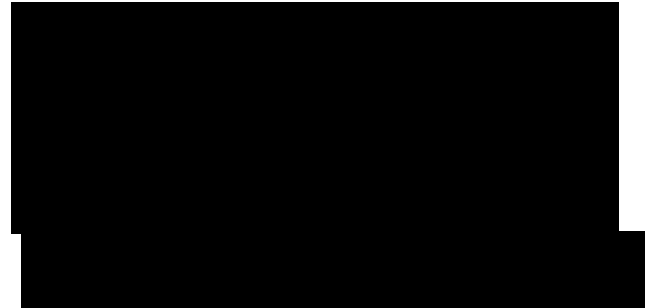
in the presence of:



Signature of Authorised Delegate



Name of Authorised Delegate (print)



Name of Witness (print)

**Signed by Transport Asset Holding Entity of
New South Wales ABN 59 325 778 353 by its
Authorised Delegate:**

in the presence of:

[Redacted Signature]

Signature of Authorised Delegate

[Redacted Name]

Name of Authorised Delegate (print)

[Redacted Name]

[Redacted Signature]

Name of Witness (print)

[Redacted Name]

Executed as a deed in accordance with section 127
of the *Corporations Act 2001* by **UGL Regional Linx**
Pty Ltd (ACN 646 771 011):

[Redacted Signature]

Director

[Redacted Signature]

Print Name

Director/Secretary

[Redacted Signature]

Print Name

Schedule 1 – Conditions Precedent

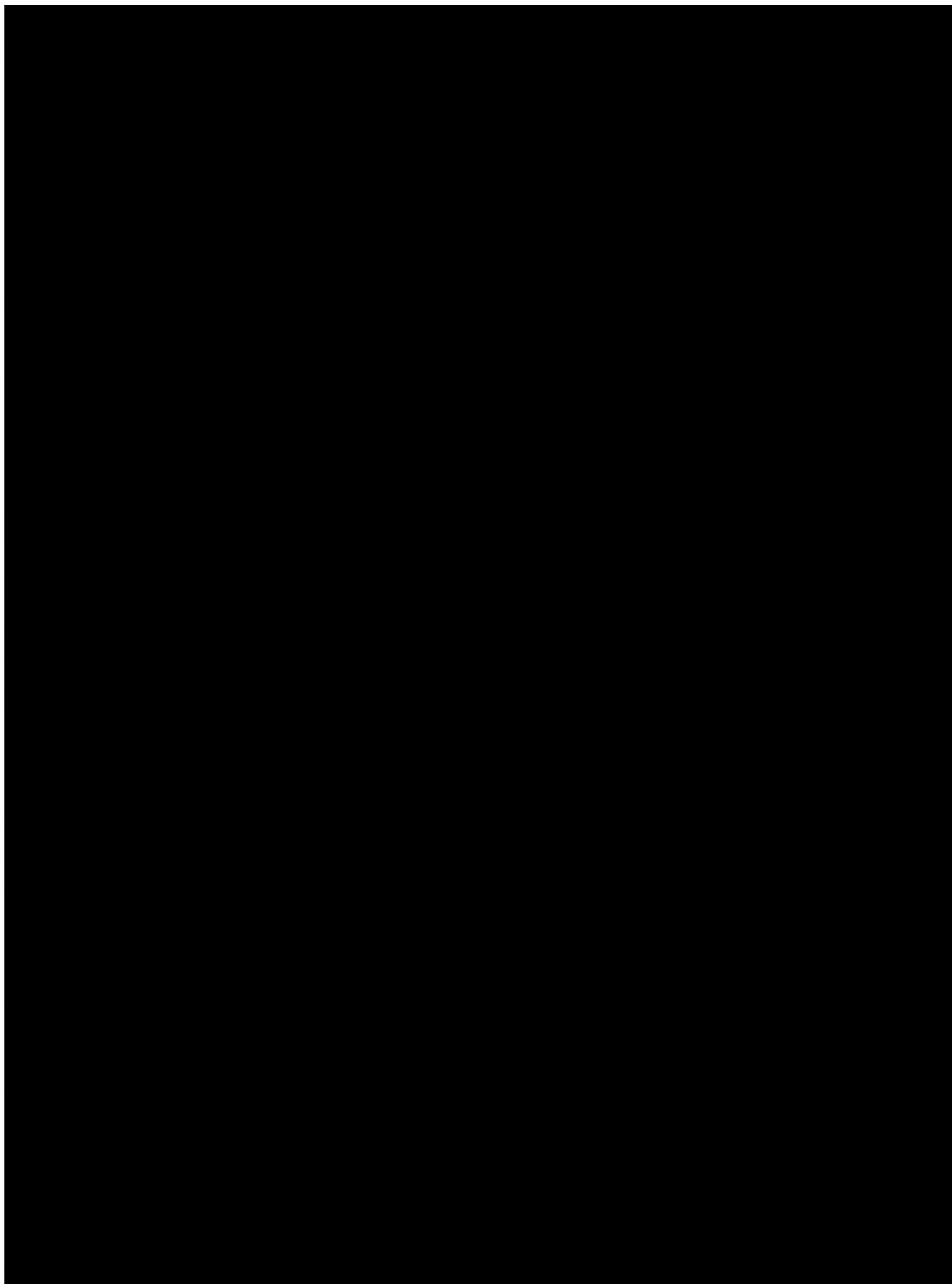
1 Service Provider Conditions Precedent

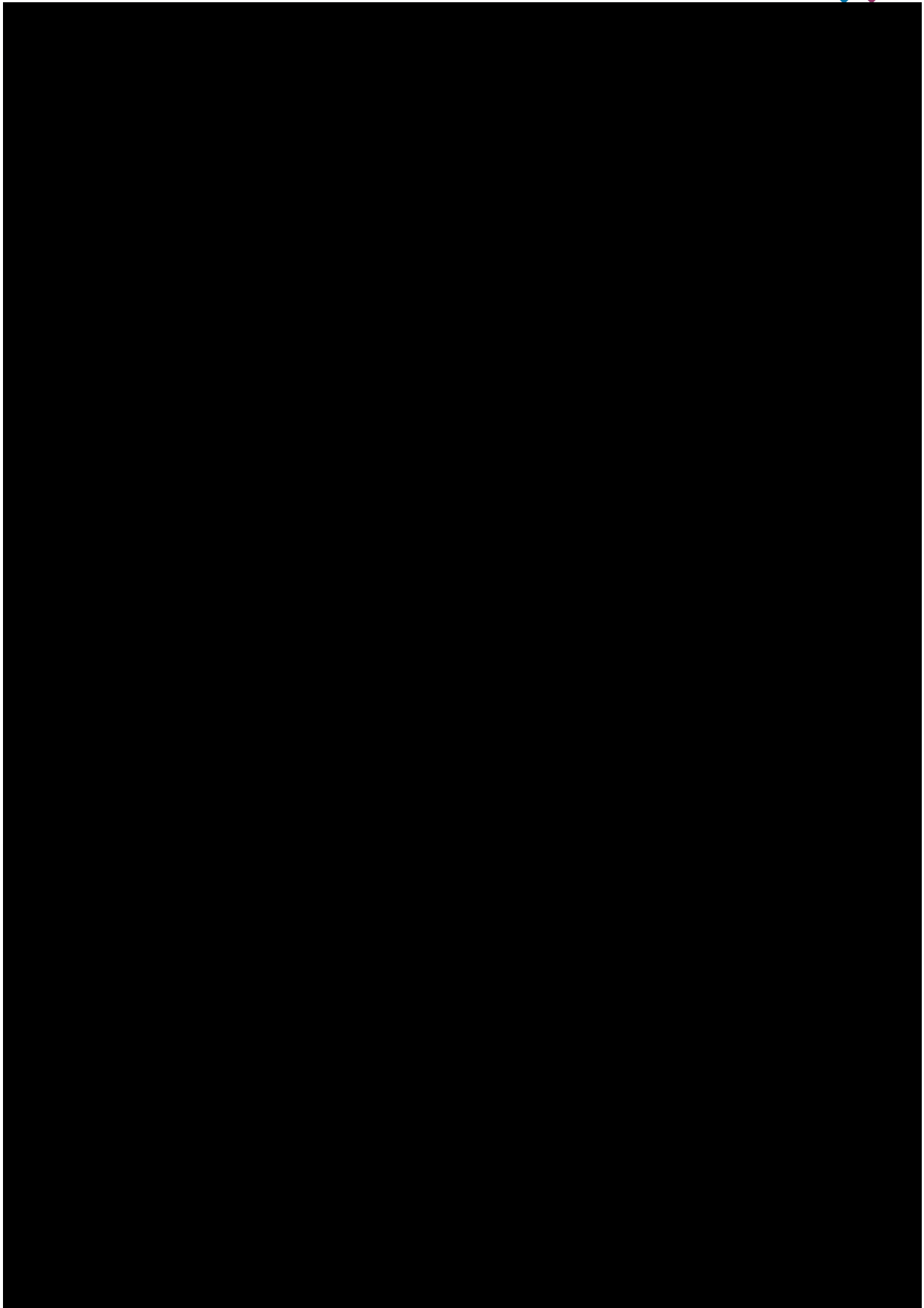
- (a) **(Execution of Deed by the Service Provider)** the Service Provider has provided a duly executed counterpart of this Deed; and
- (b) **(Parent Company Guarantee Confirmation)**: the Parent Company has provided a confirmation acknowledging and confirming that the Parent Company Guarantee continues and guarantees the Service Provider's obligations under the Amended O&M Deed.

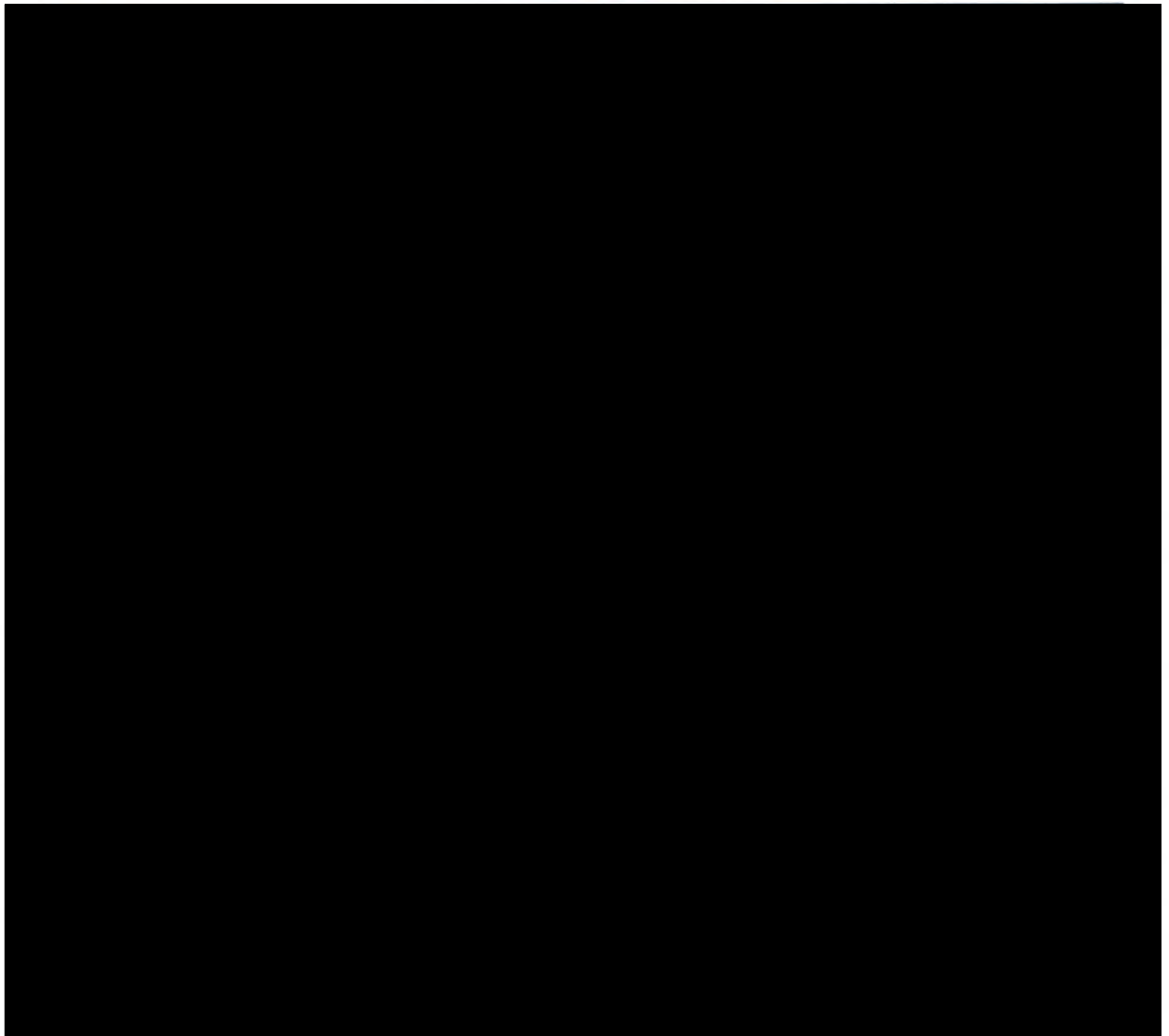
2 Principal Conditions Precedent

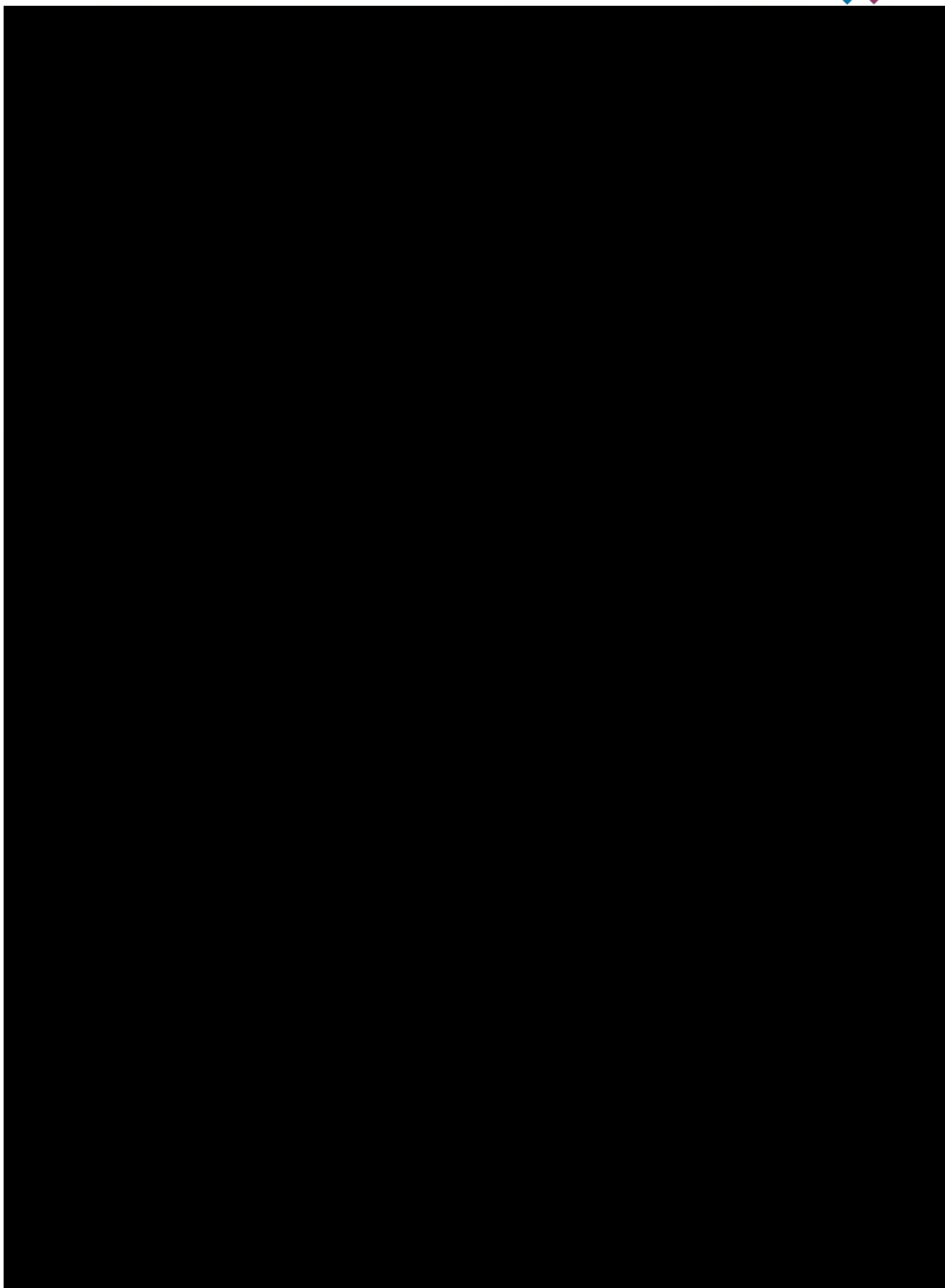
- (a) **(Execution of Deed by the Principal)** the Principal has provided a duly executed counterpart of this Deed.

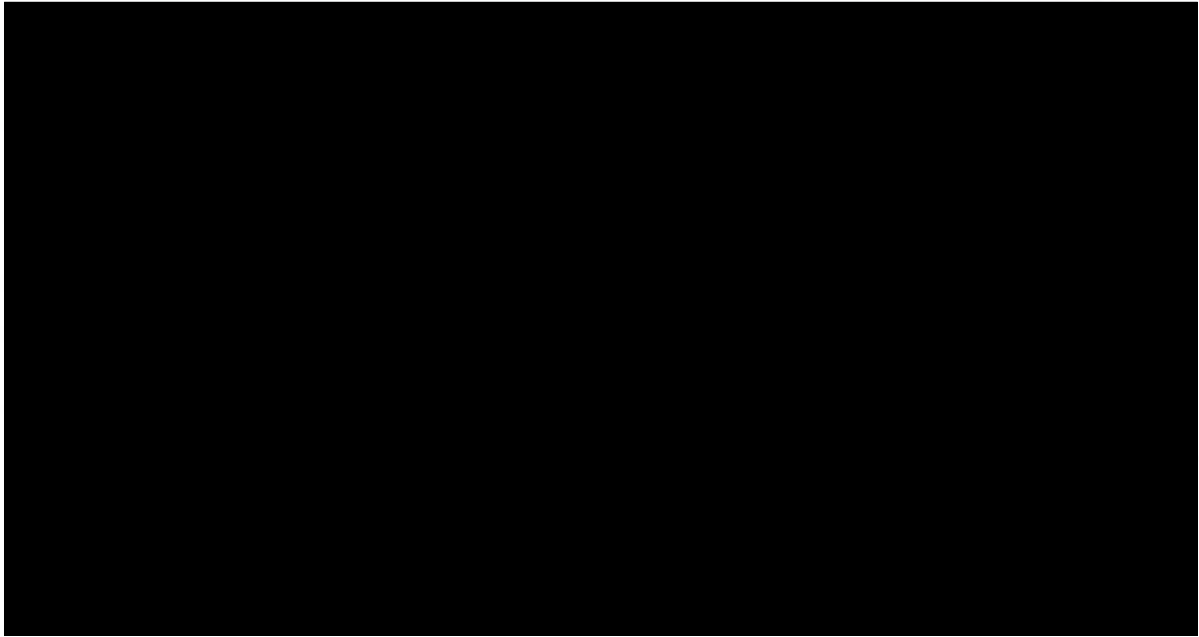
Schedule 2 – Amended O&M Deed

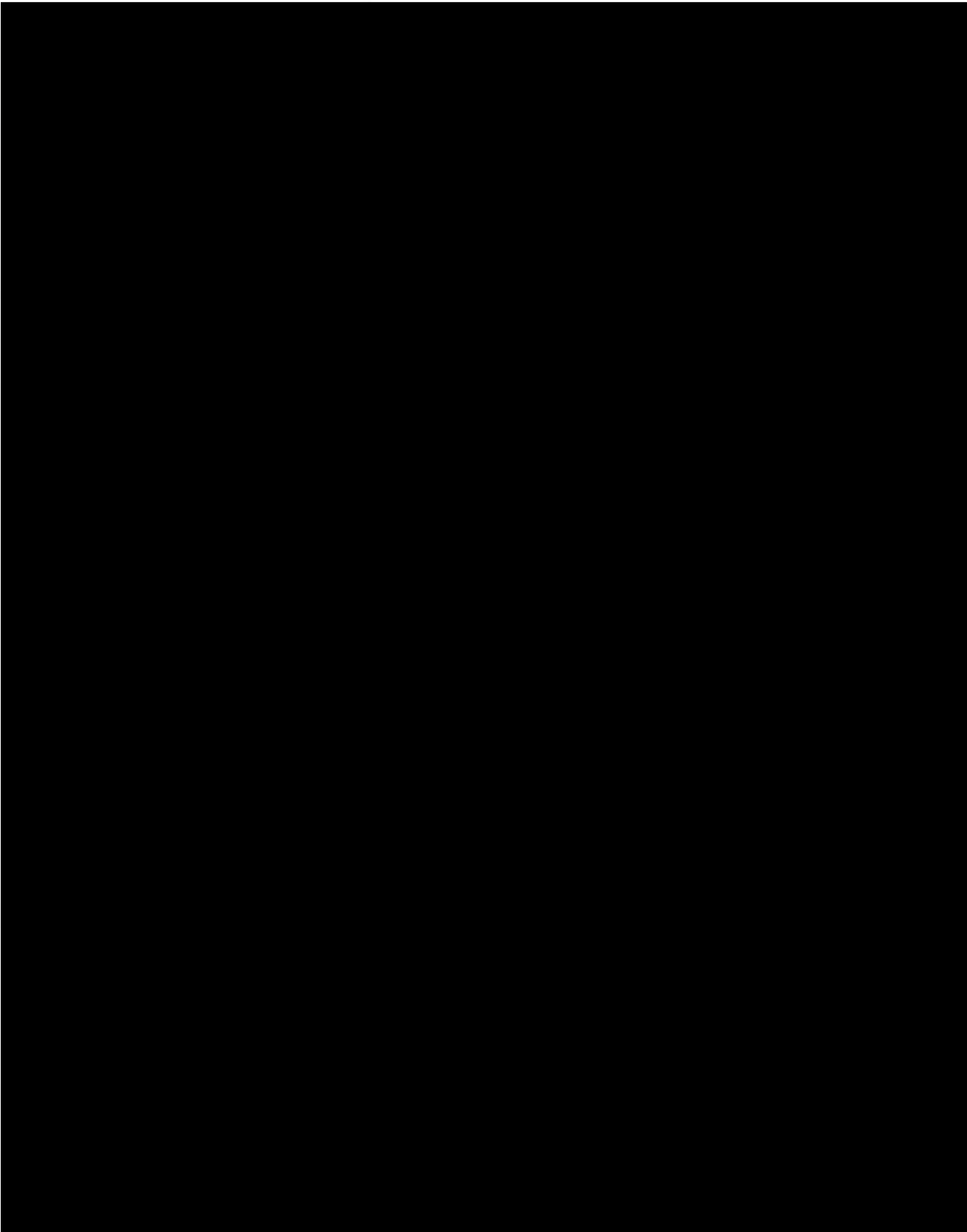












Schedule 6 – Updates to plans

Item No.	Plan to be updated	Party responsible
1.	Aboriginal Participation Plan	Service Provider
2.	50AMP	Service Provider
3.	10MSP	Service Provider
4.	Network Operations Plan	Service Provider
5.	Third Party Works Management Plan (subject to prior agreement of the P011 Procedure in accordance with the Scope of Works)	Service Provider
6.	Stakeholder Management Plan	Service Provider

Country Regional Network

Operations and Maintenance Deed

Transport for NSW

and

Transport Asset Holding Entity of New South Wales

and

UGL Regional Linx Pty Ltd

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[REDACTED]

[REDACTED]

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Attachment P – List of Historic Defects

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[REDACTED]

Schedule 11 – Principal Supplied Assets

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[REDACTED]

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Schedule 17 – Approvals Matrix

Schedule 18 – Principal-Provided Network Control System – Transitional Arrangements

Schedule 19 – Dilapidation Management Plan Template

Country Regional Network Deed

Dated

Parties

Name	Transport for NSW (ABN 18 804 239 602)
Address	231 Elizabeth Street, Sydney NSW 2000
Email	[REDACTED]
Contact	Principal's Representative
Short name	TfNSW
Name	Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353)
Address	Level 15, 130 Pitt Street, Sydney NSW 2000
Email	[REDACTED]
Contact	Executive General Manager Assets, Safety & Environment
Short name	TAHE
Name	UGL Regional Linx Pty Ltd (ACN 646 771 011)
Address	161 Kite Street, Orange NSW 2800
Email	[REDACTED]
Contact	[REDACTED]
Short name	Service Provider

Background

- A. TAHE is the owner of certain parts of the Country Regional Network and Transport for NSW is the owner of other parts of the Country Regional Network.

- B. In order to achieve the objectives set out in **clause 2.1**, the Principal wishes to engage the Service Provider to manage, operate, maintain and upgrade the CRN Assets and carry out other associated and ancillary obligations as set out in the terms of this Deed.
- C. This Deed sets out the terms on which the Service Provider agrees to manage, operate, maintain and upgrade the CRN Assets.

This Deed witnesses

Part A – Introduction**1 Definitions and Interpretation****1.1 Definitions**

In this Deed, the following definitions apply:

Abandonment means where the Service Provider has failed to, or has refused to, carry out the whole or a substantial part of the Services for:

- (a) no less than 30 consecutive days; or
- (b) no less than 60 days (whether consecutive or not) in any period of 6 consecutive months, except to the extent the Service Provider is relieved of the obligation to carry out the Services (or such part of the Services) by the express provisions of this Deed.

Abatement Adjustment has the meaning given in the **Payment Schedule**.

Aboriginal Heritage Impact Permit means:

- (a) a permit under section 90 of the *National Parks and Wildlife Act 1974* (NSW); or
- (b) a permission or approval under Part 10B of the ACT Heritage Act in relation to an Aboriginal place or an Aboriginal object.

Accelerate or **Acceleration** has the meaning given in **clause 14.8(a)**.

ACT Heritage Act means the *Heritage Act 2004* (ACT).

ACT Heritage Council means the council established under the ACT Heritage Act.

ACT Heritage Register means each heritage register kept by the ACT Heritage Council under section 20 of the ACT Heritage Act.

ACT Licence means the document titled Deed of Licence between the entity formerly known as the Rail Infrastructure Corporation, the Australian Capital Territory and the entity formerly known as the Planning and Land Authority of the Australian Capital Territory, dated on or about 15 January 2007.

Act of Prevention means, in respect of each of the Indemnified Parties:

- (a) any negligent or unlawful act or omission;
- (b) any breach of this Deed; or
- (c) any Wilful Default,

committed by the relevant Indemnified Party.

Adjustment Event means each of the events or circumstances specified as such in column 'A' of the table in **Part 3** of the **Variations Schedule**.

Affected Obligations means the non-financial obligations of the Principal or the Service Provider (as applicable) under this Deed that the Principal or the Service Provider (as applicable) is prevented from performing as a result of a Force Majeure Event.

Agency Services means:

- (a) those Services set out in **section 3.8 (Manage Revenue Collection and Bank Guarantees)** of the **Scope of Works**; and

- (b) those Services involving the management of leases, licenses, access agreements and other agreements between the Principal and third parties,

as well as any other Services which this Deed expressly provides are required to be carried out, or are otherwise notified by the Principal's Representative in writing from time to time as being required to be carried out, by the Service Provider as agent of the Principal.

AMB means the 'Asset Management Branch', being the unit within TfNSW which, (in relation to Technically Assured Organisations) sets, maintains and administers the framework for assessment, authorisation, surveillance, review and audit of organisations who provide services in relation to the Asset Lifecycle of Transport Assets.

Approval means:

- (a) any consent, approval, acknowledgment, permit, licence, registration, order, permission, determination, certificate, concurrence, requirement or exemption of any Authority or under any Law; or
- (b) any requirement made under any Law.

Approvals Matrix means the matrix set out in **Schedule 17**.

Approved Deterioration or Dilapidation means deterioration or dilapidation in accordance with a Dilapidation Management Plan, approved by the Principal in accordance with **clause 5.1C**.

Approved Subcontract Agreement means an agreement which is entered into by the Service Provider with a Subcontractor on the terms which have been approved in writing by the Principal's Representative under **clause 14.1(f)(i) or (ii)**.

ARA DDA Exemption Application means the application for an exemption under section 55 of the *Disability Discrimination Act 1992* (Cth), section 33A.1 of the *Disability Standards for Accessible Public Transport 2002* (Cth), and section 5.1 of the *Disability (Access to Premises – Buildings) Standards 2010* (Cth) by the members of the Australasian Railway Association submitted in or about 2020 and the supplementary submission for that exemption by the members of the Australasian Railway Association to the Australian Human Rights Commission submitted in or about 2020, copies of which are attached as **Attachment N**.

ARTC means Australian Rail Track Corporation Limited (ABN 75 081 455 754).

ARTC Lease means the deed titled 'Deed of Lease' for the operation, management and maintenance by ARTC of a rail network owned by TfNSW, entered into by TfNSW, the State Rail Authority of NSW and ARTC dated 4 June 2004 as amended from time to time.

ARTC Lease State Road Overbridge Maintenance Services means the Asset Management Services and the Asset Maintenance Services in respect of those overbridges specified in the register in **Appendix K** to the **Scope of Works** in respect of which the column titled "Option 3C" is completed "Yes".

Assessment Works means work to investigate, assess, characterise and define Contamination and report on those findings in order to fully define and characterise the nature and extent of the Contamination and any remediation work that may be required, but does not include Initial Response Works.

Asset includes any land, interchanges, stations, track, buildings, structures, bridges, plant, equipment, embankments, cuttings, rail, ballast, sleepers, services, utilities, culverts, drainage infrastructure, signalling infrastructure, information technology systems, communications systems, turnouts, sidings and other assets and infrastructure.

Asset Information System means the asset information system required to be developed and maintained by the Service Provider in accordance with **section 5.3.3** of the **Scope of Works**.

Asset Lifecycle means whole of lifecycle activities and activities that are specific to a phase or several phases during a lifecycle, and includes:

- (a) concept, feasibility and total asset planning;
- (b) design and design review;
- (c) construction, installation, fabrication and manufacture;
- (d) systems engineering and systems integration;
- (e) inspecting, testing and commissioning;
- (f) maintenance;
- (g) modification; and
- (h) decommissioning, demolition and disposal,

and includes assurance of such activities including safety.

Asset Lifecycle Services means the aspects of the Services which relate to the Asset Lifecycle of any Transport Assets.

Asset Maintenance Services has the meaning given in **section 6** of the **Scope of Works**.

Asset Management Planning Documents has the meaning given in the **Scope of Works**.

Asset Management Services has the meaning given in the **Scope of Works**.

Asset and Service Plan or **ASP** has the meaning given in **section 1** of the **Scope of Works**.

Associate means, in respect of a party, the employees, agents, invitees (other than the other party), consultants, contractors and subcontractors of the party (and includes each of their respective employees and agents), and in respect of:

- (a) the Principal:
 - (i) includes the Principal's Representative; and
 - (ii) excludes the Service Provider, and any counterparty to a Relevant Document; and
- (b) the Service Provider, includes all Subcontractors.

ATSB means the Australian Transport Safety Bureau constituted under the *Transport Safety Investigation Act 2003* (Cth).

Audit Asset has the meaning given in **Schedule 13**.

Audit Asset Maintenance Costs has the meaning given in **Schedule 13**.

Audit Asset Renewal Costs has the meaning given in **Schedule 13**.

Authority means:

- (a) any governmental or semi governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality; or

- (b) any private electricity, telecommunications, gas or other utility company or any other person having jurisdiction over, a right to impose a requirement in respect of, or whose consent is required in respect of, any part of the CRN Assets or the Services,

including the AMB, the OTSI and the ONRSR.

Backup Network Control Centre means:

- (a) prior to the PPNC Switch-Over Date, the backup Network Control Centre required to be maintained by the Service Provider in accordance with **section 9** of the **Scope of Works**; and
- (b) on and from the PPNC Switch-Over Date, a backup Network Control Centre for use in the event that the Network Control Centre becomes non-operational for any reason.

Baseline Condition means in respect of each CRN Non-Operational Structure, the condition and state-of-repair of the relevant CRN Non-Operational Structure as at the date of this Deed.

Baseline Condition Defect means a defect in a CRN Non-Operational Structure that:

- (a) does not comply with the RSNL or any other applicable Law; or
- (b) does not comply with a Relevant Document.

Baseline GTK means either:

- (a) where, as at the end of the relevant Contract Year, there has been no Significant Change to Operations after the Services Commencement Date, [REDACTED] or
- (b) otherwise, the Selected GTK for the relevant Contract Year in which the last Significant Change to Operations occurred,

provided that where any relevant Contract Year is not a complete Financial Year, the amount determined in accordance with **paragraph (a) or (b)** (as applicable) will be adjusted on a pro rata basis on account of the difference between the number of days in the relevant Contract Year and the number of days in the relevant Financial Year.

Baseline Reference Asset Costs has the meaning given in **Schedule 13**.

Business Day means a day that is not:

- (a) a Saturday or Sunday;
- (b) a public holiday in New South Wales; or
- (c) 27, 28, 29, 30 or 31 December.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Carbon Credit means an 'Australian carbon credit unit' under the Carbon Farming Act or any benefit or valuable right or entitlement (including credit, cost abatement, offset or income) under any other Carbon Credit Scheme.

Carbon Credit Scheme means any legislated or administrative arrangement or scheme under which a person is entitled to receive any valuable right, credit, certificate, cost abatement, payment or other interest in connection with the abatement of Greenhouse Gas emissions.

Carbon Farming Act means the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth).

Carbon Price means a Tax relating to the existence or abatement of Greenhouse Gas emissions, or fuel or energy use, and includes any financial requirement arising from the *National Greenhouse and Energy Reporting Act 2007* (Cth).

Carry-Over Works means any work required to be performed by the Previous Service Provider under the Previous CRN Deed (or any associated or replacement agreement) that has not been completed by the Previous Service Provider by the Services Commencement Date, as notified by the Principal's Representative to the Service Provider, which may include the work specified in **Schedule 8**.

Change in Control means, in relation to an entity:

- (a) a change in the shareholding of the entity such that a change in Control of the entity occurs (whether occurring at the one time or through a series of transfers or issues of securities);
- (b) any other event (including a change or alteration in the corporate structure of the entity or the group of companies of which the entity is a member) which results in a person other than the shareholders of the entity at the date of this Deed:
 - (i) Controlling the composition of the board of directors of the entity;
 - (ii) Controlling the voting power of the board of directors or any class of shareholders, or both, of the entity; or
 - (iii) holding more than one half of the issued share capital (either beneficially or otherwise) of the entity; or
- (c) a situation or occurrence where the entity comes under the Control of a person who did not Control that entity at the date of this Deed.

Change in Law means a change in an existing, or the introduction or implementation of a new, Law (other than Standards and Codes) after the relevant Reference Date.

Change in Relevant Documents means a change in an existing, or the introduction or implementation of a new, Relevant Document after the relevant Reference Date, excluding:

- (a) any such new Relevant Document that replaces a Relevant Document of substantially the same form; or
- (b) any such change in, or new, Relevant Document that is immaterial or that does not result in the Service Provider's obligations under **clause 5.7(b)** being substantially more onerous than they were prior to such change in, or new, Relevant Document.

Change in Standards and Codes means a change in existing, or the introduction or implementation of new, Standards and Codes after the relevant Reference Date.

Claim includes any claim by the Service Provider, including any claim for, or entitlement of the Service Provider to:

- (a) payment of money, including for any element of the Monthly Services Fee or any other consideration payable by the Principal for the Services or otherwise under this Deed;
- (b) any Variation Impacts;
- (c) any Qualifying Latent CRN Assets Condition Impacts;
- (d) any Losses or other amounts of whatever nature;
- (e) relief from any of the Service Provider's obligations or liabilities under this Deed; or
- (f) any other right, remedy or claim,

whether:

- (g) under, arising out of or in any way in connection with this Deed, including for breach of contract;
- (h) arising out of, or in any way in connection with, the Services, the CRN Assets or either party's conduct, including before the date of this Deed; or
- (i) arising otherwise at law or in equity (including under statute, in tort (including negligence) or for restitution, quantum meruit or unjust enrichment) or on any other basis.

Clean Energy Legislation means legislation enacted by the Commonwealth, the State of New South Wales or the Australian Capital Territory whether before, on or after the date of this Deed, which has as one of its purposes (including by the imposition of a Carbon Price) the reduction, offset, management, recording or reporting of Greenhouse Gas emissions, and to avoid doubt includes the NGER Act.

Clean-Up Notice means any order, direction, notice or other requirement of any Authority issued under an Environmental Law or any agreement entered into with any Authority under an Environmental Law, in respect of the investigation, assessment or Remediation of any Pollution or Contamination on or from any part of the CRN Assets, as amended, varied, modified or re-issued under an Environmental Law.

Collaborative Tender Process means the process set out in **clause 14.1A**.

Commercially Available Third Party Software means software that is generally commercially available on reasonable commercial terms (and which has not been modified).

Conditions Precedent (Mobilisation) means:

- (a) the Service Provider producing to the Principal's Representative evidence in accordance with **clause 19.5** of policies of insurance required to be effected under **clause 19** on or prior to the Proposed Mobilisation Date; and
- (b) the Service Provider providing:
 - (i) the Security required by this Deed in accordance with **clause 3.8**;
 - (ii) the Parent Company Guarantee in accordance with **clause 3.14**;
 - (iii) if required, each Foreign Legal Opinion, in accordance with **clause 3.14 or 20.3**;
 - (iv) the Principal with all deed polls required in accordance with **clause 20.3**, to the extent required to be provided by the Proposed Mobilisation Date; and
 - (v) the Principal with either:
 - (A) a copy of the approval or no objection notice obtained from the Foreign Investment Review Board in respect of the Service Provider's entry into this Deed and all transactions contemplated by this Deed; or
 - (B) a copy of a letter or other correspondence from the Foreign Investment Review Board to the satisfaction of the Principal confirming that approval from the Foreign Investment Review Board is not required in respect of the Service Provider's entry into this Deed or any transaction contemplated by this Deed.

Conditions Precedent (Services Commencement) means:

- (a) each of the Conditions Precedent (Mobilisation) being either satisfied by the Service Provider or waived by the Principal in accordance with **clause 3.3(b)(i)**;
- (b) the Service Provider having achieved each of the Mobilisation Milestones;

- (c) the Service Provider holding Rail Safety Accreditation in respect of the CRN Assets and as otherwise necessary for the carrying out of the Services;
- (d) the Service Provider being a Technically Assured Organisation;
- (e) the Service Provider being lawfully entitled to carry out that part of the Services comprising Railway Operations;
- (f) the Service Provider obtaining any Environment Protection Licences necessary to enable it to commence carrying out the Services and demonstrating to the Principal's satisfaction that the Service Provider is capable of obtaining all further Environment Protection Licences necessary to enable it to carry out the Services;
- (g) the Service Provider producing to the Principal's Representative evidence in accordance with **clause 19.5** of policies of insurance required to be effected under **clause 19** on or prior to the Services Commencement Date;
- (h) the Service Provider having entered into all Safety Interface Agreements required to be in place to enable the Services (other than the Mobilisation Activities and the Early Enhancement Activities) to be commenced to be carried out in accordance with this Deed, except for those Safety Interface Agreements in respect of which the Service Provider is not able to enter into the Safety Interface Agreement with the relevant counterparty by the Proposed Services Commencement Date despite the Service Provider having taken all possible steps to the satisfaction of the Principal (in its absolute discretion) and as required by Law (including the requirements of ONRSR);
- (i) the interface of the Service Provider's information management systems with the Principal's asset management system to the satisfaction of the Principal's Representative;
- (j) the Service Provider has provided a Transition Out Plan in accordance with **clause 6.8** and that Transition Out Plan has not been rejected by the Principal's Representative (and is not otherwise deemed to be rejected) in accordance with **clause 6.8**;
- (k) the Service Provider being licensed as a real estate agent and a stock and station agent pursuant to the *Property, Stock and Business Agents Act 2002* (NSW) (or holds a relevant exemption for such licensing requirements);
- (l) the Service Provider has obtained any other Approval required to be obtained to enable the Services (other than the Mobilisation Activities and the Early Enhancement Activities) to be commenced to be carried out in accordance with this Deed;
- (m) a Transitional Agreement has been executed by both the Service Provider and the Previous Service Provider and a copy of the executed Transitional Agreement provided to the Principal's Representative;
- (n) the Service Provider has provided the Principal's Representative with updated versions of each of the following plans in accordance with **clause 6.9** and each of those updated plans has been approved by the Principal's Representative in accordance with **clause 6.9**:
 - (i) SMEPP;
 - (ii) Regional Employment Plan;
 - (iii) Aboriginal Participation Plan;
 - (iv) WHS Management Plan;
 - (v) Network Operations Plan;

- (vi) Stakeholder Management Plan;
 - (vii) the Asset Management Planning Documents;
 - (viii) the Asset and Services Plan;
 - (ix) Environmental Management Plan;
 - (x) Heritage Management Plan;
 - (xi) Safety Management Plan;
 - (xii) Third Party Works Management Plan;
 - (xiii) Property Management Services Plan;
 - (xiv) Non-Operational Lines Management Plan;
 - (xv) Transition Out Plan;
 - (xvi) if, as at the date that is 3 months prior to the Proposed Services Commencement Date, the Principal's Representative has already exercised Option 4 in accordance with **clause 14.2(a)** of the General Conditions, Level Crossing Closure Plan;
 - (xvii) Level Crossing Management Plan;
 - (xviii) if, as at the date that is 3 months prior to the Proposed Services Commencement Date, the Principal's Representative has already exercised Option 5 in accordance with **clause 14.2(a)** of the General Conditions, Turnout Rationalisation Plan; and
 - (xix) if, as at the date that is 3 months prior to the Proposed Services Commencement Date, the Principal's Representative has already exercised Option 6 in accordance with **clause 14.2(a)** of the General Conditions, Structures Disposal Plan; and
- (o) the Service Provider producing to the Principal's Representative evidence in accordance with **clause 19.5** of policies of insurance required to be effected under **clause 19** on or prior to the Proposed Services Commencement Date.

Confidential Information means:

- (a) this Deed and any other Records supplied by either the Service Provider or the Principal of a confidential nature; and
- (b) without limiting **paragraph (a)**, any information relating to the past, present or future business or operations of a party (or, in respect of the Principal, any NSW Government agency) that comes to the knowledge of the other party and includes:
 - (i) financial, budgetary, marketing, research and business plan information;
 - (ii) the position of a party or an officer or employee of that party on any confidential matter;
 - (iii) the terms of any contract, agreement or business arrangement with third parties;
 - (iv) trade secrets, licences, know-how and related information;
 - (v) customer lists and supplier lists;
 - (vi) third party information disclosed in confidence; and

- (vii) any other information the disclosure or use of which may be detrimental to the interests of a party or of any other person who has provided it to that party on a confidential basis,

but does not include information in the public domain (unless in the public domain due to a breach of confidentiality by any person).

Conflict of Interest means, whether at an individual or entity level, any situation, including the engagement in any activity or obtaining of any interest, likely to:

- (a) create a reasonable expectation of direct benefit or loss (whether financial or non-financial) for an individual or entity with a particular interest that could be influenced, or appear to be influenced, in favour of that interest, in the performance of their duties;
- (b) without limiting **paragraph (a)**:
 - (i) result in actual or perceived conflict or likely conflict with the carrying out by the Service Provider or any of its Associates of the Services; or
 - (ii) restrict the Service Provider or any of its Associates in carrying out the Services.

Consequential or Indirect Loss means any loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of business or loss of business opportunity, loss of contract (other than the loss of this Deed), loss of goodwill, loss of use, loss of production or failure to realise anticipated savings (whether the loss is direct or indirect).

Contamination means the presence in, on or under land of a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment, and **Contaminant** has an equivalent meaning.

Contamination Management Works means Assessment Works and Remediation Works.

Contract Year means:

- (a) initially, the period commencing on the Services Commencement Date and ending on the earlier of:
 - (i) the last day of the Financial Year in which the Services Commencement Date falls; and
 - (ii) the Termination Date;
- (b) each full Financial Year thereafter (until the Termination Date); and
- (c) the period commencing at the start of the Financial Year in which the Termination Date falls and ending on the Termination Date.

Control has the meaning in s 50AA of the *Corporations Act 2001* (Cth).

Corrective Maintenance means, after the Reset Date:

- (a) any works forming part of the Services that:
 - (i) must be undertaken to restore items to a specified condition by repairing or replacing items; and
 - (ii) are carried out as a result of failures or unsatisfactory conditions detected during preventive maintenance examinations and checks;
- (b) any Services that are required as a direct result of an Emergency Response Incident; or
- (c) any Services that are a direct response to an Incident which results in a CRN Asset not complying with the CRN Reset Objectives,

but excludes:

- (d) works set out in the current 3MWP;
- (e) Emergency Response Maintenance; and
- (f) Expanded 3MWP Scope Works.

Corrective and Emergency Maintenance means:

- (a) Corrective Maintenance; and
- (b) Emergency Response Maintenance.

Corrective and Emergency Maintenance Deferral Proposal means a proposal setting out a proposed Modification to carry out Corrective and Emergency Maintenance that sets out, in a level of detail that is appropriate for the urgency, complexity and value of the proposed Corrective and Emergency Maintenance:

- (a) the Corrective and Emergency Maintenance that is required;
- (b) an explanation of how and why the Corrective and Emergency Maintenance is required in order to meet the CRN Reset Objectives and otherwise satisfy the Service Provider's obligations under this Deed;
- (c) the cost of the Service Provider performing the Corrective and Emergency Maintenance;
- (d) if the Corrective and Emergency Maintenance is required to ensure that a CRN Non-Operational Structure is safe, an option for works to make that CRN Non-Operational Structure safe as an alternative to performing the Corrective and Emergency Maintenance and the cost of those works;
- (e) a proposed Modification to the 3MWP to defer scheduled maintenance at the Service Provider's risk, setting out details for when the deferred scheduled maintenance will be performed and the impact of that deferral; and
- (f) reasonable evidence that the Service Provider's actual Direct Costs for the performance of the Corrective Maintenance (where relevant) exhausts or could exhaust the annual budget for "Routine Corrective Maintenance" allocated in the 3MWP for the relevant Contract Year.

Corrective and Emergency Maintenance Expert means an independent expert appointed in accordance with **clause 14.6(b)** to determine a Corrective and Emergency Maintenance Referral.

Corrective and Emergency Maintenance Expert Panel means the persons listed in **Attachment Q** and any additional persons otherwise agreed by the Parties in writing from time to time.

Corrective and Emergency Maintenance Referral means a referral to a Corrective and Emergency Maintenance Expert in accordance with **clause 14.5(f)(ii)**.

Country Regional Network or **CRN** means the country regional rail network comprising the CRN Operational Network and the CRN Non-Operational Network, excluding any land or Asset which is leased to ARTC under the ARTC Lease (but including the public overbridges, owned, controlled or managed by TfNSW, over land the subject of the ARTC Lease).

COVID-19 means the disease known as Coronavirus (COVID-19), which was characterised to be a pandemic by the World Health Organisation on or about 11 March 2020.

COVID-19 Directive means a NSW public health order, issued after the relevant Reference Date for that part of the Services impacted by the public health order, but only to the extent the relevant public health order materially differs from any public health order in effect at any time on or prior to the relevant Reference Date.

CRN Asset Base Change means, to the extent arising after the date of this Deed, any addition of any Asset to, or omission of any Asset from, the CRN Assets, including in accordance with any Modification or **clause 2.16(b)**, but excluding any such addition or omission arising out of, or in any way in connection with:

- (a) any loss or damage to CRN Assets;
- (b) the carrying out of the Services (other than Enhancement Activities);
- (c) any Carry-Over Works notified by or on behalf of the Principal to the Service Provider prior to the date of this Deed (other than those specified in **Schedule 8**);
- (d) the CRN Assets referred to in **paragraph (e)** of the definition of 'CRN Assets' in this **clause 1.1**; or
- (e) the omission of the CRN Early Handback Assets in accordance with **clause 26.3A**.

CRN Assets means:

- (a) the CRN Land;
- (b) all Assets owned or controlled by TAHE:
 - (i) on, under or above the CRN Land (including, as at the date of this Deed, the Assets identified in the documents listed or otherwise set out in **Attachment F**);
 - (ii) not on, under or above the CRN Land but used by TAHE or on behalf of TAHE in connection with the CRN (including, as at the date of this Deed, the Assets identified in the documents listed or otherwise set out in **Attachment F**, but excluding any such Assets forming part of the Metropolitan Rail Network); or
 - (iii) otherwise comprising part of the CRN;
- (c) public road overbridges, owned, controlled or managed by TfNSW, over land the subject of the ARTC Lease;
- (d) Modification Assets; and
- (e) any of the following (progressively as they are affixed to the relevant land owned by TfNSW or TAHE):
 - (i) the Network Control Centre referred to in **clause 3.4(g)(ii)(A)** (as well as any other Network Control Centre constructed on land owned by TfNSW or TAHE);
 - (ii) the Backup Network Control Centre referred to in **clause 3.4(g)(ii)(B)** (as well as any other Backup Network Control Centre constructed on land owned by TfNSW or TAHE); and
 - (iii) any Depot constructed by or on behalf of the Service Provider for use in connection with the Services on land owned by TfNSW or TAHE,

as adjusted from time to time, including pursuant to any Modifications or Adjustment Events, in accordance with **clause 2.16(b)**, in accordance with **clause 26.3A** or pursuant to any arrangement between the Service Provider and TfNSW or TAHE (or their respective successors or assigns) other than this Deed.

CRN Assets Condition means any physical conditions of, on, above, below or about the CRN Assets or their surroundings, as they exist from time to time, including:

- (a) natural and artificial conditions, including water, atmospheric and subsurface conditions or characteristics;
- (b) Contamination or the existence of any hazardous substance or thing;

- (c) characteristics and Environment of the CRN Assets or suitability or otherwise of any material on, or comprising part of, the CRN Assets, including the state or repair or disrepair, working condition, residual operational life and fitness for purpose of the CRN Assets;
- (d) geotechnical and subsurface conditions;
- (e) services or facilities; and
- (f) the presence of artefacts on or under the surface of the CRN Assets.

CRN Assets Cover means the property cover held by the Principal covering the CRN Assets (excluding CRN Land) in accordance with **clause 19A.1**.

CRN Assets Cover Summary means the document titled 'Property Coverage Schedule' issued by the Principal to the Service Provider on 25 October 2024.

CRN Early Handback Assets means each of the under-bridges located at:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

as set out further in the relevant CRN Early Handback Interface Definition Agreement.

CRN Early Handback Asset Acceptance Notice has the meaning given in **clause 26.3A(d)**.

CRN Early Handback Date means, for each CRN Early Handback Asset, the date that Option 8 takes effect in respect of that CRN Early Handback Asset, whether exercised by the Principal's Representative under **clause 14.2(a)(ii)** or automatically under **clause 14.2(ab)**.

CRN Early Handback Interface Definition Agreement has the meaning given in **clause 26.3A(a)(iii)**.

CRN Land means all land comprising the CRN, including, as at the date of this Deed, the land specified or referred to in the documents listed or otherwise set out in **Attachment E**, but excluding Lot 9 in DP 1243994, as that land or the CRN exists or may be adjusted (including as notified by the Principal to the Service Provider in writing) from time to time.

CRN Non-Operational Network means the network of non-operational rail corridors where Railway Operations are suspended, as classified as "Country Regional Network Non-Operational" in the plan titled Railways of New South Wales (December 2018 Rev 11) and "CRN – Non Operational" in the plan titled Country Regional Network (CRN): Non Operational Lines Year Service Withdrawn (Version 2.3, May 2014), each of which is set out in **Appendix F** of the **Scope of Works**, as that network may be adjusted from time to time.

CRN Non-Operational Scope of Works has the meaning given in the **Scope of Works**.

CRN Non-Operational Structures means those CRN Assets that are:

- (a) any built form or structure; and
- (b) not CRN Operational Assets.

CRN Operational Network means the passenger lines, freight lines and grain lines classified as "Country Regional Network Passenger & Freight" or "Country Regional Network Grain" in the plan titled Railways of New South Wales (December 2018 Rev 11) and set out in **Appendix F** of the **Scope of Works**, as that network may be adjusted from time to time.

CRN Operational Assets means those CRN Assets which are set out or otherwise described in **Attachment F1** as 'CRN Operational Assets', as may be adjusted from time to time, including pursuant to:

- (a) subsequent identification and/or reclassification by the Service Provider of existing CRN Assets as CRN Operational Assets;
- (b) any Modifications; and
- (c) any arrangements between the Service Provider and the Principal (or its respective successors or assigns) other than this Deed.

CRN Reset Objectives means:

- (a) for all CRN Assets:
 - (i) to be safe;
 - (ii) to comply with the RSNL and any other applicable Laws;
 - (iii) to comply with all Relevant Documents (however this requirement does not alter the definition of, or any obligation in respect, of Intended Purpose);
- (b) ensuring that all CRN Operational Assets are available, accessible, fit for their Intended Purposes, operational and otherwise in compliance with this Deed; and
- (c) ensuring that all CRN Non-Operational Structures are kept and maintained:
 - (i) if a Dilapidation Management Plan for a CRN Non-Operational Structure has been approved by the Principal in accordance with **clause 5.1C**, in the condition specified under that Dilapidation Management Plan; or
 - (ii) if a CRN Non-Operational Structure does not have an approved Dilapidation Management Plan, in their Baseline Conditions.

Cure Period means, in respect of a Default Event, a period of time (which must not exceed six months in the aggregate from the date of the relevant Default Notice) within which the Principal reasonably believes an experienced, prudent and skilled service provider using Good Industry Practice could:

- (a) remedy the relevant Default Event; or
- (b) to the extent the relevant Default Event is not capable of remedy, take such other steps and measures and implement such other arrangements, as may be necessary to address or deal with the Default Event and the consequences of the Default Event, to the Principal's reasonable satisfaction (which may include the payment of money as compensation),

as that period may be extended under **clause 23.5**.

Cure Plan means a plan for either:

- (a) remedying the relevant Default Event; or

- (b) to the extent the relevant Default Event is not capable of remedy, taking such other steps and measures and implementing such other arrangements, as may be necessary to address or deal with the Default Event and the consequences of the Default Event, to the Principal's reasonable satisfaction (which may include the payment of money as compensation),

which:

- (c) sets out (as applicable):
 - (i) all the measures the Service Provider proposes to take to remedy the relevant Default Event; or
 - (ii) all the measures the Service Provider proposes to take, and arrangements the Service provider proposes to implement, to address or deal with the Default Event and the consequences of the Default Event to the Principal's reasonable satisfaction;
- (d) provides for (as applicable):
 - (i) the Default Event to be remedied; or
 - (ii) those measures to be taken and arrangements to be implemented to deal with the Default Event and its consequences to the Principal's reasonable satisfaction, within the Cure Period;
- (e) sets out the measures to be taken by the Service Provider to alleviate the consequences of the relevant Default Event pending the final remedy of the relevant Default Event or the final taking of measures and implementation of arrangements to deal with the Default Event and its consequences to the Principal's reasonable satisfaction;
- (f) includes a work plan setting out each task to be undertaken by the Service Provider and the time for each task to be completed;
- (g) includes details of the form and timing of reports to be provided by the Service Provider to the Principal as to the status of the plan, together with evidence that the Service Provider has diligently pursued and is continuing to diligently pursue the remedy of the relevant Default Event in accordance with the plan;
- (h) sets out the operational arrangements for integrating (as applicable) the remedy of the relevant Default Event, or the taking of measures and implementation of arrangements to deal with the Default Event and its consequences to the Principal's reasonable satisfaction, into the continuing carrying out of the Services; and
- (i) is otherwise acceptable to the Principal.

DDA Exemption means an exemption under section 55 of the *Disability Discrimination Act 1992* (Cth), section 33A.1 of the *Disability Standards for Accessible Public Transport 2002* (Cth), and section 5.1 of the *Disability (Access to Premises – Buildings) Standards 2010* (Cth).

Declaration means a declaration of an offsets project as an Eligible Offsets Project under section 27 of the Carbon Farming Act.

Dedicated Employees means employees employed by the Service Provider to carry out the Services during the Term.

Deed means this deed, including all schedules, attachments, annexures, exhibits and appendices.

Default Contamination means Contamination of or from any Relevant Land (including Pre-existing Contamination or Migrating Contamination) to the extent that the Contamination or its

Migration to or from or within the Relevant Land were caused, exacerbated or contributed to by any act or omission of the Service Provider or any of its Associates at any time after the date of this Deed and (without limiting the application of this definition to Migrating Contamination or Pre-existing Contamination) also includes, in respect of Migrating Contamination, so much of the Migrating Contamination the Migration of which to the Relevant Land would likely have been prevented had the Service Provider complied with all of its relevant obligations under this Deed.

Default Event means the Service Provider committing any substantial breach of this Deed, which is deemed to include each of the following:

- (a) the occurrence of a Probity Event;
- (b) a representation or warranty by the Service Provider being materially incorrect;
- (c) failing to prepare or submit (in accordance with the requirements of this Deed, including **clause 6.8**) a 3MWP that meets the requirements of the **Scope of Works** and the other requirements of this Deed;
- (d) materially failing to carry out any part of the Services in accordance with the 3MWP;
- (e) failing to comply with **clause 6.3 (Keeping of Records)** or **6.4 (Open access principles)**;
- (f) failing to comply with **clause 3.8 (Provision of Security)**, **3.9 (Replacement of Security)** or **3.14 (Parent Company Guarantee)** or **clause 2.3 (Unconditional Undertakings)** of the **Enhancement Activities Terms and Conditions**;
- (g) failing to effect and maintain any insurance in accordance with **clause 19 (Insurances)**;
- (h) persistently or materially failing to use the materials or standards of workmanship, or to exercise the degree of skill, care and diligence, required by this Deed;
- (i) persistently or materially failing to carry out the Services in accordance with this Deed;
- (j) where the Service Provider has failed to make a payment under this Deed by the date due for that payment under this Deed, failing to make that payment within 20 Business Days of a written notice from the Principal to do so;
- (k) a breach of, or failure to satisfy or comply with, the same KPI in 4 or more Payment Periods in a rolling 12 month period, where (for the purposes of this **paragraph (k)** only) multiple breaches of, or failures to satisfy or comply with, the same KPI within a single Payment Period will be considered a single breach or failure for that KPI for the relevant Payment Period;
- (l) where the Abatement Adjustment (determined in accordance with the **KPI Schedule**) Deed has reached or exceeded the value of [REDACTED] in respect of any two Payment Periods in any rolling 12 month period during the Term;
- (m) failing to comply with **clause 30.1(a) or 30.1(c) (Assignment and Change in Control)**;
- (n) failing to comply with **clause 6.2 (Key Personnel)**;
- (o) failing to remedy a breach of this Deed within 20 Business Days of a written notice (other than a Default Notice) from the Principal's Representative;
- (p) any breach of **clause 7.15(c) or 7.15(d)**; and
- (q) any breach of **clause 9.4 or 9.5**.

Default Notice means a notice issued by the Principal under **clause 23.3**.

Depot means any depot, office, laydown area, yard (or similar) used by or on behalf of the Service Provider for the performance of the Services.

Design Documentation means all design documentation (including design standards, design reports, durability reports, construction descriptions, specifications, models, samples, prototypes, calculations, drawings, digital records, computer software and all other relevant data) in computer readable and written forms, or stored by any means, required by this Deed or as may otherwise be necessary to be produced by, or on behalf of, the Service Provider to design and construct any Modification Assets or to otherwise carry out any Modifications.

Dilapidation Management Plan means a risk management plan (adopting the table of contents framework in **Schedule 19**) for the ongoing management of CRN Non-Operational Structures below their Baseline Condition that sets out (in a level of detail reasonably acceptable to the Principal):

- (a) the identity and location of the CRN Non-Operational Structures covered by the Plan, noting that the parties will agree appropriate categories or aggregation of assets (if any) to be dealt with under each Dilapidation Management Plan;
- (b) the expected deterioration or dilapidation which will occur to the CRN Non-Operational Structures;
- (c) an assessment of the risks associated with maintaining the CRN Non-Operational Structures generally in the proposed condition(s); and
- (d) any additional information reasonably required by the Principal,

provided, for the avoidance of doubt, that the cost for any activities expressly required in the Dilapidation Management Plan are included in, or the Service Provider will propose that such activities are included in, the relevant 3MWP, except where expressly stated otherwise in the approved Dilapidation Management Plan and approved as a Modification.

Direct Costs means bona fide specific costs or expenses directly, reasonably and actually incurred by Service Provider in carrying out the Services and which are not:

- (a) Overhead Costs or margin;
- (b) Support Services; or
- (c) costs which are excluded under clause 14.5(i)(ii).

Direction includes agreement, approval, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement from the Principal, the Principal's Representative or any authorised delegate of the Principal or the Principal's Representative.

Division 5.1 Assessment means, in relation to an activity, the consideration of all matters affecting or likely to affect the environment by reason of that activity as required by Division 5.1 of the EP&A Act. Note this may require a Review of Environmental Factors or an Environmental Impact Statement.

Draft Tender Documentation in relation to a proposed Modification, means:

- (a) the draft subcontract agreement, unless otherwise expressly directed in writing by the Principal's Representative, on the terms approved by the Principal's Representative;
- (b) a request for tender;
- (c) where relevant, the Tender List;
- (d) weighting criteria for assessment of the Tenders based on the NSW IR Guidelines; and
- (e) any other documentation necessary for that part of the Services to be subcontracted, provided in accordance with **clause 14.1A(d)**.

Due Diligence Code means the document titled 'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales's published by the Department of Environment, Climate Change and Water dated 13 September 2010 or any future code of practice that amends or replaces this document that describes processes to satisfy a defence of due diligence to the offence of harming Aboriginal objects.

Early Enhancement Activities means Enhancement Activities which are the subject of:

- (a) a direction from the Principal's Representative under **clause 14.1(a)**; or
- (b) an approval by the Principal's Representative under **clause 14.3(b)**,

as contemplated by **clause 14.1(h)(v)**.

Early Enhancement Activities Completion means, in respect of each Early Enhancement Activities Package, the date on which all Early Enhancement Activities the subject of that Early Enhancement Activities Package have been completed in accordance with this Deed.

Early Enhancement Activities Package means each package of Early Enhancement Activities the subject of a direction from the Principal's Representative under **clause 14.1(a)** or an approval by the Principal's Representative under **clause 14.3(b)**, excluding any such direction requiring a Modification in respect of a package of Early Enhancement Activities that has already been directed by the Principal's Representative under **clause 14.1(a)** or approved by the Principal's Representative under **clause 14.3(b)**.

Early Enhancement Activities Package Cap means, in respect of each Early Enhancement Activities Package, [REDACTED] Early Enhancement Activities Payment.

Early Enhancement Activities Payment means, in respect of each Early Enhancement Activities Package, the amount determined in accordance with **clause 1.1(a)(i)** of **Part 2** of the **Variations Schedule**, as that amount may be adjusted in accordance with **clause 1.1(a)(i)** of **Part 2** of the **Variations Schedule** in respect of any Modification to the relevant Early Enhancement Activities.

Eligible Offsets Project has the same meaning as in the Carbon Farming Act.

Emergency Incident has the meaning given in the **KPI Schedule**.

Emergency Response Incident means an Incident in respect of which the Service Provider is required to perform "Emergency Works Services" under **section 7.1.4** or **section 7.1.5** of the **Scope of Works**.

Emergency Response Maintenance means any immediate Services required to respond to an Emergency Response Incident as part of the "Emergency Works Services" as defined in the **Scope of Works**.

Employee Record has the meaning given to that term in section 6(1) of the Privacy Act.

End of Contract Period means the period commencing on the earlier of the following dates:

- (a) the date which is twelve months prior to the expiry of the Term; and
- (b) the date on which the Principal or Principal's Representative (as applicable) notifies the Service Provider that the Principal is terminating this Deed,

and ending on the Termination Date.

Engineering Standards means those documents identified in **Appendix B** of the **Scope of Works**.

Enhancement Activities means all Modifications required to be carried out by the Service Provider pursuant to a Direction by the Principal's Representative which involve:

- (a) an upgrade, enhancement, addition, change, or expansion to, or augmentation, upgrade or replacement of, the CRN Assets; or
- (b) design work in respect of any upgrade, enhancement, addition, change, expansion, augmentation, upgrade or replacement referred to in **paragraph (a)**,

which, for the avoidance of doubt, excludes:

- (c) any upgrade, enhancement, addition, change, or expansion to, or augmentation, upgrade or replacement of, the CRN Assets referred to in, or otherwise required by, the **Scope of Works**, any 3MWP, any 10MSP or any 50AMP or otherwise contemplated by **clause 2.16(c)**; and
- (d) any design work in respect of any upgrade, enhancement, addition, change, expansion, augmentation, upgrade or replacement referred to in **paragraph (c)**.

Enhancement Activities Combined Package Cap means, in respect of each Enhancement Activities Package and any Early Enhancement Activities Package associated with that Enhancement Activities Package, the aggregate of:

- (a) the relevant Enhancement Activities Package Cap; and
- (b) the relevant Early Enhancement Activities Package Cap.

Enhancement Activities Liability means any liability of the Service Provider to the Principal and any other Indemnified Party, whether arising under or in connection with any deed poll executed in accordance with **clause 20.3** of this Deed, and whether by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (for negligence or otherwise) or on any basis in Law, to the extent such liability:

- (a) arises out of or in connection with the performance or non-performance of Enhancement Activities by the Service Provider or any other act or omission of the Service Provider or any of its Associates in connection with the carrying out of the Enhancement Activities; and
- (b) does not arise in respect of the performance or non-performance of any Services (other than the Enhancement Activities) by the Service Provider or any other act or omission of the Service Provider or any of its Associates in connection with the carrying out of such Services (other than the Enhancement Activities), including any Services in respect of completed Modification Assets.

Enhancement Activities Package means each package of Enhancement Activities (and associated Modification Assets) the subject of a direction from the Principal's Representative under **clause 14.1(a)** or an approval by the Principal's Representative under **clause 14.3(b)**, excluding any such direction requiring a Modification in respect of:

- (a) a package of Enhancement Activities that has already been directed by the Principal's Representative under **clause 14.1(a)** or approved by the Principal's Representative under **clause 14.3(b)**; or
- (b) any Modification Assets associated with the package of Enhancement Activities referred to in **paragraph (a)**,

but excludes any Early Enhancement Activities Package.

Enhancement Activities Package Cap means, in respect of each Enhancement Activities Package, [REDACTED] Variation Payments (as referred to in **section 9** of the **Payment Schedule**) for the relevant Enhancement Activities Package.

Enhancement Activities Particulars means, in respect of each package of proposed Enhancement Activities:

- (a) the Date for Completion of the Enhancement Activities for the purposes of the **Enhancement Activities Terms and Conditions**;
- (b) the total value of security required for the purposes of **clause 2.3(a)** of the **Enhancement Activities Terms and Conditions**;
- (c) additional events (if any) for which the Service Provider will be entitled to an extension of time to the Date for Completion for the purposes of **clause 7.6(a)** of the **Enhancement Activities Terms and Conditions**;
- (d) the rate of liquidated damages that will apply for the purposes of **clause 8.6(a)** of the **Enhancement Activities Terms and Conditions**;
- (e) the percentage to be applied for the purposes of **clause 8.6(d)(i)** of the **Enhancement Activities Terms and Conditions**; and
- (f) not used.

Enhancement Activities Terms and Conditions means, in respect of each package of Enhancement Activities, **Schedule 12** and **Schedule 12A** as may be particularised and amended in accordance with this Deed, including any amendments proposed by the Principal's Representative under **clause 16(e)(ii)** which are agreed to by the Service Provider.

Environment includes the meaning given to that term at Law, and includes any land, water, atmosphere, climate, sound, odours, tastes, the biological factors of animals and plants and the social factors of aesthetics.

Environmental Impact Statement means a document so called for the purposes of Division 5.1 of the EP&A Act or Part 8.2 of the *Planning and Development Act 2007* (ACT).

Environmental Law means any Law relating to the Environment, including any Law relating to land use, planning, pollution of air, soil or groundwater, chemicals, Waste, the use of transport, the storage and handling of dangerous goods, the health or safety of any person, or any other matters relating to but not limited to the protection of the Environment, health or property.

Environment Protection Licence means any licence required under:

- (a) Chapter 3 of the *Protection of the Environment Operations Act 1997* (NSW); or
- (b) Part 8 of the *Environment Protection Act 1997* (ACT).

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Excluded Approval means an Approval, responsibility for which is allocated to the Principal in the Approvals Matrix.

Excluded Claim means:

- (a) a claim under **clause 17.2** for payment on account of the Monthly Capital Works Payment;
- (b) a claim under **clause 17.2** for payment on account of the Monthly Recurring Expenditure Payment;
- (c) a claim under **clause 17.2** for payment on account of any other element of the Monthly Services Fee, to the extent the amount of such payment has already been determined by the Principal's Representative in accordance with **clause 29.1(a)** or the **Variations Schedule**; and
- (d) a claim for an extension of time to a Date for Completion in accordance with any **Enhancement Activities Terms and Conditions**.

Excluded Documents means any document or item to the extent that:

- (a) such document or item is required to be submitted by the Service Provider to the Principal or the Principal's Representative in accordance with the **Scope of Works**; and
- (b) the **Scope of Works** expressly contemplates that such document or item (or any update or change in such document or item) will be approved, or is subject to the approval of, the Principal or the Principal's Representative,

including the 3MWP, the 10MSP and the 50AMP and any updated version of the 3MWP, the 10MSP and the 50AMP.

Excluded Support Services has the meaning given in the **Scope of Works**.

Existing Network Control System means the:

- (a) components of the network control system located as at the Reset Date at the Mayfield Network Control Centre; and
- (b) components of the backup network control system located as at the Reset Date at the Warabrook Backup Network Control Centre.

Expanded 3MWP Scope Works means any works that are an increase or addition to the scope of work for a line-item in the current 3MWP, but excludes any works which the Service Provider would have reasonably foreseen or anticipated had it exercised Good Industry Practice when preparing the 3MWP, having regard to the information and knowledge available to the Service Provider at the time of preparing the relevant 3MWP (or that would have been available to the Service Provider had it exercised Good Industry Practice).

Expanded 3MWP Scope Works Proposal means a notice setting out a proposed Modification to carry out Expanded 3MWP Scope Works that sets out:

- (a) the Expanded 3MWP Scope Works that are required;
- (b) an explanation of how and why the Expanded 3MWP Scope Works would not have been reasonably foreseen or anticipated by a service provider exercising Good Industry Practice when preparing the 3MWP, having regard to the information and knowledge available to the Service Provider (or that would have been available to the Service Provider had it discharged its obligations under this Deed) at the time of preparing the relevant 3MWP;
- (c) an explanation of how and why the Expanded 3MWP Scope Works are required in order to meet the CRN Reset Objectives and otherwise satisfy the Service Provider's obligations under this Deed;
- (d) the cost of the Service Provider performing the Expanded 3MWP Scope Works; and
- (e) reasonable evidence that the Service Provider's actual Direct Costs for the performance of the relevant line-item for each project exceed or will exceed the budget allocated to the relevant project in the 3MWP in that Contract Year.

Failure Report has the meaning given in the **KPI Schedule**.

Final Cure Plan means a Cure Plan that has been submitted to the Principal's Representative under **clause 23.4(a)** and in respect of which the Principal's Representative has not, within 20 Business Days of receipt of that Cure Plan, issued a notice under **clause 23.4(b)** requiring the Service Provider to amend that Cure Plan.

Final Inspection Auditor means a person appointed to carry out an inspection and assessment in accordance with **clause 26.4(a)**.

Financial Year means a 12 month period commencing 1 July and finishing 30 June.

First Extended Expiry Date means:

- (a) if the Principal exercises its right to extend the Term for 1 year under **clause 3.5(a)(i)**, the date that is 11 years after the Services Commencement Date; or
- (b) if the Principal exercises its right to extend the Term for 5 years under **clause 3.5(a)(ii)**, the date that is 15 years after the Services Commencement Date.

Force Majeure Event means any of the following events:

- (a) riot, war, invasion or act of foreign enemies, acts of terrorism (except to the extent that insurance coverage for a terrorist act is available to the Service Provider as a consequence of the *Terrorism Insurance Act 2003* (Cth)), or hostilities;
- (b) ionising radiation or contamination, radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive, toxic, explosive or other hazardous properties of any explosive assembly or nuclear component;
- (c) earthquakes, flood, fire or other physical natural disaster; and

■ [REDACTED]

but only where:

- (e) such events or circumstances and their effects:
 - (i) are beyond the reasonable control of the affected party;
 - (ii) where the affected party is the Service Provider, would not have been able to be prevented or overcome by the exercise of Good Industry Practice by the Service Provider or any of its Associates; and
 - (iii) are not caused or contributed to in whole or in part by any act or omission of the affected party or any of its Associates;

[REDACTED]

[REDACTED]

[REDACTED]

Foreign Legal Opinion means a legal opinion in favour of the Principal which is:

- (a) in a form acceptable to the Principal; and
- (b) from a lawyer acceptable to the Principal who is authorised to practice in the place of incorporation of the relevant foreign entity to which the legal opinion relates.

[REDACTED]

FW Act means the *Fair Work Act 2009* (Cth).

General Conditions means **clauses 1 to 36** (inclusive) of this Deed.

GIPA Act means the *Government Information (Public Access) Act 2009* (NSW).

Good Industry Practice means the practices, policies, methods and acts that, with the exercise of skill, diligence, prudence and foresight, would be expected from an experienced and highly competent operator and maintainer and design and construct contractor carrying out activities and work of a similar nature to the Services (including the need to carry out the Services safely).

Governance Schedule means **Schedule 5**.

Grain GTK means the sum total GTK for all trains consisting of bulk grain wagons both empty and loaded.

Greater Newcastle Area means the Newcastle, Lake Macquarie, Maitland, and Port Stephens area.

Greenhouse Gas means one or more of the gases listed in Annex A to the Protocol of the United Nations Framework Convention on Climate Change adopted at the meeting of the parties in Kyoto, Japan on 10 December 1997 as amended or implemented by the conference of the parties to the Protocol.

Gross Tonne Kilometre or **GTK** means the gross weight of a train multiplied by kilometres travelled within the CRN.

GST has the meaning given in the GST Law.

GST Amount means, in respect of a supply made under or in connection with this Deed, the amount of GST payable, or notionally payable, on that supply.

GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Heritage and Conservation Register has the meaning given in the **Scope of Works**.

Heritage Asset Management Guidelines means any guidelines made under section 170A of the NSW Heritage Act.

Heritage Authority means:

- (a) the NSW Heritage Council;
- (b) the NSW Heritage Minister; or
- (c) the ACT Heritage Council.

Historic Defect means a latent or patent defect in a CRN Operational Asset which existed as at the date of this Deed and means that that CRN Operational Asset:

- (a) is not safe;
- (b) does not comply with the RSNL or any other applicable Law;
- (c) does not comply with any applicable Standard or Code;
- (d) poses a risk of loss or damage to property or of death or injury to any person; or
- (e) is not otherwise be fit for its Intended Purpose,

and:

- (f) such defect is listed in **Attachment P**; or

- (g) the Principal or Service Provider proves such defect existed at the date of this Deed.

HVNL means the Heavy Vehicle National Law as applied as a law of NSW by the *Heavy Vehicle (Adoption of National Law) Act 2013* (NSW) and as a law of the Australian Capital Territory by the *Heavy Vehicle National Law (ACT) Act 2013* (ACT) and any other legislation relating to the safety of a 'heavy vehicle' as defined in the HVNL.

Identified Contamination means:

- (a) Pre-existing Contamination that is specified in any Information Document or otherwise disclosed by or on behalf of the Principal to the Service Provider before the date of this Deed; or
- (b) Migrating Contamination where the Contamination of the other land from which the Contamination is Migrating is specified in any Information Document or otherwise disclosed by or on behalf of the Principal to the Service Provider before the date of this Deed.

Inception Meeting means a meeting to be held between an appropriate representative of each of the Principal and the Service Provider having regard to the potential Modification, and any other participants required by the Principal for discussion of the potential Modification and the Collaborative Tender Process, including:

- (a) the scope of the work related to the potential Modification;
- (b) the timing for each element required to be delivered under the Collaborative Tender Process;
- (c) the Principal's requirements for the:
 - (i) Variation Impacts Statement;
 - (ii) Draft Tender Documentation; and
 - (iii) Inception Meeting Record;
- (d) whether any expert studies are required to inform the concept design; and
- (e) where the Modification relates to Enhancement Activities, a preliminary discussion of the cost basis of the Enhancement Activities.

Inception Meeting Record means a record of the Inception Meeting substantially in the form of the template set out in **Attachment R**, as amended by agreement between the parties from time to time.

Incident means any:

- (a) notifiable occurrence, as defined in the RSNL;
- (b) notifiable incident, as defined in the WHS Law;
- (c) Emergency Incident, Major Incident or Minor Incident (each as defined in the **KPI Schedule**); or
- (d) other situation, event or occurrence that results (or will result) in a failure to satisfy, or compromises any persons ability to satisfy, any legal, safety or quality requirements (including under any Law or under this Deed or any Relevant Document) in relation to the CRN Assets or the Services or otherwise prevents any part of the CRN Assets (other than the CRN Non-Operational Structures) from being used for the Intended Purposes or any CRN Asset otherwise satisfying the CRN Reset Objectives.

Increased TAL TOC Waiver Additional Monitoring has the meaning given to the term 'Additional Monitoring Works' in paragraph 10 of the Increased TAL TOC Waiver Letter.

[REDACTED]

Increased TAL TOC Waiver Operations means the operations on the CRN that are not permitted under the TOC Manual and which are permitted under the Increased TAL TOC Waivers.

Increased TAL TOC Waivers has the meaning given to the term 'TOC Waivers' in paragraph 2 of the Increased TAL TOC Waiver Letter.

[REDACTED]

[REDACTED]

[REDACTED]

Indexation Schedule means **Schedule 3**.

Indicative Statement means the statement prepared, or required to be prepared, by the Service Provider in accordance with **clause 27.2**.

Industrial Instrument means any award, enterprise agreement (or any other applicable collective instrument) and any individual flexibility agreements.

Information Document means any information, data, representation, statement or document (whether written or otherwise) supplied or made available to the Service Provider or any Related Body Corporate of the Service Provider by or on behalf of the Principal or any Rail Transport Agency on, before or after the date of this Deed, other than documents which comprise part of this Deed, including those listed in **Appendix G** of the **Scope of Works**.

Infrastructure SEPP means the *State Environmental Planning Policy (Infrastructure) 2007* (NSW).

Initial Response Works means all works necessary to provide initial responses to contain Contamination to prevent or minimise immediate damage or harm to people or the Environment, such as erecting fences and signage, suppressing dust or installing a bund to contain a spill.

Initial Term means the period commencing on the Services Commencement Date and expiring 10 years later.

Innovation Change means a Modification or proposed Modification which:

- (a) involves or will involve:
 - (i) a change to the Services;
 - (ii) without limiting **paragraph (a)(i)**, any change to the methodology, means or techniques by which the Service Provider is required by this Deed to perform any part of the Services; or
 - (iii) without limiting **paragraph (a)(i)**, any change in the requirements of the **Scope of Works** relating to the organisational structure of the Service Provider in connection with the Services;
- (b) either itself constitutes or will give rise to innovation or efficiencies which exceed that which would be reasonably expected if the Service Provider exercised Good Industry Practice and otherwise complied with its obligations under this Deed, including **clause 5.6**;
- (c) the Principal's Representative agrees in writing constitutes or will constitute an Innovation Change for the purposes of this Deed; and

- (d) relates to matters of engineering, safety, operations, finance, performance, operations or incident management.

Insolvency Event means, in relation to a person, any of the following:

- (a) the person, being an individual, commits an act of bankruptcy;
- (b) the person becomes insolvent;
- (c) the person assigns any of its property for the benefit of creditors or any class of them;
- (d) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the person or the person enters into a scheme of arrangement with its creditors or is wound up;
- (e) the holder of a Security Interest takes any step towards taking possession of or takes possession of any assets of the person or exercises any power of sale;
- (f) a judgment or order is made against the person in an amount exceeding \$10,000 (or the equivalent in any other currency) and that judgment or order is not satisfied, quashed or stayed within 20 Business Days after being made;
- (g) any step is taken to do anything listed in the above paragraphs; and
- (h) any event that is analogous or has a substantially similar effect to any of the events specified in this definition in any jurisdiction.

Insurable Event means an event that is not an Uninsurable Event.

Intellectual Property means all industrial and intellectual property rights whether created before, on or after the date of this Deed, whether recognised in Australia or overseas, whether or not they are registered or capable of being registered and includes copyright, patents, trade marks, design, semi-conductor or circuit layout rights, trade secrets, know how, trade, business or company names, or other proprietary rights, or any rights to registration of such.

Intended Purposes means the purposes for which the Services or the CRN Assets (as applicable) are intended, as stated in, or ascertainable from:

- (a) this Deed;
- (b) any documents that are Relevant Documents listed in **Schedule 6** on the date of this Deed;
- (c) any change in an existing, or the introduction or implementation of a new, Relevant Document that:
 - (i) is agreed or determined in accordance with **clause 5.7** or **clause 29A** to be a Qualifying Change in Relevant Document; or
 - (ii) is notified by the Principal to the Service Provider, and the Service Provider does not provide a notice under **clause 5.7(f)(iii)** within 20 Business Days after receiving the Principal's Representative's notice; and
- (d) in respect of Modifications or Modification Assets, (without limiting **paragraphs (a) and (b)**) any relevant Direction under, or in connection with, **clause 14.1 or 14.3** and (if applicable) the relevant Modification Scope,

provided that such purpose may (without limiting the rights and entitlements of the parties arising out of any Modification referred to in **clause 14.1(h)(iv)(D)**, whether the subject of a direction from the Principal's Representative under **clause 14.1(a)** or an approval by the Principal's Representative under **clause 14.3(b)**) change following any change in status of any part of the CRN from the CRN Operational Network to the CRN Non-Operational Network or vice versa.

Investigative Authority means any Authority having a statutory right to investigate:

- (a) the Services or the CRN Assets; or
- (b) any activities of the Service Provider which are affected by, or relate to, the Services or the CRN Assets,

including the ATSB, the ONRSR and the OTSI.

Key Personnel means the personnel listed as key personnel in the Workforce and Transition Plan, as may be replaced in accordance with **clause 6.2**.

Keyboard Voice Mouse Link or **KVM Link** means the hardware installed at the Network Control Centre in Mayfield as at the Reset Date for the purpose of connecting the Network Control Centre to the Service Provider's network control facility located in Orange, and any software installed on that hardware.

KVM Compensation Event means:

- (a) a breach by the Principal of its obligations under **clause 3.4A(e)(ii)**; or
- (b) the Principal discontinuing support of the KVM Link.

KPI means a key performance indicator specified in the **KPI Schedule**.

KPI Schedule means **Schedule 4**, as amended from time to time.

Latent CRN Assets Condition has the meaning given in **Schedule 13**.

Law means:

- (a) those principles of law or equity established by decisions of courts;
- (b) statutes, regulations, by-laws and other subordinate regulations of the Commonwealth or the state of New South Wales or an Authority;
- (c) Approvals (including any conditions required under them); and
- (d) the lawful requirements of an Authority (including the ONRSR Rules),

as updated, amended or replaced from time to time.

Level Crossing Closure Services has the meaning given in the **Scope of Works**.

Listing Notice means:

- (a) a notice from the NSW Heritage Council that it is going to consider whether or not to recommend that an item be listed on or removed from the NSW State Heritage Register under the NSW Heritage Act; or
- (b) a notice that the ACT Heritage Council has provisionally registered a place or object on the ACT Heritage Register or that it is considering a cancellation proposal in respect of a place or object on the ACT Heritage Register.

Long Service Levy means the levy payable under the *Building and Construction Industry Long Service Payments Act 1986* (NSW).

Loss includes any damage, loss, cost (including legal costs on a solicitor/own client basis), expense, duty, obligation or liability, including Consequential or Indirect Loss.

Low Priority Deferral Cap means the sum of the Monthly Services Fee allocated to the performance of Low Priority Scheduled Maintenance in the 3MWP.

Low Priority Scheduled Maintenance means, in respect of each Contract Year, the maintenance and activities specified as "Low Priority Scheduled Maintenance" in the 3MWP.

Major Approval means an Approval referred to in the Approvals Matrix.

Material means material in any form, including Design Documentation, data, goods, products, equipment, software and hardware.

Mayfield Network Control Centre means the Network Control Centre located as at the Reset Date in Mayfield, Newcastle and any replacement Network Control Centre established by the Principal after the Reset Date.

Metropolitan Rail Network means the network of railway lines bounded by Newcastle Interchange (165.746km), Woodville Junction (163.981 km and 164.045 km), Bomaderry (153.630 km), Unanderra (91.080 km), Macarthur (57.965 km), and Bowenfels (158.800 km), but does not include:

- (a) the South Sydney Freight Line and Metropolitan Freight Network (bound by Marrickville 6.370 km, Flemington South Junction 18.909 km, and Sefton Park East Junction 21.285 km); or
- (b) any light rail networks and/or metro networks.

Migrate means in respect of Contamination, a substance or risk moves, flows, relocates, disperses or spreads from one location to another whether or not the original location remains Contaminated.

Migrating Contamination means Contamination that Migrates to any Relevant Land from other land whether or not such Migration commenced or occurred prior to the date of this Deed.

Mobilisation Activities means:

- (a) all activities and work required to be carried out to achieve each Mobilisation Milestone or as otherwise specified or set out in:
 - (i) the Mobilisation Plan;
 - (ii) **section 19** of the **Scope of Works** (excluding any Transition Out Activities); or
 - (iii) **clause 4**, excluding that part of the Redeployment Activities contemplated by the Redeployment Management Plan as being carried out after the Services Commencement Date; and
- (b) all obligations to be carried out (except to the extent that they relate only to work or activities to be carried out under any 3MWP) by the Service Provider under this Deed during the Mobilisation Stage,

including the preparation of the Transition Out Plan in accordance with this Deed, but excluding the Early Enhancement Activities.

Mobilisation Constructed Assets means:

- (a) those CRN Assets referred to in **paragraph (e)(i)** and **(e)(ii)** of the definition of "CRN Assets"; and
- (b) any other Assets (including any Depots referred to in **paragraph (e)(iii)** of the definition of "CRN Assets") constructed, or required to be constructed, by the Service Provider prior to the Services Commencement Date in order to carry out the Services or otherwise comply with this Deed.

Mobilisation Date means the later of:

- (a) the Proposed Mobilisation Date; and
- (b) the date on which each of the Conditions Precedent (Mobilisation) have either been satisfied by the Service Provider or waived by the Principal in accordance with **clause 3.3(b)(i)**.

Mobilisation Milestone means each milestone identified as such in the Mobilisation Plan.

Mobilisation Milestone Date means, in respect of each Mobilisation Milestone, the relevant date set out in the Mobilisation Plan, as extended in accordance with this Deed.

Mobilisation Payment means, in respect of each Mobilisation Milestone, the amount specified as such in the **Payment Schedule**, as adjusted in accordance with this Deed.

Mobilisation Plan has the meaning given in the **Scope of Works**.

Mobilisation Stage means the period commencing on the Mobilisation Date and ending immediately before the Services Commencement Date.

Modification means any change (including any increase, decrease, modification, deletion or omission) in or to the Services, but excludes any Adjustment Event or any Latent CRN Assets Conditions, or any work or activities arising out of, or in any way in connection with, any Adjustment Event or any Latent CRN Assets Conditions.

Modification Asset means the Assets to be furnished, fabricated, constructed, installed, erected or commissioned by the Service Provider in the carrying out of Modifications, but excluding any Plant and Equipment.

Modification Contamination means Contamination of Relevant Land the subject of a direction from the Principal's Representative under **clause 14.1(a)** or an approval by the Principal's Representative under **clause 14.3(b)**.

Modification Scope means, in respect of a Modification or proposed or alleged Modification, documentation fully setting out:

- (a) the design and specification of the potential Modification; and
- (b) if the Modification is Enhancement Activities:
 - (i) Subcontractor warranty details; and
 - (ii) the boundaries of the site within which the Modification Assets will be constructed.

Monthly Capital Works Payment has the meaning given in the **Payment Schedule**.

Monthly Recurring Expenditure Payment has the meaning given in the **Payment Schedule**.

Monthly Services Fee means, in respect of each Payment Period, the amount calculated as such in accordance with **Section 4.1** of the **Payment Schedule**.

Moral Rights has the meaning given to that term in the *Copyright Act 1968* (Cth).

Network Control Centre means a centre for control of network operations for the CRN required for the carrying out of the Services.

Network Owner means, in respect of each part of the CRN Assets, the entity that owns that part of the CRN Assets, including any person or entity to whom any part of the CRN Assets are transferred as contemplated by **clause 30.5**.

NGER Act means the *National Greenhouse and Energy Reporting Act 2007* (Cth).

Nominated Assets means the Assets the subject of a written notice from the Principal's Representative under **clause 27.4(a)**.

Non-Compliance means:

- (a) any defect, deficiency, fault or omission in or from any part of the Services or any Record produced by, or on behalf of, the Service Provider in carrying out the Services, including

any aspect of any part of the Services or any such Record which is not in accordance with the requirements of this Deed; and

- (b) any defect, deficiency, fault or omission in or from any part of the CRN Assets, to the extent that such defect, deficiency, fault or omission is caused by any act or omission of the Service Provider or any of its Associates.

Non-Service Provider Non-Labour Costs or **NSPNL Costs** means third party costs and expenses charged to the Service Provider in connection with the Principal-Provided Network Control System, such as intellectual property licence fees, premises rental costs, 4tel costs and service fees (and excluding the Service Provider's own labour costs).

NSW Government Policy means any policy or guideline of the NSW Government, as published from time to time, that is not a Law.

NSW Heritage Act means the *Heritage Act 1977* (NSW).

NSW Heritage Council means the council established under the NSW Heritage Act.

NSW Heritage Minister means the New South Wales Minister responsible for administering the NSW Heritage Act.

NSW IR Guidelines means the New South Wales Industrial Relations Guidelines: Building and Construction Procurement (September 2017) as updated from time to time and available at <http://www.industrialrelations.nsw.gov.au>.

NSW State Heritage Register means the heritage register kept by the NSW Heritage Council under Part 3A of the NSW Heritage Act.

NSW Trains means the body corporate with ABN 50 325 560 455 constituted by Part 3C of the *Transport Administration Act 1988* (NSW) and its successors in title or at Law.

ONRSR means the Office of the National Rail Safety Regulator established under Part 2 Division 1 of the RSNL.

ONRSR Rules means any rules, policies or requirements of the ONRSR pursuant to its functions under the RSNL or under any network regime for rail safety.

Option means each of Option 1, Option 2, Option 3A, Option 3B, Option 3C, Option 4, Option 5, Option 6, Option 7 and Option 8.

Option 1 means the removal of the Property Management Services other than the Retained Property Services from the Services.

Option 2 means the removal of the CRN Non-Operational Scope of Works from the Services.

Option 3A means the removal of the State Road Overbridge Maintenance Services from the Services.

Option 3B means the removal of the Overbridge Maintenance Services from the Services.

Option 3C means the removal of the ARTC Lease State Road Overbridge Maintenance Services from the Services.

Option 4 means the inclusion of the Level Crossing Closure Services as part of the Services.

Option 5 means the inclusion of the Turnout Rationalisation Services as part of the Services.

Option 6 means the inclusion of the Structures Disposal Services as part of the Services.

Option 7 has the meaning given in **clause 36**.

Option 8 means the handback of the CRN Early Handback Assets in accordance with **clause 26.3A**.

Keyboard Voice Mouse Link or **KVM Link** means the hardware installed at the Network Control Centre in Mayfield as at the Reset Date for the purpose of connecting the Network Control Centre to the Service Provider's network control facility located in Orange, and any software installed on that hardware.

Original Expiry Date means the date that is 10 years after the Services Commencement Date.

Overbridge Maintenance Services means the Asset Management Services and the Asset Maintenance Services in respect of those overbridges specified in the register in **Appendix K** to the **Scope of Works**.

Overhead Costs means:

- (a) any cost of insurances or utilities;
- (b) any personal income or capital gains tax;
- (c) third party audit costs;
- (d) costs or expenses arising out of senior executives performing corporate support required under this Deed;
- (e) costs or expenses arising out of corporate training, IT levies, support, staff or administrators;
- (f) software development costs;
- (g) costs in connection with maintaining the parent company guarantee;
- (h) donation or sponsorship costs;
- (i) costs or expenses arising in connection with finance, administration and cashflow fees, charges and costs;
- (j) offsite administration costs;
- (k) research and development costs;
- (l) costs in respect of personnel not engaged on the project;
- (m) business or professional development costs; and
- (n) any other costs arising in connection with corporate personnel, executive management, head office running costs, payroll or recruitment.

OTSI means the NSW Office of Transport Safety Investigations.

Parent Company means the company or companies set out in **Attachment A**.

Parent Company Guarantee means the deed of guarantee and indemnity provided by each Parent Company under **clause 3.14** and in the form set out at **Attachment C**.

Payment Claim means a written claim for payment from the Service Provider under **clause 17.2**.

Payment Period means each of the following:

- (a) the period from the Services Commencement Date up to and including the last day of the month in which the Services Commencement Date occurs;
- (b) each whole month thereafter up to and including the last whole month before the month in which the Termination Date occurs; and
- (c) the period from the first day of the month in which the Termination Date occurs up to and including the Termination Date.

Payment Response means a written statement from the Principal in response to a Payment Claim under **clause 17.3**.

Payment Schedule means **Schedule 2**.

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

Plant and Equipment means all vehicles, plant, equipment (including hand-held tools), machinery, facilities, apparatus, appliances and things used, or required to be used, by or on behalf of the Service Provider or any of its Associates in the carrying out of the Services but not forming part of the CRN Assets.

Pollution means a release, emission or discharge into the Environment (including of a substance) which causes or has the potential to cause (directly or indirectly) damage or harm to any aspect of the Environment, for example:

- (a) pollution of air;
- (b) pollution of waters;
- (c) noise; and
- (d) pollution of land,

which is not authorised by an Environment Protection Licence or other Environmental Law.

[REDACTED]

PPNCS Failure means any event that causes the PPNCS to be unavailable, inoperative or impaired for the purpose of the Service Provider performing the Services after the PPNCS Switch-Over Date, except where arising out of a Service Provider Default.

PPNCS IP means the Intellectual Property in the Principal-Provided Network Control System.

PPNCS Pre-Switch-Over Phase means the period from the Reset Date to the PPNCS Switch-Over Date.

PPNCS Relocation Event has the meaning given to it in **clause 3.4(i)**.

PPNCS Switch-Over Date [REDACTED]

Principal-Provided Network Control System or **PPNCS** means:

- (a) after the Reset Date, the Existing Network Control System; and
- (b) any new network control system developed, deployed and/or installed by the Principal for the control of network operations for the CRN located at the Mayfield Network Control Centre or the Warabrook Backup Network Control Centre,

excluding the KVM Link but including all office desktop hardware on which the control system will operate and be operated.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

PPS Law means:

- (a) the PPS Act and any regulations made at any time under the PPS Act; and
- (b) any relevant amendment made at any time to any other legislation as a consequence of paragraph (a).

PPSA Security Interest means a security interest for the purposes of any PPS Law.

Pre-existing Contamination means Contamination of any Relevant Land that exists at the Services Commencement Date.

Previous CRN Deed means the deed for the operation and maintenance of the CRN between the Previous Service Provider and TAHE (as successor in title to the Country Rail Infrastructure Authority) and dated 16 December 2010, as amended from time to time.

Previous Network Control Centre means the centre being used by the Previous Service Provider as at the date of this Deed for the control of network operations for the CRN, including all associated telecommunications, information, technology and communications systems and technology.

Previous Service Provider means John Holland Rail Pty Ltd ACN 009 252 653.

Previous Service Provider Disengagement Plan means the disengagement plan listed as an Information Document in **Appendix G** of the **Scope of Works**.

Previous Service Provider In-Scope Employees means those employees employed as at 19 January 2021 by the Previous Service Provider to perform work on, or in connection with, the CRN Assets wholly or mainly in connection with the following activities:

- (a) maintenance delivery;
- (b) network operations; and
- (c) project delivery,

as set out in Part 1 of **Attachment L**.

Previous Service Provider's Rail Safety Accreditation means the Previous Service Provider's accreditation as a Rail Transport Operator under Part 3 of the RSNL.

Principal means TfNSW and TAHE, jointly and severally.

Principal Endorsement Approval means:

- (a) a Major Approval;
- (b) any Approval which must be applied for or obtained in the name of the Principal other than a Major Approval;
- (c) a planning approval under the EP&A Act other than a Major Approval;
- (d) an Approval required under the Protection of the Environment Operations Act 1997 (NSW); or
- (e) an Approval required under the Contaminated Land Management Act 1997 (NSW).

Principal Supplied Assets means any materials, plant or equipment in which the ownership, or the relevant interest (such as a leasehold interest or right of use), has been transferred to the Service Provider, by or on behalf of the Principal or any Rail Transport Agency from time to time for the purposes of carrying out the Services, including the Assets referred to in **clause 2.8(a)**,

excluding the CRN Assets.

Principal's Representative means the person named as such in **Attachment A**, or such other person from time to time appointed by the Principal to be Principal's Representative and notified as such in writing to the Service Provider by the Principal.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Commissioner has the meaning given in the *Privacy and Personal Information Protection Act 1998* (NSW).

Privacy Laws means:

- (a) the Privacy Act;
- (b) the *Privacy and Personal Information Protection Act 1998* (NSW);
- (c) the *Health Records and Information Privacy Act 2002* (NSW);
- (d) any legislation (to the extent that such legislation applies to the Principal or the Service Provider or any other recipient of Personal Information) from time to time in force in:
 - (i) any Australian jurisdiction (which includes the Commonwealth of Australia and any State or Territory of Australia); and
 - (ii) any other jurisdiction (to the extent that the Principal or any Personal Information or the Service Provider is subject to the laws of that jurisdiction),affecting privacy or Personal Information; and
- (e) any ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued under any of the legislation referred to in **paragraphs (a), (b), (c) and (d)**, as amended from time to time.

Privileged Record means any Record in respect of which the Service Provider is entitled to claim legal professional privilege, other than Records that:

- (a) relate or are relevant to an Incident; or
- (b) relate or are relevant to:
 - (i) compliance with Law (including any Environmental Law);
 - (ii) any insurance cover that the Service Provider is required to obtain under this Deed;
 - (iii) any Agency Services; or
 - (iv) the Service Provider's Intellectual Property,

but, in respect of **paragraphs (a) and (b)**, not to the extent it:

- (c) is legal advice obtained; or
- (d) is created for the dominant purpose of obtaining legal advice,

relating to any liability that the Service Provider may have to the Principal under this Deed.

Probity Event means any of the following, whether occurring before, on or after the date of this Deed:

- (a) the Independent Commission Against Corruption or similar Authority determines that the Service Provider has engaged in corrupt conduct, collusive pricing or other similar activity; or
- (b) in the Principal's reasonable opinion, the Service Provider has caused damage or harm to the reputation of any Rail Transport Agency or the State.

Property Management Services has the meaning given in the **Scope of Works**.

Proportionate Liability Legislation means:

- (a) Part 4 of the *Civil Liability Act 2002* (NSW);
- (b) Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT); and
- (c) any Law of any jurisdiction having a purpose or operation similar to the legislation referred to in **paragraph (a) or (b)**.

Proposed Mobilisation Date means the date specified as such in the Mobilisation Plan, as may be extended by the Principal in accordance with **clause 3.3(b)**.

Proposed Modification Letter means a draft Modification provided by the Principal's Representative in accordance with **clause 14.1A(c)(i)** that also includes (at a minimum):

- (a) a high level summary of the Principal's desired outcome of the Services relating to the proposed Modification;
- (b) any Principal's requirements in relation to the Variation Impacts Statement; and
- (c) not used.

Proposed Services Commencement Date means the date specified in **Attachment A**, as may be extended by the Principal in accordance with **clause 3.3(b)**.

Prospective Successor Service Provider means any person who may be invited, or is invited, to submit an expression of interest, tender or proposal for the role of Successor Service Provider, as notified by the Principal's Representative to the Service Provider from time to time.

Public Transport Agency means Transport for NSW (and each of its divisions), Sydney Trains, NSW Trains, Sydney Metro and TAHE.

[REDACTED]

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 Clause 1 (Definitions and Interpretation)

[REDACTED]

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[REDACTED]

Qualifying Track Access Disruption means a delay or disruption to the performance of the Services as a result of a Track Possession or other arrangement in place to access a rail corridor for the purpose of carrying out the Services being cancelled, limited, interrupted or shortened, which:

- (a) has a direct effect on the Service Provider carrying out the Services;
- (b) was unplanned by the Service Provider; and
- (c) was caused by:
 - (i) a Network Operator;
 - (ii) a RIM;
 - (iii) an Emergency Incident;
 - (iv) a change to the standard working timetable by the Principal after the Track Possession or other arrangement is put in place; or
 - (v) a bushfire or flood (or threat of bushfire or flood) affecting the relevant part of the rail corridor or access to the relevant part of the rail corridor.

Rail Infrastructure Manager or **RIM** means 'rail infrastructure manager' as that term is defined in section 4 of the RSNL.

Rail Safety Accreditation means, subject to **clause 7.16**:

- (a) accreditation as a Rail Infrastructure Manager under Part 3 of the RSNL; and
- (b) only to the extent necessary to carry out the Services, accreditation as a Rolling Stock Operator under Part 3 of the RSNL.

Rail Safety Law Change means any amendment or repeal of the RSNL, or any amendment of the rail safety regime under the RSNL, by regulation or by any other legislative instrument (including being replaced by an alternative state or Commonwealth regime) or in any other way.

Rail Safety Worker Competency means the level of competence described in section 117 of the RSNL.

Rail Transport Agency means TfNSW (and each of its divisions), TAHE, Sydney Trains, NSW Trains and Sydney Metro and any of their successors and assigns.

Rail Transport Operator or **RTO** means 'rail transport operator' as that term is defined in section 4 of the RSNL.

Railway Operations has the meaning given to that term in the RSNL.

Records means all Software (in source code and object code), source code material, software tools and software development methodologies, drawings, plans, reports, specifications, samples, models, patterns, certificates, instruments and indicia of title, licences, agreements, documents evidencing Approvals, operating, maintenance and other manuals, books of account, correspondence, records and other information or data of whatever nature and whether stored by means of paper-writing, magnetic tape, computer disk, cloud-based network or storage system or otherwise that in all cases relate to or are relevant to the CRN Assets or the Services (and, for the avoidance of doubt, includes all Employee Records, State Records and any other document required to be produced by, or on behalf of, the Service Provider in carrying out the Services).

Rectification Plan has the meaning given in the **KPI Schedule**.

Redeployment Activities means all activities and work referred to in the Redeployment Management Plan.

Redeployment Management Plan means a redeployment management plan in respect of particular Previous Service Provider In-Scope Employees, which as at the date of this Deed is that plan set out in **Appendix C20** of the **Scope of Works** (as may be updated in accordance with the Deed).

Redeployment Costs Payments has the meaning given in the **Payment Schedule**.

Reference Asset has the meaning given in **Schedule 13**.

Reference Date means:

- (a) in relation to the Services (excluding Modifications), the date of this Deed; or
- (b) in relation to Modifications, the date of the relevant Direction by the Principal's Representative under **clause 14.1(a)**, **14.2(a)** or (in respect of **clause 14.3(a)**) under **clause 14.3(b)**, pursuant to which the Modifications are required or permitted to be carried out by the Service Provider.

Related Body Corporate has the same meaning as under the *Corporations Act 2001* (Cth).

Related Party means, in respect of an entity, another entity which is a Related Body Corporate or an associate (as defined by sections 10 to 17 of the *Corporations Act 2001* (Cth)) of that first mentioned entity.

[REDACTED]

[REDACTED]

[REDACTED]

Relevant Documents means documents and agreements which give rise to (or record) rights or obligations of TfNSW or TAHE or both with respect to third parties or Authorities in relation to the CRN, either in existence as at the date of this Deed or created at any time after the date of this Deed, including:

- (a) those documents and agreements listed or otherwise set out in **Schedule 6**; and
- (b) any access undertaking in respect of all or any part of the CRN prepared for the purposes of Schedule 6AA of the *Transport Administration Act 1988* (NSW).

Relevant Land means:

- (a) CRN Land;
- (b) any land on which a CRN Asset is located; and
- (c) any land upon which any part of the Services are carried out or are to be carried out.

Relevant Leave means annual leave and extended / long service leave.

Remaining Work means that part of the Services remaining to be completed as at the Termination Date following any exercise by the Principal of its rights under **clause 23.6(a)(ii)**.

Remediation Works means action to manage, remove, contain or dispose of any substance that is a Contaminant or to reduce, abate, mitigate or eliminate any risk presented by Contamination (or to monitor to validate the outcome of any such works) to the standard required by Law and to ensure the safe performance of the Services, but does not include Initial Response Works or Assessment Works.

Renewal Requirement Audit has the meaning given in **Schedule 13**.

Renewal Requirement Auditor has the meaning given in **Schedule 13**.

Required Rating means a credit rating of at least 'A-' by Standard and Poor's (Australia) Pty Ltd or 'A2' by Moody's Investors Service, Inc. or, if no rating is provided by Standard and Poor's (Australia) Pty Ltd or by Moody's Investors Service, Inc., an equivalent rating with another suitable reputable rating agency (as the Principal may approve in writing acting reasonably).

Reset 3MWP means the document dated 10 October 2024 provided by the Service Provider to the Principal.

Reset Date means the Effective Date as defined in the Reset Deed.

Reset Deed means the Deed of Amendment, Settlement and Restatement between the Parties dated on or around November 2024.

Retained Property Services means the Services agreed between the parties in accordance with **Appendix 5 of Schedule 2** to this Deed.

Review Document means Design Documentation, each Scope of Works Deliverable, any Failure Report, any Rectification Plan and any other Record which is required to be submitted for the review of the Principal or the Principal's Representative under a provision of this Deed (including under the **Scope of Works**), including any Record which this Deed (including the **Scope of Works**) provides will be subject to the application of **clause 6.8**, but excludes any Excluded Document.

Review of Environmental Factors means a document that considers to the fullest extent possible all matters likely to effect the environment by reason of the activity as required by section 5.5 of the EP&A Act.

Rolling Stock Operator means 'rolling stock operator' as that term is defined in section 4 of the RSNL (as updated from time to time).

RSNL means, subject to **clause 7.16**, the Rail Safety National Law as applied (with modifications) as a law of NSW by the *Rail Safety (Adoption of National Law) Act 2012* (NSW) and as a law of the Australian Capital Territory by the *Rail Safety National Law (ACT) Act 2014* (ACT) and, where the context allows, any other legislation relating to rail safety.

RSO means a rolling stock operator under the RSNL.

Safety Interface Agreement means an 'interface agreement' as that term is defined in section 4 of the RSNL, executed, or to be executed, between the Service Provider and other parties who have a relevant interest in the Services or any CRN Asset.

Safety Management System or **SMS** means a 'safety management system' (as referred to in Part 3, Division 6 of the RSNL).

Schedule of Rates means **Appendix 4** of the **Payment Schedule**, as amended in accordance with this Deed.

Scope of Works means **Schedule 15**.

Scope of Works Deliverable has the meaning given in the **Scope of Works**.

Scope of Works Deliverables Schedule has the meaning given in the **Scope of Works**.

Security means the undertakings provided, or required to be provided, by the Service Provider to the Principal in accordance with **clause 3.8(a)**, as may be replaced in accordance with **clause 3.9 or 3.13(b)**.

Security Interest means:

- (a) any mortgage, pledge, lien, charge, encumbrance or other preferential right, trust arrangement, agreement or arrangement of any kind given or created by way of security, including a PPSA Security Interest; and
- (b) any agreement to create or grant any arrangement described in **paragraph (a)**.

Security of Payment Act (ACT) means the *Building and Construction Industry (Security of Payment Act) 2009* (ACT).

Security of Payment Act (NSW) means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

Selected GTK means the sum total GTK for all trains across the entire CRN as a whole, less Grain GTK across the entire CRN as a whole, as measured from the beginning of the relevant Contract Year to the end of the relevant Contract Year.

Service Provider Assets means any Asset used by the Service Provider in the carrying out of the Services that is not a CRN Asset or a Principal Supplied Asset, including rights under leases, licences and other agreements, but excludes any sum placed on deposit with a bank or other financial institution by the Service Provider.

Service Provider Default means:

- (a) any negligent, unlawful or otherwise wrongful act or omission of the Service Provider or any of its Associates; or
- (b) any breach by the Service Provider of this Deed.

Service Provider Group Company means any Related Body Corporate of the Service Provider.

Service Provider's Background Intellectual Property means Intellectual Property of the Service Provider which existed prior to the earlier of the date of this Deed and the commencement of the Services and which was not created (and did not otherwise come into existence) in any way in connection with this Deed, the Services or the CRN Assets (but excluding the UGL Signalling IP).

Service Provider's Representative means the person named as such in **Attachment A**, or such other person from time to time appointed by the Service Provider to be the Service Provider's Representative under **clause 2.13**.

Services means:

- (a) all activities and work required to be carried out by the Service Provider; and
- (b) the performance or satisfaction of all obligations to be performed or satisfied by the Service Provider,

under this Deed (including the **Scope of Works**), including:

- (c) Mobilisation Activities;
- (d) without limiting **paragraph (c)**, Redeployment Activities;
- (e) Transition Out Activities;
- (f) Initial Response Works;
- (g) Assessment Works and Remediation Works in respect of Default Contamination;
- (h) Modifications required or permitted under this Deed;
- (i) Support Services; and

- (j) all activities and work necessary to ensure that the CRN Assets (as they exist from time to time) satisfy the requirements of this Deed (as they exist from time to time), including following, or as a result of, any Adjustment Event.

Services Commencement Date means the later of:

- (a) the Proposed Services Commencement Date; and
- (b) the date on which each of the Conditions Precedent (Services Commencement) have either been satisfied by the Service Provider or waived by the Principal in accordance with **clause 3.3(b)(ii)**.

Significant Change to Operations means a change in Railway Operations on the CRN after the date of this Deed (but excluding any such change arising out of a Modification or other Adjustment Event), but only to the extent to which such change results in a [REDACTED] or greater gross increase or decrease in Selected GTK, where in each case such increase or decrease in Selected GTK is determined:

- (a) as at the end of the relevant Contract Year; and
- (b) by reference to the Baseline GTK.

SMEPP means a SME Participation Plan for the purposes of the Small and Medium Enterprise Policy Framework, which as at the date of this Deed is that plan set out in **Appendix C18** of the **Scope of Works** (as may be updated in accordance with this Deed).

Software means current versions of all software (including source code and object code) of, or used by, the Service Provider (other than Commercially Available Third Party Software) in any way in connection with the Services.

Standards and Codes means:

- (a) all Engineering Standards;
- (b) all relevant standards, codes and specifications of Standards Australia (including those specified in this Deed); and
- (c) all other standards, codes and specifications specified in this Deed,

as updated, amended and replaced from time to time.

State Owned Heritage Management Principles means any principles approved by the NSW Heritage Minister under section 170A(2) of the NSW Heritage Act.

State Records means any Record which is a State record for the purposes of the State Records Act and which has been provided by any Rail Transport Agency to the Service Provider.

State Records Act means the *State Records Act 1998* (NSW).

State Records Authority means the authority constituted under section 63 of the State Records Act.

State Road Overbridge Maintenance Services means the Asset Management Services and the Asset Maintenance Services in respect of those overbridges specified in the register in **Appendix K** to the **Scope of Works** in respect of which the column titled "Option 3A" is completed "Yes".

Statutory Requests means a request to the Principal by another Authority (other than the Principal) under or in connection with a statutory process that the Principal consider information and provide a response and includes:

- (a) a request under the EP&A Act for the Principal to consider a development application or a request for approval of State significant infrastructure and either grant or refuse

- concurrence in respect of that application or request (including development applications that require access via a level crossing under clause 84 of the Infrastructure SEPP);
- (b) a request in relation to a Division 5.1 Assessment, assessment of State significant development or State significant infrastructure being conducted by that Authority under the EP&A Act for the Principal to provide input on environmental assessment requirements, provide advice during the assessment processes or input on proposed conditions of consent; and
 - (c) a request for the Principal to provide input in relation to the preparation of State environmental planning policies, local strategic planning statements, local environmental plans, district strategic plans and regional strategic plans under the EP&A Act.

Step-in Event means:

- (a) each Termination Event;
- (b) any breach of **clause 7.15(c) or 7.15(d)**;
- (c) the occurrence of an Incident (or the Principal's Representative anticipating a potential Incident), which in the Principal's Representative's opinion:
 - (i) the Service Provider is or will be unable to overcome in an appropriate manner; and
 - (ii) materially adversely affects, or is likely to materially adversely affect, the CRN Assets or the safety of people or condition of property or the Environment;
- (d) without limiting **paragraph (a), (b) or (c)**, any event or circumstance which renders the Service Provider, in the Principal's Representative's reasonable opinion, unable to carry out all or any part of the Services in accordance with this Deed and that event or circumstance or inability to carry out all or any part of the Services will materially adversely affect, or is likely to materially adversely affect:
 - (i) the operation or use of all or any part of the CRN Assets for the Intended Purpose; or
 - (ii) the CRN Non-Operational Structures satisfying the CRN Reset Objectives.

Step-in Party means the Principal or any other person engaged by the Principal to perform, carry out or otherwise exercise Step-in Powers.

Step-in Rights means the right to either perform, or appoint a Step-in Party to perform, Step-in Powers.

Step-in Powers means:

- (a) the carrying out of all or any part of the Services and the exercise all or any of the Service Provider's powers, rights or obligations under this Deed; and
- (b) the taking of such actions as are otherwise necessary to address or remedy any Step-in Event, or to overcome or mitigate any risk, consequences or potential consequences of the relevant Step-in Event,

including:

- (c) engaging third parties to carry out and complete the whole or any part of the Services;
- (d) entering onto and remain in or on the CRN Land;
- (e) taking over the possession, use and occupation of any part of the CRN Assets;

- (f) taking possession of, and using (and permitting others to use), such of the Plant and Equipment, materials, spares and other things on or in the vicinity of the CRN Assets as were used by the Service Provider or any of the Service Provider's Associates;
- (g) giving directions to the Service Provider and any Associate of the Service Provider;
- (h) contracting with Subcontractors;
- (i) taking possession of, and using (and permitting others to use), such of the Materials in the possession, custody or control of the Service Provider or any of its Associates;
- (j) excluding from the CRN Assets (or any relevant part of the CRN Assets) the Service Provider and any other person (including any Associate of the Service Provider) concerned with the carrying out of the Services;
- (k) acting as the Service Provider's agent under all contracts entered into by the Service Provider and where relevant, in accordance with the RSNL; and
- (l) carrying out the obligations of the Service Provider under any contracts entered into by the Service Provider in connection with the Services and where relevant, in accordance with the RSNL.

Step-in Works means any physical works or activities undertaken by the Step-in Party as part of the exercise of the Step-In Powers.

Structures Disposal Plan has the meaning given in the **Scope of Works**.

Structures Disposal Services means all activities and work necessary to comply with the Structures Disposal Plan, which does not otherwise form part of the Services (other than pursuant to the exercise of an Option).

Subcontractor means any person engaged by the Service Provider (including a consultant and a supplier or hirer of materials, plant, equipment or testing services) to carry out any part of the Services and includes, where it is not inconsistent with the context, the Subcontractor's officers, employees, agents, consultants and invitees.

Subcontractor Intellectual Property has the meaning given in **clause 21.11(a)(iii)**.

Successor Service Provider means a service provider succeeding the Service Provider in the carrying out of all or any part of the Services (or activities and work of a similar nature to all or any part of the Services in respect of all or any part of the CRN Assets) after the Termination Date.

Support Services has the meaning given in the **Scope of Works**.

Sydney Metro means the body corporate with ABN 12 354 063 515 constituted by Part 3D of the *Transport Administration Act 1988* (NSW) and its successors in title or at Law.

Sydney Trains means the body corporate with ABN 38 284 779 682 constituted by Part 3B of the *Transport Administration Act 1988* (NSW) and its successors in title or at Law.

TAHE means Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353), a corporation constituted under section 4 of the *Transport Administration Act 1988* (NSW) immediately before its substitution by the *Transport Administration Amendment (Transport Entities) Act 2017* (NSW) and continued by section 4 of the *Transport Administration Act 1988* (NSW), and its successors in title or at Law.

TAO Authorisation means an authorisation issued by TfNSW in the context of the Technical Supplier Assurance Framework to a legal entity which verifies that it has the relevant systems and technical capability in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any conditions of the authorisation.

Tax means any tax, levy, impost, deduction, charge, rate, duty, excise, impost, fee, expense,

rental, compulsory loan, withholding or other financial requirement which is levied or imposed by an Authority, including any withholding, income, stamp or transaction tax, duty or charge and any fee, charge or rental payable under or in any way in connection with any Approval together with any additional tax, further additional tax, interest, penalty, charge, fee or like amount.

Technically Assured Organisation or **TAO** means a legal entity to whom TfNSW has issued a TAO Authorisation.

Technical Supplier Assurance Framework means the framework published by the AMB which governs the arrangements that assure that technically capable organisations and technically competent individuals work on Transport assets.

Tender means the response provided by a Tenderer to the Service Provider's invitation to submit a tender to undertake the Services set out in the Tender Documentation.

Tender Documentation means the Draft Tender Documentation approved by the Principal's Representative in accordance with **clause 14.1A(e)(i)**.

Tender List means a list of entities the Service Provider intends to provide the Tender Documentation to.

Tenderer means an entity or entities that submitted a Tender in response to the Tender Documentation.

Tenderer Recommendation has the meaning given in **clause 14.1A(h)(ii)**.

Term means the Initial Term, as may be extended in accordance with **clause 3.5(a) or 3.6(a)**.

Termination Date means the earlier of:

- (a) the last day of the Term; and
- (b) the date of termination of this Deed.

Termination Event means any one or more of the following events:

- (a) Abandonment;
- (b) any Wilful Default occurring on the part of the Service Provider or any of its Associates arising out of, or in any way in connection with, this Deed, the CRN Assets or the Services;
- (c) breach of an essential term of this Deed by the Service Provider;
- (d) without limiting **paragraph (a)**, repudiation of this Deed by the Service Provider;
- (e) any breach of **clause 7.15(a), 7.15(ab), 7.15(b) or 7.15(e) (Rail Safety Accreditation)**;
- (f) any breach of **clause 9.1, 9.2 or 9.3 (Safety)**;
- (g) any serious or material breach of **clause 9.4 or 9.5**;
- (h) any breach of any provision of **clause 9.4 or 9.5 (Relevant Breach)** in circumstances where the Service Provider has breached that same provision on 2 or more other occasions in the 6 month period prior to the date of the Relevant Breach;
- (i) in respect of a Default Event the subject of a Default Notice (as applicable):
 - (i) the relevant Default Event is not remedied in accordance with the Default Notice as contemplated by **clause 23.3(b)(iii) or 23.3(b)(iv)(A)**;
 - (ii) the Service Provider has not commenced to diligently pursue, or is not diligently pursuing, the implementation of a Final Cure Plan; or
 - (iii) the Service Provider has not within the relevant Cure Period (as applicable):

- (A) remedied the relevant Default Event in accordance with the relevant Final Cure Plan; or
- (B) taken such other steps and measures and implemented such other arrangements, as may be necessary to address or deal with the Default Event and the consequences of the Default Event in accordance with the relevant Final Cure Plan;
- (j) an Insolvency Event occurs in respect of the Service Provider or a Parent Company;
- (k) the Service Provider or a Parent Company being the subject of a Change in Control without the Principal's prior written consent (in its absolute discretion) pursuant to **clause 30.1(d)(ii)** (other than a Change in Control that is permitted under **clause 30.1(e)**);
- (l) any breach of a provision of the RSNL, any WHS Law, the HVNL or any Environmental Law applicable to the carrying out of the Services; and
- (m) the Service Provider being liable (or the Principal (acting reasonably) forming the view that the Service Provider is or will become liable) to the Principal under, or in any way in connection with, this Deed for an amount in aggregate that is equal to or greater than the limitation of the Service Provider's liability under **clause 20.5**.

Termination Payments Schedule means **Schedule 10**.

TfNSW means Transport for NSW ABN 18 804 239 602, a NSW Government agency constituted by section 3C(1) of the *Transport Administration Act 1988* (NSW).

TfNSW Asset Management Framework has the meaning given in section 1 of the Scope of Works.

TfNSW Regional and Outer Metropolitan Area means any area outside the areas specified as "Greater Sydney" as per the map in this link: <https://www.stayinformed.com.au/boundaries>.

Third Party Constructed Enhancement Assets means the Assets to be furnished, fabricated, constructed, installed, erected or commissioned by a third party engaged by, or on behalf of, the Principal or any other party as:

- (a) an upgrade, enhancement, addition, change, or expansion to, or augmentation, upgrade or replacement of, the CRN Assets, as notified by the Principal to the Service Provider from time to time; or
- (b) part of Carry-Over Works (other than Carry-Over Works carried out by the Service Provider).

TOC Manual has the meaning set out in **clause 1.1** of the **Scope of Works**.

Track Access Agreement means an agreement for access onto the CRN between the Principal and one or more RTOs.

Track Possession means an arrangement where rolling stock operations on a section of railway are suspended for a defined period of time, normally to allow work to be carried out.

Transferee means the person to whom Nominated Assets are to be transferred as stated in a written notice from the Principal's Representative under **clause 27.4(a)**.

Transferring Employee has the meaning given in **clause 4.1(c)**.

Transfer Out Agreement means an agreement referred to in **clause 27.4(b)**.

Transitional Agreement means an agreement entered into, or to be entered into, between the

Principal, the Service Provider and the Previous Service Provider relating to the transfer of Previous Service Provider In-Scope Employees and/or the sale of particular assets substantially in the form set out in **Attachment D**.

Transition Out Activities means all activities and work required to be carried out:

- (a) in accordance with the Transition Out Plan, **Part M** of these General Conditions and **section 19** of the **Scope of Works** (excluding any activities and work required during the Mobilisation Stage); or
- (b) to otherwise ensure and facilitate the safe, effective and orderly handover of the CRN Assets and Principal Supplied Assets, and the operation and maintenance of the CRN Assets, to a Successor Service Provider.

Transition Out Audit means an audit procured by the Principal in accordance with **clause 26.1(a)**.

Transition Out Auditor means a person carrying out a Transition Out Audit.

Transition Out Audit Assets means the CRN Assets specified by the Principal as being the subject of a Transition Out Audit in accordance with **clause 26.1(b)(i)**.

Transition Out Condition means the condition that the CRN Assets would be in as at the Termination Date if the Service Provider had complied with all of its obligations under this Deed, including by carrying out the Services in accordance with the 3MWP and the 50AMP.

Transition Out Costs means, in respect of each Payment Period specified in the **Transition Out Costs Payment Schedule**, the relevant amount specified as such in the **Transition Out Costs Payment Schedule**, as adjusted in accordance with this Deed.

Transition Out Costs Payment Schedule means **Appendix 13** of the **Payment Schedule**.

Transition Out Plan means the plan of that name prepared in accordance with the **Scope of Works**.

Transport Assets means those assets which are vested in or owned, managed, controlled, commissioned or funded by a NSW Government agency or a Public Transport Agency, including TAHE and Transport for NSW.

Transport Procurement Framework means the 'Transport Procurement Framework' identified in **Appendix A** of the **Scope of Works**, as amended or replaced from time to time.

Turnout Rationalisation Plan has the meaning given in the **Scope of Works**.

Turnout Rationalisation Services means all activities and work necessary to comply with the Turnout Rationalisation Plan, which does not otherwise form part of the Services (other than pursuant to the exercise of an Option).

UGL Signalling IP means the Intellectual Property in:

- (a) the Service Provider's (or a Service Provider Group Company's) proprietary Software products which the Service Provider generally makes commercially available to customers under the brand names "UGL SIGVIEW", "UGL SIGMAP" and "UGL INTEGRA";
- (b) any associated systems which are also proprietary or licensed to the Service Provider (or a Service Provider Group Company) and used by or for customers to obtain the full benefits of the products referred to in **paragraph (a)**; and
- (c) all modifications to any of the products or associated systems referred to in **paragraphs (a) or (b)** which are made by or on behalf of the Service Provider (or a Service Provider Group Company), whether in connection with this Deed or otherwise,

which, for clarity, does not and will not include any Subcontractor Intellectual Property.

Uninsurable Event means:

- (a) an event referred to in **paragraph (a) or (b)** of the definition of Force Majeure Event, provided that **paragraphs (e)(i), (e)(ii) and (e)(iii)** of the definition of Force Majeure Event are satisfied; or
- (b) an unanticipated physical event which:
 - (i) is not in the exercise by the Principal or any other Rail Transport Agency of any of its functions and powers pursuant to any legislation; and
 - (ii) directly results in physical loss of or damage to the CRN Assets,
 in respect of which no insurance is available for that event from an insurer with a Required Rating in the Australian or London insurance markets, or is not covered by the CRN Asset Cover, except to the extent caused or contributed to by any act or omission of the Service Provider or any of its Associates.

Unpaid Previous Service Provider In-Scope Employee Allowance means the sum of:

- (a) the cost of any redundancy payments incurred by the Previous Service Provider in respect of any Previous Service Provider In-Scope Employee in accordance with any statutory or contractual obligations binding on the Previous Service Provider as at the date of this Deed;
- (b) in respect of each Previous Service Provider In-Scope Employee, the greater of ■■■ and the difference (if positive) between:
 - (i) the value of any accrued long service leave (calculated without reference to whether or not the relevant Previous Service Provider In-Scope Employee has satisfied any particular threshold level of service so as to become entitled to take long service leave), annual leave and personal/carer's leave entitlements, determined 1 day prior to the Proposed Services Commencement Date, on the assumption that:
 - (A) the Previous Service Provider In-Scope Employee has maintained employment and service with the Previous Service Provider from 19 January 2021 to the Proposed Services Commencement Date on the same terms and conditions of employment as are applicable as at the date of this Deed; and
 - (B) the Previous Service Provider In-Scope Employee does not use (or obtain any payment in respect of) long service leave, annual leave or personal/carer's leave in respect of the period between the date of this Deed and the Proposed Services Commencement Date; and
 - (ii) any actual liability paid or payable by the Service Provider to that Previous Service Provider In-Scope Employee (or which the Service Provider demonstrates to the reasonable satisfaction of the Principal's Representative will in future become payable by the Service Provider to that Previous Service Provider In-Scope Employee) for long service leave, annual leave and personal/carer's leave entitlements arising in respect of any period of service prior to the Proposed Services Commencement Date; and
- (c) the value of all amounts identified in Part 2 of **Attachment L** as being allowed for in any Mobilisation Payment or the Monthly Services Fee in respect of the cost of redundancy or

severance payments, long service leave, annual leave and personal/carer's leave entitlements for or in respect of any role identified as "vacant" in Part 1 of **Attachment L**.

Unperformed Activity Units has the meaning given in the **Payment Schedule**.

Variation means a Modification or an Adjustment Event.

Variation Capital Works Milestone Payment has the meaning given in the **Payment Schedule**.

Variation Capital Works Progress Payment has the meaning given in the **Payment Schedule**.

Variation Capital Works Progress Payment (Lump Sum) has the meaning given in the **Payment Schedule**.

Variation Impacts means:

- (a) in respect of an Adjustment Event, the consequences of such Adjustment Event determined in accordance with **Part 3** of the **Variations Schedule**; and
- (b) in respect of a Modification or potential Modification:
 - (i) the consequences of such Modification (or potential Modification, were it to be carried out) determined in accordance with **Part 2** of the **Variations Schedule**; and
 - (ii) where the Modification (or potential Modification, were it to be carried out) will result in Modification Assets (including under **clause 2.16(b)**) and the incorporation of those Modification Assets as part of the CRN Assets will give rise to a CRN Asset Base Change, the consequences of such Adjustment Event determined in accordance with **Part 3** of the **Variations Schedule**.

Variation Impacts Statement means, in respect of any Modification or Adjustment Event (or proposed or alleged Modification or Adjustment Event), a notice setting out (unless otherwise agreed by the Principal at the Inception Meeting):

- (a) full details of the relevant Modification or Adjustment Event (or proposed or alleged Modification or Adjustment Event), including:
 - (i) (if relevant) reasons why the Service Provider believes that it constitutes a Modification or Adjustment Event and, if the Service Provider has requested approval for the carrying out of a Modification pursuant to **clause 14.3(a)**, reasons why the Service Provider proposes the Modification;
 - (ii) a detailed scope of the proposed Modification;
 - (iii) a schedule for the proposed Modification; and
 - (iv) a cost for the proposed Modification in accordance with this Deed;
- (b) in respect of Modifications (other than Enhancement Activities) involving capital works, the schedule and expected timeline to commence and complete the capital works;
- (c) all Variation Impacts proposed by the Service Provider in respect of the relevant Modification or Adjustment Event (or proposed or alleged Modification or Adjustment Event), which must:
 - (i) be determined in accordance with the relevant part of the Variations Schedule (excluding **clause 1.1(a)(ia)(A)** of **Part 2** of the **Variations Schedule**, **clause 1.1(a)(i)(C)** of **Part 2** of the **Variations Schedule**, **clause 1.1(a)(ii)(F)** of **Part 2** of the **Variations Schedule**, **clause 1.1(a)(iiA)(B)**, **clause 1.1(a)(iii)(C)** of **Part 2** of the **Variations Schedule**, **clause 1.2(a)(i)(F)** of **Part 3** of the **Variations Schedule** or **clause 1.2(a)(ii)(C)** of **Part 3** of the **Variations Schedule**);

- (ii) be supported by full calculations and reasoning; and
 - (iii) clearly specify which Payment Periods (if any) each of the Variation Impacts will apply to;
- (d) details of any actual or likely claim under an insurance policy, as well as any actual or likely insurance proceeds, including likely timing of receipt of such proceeds;
- (e) whether the Service Provider proposes the application of Variation Capital Works Milestone Payments or Variation Capital Works Progress Payments and, if Variation Capital Works Milestone Payments are proposed, full details of the relevant proposed milestones, supported by full calculations and reasoning;
- (f) in respect of Modifications (or proposed or alleged Modifications), the Modification Scope, which must:
 - (i) be consistent with and otherwise incorporate (as required by the Principal's Representative) any documentation provided by the Principal's Representative;
 - (ii) comply with any requirements notified by the Principal's Representative; and
 - (iii) be fit for its Intended Purposes and sufficient to enable the potential Modification, if proceeded with, to be carried out in accordance with this Deed;
- (g) in respect of Modifications (or proposed or alleged Modifications) comprising Enhancement Activities, a statement that the Modification comprises Enhancement Activities, a statement as to whether the Modification comprises Early Enhancement Activities and the Enhancement Activities Particulars proposed by the Service Provider;
- (h) in respect of Modifications (or proposed or alleged Modifications) comprising Contamination Management Works:
 - (i) all information known by the Service Provider about the type and extent of the Contamination by the Service Provider at the date of the Variation Impacts Statement;
 - (ii) without limiting **clause 16(a)** a description of any Initial Response Works and Contamination Management Works completed at the date of the Variation Impacts Statement and the costs of performing the Contamination Management Works;
 - (iii) any additional Initial Response Works which the Service Provider intends to perform;
 - (iv) any Contamination Management Works that the Service Provider expects will be necessary;
 - (v) the schedule and expected timeline to commence and complete the Contamination Management Works, including any Contamination Management Works such as monitoring that may be required to continue for a period of longer than 12 months; and
 - (vi) detailed particulars and analysis of the factors to be considered by the Principal's Representative when determining whether the Contamination is in one or more locations for the purposes of the **Variations Schedule**;
- (i) (as applicable) any Approvals required to implement the proposed Modification, the effect of the Modification on any existing Approvals, and the Service Provider's proposal for obtaining those further Approvals;
- (j) the Service Provider's proposal for community, customer and stakeholder engagement;

- (k) the Service Provider's risk assessment, in a form reasonably specified from time to time by the Principal, of safety issues that arise from the Modification and the Service Provider's proposal for undertaking the Modification safely and otherwise in accordance with its obligations under this Deed and the RSNL;
 - (l) acting reasonably, a statement from the Service Provider that the Modification is:
 - (i) capable of being performed safely and in accordance with the RSNL; or
 - (ii) not capable of being performed safely and in accordance with the RSNL for the reasons set out in such statement.
 - (m) the impact (if any) of the Modification or Adjustment Event (or proposed or alleged Modification or Adjustment Event) on the 3MWP, the 10MSP, the 50AMP and any Organisation Structure;
 - (n) if **clause 16(e)(ii)** applies, whether the Service Provider agrees with the amendments (including additions) to the terms and conditions in **Schedule 12** proposed by the Principal's Representative and, if not, to what extent (including any alternatives to those amendments proposed by the Service Provider);
 - (na) if **clause 16(f)(iii)(B)** applies, any ways in which the Service Provider proposes that the Approved Subcontract Agreement will depart from **Schedule 12**;
 - (o) how the proposed Modification provides value for money, in accordance with the Deed;
 - (p) a confirmation that the proposed Modification will be undertaken and delivered in accordance with the Standards and Codes;
 - (q) any risk, constraints, and/or opportunities associated with the proposed Modifications;
 - (r) any items specifically excluded from the proposed Modification; and
 - (s) any additional information reasonably requested by the Principal's Representative,
- and which (without limiting **paragraphs (a) to (s)**) is substantially in the form set out in **Attachment K**.

Variation Payment has the meaning given in the **Payment Schedule**.

Variations Schedule means **Schedule 1**.

Warabrook Backup Network Control Centre means the Backup Network Control Centre located as at the Reset Date in Warabrook, Newcastle and any replacement Backup Network Control Centre established by the Principal after the Reset Date.

Waste has the same meaning as in the *Protection of the Environment Operations Act 1997* (NSW) and, for the avoidance of doubt, includes any excavated soils, rock or other material, whether Contaminated or not.

WHS Law means:

- (a) the *Work Health and Safety Act 2011* (NSW);
- (b) the *Work Health and Safety Regulation 2017* (NSW);
- (c) the *Work Health and Safety Act 2011* (ACT);
- (d) the *Work Health and Safety Regulation 2011* (ACT); and
- (e) any other Law relating to work health and safety.

Wilful Default means, in respect of a person:

- (a) any fraud, fraudulent concealment or dishonesty of that person;

- (b) any intentional, wanton or reckless act or omission of that person with reckless indifference to the possible harmful consequences arising from that act or omission; or
- (c) any illegal or malicious act or omission of that person.

Workforce and Transition Plan has the meaning given in the **Scope of Works**.

3 Year Maintenance Works Plan or **3MWP** has the meaning given in the **Scope of Works** and **clause 6.9(h)** of this Deed.

3 Year Maintenance Works Plan Adjustment Clawback has the meaning given to it in the **Payment Schedule**.

3 Year Maintenance Works Plan Adjustment Reimbursement has the meaning given to it in the **Payment Schedule**.

10 Year Maintenance Services Plan or **10MSP** has the meaning given in the **Scope of Works**.

50 Year Asset Management Plan or **50AMP** has the meaning given in the **Scope of Works**.

1.2 Words and headings

In this Deed, unless expressed to the contrary:

- (a) words denoting the singular include the plural and vice versa;
- (b) the word 'includes' in any form is not a word of limitation;
- (c) where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) headings and sub-headings are for ease of reference only and do not affect the interpretation of this Deed; and
- (e) no rule of construction applies to the disadvantage of the party preparing this Deed on the basis that it prepared or put forward this Deed or any part of it.

1.3 Specific references

In this Deed, unless expressed to the contrary, a reference to:

- (a) a gender includes all other genders;
- (b) without limiting **clause 7.16**, any Law, NSW Government Policy or Standards and Codes is to that Law, NSW Government Policy or Standards and Codes as amended, re-enacted or replaced from time to time and, in respect of legislation, includes any subordinate legislation issued under it;
- (c) any document (such as a deed (including this Deed), agreement or other document) is to that document (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time;
- (d) writing includes writing in digital form;
- (e) 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;
- (f) a clause, schedule or attachment is a reference to a clause, schedule or attachment in or to this Deed;
- (g) any property or assets of a person includes the legal and beneficial interest of that person of those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise;
- (h) a person includes a firm, partnership, joint venture, association, corporation or other body corporate;

- (i) a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee;
- (j) any person, body or agency which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the person, body or agency which most closely serves the purposes or objects of the original person, body or agency;
- (k) the Minister for Regional Transport and Roads includes any Minister or Ministers that replaces, or whose powers or functions (in whole or in part) have been transferred from, that Minister;
- (l) "shall" will be construed as references to "must";
- (m) any Review Document (whether such reference is to the term 'Review Document' or the relevant title or defined term relating to that Review Document) will be construed as a reference to the most recent version of that Review Document in respect of which:
 - (i) the Principal's Representative has notified the Service Provider under **clause 6.8(b)(iii) or 6.8(d)(i)** that it has no (or has no further) comments to make; or
 - (ii) the relevant period of time in **clause 6.8(b)** has expired and the Principal's Representative has not rejected the Review Document, made any comments on the Review Document or made a request referred to in **clause 6.8(b)(ii)** in respect of the Review Document and the Review Document is not otherwise deemed to be rejected in accordance with **clause 6.8**;
- (n) any Excluded Document (whether such reference is to the term 'Excluded Document' or the relevant title or defined term relating to that Excluded Document) will be construed as a reference to:
 - (i) subject to **clause 1.3(n)(ii)**, the version of that Excluded Document set out or referred to in the **Scope of Works**; or
 - (ii) the most recent version of that Excluded Document which has been approved in writing by the Principal or the Principal's Representative in accordance with the **Scope of Works**,

in each case subject to any subsequent changes or updates in that Excluded Document which have been approved in writing by the Principal or the Principal's Representative in accordance with the **Scope of Works**;
- (o) a term that is defined in any Schedule has the meaning attributed to it in that Schedule;
- (p) "overheads" in **Schedule 1** includes on-site and off-site overheads; and
- (q) "the date of this Deed" is a reference to the date that this Operations and Maintenance Deed was first entered into between the Parties, 16 February 2021.

1.4 General interpretive provisions

- (a) In the interpretation of this Deed, unless the subject matter or context otherwise requires, the rights of the Principal are cumulative and do not exclude or modify any other rights.
- (b) Where this Deed provides that the Service Provider:
 - (i) is not entitled to make any Claim against the Principal; or
 - (ii) releases the Principal from any Claim,

or similar words are used, the Service Provider is deemed to have released and forever discharged the Indemnified Parties from all Claims which the Service Provider has or at any time may have or, but for the release, would or may have had in connection with the relevant subject matter and the Indemnified Parties have no liability to the Service Provider whatsoever in connection with the relevant subject matter.

- (c) Where this Deed provides that the Service Provider indemnifies the Principal against any claims against, or Losses suffered or incurred by, the Principal (or similar words are used) in respect of a particular fact, matter or thing, the Service Provider indemnifies each of the Indemnified Parties against any claims against, or Losses suffered or incurred by, the relevant Indemnified Party in respect of the particular fact, matter or thing.
- (ca) Where this Deed provides that the Service Provider indemnifies the Principal against any claims or Losses or releases the Principal from any Claim, this will not disentitle the Service Provider from being paid the Monthly Services Fee in accordance with the **Payment Schedule** or from submitting a Corrective and Emergency Maintenance Deferral Proposal in accordance with **clause 14.5**.
- (d) Without limiting the personal rights and entitlements of the Principal, the Principal holds the benefit of:
 - (i) the release provided under **clause 1.4(b)** on trust for each of the Indemnified Parties; and
 - (ii) any indemnity or warranty expressed under this Deed as being for the benefit of any Indemnified Party on trust for each such Indemnified Party,and the Principal has the authority to (and is entitled to) enforce any such release, indemnity or warranty for the benefit of the Indemnified Party.
- (e) Where:
 - (i) an obligation is imposed on any of the Service Provider's Associates under this Deed;
 - (ii) an obligation is imposed on the Service Provider to procure or ensure that any of the Service Provider's Associates complies with the requirements of this Deed; or
 - (iii) in order to discharge its obligations under this Deed the Service Provider is required to, or would need to, ensure or procure that any of the Service Provider's Associates complies with that obligation,the Service Provider must ensure or procure that the relevant Service Provider's Associate complies with that obligation.
- (f) If the Principal is required under the terms of this Deed to exercise best or reasonable endeavours, the Service Provider acknowledges that:
 - (i) the Principal will only be obliged to bring about the relevant outcome to the extent that it is reasonably able to do so, having regard to its resources and other responsibilities and other relevant circumstances; and
 - (ii) the Principal does not represent or warrant that the relevant outcome will be achieved and is not under any obligation to bring about the relevant outcome.
- (g) If, for any reason, a period over which a calculation is required to be made in accordance with the **Payment Schedule** or the **KPI Schedule** is different to:
 - (i) where the period is a Payment Period, a complete calendar month; or
 - (ii) where the period is a Contract Year, a complete Financial Year,

or otherwise where a calculation refers to a period that does not accord with a period for which an amount is stated, the parties will make the necessary pro rata adjustments to ensure that the amounts are referable to the period for which the calculation is being made.

- (h) For the avoidance of doubt, the Monthly Services Fee will be subject to pro rata adjustment in accordance with **clause 1.4(g)** in respect of any Payment Period that is not a complete calendar month.

1.5 Incorporation of Standards and Codes

Where:

- (a) this Deed adopts by reference any Standards and Codes, it will have the same force and effect as if the text of such Standards and Codes was incorporated into this Deed; and
- (b) any Standards and Codes referred to in this Deed make reference to other standards, those other standards will also apply in respect of the Services, to the extent they are applicable.

1.6 Discrepancies

- (a) The several documents forming this Deed are to be taken as mutually explanatory of one another. If the Service Provider discovers any inconsistency, ambiguity, discrepancy or inadequacy (each a **discrepancy**) in or between any document forming part of this Deed or otherwise created for the carrying out of the Services, the Service Provider must notify the Principal's Representative in writing of the discrepancy.
- (b) The parties agree that unless otherwise directed by the Principal's Representative:
 - (i) where there is a discrepancy between a document forming part of this Deed and any other document forming part of this Deed, the documents must be given the following descending order of precedence:
 - (A) the General Conditions;
 - (B) the **Scope of Works**;
 - (C) **Attachment A**;
 - (D) the **Variations Schedule** and the **Payment Schedule**;
 - (E) the **Enhancement Activities Terms and Conditions**;
 - (F) the other Schedules to this Deed, other than **Schedule 16**; and
 - (G) the other documents forming part of this Deed; and
 - (ii) if **clause 1.6(b)(i)** does not resolve the discrepancy, the Service Provider must comply with any Principal's Representative's Direction as to the interpretation and construction to be followed in respect of the discrepancy.
- (c) Despite any other provision of this Deed, the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, any discrepancy referred to in this **clause 1.6** or any Direction under this **clause 1.6**.
- (d) The parties acknowledge that **Schedule 16** has no interpretive effect in regards to any provision of this Deed and does not give rise to any entitlements under this Deed or otherwise at law.

2 Objectives and Relationship

2.1 Objectives

The objectives of the Principal engaging the Service Provider to carry out the Services include:

- (a) ensuring safe, reliable and sustainable performance of all CRN Assets over the life of the CRN Assets;
- (b) ensuring strong CRN Asset stewardship from a whole of life perspective using Good Industry Practice and evidence-based asset management;
- (c) ensuring that there is a robust and evidence based risk approach in the carrying out of the Services and management of the CRN Assets;
- (d) managing CRN interfaces in a safe and efficient manner;
- (e) fostering a long-term collaborative relationship between the Principal and the Service Provider, who will have effective management and control of the CRN Assets (subject to and in accordance with this Deed);
- (f) delivering and sustaining high levels of customer satisfaction and service delivery for the Term;
- (g) delivering value for money for the Principal, with scope for the Service Provider to realise more efficient and productive approaches applying innovation;
- (h) utilising regional based skills and expertise (with a focus on small and medium sized Subcontractors) and a diverse and inclusive workforce in the carrying out of the Services (including via Aboriginal participation and regional employment requirements);
- (i) working with regional communities to identify and create social and sustainable opportunities by the adaptive repurposing of non-operational CRN Assets; and
- (j) ensuring compliance with environmental and heritage Laws.

2.2 Engagement

The Principal engages the Service Provider to carry out the Services in accordance with this Deed and agrees to pay the Service Provider in accordance with **clause 17** and the **Payment Schedule**. The Service Provider accepts that appointment.

2.3 Ownership of the CRN Assets

The CRN Assets will, as between TfNSW, TAHE and the Service Provider:

- (a) to the extent in existence as at the date of this Deed, remain the absolute property of TAHE (or, if the Principal's Representative notifies the Service Provider that the relevant CRN Assets are the property of TfNSW, TfNSW); or
- (b) to the extent not in existence as at the date of this Deed, become the absolute property of TAHE (or, if the Principal's Representative notifies the Service Provider that the relevant CRN Assets are to become the property of TfNSW, TfNSW) upon:
 - (i) the earlier of:
 - (A) affixation to the CRN Land, any other land or any other CRN Assets; and
 - (B) payment by the Principal to the Service Provider for such CRN Assets; or
 - (ii) to the extent **clause 2.3(b)(i)** does not apply, creation.

2.4 Licence to Use the CRN Assets

- (a) Subject to, and without limiting, **clause 3.4(b)**, the Principal must, from the Mobilisation Date until the Services Commencement Date, subject to the obligations of the Principal or any Rail Transport Agency under any Law, Relevant Document or the ACT Licence, and subject to any restrictions arising in respect of the Previous Service Provider's Rail Safety Accreditation, use reasonable endeavours to procure for the Service Provider permission to use the CRN Assets as the Service Provider reasonably requires for the purposes of carrying out the Mobilisation Activities.
- (b) Subject to, and without limiting, **clause 6.4**, the Principal grants to the Service Provider a non-exclusive licence to use:
 - (i) the CRN Assets (including, subject to **clause 2.5**, reasonable and necessary access to the CRN Assets but not including the CRN Early Handback Assets) from the Services Commencement Date until the Termination Date; and
 - (ii) the CRN Early Handback Assets (including, subject to **clause 2.5**, reasonable and necessary access to the CRN Early Handback Assets) from the Services Commencement Date to the CRN Early Handback Date,for the purposes of carrying out the Services. The Service Provider will be taken to have accepted the licence immediately after the Service Provider or any of its Associates enters upon the CRN Assets for the purposes of carrying out the Services.

2.5 Conditions of Use

The rights to use the CRN Assets and the licence referred to in **clause 2.4**:

- (a) terminate immediately upon the Termination Date;
- (b) do not create in the Service Provider any lease, tenancy or other proprietary interest in the CRN Assets;
- (c) are subject to the rights of the parties to, and any conditions or restrictions contained in or imposed by, the Relevant Documents and the ACT Licence; and
- (d) may be revoked by the Principal in whole or in part to the extent that they are not necessary for the purposes of the Service Provider carrying out the Services in accordance with this Deed.

2.6 Additional CRN Assets Obligations

- (a) The Service Provider must carry out the Services so as to ensure that:
 - (i) subject to **clause 5.1A**, the CRN Operational Assets are available and accessible for their Intended Purposes, and otherwise maintained in a safe and reliable state; and
 - (ii) subject to **clause 5.1B** and **clause 5.1C**, the CRN Non-Operational Structures satisfy the CRN Reset Objectives,at all times during the Term, other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**.
- (b) The Service Provider and each of its Associates must not enter upon any place reasonably notified by the Principal or the Principal's Representative to the Service Provider in writing as a place to which the Service Provider is not to have access, without the prior written consent of the Principal.

- (c) The Service Provider must:
 - (i) procure access to or over, or use of, or other relevant rights relating to, any site or property which may be required for the carrying out of the Services (not in the ownership or control of the Principal); and
 - (ii) comply with all conditions attaching to such rights, use or access.

2.7 Prohibited Uses of the CRN Assets

The Service Provider must not:

- (a) except as provided for in **clause 6.4**, allow a person to access, use or occupy any part of the CRN Assets except:
 - (i) to the extent such access, use or occupation is expressly permitted under any Law; or
 - (ii) without limiting **clause 2.10(c)**, pursuant to an agreement, licence, lease or other appropriate arrangement (including a Track Access Agreement) which either:
 - (A) is in the form of a template or proforma agreement, licence, lease or other arrangement provided or approved by the Principal's Representative in writing, with relevant particulars approved by the Principal's Representative in writing; or
 - (B) has otherwise been negotiated and agreed by or on behalf of the Principal (other than by the Service Provider), or approved by the Principal's Representative in writing;
- (b) use any part of the CRN Assets, or allow any part of the CRN Assets to be used, for a purpose other than its Intended Purpose or for the purpose of carrying out the Services;
- (c) do or allow any illegal or offensive act or omission on or at any part of the CRN Assets;
- (d) do or allow any act or omission which causes a nuisance, disturbance or damage to any other person:
 - (i) using any part of the CRN Assets; or
 - (ii) using or occupying land in the vicinity of the CRN Assets; or
- (e) do or allow any act or omission on or at any part of the CRN Assets which may result in:
 - (i) a breach by the Principal or any Rail Transport Agency of any Law or any obligation of the Principal or any Rail Transport Agency under a Relevant Document or the ACT Licence in respect of the CRN Assets; or
 - (ii) the Principal or any Rail Transport Agency suffering or incurring any Loss or becoming bound by any obligation in respect of the CRN Assets (except to the extent expressly required by this Deed or approved in writing by the Principal).

2.8 Principal Supplied Assets

- (a) The Principal must use reasonable endeavours to make available to the Service Provider the Assets referred to in **Schedule 11** for the purposes of the Services:
 - (i) at its own cost;
 - (ii) on the terms referred to in **Schedule 11** and otherwise subject to **clause 18.2**;
 - (iii) at the respective places referred to in **Schedule 11**; and
 - (iv) by the respective date referred to in **Schedule 11**.

- (b) The Service Provider must, at its own cost and risk and within the time required by the Principal's Representative, transport each Asset referred to in **Schedule 11** that has been made available by the Principal from the respective place referred to in **Schedule 11** to the location required by the Service Provider.
- (c) The Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, any delay by the Principal in making, or any failure by the Principal to make, available to the Service Provider the Assets referred to in **Schedule 11** in accordance with **clause 2.8(a)**.

2.9 Release of the Principal

- (a) The Service Provider releases, to the maximum extent permitted by Law, the Principal from any Claim which the Service Provider may have in respect of any loss of or damage to any property or death of or injury to any person on or about the CRN Assets, except to the extent that the Loss the subject of the Claim is caused by an Act of Prevention of any of the Indemnified Parties or is expressly recoverable by the Service Provider as a Variation Impact arising from an Adjustment Event.
- (b) Nothing in this **clause 2.9** will disentitle the Service Provider from being paid the Monthly Services Fee in accordance with the **Payment Schedule** or from submitting a Corrective and Emergency Maintenance Deferral Proposal in accordance with **clause 14.5**.

2.10 Relationship between the parties

- (a) Subject to **clause 2.10(b)**, in the fulfilment of its obligations under this Deed, the Service Provider will act as the Principal's contractor and not as its agent.
- (b) The Principal appoints the Service Provider as its agent solely for the purposes of, and only to the extent necessary for the carrying out of, the Agency Services. The Service Provider must not act outside the scope of its agency.
- (c) To the extent the Agency Services involve:
 - (i) negotiating, managing or administering any agreement, the Service Provider must communicate to the relevant counterparty that, and ensure that the relevant agreement reflects that, the Service Provider is doing so as agent for the Principal and not in its personal capacity; and
 - (ii) negotiating any agreement, the Service Provider must (unless otherwise agreed in writing by the Principal's Representative) only do so based on template or proforma terms provided by the Principal, and must not agree to terms which differ from any such template or proforma terms without the written approval of the Principal's Representative.
- (d) Subject to **clause 2.10(b)**, the Service Provider must not without the prior written consent of the Principal do, purport to do, or hold itself out as having any authority to do, anything as agent for or on behalf of the Principal, including:
 - (i) waive, settle, compromise, exercise, enforce or otherwise deal with any right of the Principal; or
 - (ii) create any obligation or liability on the part of the Principal.
- (e) In respect of any dispute arising between a third party and the Service Provider that relates to the carrying out by the Service Provider of the Agency Services, the Service Provider agrees that it must:

- (i) notify the Principal immediately of the dispute, and provide any further information or details required by the Principal;
 - (ii) take any action required by the Principal in respect of the dispute; and
 - (iii) not act as the Principal's agent in respect of the dispute unless, and only to the extent, notified in writing by the Principal that it is required to do so.
- (f) Without limiting **clause 2.11**, TAHE has appointed TfNSW as its agent for the purposes of managing its functions under this Deed and any function of TAHE under this Deed may be exercised by TfNSW on its behalf.

2.11 The Principal's Representative's Functions

- (a) The Principal must ensure that at all times there is a Principal's Representative.
- (b) The Principal's Representative must carry out its functions under this Deed:
 - (i) as agent and representative of the Principal and not as independent certifier, assessor or valuer; and
 - (ii) except to the extent otherwise expressly provided in this Deed, in accordance with instructions, if any, given to it by the Principal (acting in its absolute discretion) and in a manner consistent with the interests of the Principal.
- (c) If the Principal or the Principal's Representative gives a Direction (whether oral or in writing), the Service Provider must comply with the Direction.
- (d) Except where this Deed otherwise provides, a Direction may be given orally but the Principal or the Principal's Representative (as applicable) must as soon as practicable confirm it in writing.
- (e) The Principal's Representative may:
 - (i) by written notice to the Service Provider appoint persons to exercise any of the Principal's Representative's functions under this Deed, provided however that the Principal's Representative cannot appoint more than one person to exercise the same function of the Principal's Representative at any given time; and
 - (ii) revoke any appointment under this **clause 2.11** by notice in writing to the Service Provider.
- (f) The Principal may authorise the Principal's Representative to exercise any right the Principal has under this Deed.

2.12 Discretions of the Principal and the Principal's Representative

The Service Provider agrees that, except to the extent otherwise expressly provided in this Deed:

- (a) the Principal and the Principal's Representative may exercise those discretions, rights and functions given to them under this Deed in whatever manner the Principal or the Principal's Representative decide in their absolute discretion;
- (b) the Principal or the Principal's Representative may grant, refuse or grant subject to conditions any consent required from the Principal or the Principal's Representative in their absolute discretion; and
- (c) the Principal or the Principal's Representative (as applicable) must act reasonably in accordance with this Deed when making determinations under:
 - (i) **clause 2.8(b)**, in respect of the determination of time within which the Service Provider must transport Assets;

- (ii) **clause 6.8(a)(i)(B)**, in respect of determining time periods for the submission of Review Documents;
- (iii) **clause 6.8(b)(i)**;
- (iv) **clause 6.9(a)(i)(B)**, in respect of determining time periods for submission of Excluded Documents;
- (v) **clause 6.9(b)(iii)**;
- (vi) **clause 6.9(e)(i)(B)**;
- (vii) **clause 14.1(c)**, in respect of determining the Variation Impacts for Modifications;
- (viii) **clause 17.3(a)(ii)(B)**, in respect of determining moneys due from the Service Provider to the Principal;
- (ix) **clause 22.3(b)**, in respect of assessing costs in relation to a Step-In;
- (x) **clause 29A.4(a)(i) and (ii)**, in respect of determining Variation Impacts for Variations and Qualifying Latent CRN Assets Condition Impacts for Qualifying Latent CRN Assets Conditions;
- (xi) **sections 1.1(a)(ia), 1.1(a)(i) and 1.1(a)(ii) of Part 2 of Schedule 1**;
- (xii) **sections 1.2(a)(i) and 1.2(a)(ii) of Part 3 of Schedule 1**;
- (xiii) **section 1.2(d) of Schedule 5**, in respect of requiring the Service Provider to make available for contract meetings team members with a relevant discipline or responsibility;
- (xiv) **section 2.2(a)-(c) of Schedule 5**, in respect of determining attendees at meetings;
- (xv) **clauses 7.9, 7.10 and 8.2(d)(i)A of Schedule 12**; and
- (xvi) any other clause of this Deed which specifies that the Principal or Principal's Representative (as applicable) must act reasonably.

2.13 Appointment of Service Provider's Representative

The Service Provider must throughout the Term ensure that it has appointed, and notified the Principal of the identity of, an individual representative of the Service Provider who will be:

- (a) the only representative of the Service Provider during the period of the Service Provider's Representative's appointment;
- (b) authorised by the Service Provider to receive and accept on the Service Provider's behalf any notices, Directions, instructions or other communications given by the Principal or the Principal's Representative under, or in any way in connection with, this Deed and give or exercise, on the Service Provider's behalf, any notices, communications or rights under, or in any way in connection with, this Deed; and
- (c) acceptable to the Principal (acting reasonably).

2.14 Subcontracting

- (a) The Service Provider acknowledges that it has been engaged to carry out the Services on the basis that the Service Provider is capable of directly carrying out most of the work comprising the Services without engaging subcontractors.
- (b) The Service Provider must ensure that:

- (i) any subcontract it enters into contains such provisions as may be necessary to allow the Service Provider to satisfy its obligations under this Deed (to the extent such obligations relate to the relevant subcontract);
- (ii) without limiting **clause 2.14(b)(i)**, any subcontract it enters into allows the Service Provider to terminate for convenience in the event that the Principal terminates this Deed under **clause 23.2**, either:
 - (A) without payment; or
 - (B) with payment of amounts no more generous than that provided under **clause 2** of the **Termination Payments Schedule**; and
- (iii) any Subcontractor engaged to carry out any part of the Services holds all appropriate Approvals and insurances required in relation to the part of the Services for which it has been engaged.
- (c) The Service Provider entering into any subcontract will not relieve the Service Provider from any liability or obligation under this Deed.

2.15 Service Provider Responsible for Associates

The Service Provider agrees that:

- (a) any act or omission of any of its Associates will be taken to be an act or omission of the Service Provider, including any:
 - (i) act or omission which constitutes a breach of this Deed; or
 - (ii) negligent act or omission; and
- (b) the Service Provider will remain fully bound by and responsible for the obligations imposed on the Service Provider by this Deed, despite:
 - (i) any consent given by the Principal or the Principal's Representative to the engagement or appointment of any Service Provider's Associate; or
 - (ii) the engagement or appointment of any Service Provider's Associate.

2.16 Other Acknowledgements

The Service Provider acknowledges and agrees that:

- (a) the CRN Assets will change from time to time after the date of this Deed, including through the incorporation of Third Party Constructed Enhancement Assets, and the Services include all activities and work arising out of, or in any way in connection with, any such change;
- (b) upon the earlier of:
 - (i) the date of completion of Third Party Constructed Enhancement Assets; and
 - (ii) to the extent such Third Party Constructed Enhancement Assets comprise railway track, the date on which such railway track is certified by the Service Provider in its capacity as a Rail Infrastructure Manager (which the Service Provider must promptly undertake in accordance with the RSNL and any requirements of this Deed and in respect of which the Service Provider must not withhold its certification except as expressly required under the RSNL) to be capable of having rolling stock pass over it,

such Third Party Constructed Enhancement Assets will be deemed to form part of, or amend, the CRN Assets (as applicable);

- (c) subject to any express term of this Deed to the contrary, the Service Provider must carry out (and the Service Provider is deemed to have made allowance in the Monthly Capital Works Payment and the Monthly Recurring Expenditure Payment for) all activities and work and supply all materials necessary for the carrying out of the Services, whether or not they are expressly mentioned in this Deed, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of this Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of this Deed as being necessary or desirable for the carrying out of the Services had such service provider inspected:
- (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with this Deed, including the Information Documents;
 - (ii) all documents forming part of this Deed;
 - (iii) all information relevant to risk allocation under this Deed, including each element of the Monthly Services Fee, which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds;
- (d) notwithstanding any other provision of this Deed to the contrary, to the maximum extent permitted by Law, it will not be entitled to make, and the Principal will not be liable for, any Claim:
- (i) based on, or arising out of, or in any way in connection with, quantum meruit, unjust enrichment or restitution (or similar Claims), whether arising out of, or in any way in connection with, this Deed or any basis in law or equity;
 - (ii) for carrying out the Services, except to the extent otherwise expressly provided in this Deed; or
 - (iii) for any risk, matter or contingency arising out of, or in any way in connection with, the Services (except in connection with any breach of this Deed by the Principal) or the CRN Assets (including all risks associated with the costs of operating, maintaining and repairing the CRN Assets), except to the extent otherwise expressly provided in this Deed;
- (e) nothing in this Deed will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of any Rail Transport Agency or the AMB to exercise any of their respective functions and powers pursuant to any Law;
- (f) there may be Authorities (including the Principal) with jurisdiction over aspects of the CRN Assets or the Services and such Authorities may from time to time exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the CRN Assets or the Services;
- (g) without limiting **clauses 2.16(e) and 2.16(f)**, anything which any Rail Transport Agency, the AMB or any Authority do, or fail to do or purport to do, pursuant to their respective functions and powers pursuant to any Law will be deemed not to be an act or omission by the Principal under this Deed; and
- (h) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the matters referred to in **clause 2.16(e) and 2.16(f)**, except to the extent otherwise expressly provided in this Deed.

Part B – Contract Commencement and Term

3 Commencement and Term

3.1 Conditions Precedent (Mobilisation)

- (a) The rights and obligations of the parties under this Deed (other than the rights and obligations under, or in connection with, **clauses 10 (Environment), 19.1 (Service Provider Insurances), 19.5 (Evidence of Insurance), 20.3 (Deed polls), 21 (Intellectual Property), and 28 (Dispute Resolution) to 32 (Personal Property Securities Act)**, this **clause 3** and the **Termination Payments Schedule**) are subject to the satisfaction by the Service Provider, or waiver by the Principal under **clause 3.3(b)(i)**, of the Conditions Precedent (Mobilisation).
- (b) The Service Provider must:
 - (i) subject to **clause 3.3(b)(i)**, satisfy all Conditions Precedent (Mobilisation) on or before the Proposed Mobilisation Date; and
 - (ii) notwithstanding **clause 3.3(b)(i)**, and as a separate and distinct obligation to that under **clause 3.1(b)(i)**, otherwise satisfy all Conditions Precedent (Mobilisation).

3.2 Conditions Precedent (Services Commencement)

The Service Provider must:

- (a) subject to **clause 3.3(b)(ii)**, satisfy all Conditions Precedent (Services Commencement) on or before 11.59.01pm on the Proposed Services Commencement Date; and
- (b) notwithstanding **clause 3.3(b)(ii)**, and as a separate and distinct obligation to that under **clause 3.2(a)**, otherwise satisfy all Conditions Precedent (Services Commencement).

The Service Provider acknowledges and agrees that:

- (c) initial versions of certain plans listed in **paragraph (n)** of the definition of “Conditions Precedent (Services Commencement)” may be included in **Appendix C** to the **Scope of Works**; and
- (d) notwithstanding that initial versions of certain plans listed in **paragraph (n)** of the definition of “Conditions Precedent (Services Commencement)” may be included in **Appendix C** to the **Scope of Works**, and without limiting **clause 6.8, clause 6.9** or **clause 6.10**, it will (for the purposes of **clause 2.12(c)**) be reasonable for the Principal’s Representative to reject, comment upon, seek clarification on or additional information in respect of, or otherwise fail or refuse to approve, updated versions of each plan listed in **paragraph (n)** of the definition of “Conditions Precedent (Services Commencement)” in order to ensure that each such plan complies with, and will ensure compliance with, the requirements of the Deed (including to ensure that each such plan has been prepared in accordance with, and its content reflects, Good Industry Practice).

3.3 Notification, Waiver and Termination

- (a) The Service Provider must notify the Principal’s Representative in writing:
 - (i) on the progress of satisfaction of each of the Conditions Precedent (Mobilisation) and each of the Conditions Precedent (Services Commencement) on a weekly basis and when otherwise directed by the Principal’s Representative; and
 - (ii) as and when any of the Conditions Precedent (Mobilisation) or any of the Conditions Precedent (Services Commencement) has been satisfied.

- (b) The Principal may, by notice in writing to the Service Provider:
- (i) waive the requirement under **clause 3.1(b)(i)** to satisfy any one or more of the Conditions Precedent (Mobilisation) on or before the Proposed Mobilisation Date;
 - (ii) waive the requirement under **clause 3.2(a)** to satisfy any one or more of the Conditions Precedent (Services Commencement), other than **paragraph (c)** of the definition of Conditions Precedent (Services Commencement), on or before the Proposed Services Commencement Date; and
 - (iii) extend the Proposed Mobilisation Date, the Proposed Services Commencement Date or any Mobilisation Milestone Date,
- at any time and for any or no reason, in its absolute discretion, by notice in writing to the Service Provider.
- (c) Despite any other provision of this Deed (including any provision of this Deed entitling the Service Provider to update the Mobilisation Plan), the Proposed Mobilisation Date, the Proposed Services Commencement Date and each Mobilisation Milestone Date may only be adjusted in accordance with **clause 3.3(b)**.
- (d) If the Principal:
- (i) waives the requirement under **clause 3.1(b)(i)** to satisfy any one or more of the Conditions Precedent (Mobilisation) on or before the Proposed Mobilisation Date, such waiver does not limit or otherwise affect the Service Provider's obligation under **clause 3.1(b)(ii)** to satisfy any such Conditions Precedent (Mobilisation) after the Proposed Mobilisation Date; or
 - (ii) waives the requirement under **clause 3.2(a)** to satisfy any one or more of the Conditions Precedent (Services Commencement), other than **paragraph (c)** of the definition of Conditions Precedent (Services Commencement), on or before the Proposed Services Commencement Date, such waiver does not limit or otherwise affect the Service Provider's obligation under **clause 3.2(b)** to satisfy any such Conditions Precedent (Services Commencement) after the Proposed Services Commencement Date.
- (e) If the Service Provider is of the opinion that each of the Conditions Precedent (Mobilisation) have either been satisfied by the Service Provider or the subject of a waiver by the Principal under **clause 3.3(b)(i)**, the Service Provider must immediately notify the Principal in writing.
- (f) If, prior to the Proposed Services Commencement Date, the Service Provider is of the opinion that each of the Conditions Precedent (Services Commencement) have either been satisfied by the Service Provider or the subject of a waiver by the Principal under **clause 3.3(b)(ii)**, the Service Provider must immediately notify the Principal in writing.
- (g) Following receipt of any notice under **clause 3.3(e)**, the Principal must either:
- (i) confirm in writing to the Service Provider that each of the Conditions Precedent (Mobilisation) have either been satisfied by the Service Provider or the subject of a waiver by the Principal under **clause 3.3(b)(i)**; or
 - (ii) notify the Service Provider that it does not agree with the Service Provider, in which case **clause 3.3(e)** will reapply.
- (h) Following receipt of any notice under **clause 3.3(f)**, the Principal must either:

- (i) confirm in writing to the Service Provider that each of the Conditions Precedent (Services Commencement) have either been satisfied by the Service Provider or the subject of a waiver by the Principal under **clause 3.3(b)(ii)**; or
 - (ii) notify the Service Provider that it does not agree with the Service Provider, in which case **clause 3.3(f)** will reapply.
- (i) Without limiting any other right of the Principal under this Deed, if any of the following occur:
 - (i) any of the Conditions Precedent (Mobilisation) are not either:
 - (A) satisfied by the Service Provider; or
 - (B) the subject of a waiver by the Principal under **clause 3.3(b)(i)**, on or before the Proposed Mobilisation Date;
 - (ii) a Mobilisation Milestone does not occur by the relevant Mobilisation Milestone Date and in the Principal's opinion any of the Conditions Precedent (Services Commencement) are unlikely to be satisfied by the Service Provider, or the subject of a waiver by the Principal under **clause 3.3(b)(ii)**, by the Proposed Services Commencement Date; or
 - (iii) any of the Conditions Precedent (Services Commencement) are not either:
 - (A) satisfied by the Service Provider; or
 - (B) the subject of a waiver by the Principal under **clause 3.3(b)(ii)**, by the Proposed Services Commencement Date,then the Principal may terminate this Deed by notice in writing to the Service Provider.

3.4 Mobilisation

- (a) The Service Provider must carry out:
 - (i) during the Mobilisation Stage, the Mobilisation Activities in accordance with **clause 4**, the Mobilisation Plan, the **Scope of Works**, the Redeployment Management Plan and the other requirements of this Deed; and
 - (ii) the Early Enhancement Activities in accordance with the requirements of this Deed.
- (b) The Service Provider acknowledges and agrees that, to the extent it is required to access any part of the CRN Assets during the Mobilisation Stage in order to carry out the Mobilisation Activities or the Early Enhancement Activities:
 - (i) the Service Provider will do so under the Previous Service Provider's Rail Safety Accreditation;
 - (ii) the Service Provider must not do, or omit to do, anything that may cause or contribute to any breach by the Previous Service Provider of the Previous Service Provider's Rail Safety Accreditation; and
 - (iii) the Service Provider must comply with the reasonable policies, procedures and requirements of the Previous Service Provider when accessing any part of the CRN Assets, including in relation to safety.
- (c) The Service Provider:
 - (i) prior to the Services Commencement Date, must not carry out any Services other than:

- (A) the Mobilisation Activities;
 - (B) those referred to in **clause 3.1, 3.2, 3.3 or 3.4(a)**;
 - (C) the Early Enhancement Activities;
 - (D) Modifications relating to the Mobilisation Activities, the Services referred to in **clause 3.1, 3.2, 3.3 or 3.4(a)** or the Early Enhancement Activities; or
 - (E) any other part of the Services required to be carried out in respect of the activities or work referred to in **clauses 3.4(c)(i)(A) to 3.4(c)(i)(D)**; and
- (ii) will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the carrying out of any Services prior to the Services Commencement Date other than:
 - (A) payment of each Mobilisation Payment for each Mobilisation Milestone completed in accordance with this Deed;
 - (B) payment of the relevant Early Enhancement Activities Payment for each Early Enhancement Activities Package completed in accordance with this Deed;
 - (C) payment amounts to which it is entitled under this Deed for a Modification in respect of Mobilisation Activities or Early Enhancement Activities; and
 - (D) payment of the relevant Redeployment Costs Payments for the Redeployment Activities which are:
 - (1) contemplated by the Redeployment Management Plan as being carried out prior to the Services Commencement Date; and
 - (2) completed in accordance with this Deed.
- (d) The Service Provider:
 - (i) must complete the Mobilisation Activities on or before 11.59.01pm on the Proposed Services Commencement Date;
 - (ii) warrants that it will be ready, willing and able (including at Law) to commence carrying out all Services in accordance with this Deed on and from 11.59.01pm on the Proposed Services Commencement Date; and
 - (iii) must carry out the Early Enhancement Activities so that the Design Documentation created in the carrying out of the Early Enhancement Activities:
 - (A) is fit for its Intended Purposes;
 - (B) is sufficient to enable the activities and work the subject of the Design Documentation, if proceeded with (whether by the Service Provider or others), to be:
 - (1) carried out in accordance with, or (where carried out by others) in a manner consistent with the requirements of, this Deed; and
 - (2) upon completion, fit for its Intended Purpose; and
 - (C) otherwise complies with the requirements of this Deed.
- (e) The Service Provider:
 - (i) acknowledges and agrees that:
 - (A) it has reviewed the Previous Service Provider Disengagement Plan and warrants that:

- (1) it will carry out the Mobilisation Activities in a manner consistent with the Previous Service Provider Disengagement Plan;
 - (2) it will, as part of the Mobilisation Activities, perform all obligations of the Principal or any other Rail Transport Agency under the Previous Service Provider Disengagement Plan, except those which the Principal's Representative directs are not to be performed by the Service Provider; and
 - (3) without limiting **clause 3.4(e)(iii)**, compliance by the Previous Service Provider with the terms of the Previous Service Provider Disengagement Plan will enable the Service Provider to fulfil its obligations under this Deed in respect of the Mobilisation Activities and satisfy the warranty in **clause 3.4(d)(ii)**; and
- (B) the Principal does not represent or warrant that any matter or circumstance referred to in the Previous Service Provider Disengagement Plan will occur as set out in the Previous Service Provider Disengagement Plan (including that Previous Service Provider will comply with the terms of the Previous Service Provider Disengagement Plan);
- (ii) warrants that compliance by the Service Provider with the requirements of the Mobilisation Plan will enable the Service Provider to fulfil its obligations under this Deed in respect of the Mobilisation Activities and satisfy the warranty in **clause 3.4(d)(ii)**; and
- (iii) will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the Previous Service Provider Disengagement Plan, including any failure by the Previous Service Provider to comply with the terms or requirements of the Previous Service Provider Disengagement Plan.
- (f) Subject to **clause 3.3(g)**, the Principal will not, prior to the Services Commencement Date, be obliged to perform any obligation under this Deed, except to the extent it arises:
 - (i) after the Mobilisation Date; and
 - (ii) in respect of either the Mobilisation Activities or the Early Enhancement Activities.
- (g) Without limiting **clause 2.8**, the Service Provider:
 - (i) acknowledges and agrees that:
 - (A) as at the date of this Deed, the Previous Service Provider is operating the Previous Network Control Centre;
 - (B) the Previous Network Control Centre (or certain parts of the Previous Network Control Centre) may not be available for use by Service Provider under this Deed;
 - (C) in respect of any current or future proposal by the Service Provider to:
 - (1) fit out and use [REDACTED] as the Network Control Centre or otherwise construct a Network Control Centre at or on any land owned by TfNSW or TAHE;
 - (2) fit out and use [REDACTED] as the Backup Network Control

Centre or otherwise construct a Backup Network Control Centre at or on any land owned by TfNSW or TAHE; or

- (3) construct any Depot for use in connection with the Services on land owned by TfNSW or TAHE,

including the implementation of any such proposal:

- (4) the Principal makes no representation or warranty that such proposal is acceptable to the Principal or that the Service Provider will be able to implement any such proposal; and
- (5) the Service Provider bears all risk associated with any such proposal and its implementation, including the risk of:
- (I) TfNSW or TAHE not owning the relevant land;
 - (II) such land not being available due to operational or other reasons;
 - (III) such land, any relevant structures (whether current or proposed) and any proposed use being subject to requirements at Law, including under the NSW Heritage Act, any relevant Local Environmental Plan and the EP&A Act;
 - (IV) the use of any land adjacent to or part of the operational rail corridor needing to be approved by the Rail Infrastructure Manager, including as it may currently or in future be required for operational purposes;
 - (V) access to the relevant land not being available as and when required by the Service Provider or at all; and
 - (VI) any inability of the Service Provider to satisfy the Mobilisation Milestones in accordance with this Deed;

- (D) it will not be entitled to make, and the Principal will not be liable in connection with, any Claim arising out of, or in any way in connection with, any failure by, or inability of, the Service Provider to:

- (1) obtain the usage of, or any other rights in respect of, the Previous Network Control Centre (or any part of the Previous Network Control Centre);
- (2) fit out and [REDACTED] as the Network Control Centre or otherwise construct a Network Control Centre at or on any land owned by TfNSW or TAHE;
- (3) fit out and [REDACTED] as the Backup Network Control Centre or otherwise construct a Backup Network Control Centre at or on any land owned by TfNSW or TAHE; or
- (4) construct any Depot for use in connection with the Services on land owned by TfNSW or TAHE,

or any other matter which **clause 3.4(g)(i)(C)** provides is a risk borne by the Service Provider; and

- (E) nothing in **clause 3.4(g)(i)(C)(5)** limits the Service Provider's entitlements arising out of a Modification directed under **clause 14.1(a)**; and
- (ii) without limiting **clause 3.4(g)(i) or 27.5**, must make such arrangements as are necessary for the Service Provider to establish, operate and maintain a Network Control Centre and a Backup Network Control Centre (each of which must be located in a TfNSW Regional and Outer Metropolitan Area) for the duration of the Term, including by:
 - (A) in respect of the initial or subsequent Network Control Centre, fitting out and using [REDACTED]
 - (B) in respect of the initial or subsequent Backup Network Control Centre, fitting out and using [REDACTED]
 - (C) acquiring, leasing or otherwise obtaining rights of access and use in respect of, relevant premises and facilities;
 - (D) acquiring, developing, adapting, establishing or otherwise obtaining necessary rights of usage in respect of, all necessary telecommunications, information, technology and communications systems; and
 - (E) entering into or implementing such other arrangements, and carrying out such other activities, as may be contemplated or required by the **Scope of Works**,

whether over or in respect of the Previous Network Control Centre or otherwise.
- (h) The Service Provider must, in negotiating any:
 - (i) leases or licences required for the Network Control Centre, the Backup Network Control Centre, the proposed Depot at [REDACTED] or any other Depot; or
 - (ii) telecommunications or information and communications technology agreements required for the Network Control Centre, the Backup Network Control Centre, the CRN Assets referred to in **paragraph (e)** of the definition of 'CRN Assets' in **clause 1.1**, the proposed Depot [REDACTED] or any other Depot,

ensure that such leases, licences and agreements provide:

 - (iii) rights enforceable by the Principal or the Service Provider (in which latter case the Service Provider must exercise that right on the direction of the Principal's Representative) to require the lease, licence or agreement to be novated from the Service Provider to the Principal or its nominee on or after the Termination Date, on terms approved in writing by the Principal's Representative;
 - (iv) in respect of any lease or licence, the Service Provider with the right to grant a sub-lease or sub-licence (as applicable) to a Step-in Party for the purpose of exercising Step-in Powers from time to time (which right the Service Provider must exercise if requested in writing by the Principal's Representative following a Step-in Event); and
 - (v) options to extend the term of the lease, licence or agreement (including beyond the Term) as required by the Principal (which options the Service Provider must exercise if requested in writing by the Principal's Representative).

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Clause 3 (Commencement and Term)

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (ii) for that purpose it wishes to negotiate potential amendments to the **Payment Schedule** and any other provisions of this Deed that may apply during any such extension of the Term.
- (c) If the Principal issues a notice under **clause 3.5(b)**:
 - (i) subject to **clause 3.5(c)(ii)**, the parties must undertake good faith negotiations for a period of 30 Business Days (as such period may be extended by agreement in writing by the parties) with a view to agreeing any amendments to the **Payment Schedule** and such other provisions of this Deed that would apply in respect of any extension of the Term under **clause 3.5(a)(ii)**; and
 - (ii) the parties will not be obliged to undertake good faith negotiations in accordance with **clause 3.5(c)(i)** after the date that is ■ months prior to the Original Expiry Date.
- (d) The parties acknowledge and agree that, for the purposes of any negotiations referred to in **clause 3.5(c)**, the Service Provider must not propose amendments to the **Payment Schedule** or any other provisions of this Deed that are less favourable to the Principal than those which would apply in the absence of any agreement contemplated by **clause 3.5(c)**.
- (e) For the avoidance of doubt, and without limiting **clause 25.1**, any agreement reached between the parties in respect of the matters referred to in **clause 3.5(c)** will not limit the Principal's absolute discretion in determining whether or not to exercise any of its rights under **clause 3.5(a)**.
- (f) If the Principal has:
 - (i) exercised the right under **clause 3.5(a)(i)** to extend the Term by a period of ■ year, the terms and conditions of this Deed will remain unchanged; or
 - (ii) exercised the right under **clause 3.5(a)(ii)** to extend the Term by a period of ■ years, the terms and conditions of this Deed will remain unchanged, except as otherwise agreed in writing by the parties in accordance with **clause 3.5(c)**, with any such changes taking effect from (but excluding) the Original Expiry Date.
- (g) For the avoidance of doubt, if in accordance with **clause 3.5(c)** the parties are unable to agree any amendments to the **Payment Schedule** and such other provisions of this Deed that would apply in respect of any extension of the Term under **clause 3.5(a)(ii)**, the terms and conditions of this Deed will remain unchanged and the provisions of **paragraph (c) of Appendix 3 of the Payment Schedule** will apply.

3.6 Second Extension of the Term

- (a) If:
 - (i) the Principal has exercised the right under **clause 3.5(a)(ii)** to extend the Term by a period of ■ years;
 - (ii) the Principal has issued a notice under **clause 3.6(b)**; and
 - (iii) the parties have reached agreement under **clause 3.6(c)**,
 the Principal may (in its absolute discretion), by notice in writing to the Service Provider at any time between the date that is ■ years prior to the First Extended Expiry Date and the First Extended Expiry Date, further extend the Term by a period of up to ■ years.
- (b) Without limiting **clause 3.6(a)**, if the Principal has exercised the right under **clause 3.5(a)(ii)** to extend the Term by a period of ■ years, the Principal may (in its

absolute discretion), at any time between the date that is ■ years prior to the First Extended Expiry Date and the First Extended Expiry Date, notify the Service Provider in writing that:

- (i) it is considering extending the Term under **clause 3.6(a)** (and specifying the period for which it proposes to extend the Term under **clause 3.6(a)**); and
 - (ii) for that purpose it wishes to negotiate potential amendments to the **Payment Schedule** and any other provisions of this Deed that may apply during any such extension of the Term.
- (c) If the Principal issues a notice under **clause 3.6(b)**, the parties must undertake good faith negotiations for a period of 30 Business Days (as such period may be extended by agreement in writing by the parties) with a view to agreeing such amendments to the **Payment Schedule** and other provisions of this Deed that would apply in respect of any extension of the Term under **clause 3.6(a)**.
- (d) The parties acknowledge and agree that, for the purposes of any negotiations referred to in **clause 3.6(c)**, the Service Provider must not propose amendments to the provisions of this Deed (other than the **Payment Schedule**) that are less favourable to the Principal than those which then apply.
- (e) For the avoidance of doubt, and without limiting **clause 25.1**:
- (i) any agreement reached between the parties in respect of the matters referred to in **clause 3.6(c)** will not limit the Principal's absolute discretion in determining whether or not to exercise its rights under **clause 3.6(a)**; and
 - (ii) the Principal may not extend the Term under **clause 3.6(a)** if the Service Provider has proposed amendments to the **Payment Schedule** during the negotiations referred to in **clause 3.6(c)** and the parties have not reached agreement under **clause 3.6(c)** in respect of those amendments.
- (f) If the Principal has exercised the right under **clause 3.6(a)** to extend the Term, the terms and conditions of this Deed will remain unchanged, except as otherwise agreed in writing by the parties in accordance with **clause 3.6(c)**, with any such changes taking effect from (but excluding) the First Extended Expiry Date.

3.7 Expiry of Term

The expiry of the Term will not:

- (a) limit or otherwise affect the rights, obligations and liabilities of the parties which accrue, or relate to events and circumstances which occurred, prior to the expiry of the Term; or
- (b) limit or otherwise affect the rights, obligations and liabilities of the parties in respect of the Enhancement Activities or Support Services which have not been carried out as at the expiry of the Term.

3.8 Provision of Security

- (a) The Service Provider must, by the Proposed Mobilisation Date, provide to the Principal an unconditional and irrevocable undertaking, payable on demand, in favour of the Principal for ■■■■■■
- (b) The Security must:
 - (i) be in the form set out in **Attachment B** or such other form approved by the Principal (in its absolute discretion);

- (ii) be at all times from a bank or other financial institution that is satisfactory to the Principal (in its absolute discretion), that maintains the Required Rating;
- (iii) be transferable to any Rail Transport Agency or transferees or successors of any Rail Transport Agency;
- (iv) have no restriction on the ability of the Principal to deal with the Security, including that it must be able to be charged; and
- (v) be payable at an office of the issuer in Sydney (or such other place as the Principal may approve).

3.9 Replacement of Security

- (a) If:
 - (i) the issuer of the Security ceases to have the Required Rating;
 - (ii) the Principal makes a demand for payment of the whole or any amount of the Security;
 - (iii) the Principal exercises a right under **clause 3.5(a) or 3.6(a)**;
 - (iv) the Security is subject to an expiry date that is less than 12 months after the date upon which the Term is due to expire; or
 - (v) the Security is subject to an expiry date and, as at the Termination Date, that expiry date is less than 12 months after the Termination Date,then the Service Provider must, subject to **clause 3.9(c)**:
 - (vi) in respect of **clause 3.9(a)(i)**, promptly notify the Principal of that circumstance; and
 - (vii) within:
 - (A) where **clause 3.9(a)(iv)** applies, the earlier of:
 - (1) 10 Business Days of a request by the Principal's Representative (which the Principal's Representative may only give after the date that is 12 months prior to the expiry date of the Security); and
 - (2) 6 months prior to the expiry date of the Security;
 - (B) where **clause 3.9(a)(v)** applies, 10 Business Days of the Termination Date; or
 - (C) where **clause 3.9(a)(i), 3.9(a)(ii) or 3.9(a)(iii)** applies, 10 Business Days of being requested to do so by the Principal's Representative,procure the issue to the Principal of a replacement undertaking which satisfies the requirements of **clause 3.8** (which replacement undertaking will be the Security for the purposes of this Deed), following receipt of which the Principal must promptly return the Security that has been replaced.
- (b) If the Service Provider fails to comply with **clause 3.9(a)**, without limiting any other rights of the Principal, the Principal may call on and otherwise have recourse to the Security required to be replaced and the proceeds will be the Security for the purposes of this Deed.
- (c) Where:

- (i) **clause 3.9(a)(ii)** applies, the value of the replacement undertaking required to be provided by the Service Provider to the Principal under **clause 3.9(a)** will be the lower of:
 - (A) [REDACTED]; and
 - (B) [REDACTED] less the aggregate value of all demands by the Principal for payment under the Security to the extent that:
 - (1) such demands have been satisfied and paid to the Principal; and
 - (2) the proceeds of such demands have not been subsequently returned or otherwise repaid to the Service Provider; and
- (ii) **clause 3.9(a)(i), 3.9(a)(iii), 3.9(a)(iv) or 3.9(a)(v)** applies, the value of the replacement undertaking required to be provided by the Service Provider to the Principal under **clause 3.9(a)** will be the uncalled value of the Security being replaced.

3.10 Recourse to the Security

- (a) Despite any other provision of this Deed, the Principal may call on and otherwise have recourse to the Security (including the proceeds of the Security if converted to cash) in respect of:
 - (i) any debt or other moneys due from the Service Provider to the Principal, whether under this Deed or pursuant to a judgment, arbitral award, expert determination or otherwise in any way in connection with this Deed, the Services or the CRN Assets; or
 - (ii) the amount of any bona fide claim the Principal may have against the Service Provider under, or in any way in connection with, this Deed, the Services or the CRN Assets.
- (b) Nothing in this **clause 3.10** affects the right of the Principal to recover from the Service Provider the whole of the debt, moneys or claim or any balance that remains owing.

3.11 No Interest

The Principal is not obliged to pay the Service Provider interest on the Security or the proceeds of the Security.

3.12 No Trust

The Principal does not hold the Security or, if the Principal makes a demand under the Security, the proceeds on trust for the Service Provider.

3.13 Release of the Security

- (a) Subject to the rights of the Principal to have recourse to the Security, the Principal must release the Security:
 - (i) if this Deed is terminated by the Service Provider under **clause 23.8**, within 40 Business Days after the Termination Date; or
 - (ii) otherwise, within 12 months after the Termination Date,provided that the Principal may continue to hold the Security, to the value of any debt or other moneys due from the Service Provider to the Principal and any bona fide claim the Principal may have against the Service Provider under, or in any way in connection with, this Deed, the Services or the CRN Assets.

- (b) If the Principal continues to hold the Security for any debt or other moneys due or any bona fide claim in accordance with **clause 3.13(a)** and the aggregate value of such debts, other moneys and claims is less than the balance of the Security held by the Principal as at the end of the period referred to in **clause 3.13(a)(i) or 3.13(a)(ii)** (as applicable), the Service Provider may procure the issue to the Principal of a replacement undertaking which satisfies the requirements of **clause 3.8**, but which has a value equal to the aggregate value of such debts, other moneys and claims, following receipt of which the Principal must promptly return the Security that has been replaced. Any replacement undertaking provided by the Service Provider under this **clause 3.13(b)** will be the Security for the purposes of this Deed.

3.14 Parent Company Guarantee

The Service Provider must, prior to the Proposed Mobilisation Date, give the Principal:

- (a) a deed of guarantee and indemnity duly executed by each Parent Company in favour of the Principal in the form set out at **Attachment C** and which is, where required by Law, duly stamped; and
- (b) where a Parent Company is incorporated outside of Australia, a Foreign Legal Opinion which confirms that the deed of guarantee and indemnity has been duly executed by, and is binding and enforceable against, that Parent Company.

3.15 No Payment

Notwithstanding any other provision of this Deed to the contrary, compliance by the Service Provider with its obligations to provide the Security, the deed of guarantee and indemnity and, if required, each Foreign Legal Opinion, under this **clause 3** will be a precondition to any entitlement of the Service Provider to submit Payment Claims or receive payment.

4 Transfer of Previous Service Provider In-Scope Employees

4.1 Offers of employment

- (a) No later than [REDACTED] prior to the Proposed Services Commencement Date, the Service Provider must make written offers of employment to each Previous Service Provider In-Scope Employee:
 - (i) with the employment commencement date being the Services Commencement Date, or such earlier date as may be agreed by the Previous Service Provider and the Service Provider;
 - (ii) that are on the same terms and conditions of employment, or substantially similar, but no less favourable, terms and conditions of employment, as those under which the Previous Service Provider In-Scope Employee is employed by the Previous Service Provider immediately prior to the date on which the offer is made by the Service Provider (including in respect of the recognition of all accrued entitlements in accordance with **clause 4.2**);
 - (iii) that are made on the basis that acceptance of the offer by any Previous Service Provider In-Scope Employee will constitute a termination of the Previous Service Provider In-Scope Employee's employment with the Previous Service Provider with effect immediately prior to the Services Commencement Date by reason of the Previous Service Provider In-Scope Employee's resignation;

- (iv) for a position which is the same or equivalent position to that occupied by the Previous Service Provider In-Scope Employee with Previous Service Provider immediately prior to the date on which the offer is made by the Service Provider;
- (v) that are irrevocable prior to the date that is 15 Business Days after being made, or such later date agreed between the Principal and the Service Provider (**Acceptance Date**) (but which automatically lapse if not accepted by the Acceptance Date), or if the Previous Service Provider In-Scope Employee is on authorised leave on the Acceptance Date, prior to the date the Previous Service Provider In-Scope Employee returns from that authorised leave (but which automatically lapse if not accepted by that time), other than in accordance with **clause 4.1(a)(vi)(B)**;
- (vi) that are conditional upon:
 - (A) the Previous Service Provider In-Scope Employee remaining employed by the Previous Service Provider until, and not having given or been given notice of termination of their employment with the Previous Service Provider prior to, the Services Commencement Date; and
 - (B) this Deed not being terminated before the Services Commencement Date and automatically lapse upon the termination of this Deed; and
- (vii) that adopt all approvals for paid and unpaid leave given by the Previous Service Provider prior to the Services Commencement Date for absences following the Services Commencement Date.
- (b) The Principal and the Service Provider agree to use reasonable endeavours to ensure that the Previous Service Provider In-Scope Employees offered employment under **clause 4.1(a)** accept the offer of employment.
- (c) Each Previous Service Provider In-Scope Employee who accepts the offer of employment made by the Service Provider under **clause 4.1(a)** will be a Transferring Employee.

4.2 Accrued entitlements and recognition of prior service

- (a) The Service Provider must recognise each Transferring Employee's continuous service with Previous Service Provider (including any prior service currently recognised by the Previous Service Provider) for all purposes, including for the purposes of any Industrial Instruments which apply to the Previous Service Provider In-Scope Employees immediately prior to the Services Commencement Date, the FW Act and any other Law applicable to or regulating the employment. However, this does not require the Service Provider to recognise any Transferring Employee's service if the Transferring Employee has already had the benefit of an entitlement, the amount of which was calculated by reference to a period of service with or recognised by the Previous Service Provider.
- (b) The Service Provider must recognise all accrued leave entitlements for Transferring Employees which are currently recognised by the Previous Service Provider to the extent that they are not taken prior to the Services Commencement Date.

4.3 Transfer of business

The Service Provider and the Principal acknowledge and agree that it is intended that, pursuant to the terms of this Deed, when a Transferring Employee becomes employed by the Service Provider, there will be a transfer of business as the requirements of section 311(1)(a) to 311(1)(d) of the FW Act will be satisfied and the Service Provider agrees that it will not seek any orders under Part 2-8, Division 3 of the FW Act (other than an order referred to in section 319(1)(b)).

4.4 Indemnity

The Service Provider indemnifies the Principal from and against all liability (including its full legal costs) suffered, paid or incurred in respect of a Transferring Employee, where such liability relates to any claim by, or on behalf of, a Transferring Employee arising out of, or in any way in connection with, their employment by the Service Provider and where the claim arises on or after the Services Commencement Date.

4.5 Unpaid Previous Service Provider In-Scope Employee Allowances

Without limiting any other right of the Principal, any Unpaid Previous Service Provider In-Scope Employee Allowance will become a debt due and payable by the Service Provider to the Principal on demand by the Principal.

4.6 Tax treatment of Previous Service Provider In-Scope Employee entitlements

The parties acknowledge and agree that:

- (a) the payments to be made by the Principal to the Service Provider under this Deed include an amount of [REDACTED] representing the Service Provider's allowance for its assumed potential liability to the Previous Service Provider In-Scope Employees for employee entitlements (such as redundancy and leave entitlements), which is made up of a base employee entitlement amount of [REDACTED] (**Base Entitlement Amount**) and an amount of [REDACTED] (**Applied Tax Amount**) based on the assumption made by the Service Provider that the Base Entitlement Amount will be assessable income of the Service Provider for the purposes of income tax Laws;
- (b) if directed by the Principal's Representative (at any time), the Service Provider must seek a private binding ruling from the Commissioner of Taxation (**ATO Ruling**) to confirm whether any or all of the Base Entitlement Amount is assessable income of the Service Provider and therefore whether any income tax is payable on receipt of the Base Entitlement Amount by the Service Provider (**Tax Amounts**) on the following basis:
 - (i) the Service Provider must prepare and lodge a comprehensive application for the ATO Ruling, seeking (and with submissions arguing for), as best as possible, a ruling that the Base Entitlement Amount is not assessable income;
 - (ii) the Service Provider must give the Principal the opportunity to review and approve the ATO Ruling application prior to lodgement;
 - (iii) the Principal must provide any amendments to the ATO Ruling application within 25 Business Days of receipt from the Service Provider, and the Service Provider must include any reasonable amendments requested by the Principal;
 - (iv) the Service Provider must not lodge the ATO Ruling application with the Australian Taxation Office unless the prior approval of the Principal has been obtained (which must not be unreasonably withheld);
 - (v) the Service Provider must not make any amendments to the ATO Ruling application after it has been approved by the Principal without the Principal's prior approval in writing (which must not be unreasonably withheld);
 - (vi) the Service Provider must keep the Principal informed of the progress of the application for the ATO Ruling and promptly provide the Principal with a copy of any ATO Ruling received; and
 - (vii) the Service Provider must provide the Principal with details of any queries raised or further information requested by the Australian Taxation Office and a copy of

any response issued by the Service Provider to the Australian Taxation Office at the same time it is issued to the Australian Taxation Office;

- (c) in the event that the decision of the Commissioner of Taxation in the ATO Ruling is that any or all of the Base Entitlement Amount is assessable income of the Service Provider and therefore Tax Amounts are payable, the Service Provider must (if directed to do so by the Principal in circumstances where the Principal is of the view that an objection has reasonable prospects of success) object to the decision (**Objection**) on the following basis:
- (i) the Service Provider must prepare and lodge a comprehensive Objection and otherwise liaise as required with the Australian Taxation Office, seeking (and with submissions arguing for), as best as possible, a ruling that the Base Entitlement Amount is not assessable income (or a corresponding change in any relevant existing ATO Ruling);
 - (ii) the Service Provider must give the Principal the opportunity to review and approve the Objection application prior to lodgement;
 - (iii) the Principal must provide any amendments to the Objection within 25 Business Days of receipt from the Service Provider, and the Service Provider must include any reasonable amendments requested by the Principal;
 - (iv) the Service Provider must not lodge the Objection with the Australian Taxation Office unless the prior approval of the Principal has been obtained (which must not be unreasonably withheld);
 - (v) the Service Provider must not make any amendments to the Objection after it has been approved by the Principal without the Principal's prior approval in writing (which must not be unreasonably withheld);
 - (vi) the Service Provider must keep the Principal informed of the progress of the Objection and its outcome; and
 - (vii) the Service Provider must provide the Principal with details of any queries raised or further information requested by the Australian Taxation Office and a copy of any response issued by the Service Provider to the Australian Taxation Office at the same time it is issued to the Australian Taxation Office;
- (d) to the extent that:
- (i) the decision of the Commissioner of Taxation in respect of any ATO Ruling is that any or all of the Base Entitlement Amount is not assessable income of the Service Provider;
 - (ii) the outcome or effect of any Objection is that any or all of the Base Entitlement Amount is not assessable income of the Service Provider; or
 - (iii) the assumption made by the Service Provider that the Base Entitlement Amount will be assessable income of the Service Provider for the purposes of income tax Laws is otherwise determined to be incorrect or the Service Provider does not treat the Base Entitlement Amount as assessable income in its tax documentation,
- the Applied Tax Amount will:
- (iv) to the extent it has been paid by the Principal, be a debt due from the Service Provider to the Principal, payable on demand; and

- (v) to the extent it has not been paid by the Principal, be deducted from the next Monthly Services Fee and, to the extent the Applied Tax Amount exceeds the next Monthly Services Fee, each subsequent Monthly Services Fee until the Applied Tax Amount is reduced to \$Nil; and
- (e) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with:
 - (i) the Service Provider's obligations under this **clause 4.6**; or
 - (ii) the allowances referred to in **clause 4.6(a)** being insufficient to adequately compensate the Service Provider for its potential liability to the Previous Service Provider In-Scope Employees for employee entitlements (such as redundancy and leave entitlements).

4.7 Redeployment Management Plan

Without limiting any other obligation of the Service Provider under this Deed (including under the other provisions of this **clause 4**) or otherwise at Law, the Service Provider:

- (a) must comply with the Redeployment Management Plan, and otherwise ensure that the outcomes set out in the Redeployment Management Plan are achieved; and
- (b) may submit a revised Redeployment Management Plan to the Principal's Representative for its approval under **clause 6.9**, which approval the Principal's Representative may withhold in its absolute discretion.

Part C – Services

5 Service Provider's Obligations

5.1 General Obligations

The Service Provider must:

- (a) carry out the Services:
 - (i) except as otherwise expressly permitted or required under this Deed, during the Term;
 - (ii) in a diligent, timely, competent, safe, proper and workmanlike manner;
 - (iii) exercising a high standard of skill, diligence and care;
 - (iv) in accordance with Good Industry Practice;
 - (v) in a manner which provides adequate protection to the CRN Assets and which maintains (including by way of preventative maintenance):
 - (A) subject to **clause 5.1A**, the CRN Operational Assets in good and substantial repair, order and condition; and
 - (B) subject to **clause 5.1B** and **clause 5.1C**, the CRN Non-Operational Structures in a state of repair, order and condition that satisfies the CRN Reset Objectives;
 - (vi) using workmanship and materials of a high quality which:
 - (A) for CRN Operational Assets, are fit for their Intended Purposes; and
 - (B) for CRN Non-Operational Structures, satisfy the CRN Reset Objectives,

and if replacement of any worn, failed or defective parts is required in the carrying out of the Services, using replacement parts of equal or better quality to those required under this Deed and that:

- (C) for CRN Operational Assets, are fit for their Intended Purposes; and
- (D) for CRN Non-Operational Structures, satisfy the CRN Reset Objectives;
- (vii) so that, at all times during the Term:
 - (A) subject to **clause 5.1A**, the CRN Operational Assets will be, and will remain, fit for their Intended Purposes; and
 - (B) subject to **clause 5.1B** and **clause 5.1C**, the CRN Non-Operational Structures will satisfy the CRN Reset Objectives,

and otherwise comply with this Deed;
- (viii) so as to meet the objectives referred to in **clause 2.1**; and
- (ix) in accordance with the requirements of this Deed and all Laws;
- (b) carry out all preventative maintenance, repair, rectification, replacement and restoration work as may be necessary to ensure compliance with its obligations and warranties under this Deed;
- (c) in carrying out any maintenance, repair, replacement, reinstatement or rectification work under this Deed, continue to maintain rail services and the ongoing operation of the CRN and to carry out all other aspects of the Services or, if that is not possible, carry out the relevant maintenance, repair, replacement, reinstatement or rectification work in such a way as to minimise the disruption to rail services, the ongoing operation of the CRN and the carrying out of other aspects of the Services;
- (d) keep the CRN Assets clean and tidy and free from waste material, rubbish and other surplus material, and store and dispose of waste material, rubbish and other surplus material in appropriate receptacles;
- (e) undertake the Asset Management Services and the Asset Maintenance Services and ensure that:
 - (i) all Asset Management Planning Documents; and
 - (ii) all inspections, surveys, analysis, decisions and recommendations as to what Asset Management Services and Asset Maintenance Services to perform,

are up-to-date and fully reflect the Services that are necessary and that the Service Provider will perform, and the necessary timing for those Services, in order to comply with the Service Provider's obligations under this Deed and support the CRN Reset Objectives,

other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**.

5.1A Historic Defects Safe-harbour for CRN Operational Assets

- (a) The Principal and the Service Provider acknowledge that the Services include the rectification and remediation of:
 - (i) Historic Defects;
 - (ii) wear and tear arising from the use of the CRN; and
 - (iii) deterioration of the CRN arising from the passage of time and exposure to the elements,

in accordance with this Deed.

- (b) The mere existence of an Historic Defect in a CRN Operational Asset will not, of itself, result in the Service Provider being in breach of this Deed. However, the Service Provider will be liable for any loss (other than the cost of rectification of the Historic Defect) which is a direct result of the Historic Defect to the extent that such loss is caused by the Service Provider's failure to:
- (i) undertake all activities and steps that are required in accordance with this Deed and Good Industry Practice to progressively discover, investigate, identify and notify the Principal of Defects including Historic Defects;
 - (ii) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Historic Defects in a current or future 3MWP in accordance with this Deed and Good Industry Practice; or
 - (iii) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Historic Defect in accordance with the 3MWP or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**,
- having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed.
- (c) The Parties acknowledge that:
- (i) a list of known Historic Defects, as at the date of this Deed, is set out in **Attachment P**; and
 - (ii) either party is entitled to prove the existence of an Historic Defect that is not listed.

5.1B Baseline Condition Defect Safe-harbour for CRN Non-Operational Structures

- (a) The Principal and the Service Provider acknowledge that:
- (i) notwithstanding any other clause in this Deed, the Service Provider must ensure that the CRN Non-Operational Structures are at all times safe (including with regard to those safety matters set out in **section 2.1 of Appendix I of the Scope of Works**); and
 - (ii) the Services include:
 - (A) keeping the CRN Non-Operational Structures in their Baseline Condition; and
 - (B) the rectification and remediation of Baseline Condition Defects in accordance with this Deed.
- (b) Subject to **clause 5.1B(a)(i)**, the mere existence of a Baseline Condition Defect will not, of itself, result in the Service Provider being in breach of this Deed. However, subject to **clause 5.1C(d)** the Service Provider will be liable for any loss (other than the cost of rectification of the Baseline Condition Defect) which is a direct result of a Baseline Condition Defect to the extent that such loss is caused by the Service Provider's failure to:
- (i) comply with **clause 5.1B(a)(i)** or **5.1B(a)(ii)(A)**;

- (ii) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Baseline Condition Defects in a current or future 3MWP in accordance with this Deed; or
- (iii) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Baseline Condition Defect in accordance with the 3MWP or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**,

having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed.

5.1C Dilapidation Management Plans for CRN Non-Operational Structures

- (a) The Service Provider may periodically, by notice in writing to the Principal's Representative, request that the Principal's Representative approve a Dilapidation Management Plan for a CRN Non-Operational Structure. Such notice must include:
 - (i) a copy of the proposed Dilapidation Management Plan;
 - (ii) the Services, activities and other measures that the Service Provider will undertake to ensure that the CRN Non-Operational Structure is in the condition required under the Dilapidation Management Plan; and
 - (iii) how the CRN Non-Operational Structure will be safe regardless of such deterioration or dilapidation (including with regard to those safety matters set out in **section 2.1** of **Appendix I** of the **Scope of Works**).
- (b) The Principal's Representative may, at any time within 20 Business Days (or such longer period as is reasonably required by the Principal's Representative having regard to the length and importance of the Dilapidation Management Plan) of receipt of a proposed Dilapidation Management Plan, in writing:
 - (i) approve a proposed Dilapidation Management Plan issued under **clause 5.1C(a)**;
 - (ii) make comments on the proposed Dilapidation Management Plan issued under **clause 5.1C(a)** or request clarification or additional information; or
 - (iii) reject a proposed Dilapidation Management Plan issued under **clause 5.1C(a)**;

and the Principal's Representative must in doing so act reasonably, other than in respect of requiring that specific assets are not included in a Dilapidation Management Plan which it may do in its absolute discretion. The Service Provider, in respect of each Dilapidation Management Plan approved by the Principal's Representative, must:

 - (iv) comply with it;
 - (v) comply with **clause 5.1B(a)(i)** in respect of the safety of the CRN Non-Operational Structures the subject of the Dilapidation Management Plan;
 - (vi) in any event, undertake any Services, activities or other measures directed as a Modification under **clause 14.1**, other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**; and
 - (vii) amend the Dilapidation Management Plan to remove specific assets from the Dilapidation Management Plan when required by the Principal in the Principal's absolute discretion, and the Service Provider will not be entitled to make, and the

Principal will not be liable for, any Claim arising out of the Principal's direction to remove assets from a Dilapidation Management Plan under this clause.

- (c) If the Principal's Representative makes comments on, or requests clarification or additional information in relation to, the proposed Dilapidation Management Plan in accordance with **clause 5.1C(b)(ii)** above, then:
 - (i) the Service Provider must respond to the comments or request within 20 Business Days or such other period as may be directed by the Principal's Representative, and, within 20 Business Days (or such longer period as the Principal's Representative may reasonable require) of such response, the Principal's Representative will:
 - (A) notify the Service Provider that the proposed Dilapidation Management Plan is approved; or
 - (B) notify the Service Provider that the proposed Dilapidation Management Plan is rejected.
- (d) In respect of a Dilapidation Management Plan which is rejected in accordance with **clause 5.1C(b)(iii)** or **clause 5.1C(c)(i)(B)**, the Parties acknowledge that:
 - (i) the CRN Non-Operational Structures identified in that Dilapidation Management Plan will be dealt with by the Service Provider in accordance with **clause 5.1B** and all other provisions of this Deed applicable to CRN Non-Operational Structures; and
 - (ii) the Service Provider may re-submit a Dilapidation Management Plan, in which case **clauses 5.1C(b)(i) to (vi)** will re-apply.
- (e) Where a Dilapidation Management Plan is approved by the Principal pursuant to this **clause 5.1C** then the Service Provider will not be liable for any loss which is a direct result of deterioration or dilapidation contemplated by that plan but will be liable for any loss which is a direct result of the Service Provider's failure to comply with **clause 5.1C(b)(iv)** or **(v)**.
- (f) The Service Provider must not amend any Dilapidation Management Plan that has been submitted to the Principal's Representative and, in respect of which the Principal's Representative has given the Service Provider the notice referred to in **clause 5.1C(b)(i)** or **5.1C(c)(i)(A)**, unless the Service Provider submits the proposed amendments to the Principal's Representative, in which case this **clause 5.1C** will re-apply.
- (g) For the purposes of calculating time under this **clause 5.1C**, the days between 24 December and 7 January will not be counted as Business Days.

5.2 General Warranty

- (a) The Service Provider warrants that:
 - (i) subject to **clause 5.1A** and any waiver in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**, the CRN Operational Assets will be operated, maintained and repaired so as to remain, at all times during the Term, fit for their Intended Purposes;
 - (ii) subject to **clause 5.1B** and **clause 5.1C** and any waiver in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**, the CRN Non-Operational Structures will be maintained and repaired so as to satisfy the CRN Reset Objectives at all times during the Term;

- (iii) each plan included in **Appendix C** of the **Scope of Works** or otherwise required to be prepared in accordance with the **Scope of Works** (including each 3MWP, each 10MSP and each 50AMP) will be fit for its Intended Purposes; and
 - (iv) compliance by the Service Provider with each plan included in **Appendix C** of the **Scope of Works** or otherwise prepared in accordance with the **Scope of Works** (including each 3MWP, each 10MSP and each 50AMP), will result in the satisfaction of the warranty under **clause 5.2(a)(i)** and otherwise result in the Service Provider carrying out the Services in accordance with this Deed.
- (b) The Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, compliance by the Service Provider with any plan included in **Appendix C** of the **Scope of Works** or otherwise prepared in accordance with the **Scope of Works** (including any 3MWP, any 10MSP or any 50AMP) not resulting in the Service Provider carrying out the Services in accordance with this Deed.
- (c) The Services include any activities and work necessary to:
 - (i) ensure that:
 - (A) subject to **clause 5.1A** and any waiver in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**, all parts of the CRN Operational Assets will be operated, maintained and repaired so as to remain, at all times during the Term fit for their Intended Purpose; and
 - (B) subject to **clause 5.1B** and **clause 5.1C** and any waiver in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**, all parts of the CRN Non-Operational Structures will be operated, maintained and repaired so as to satisfy the CRN Reset Objectives at all times during the Term; and
 - (ii) otherwise comply with this Deed,notwithstanding that such activities and work may not be included in, or contemplated by, any plan included in **Appendix C** of the **Scope of Works** or otherwise prepared in accordance with the **Scope of Works** (including any 3MWP, 10MSP or 50AMP).

5.3 Services to Comply

The Service Provider must carry out the Services in accordance with:

- (a) all Laws;
- (b) this Deed;
- (c) all relevant NSW Government Policies; and
- (d) all Standards and Codes.

5.4 Minimise Disruption

The Service Provider must:

- (a) ensure that in carrying out the Services it does all things and takes all measures reasonably necessary to protect people and property;
- (b) avoid unnecessary interference with the passage of people and vehicles;
- (c) minimise noise and disturbance to those affected by the Services;

- (d) provide such security measures as are reasonably necessary for the protection and the security of the CRN Assets against theft, vandalism, unauthorised entry and any other unlawful acts; and
- (e) coordinate the carrying out of the Services with, cooperate with, and not interfere with, the Principal and any employees, agents, invitees, consultants, contractors and subcontractors of the Principal (and each of their respective employees and agents) on or in the vicinity of the CRN Assets, including any persons carrying out works or services in respect of any Carry-Over Works or Third Party Constructed Enhancement Assets or works or services which relate to, or interface with, any Services or the CRN Assets.

5.5 Rectification of Non-Compliances

- (a) Without limiting the provisions of the **KPI Schedule** or the **Payment Schedule**, if, prior to the expiry of the Term, the Principal's Representative discovers or becomes aware of a Non-Compliance, the Principal's Representative may give the Service Provider a Direction:
 - (i) specifying the Non-Compliance; and
 - (ii) either:
 - (A) requiring the Service Provider to correct the Non-Compliance and specifying a reasonable time within which this must occur; or
 - (B) requiring the Service Provider to prepare and submit a Failure Report and Rectification Plan in accordance with the **KPI Schedule**.
- (b) The Service Provider must:
 - (i) comply with any Direction under **clause 5.5(a)**; and
 - (ii) in respect of any Non-Compliances which the Service Provider otherwise discovers or becomes aware of prior to the expiry of the Term, rectify those Non-Compliances in accordance with the **KPI Schedule** or, to the extent the provisions of the **KPI Schedule** do not apply, within a reasonable time.
- (c) Without limiting any other right of the Principal, to the extent any Non-Compliance exists at the expiry of the Term (whether or not discovered during the Term), the costs incurred (or anticipated to be incurred) by the Principal in having the Non-Compliance rectified by itself or others (as certified by the Principal's Representative) will become a debt due and payable by the Service Provider to the Principal.
- (d) Except to the extent otherwise expressly provided in this Deed, the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, its obligations under this **clause 5.5**.
- (e) Neither the Principal's rights, nor the Service Provider's liabilities, whether under this Deed or otherwise according to Law, will be in any way affected or limited by:
 - (i) the rights conferred upon the Principal or the Principal's Representative by this **clause 5.5** or any other provision of this Deed;
 - (ii) the exercise of, or the failure by the Principal or the Principal's Representative to exercise, any such rights; or
 - (iii) any notice or direction of the Principal's Representative under **clause 5.5(a)**.

5.6 Advancements in Technology and Safety

The Service Provider acknowledges and agrees that the Services extend to incorporating advancements in technology, safety and maintenance practices to the extent consistent with Good Industry Practice.

5.7 Relevant Documents

- (a) The Service Provider agrees that it has satisfied itself as to, and has obtained and read a copy of and fully understands, the Relevant Documents in existence as at the date of this Deed and has made due allowance in the Monthly Services Fee, each Mobilisation Payment and any rates and prices included in the **Payment Schedule** for the performance and satisfaction its obligations in respect of those Relevant Documents.
- (b) Subject to **clause 5.7(f)(ii)**, the Service Provider must not do, or omit to do, anything that will cause or contribute to TAHE or TfNSW breaching their respective obligations under any of the Relevant Documents, to the extent that they are relevant to, or affect, the Services or the CRN Assets.
- (c) Without limiting the Principal's rights under this Deed, to the extent that the Service Provider breaches **clause 5.7(b)**, the Service Provider must do all things necessary to assist TfNSW or TAHE to remedy the breach.
- (d) Without limiting the above, the Service Provider agrees that:
 - (i) the provisions of the Relevant Documents may affect the ability of the Service Provider to carry out the Services; and
 - (ii) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the Relevant Documents, except to the extent otherwise expressly provided in this Deed in respect of a Qualifying Change in Relevant Documents in respect of which the Service Provider has complied with **clause 5.7(f)(i)**.
- (e) The Service Provider acknowledges that:
 - (i) the list of Relevant Documents provided in **Schedule 6** to this Deed may not be complete, and other documents may be in existence at the time of executing this Deed that are Relevant Documents;
 - (ii) additional Relevant Documents may come into existence after the date of this Deed; and
 - (iii) the Relevant Documents may be updated, amended or terminated after the date of this Deed.
- (f) Without limiting **clause 29 or 29A**, where there is a Change in Relevant Documents:
 - (i) the Service Provider must give written notice to the Principal's Representative within 5 Business Days after it first becomes aware, or ought reasonably to have first become aware, of the Change in Relevant Documents containing:
 - (A) details of the Change in Relevant Documents; and
 - (B) a Variation Impacts Statement as an attachment;
 - (ii) if a notice is given by the Service Provider which complies with **clause 5.7(f)(i)**, then within 10 Business Days of the notice being given, the Principal's Representative may direct the Service Provider to disregard the Change in Relevant Documents; and

- (iii) despite **clauses 5.7(f)(i) and 5.7(f)(ii)**, the Principal may at any time give written notice of a Change in Relevant Document to the Service Provider and the Service Provider must, if it intends to pursue the Qualifying Change in Relevant Document mechanism, give written notice to the Principal that satisfies **clause 5.7(f)(i)** within 20 Business Days after receiving the Principal's notice; and
- (iv) the time period under **clause 5.7(f)(iii)** only applies where the Principal has given a written notice under **clause 5.7(f)(iii)**, otherwise the time periods in **clause 5.7(f)(i)** and **clause 5.7(f)(ii)** apply.

5.8 Supply of Records (Including Information Documents) by the Principal

- (a) Records supplied by the Principal to the Service Provider will remain the property of the Principal and the Service Provider must return it to the Principal immediately upon demand in writing, and otherwise within 20 Business Days of the Termination Date. The Service Provider must ensure Records are not, without the prior written approval of the Principal, used, copied or reproduced for any purpose other than the carrying out of the Services.
- (b) The Service Provider acknowledges and agrees that:
 - (i) any Information Document has been or will be provided only for the Service Provider's convenience and does not form part of this Deed;
 - (ii) any Information Document (including the accuracy, adequacy, suitability or completeness of it) has not been in any way, and will not be, relied upon by the Service Provider for any purpose (including entering into this Deed or carrying out the Services);
 - (iii) the Principal does not:
 - (A) assume any responsibility or duty of care in respect of; or
 - (B) warrant, guarantee or make any representation as to, Information Documents (including its accuracy, suitability, completeness or adequacy for the purposes of this Deed);
 - (iv) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with:
 - (A) any inaccuracy, incompleteness or inadequacy of Information Documents;
 - (B) any use of or reliance upon any Information Document by the Service Provider;
 - (C) any other fact, matter or thing arising out of, or in any way in connection with, any Information Document; or
 - (D) the non-provision of any other information by the Principal or any Rail Transport Agency;
 - (v) the Service Provider must not rely upon (or allow any other person to rely upon) Information Documents for or in any way in connection with the carrying out of the Services; and
 - (vi) without prejudice to **clause 5.8(b)(i)**, it has by its own independent enquiries satisfied itself as to, and taken into account, any matter or thing relevant to the carrying out of the Services disclosed by any Information Document.

- (c) The Service Provider releases the Principal from any Claim against the Principal arising out of, or in any way in connection with:
 - (i) the provision of, or the purported reliance upon, or use of, Information Documents by the Service Provider or any other person to whom any Information Document is disclosed by the Service Provider;
 - (ii) any breach by the Service Provider of this **clause 5.8**; or
 - (iii) Information Documents being relied upon or otherwise used by the Service Provider or any other person to whom any Information Document is disclosed by the Service Provider in the preparation of any document, including any Information Document which is 'misleading or deceptive' or 'false or misleading' (within the meaning of those terms in the Australian Consumer Law (set out in **Schedule 2** of the *Competition and Consumer Act 2010* (Cth)), or any equivalent provision of State or Territory legislation).

5.9 Service Provider's General Representations and Warranties

The Service Provider represents and warrants to the Principal that each of the following statements is true and correct:

- (a) it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation specified in this Deed;
- (b) it has the power to enter into and perform its obligations under this Deed, to carry out the transactions contemplated by this Deed and to carry on its business as now conducted or contemplated;
- (c) it has taken all necessary corporate action to authorise the entry into and performance of this Deed and to carry out the transactions contemplated by this Deed;
- (d) this Deed creates valid and binding obligations and is enforceable in accordance with its terms, subject to any necessary stamping and registration;
- (e) the execution and performance by the Service Provider of this Deed and each transaction contemplated under this Deed did not and will not violate in any respect a provision of:
 - (i) a Law or treaty or a judgment, ruling, order or decree of an Authority binding on it;
 - (ii) its memorandum or articles of association or other constituent documents; or
 - (iii) any other document or agreement that is binding on it or its assets;
- (f) no suit, cause of action, proceeding, application, claim or investigation is current, pending, threatened or in prospect against it which would materially affect its ability to comply with its obligations under this Deed;
- (g) no resolution has been passed for its winding up;
- (h) no resolution has been passed for the appointment of an administrator to it;
- (i) there are no facts, matters or circumstances that give any person the right to apply to wind it up or to appoint a controller within the meaning of section 9 of the *Corporations Act 2001* (Cth) or an administrator or an inspector under the *Corporations Act 2001* (Cth) in respect of it or any part of its undertaking or assets or income; and
- (j) no Insolvency Event has occurred and is continuing.

5.10 Notification of Change

The Service Provider must immediately notify the Principal upon becoming aware that a representation or warranty given under **clause 5.9** has become untrue.

5.11 Inquiries

- (a) Without limiting any other obligation of the Service Provider, the Service Provider must, within the timeframe required by the Principal, provide all assistance required by the Principal in respect of any inquiry into or concerning the Services, the CRN Assets or this Deed. For these purposes, an inquiry includes:
 - (i) any administrative or statutory review, audit or inquiry (whether within or external to the Principal); and
 - (ii) without limiting **clause 5.11(a)(i)**:
 - (A) any request for information from the NSW Auditor-General;
 - (B) any Ministerial inquiries;
 - (C) any order for documents pursuant to the Standing Rules and Orders adopted by the Legislative Council of New South Wales;
 - (D) any requests pursuant to the GIPA Act;
 - (E) any subpoenas or notices to produce; and
 - (F) any other ad-hoc request related to the Services made on reasonable grounds.
- (b) Without limiting **clause 5.11(a)**, the assistance to be provided by the Service Provider includes:
 - (i) the provision of requested documents or information relevant to the Services or the CRN Assets; and
 - (ii) answering questions relevant to the Services or the CRN Assets, within the timeframe required by the Principal's Representative.

Part D – Contract Administration

6 Contract Administration

6.1 Service Provider's Associates

The Service Provider warrants that each of its Associates engaged in, or in connection with, the carrying out of the Services hold (and will continue to hold) all necessary Approvals and are (and will continue to be) properly authorised, accredited, trained and experienced to carry out:

- (a) the Mobilisation Activities for the duration of the Mobilisation Stage;
- (b) the Early Enhancement Activities at all times during which the Early Enhancement Activities are carried out, or required to be carried out; and
- (c) the Services for the duration of the Term.

6.2 Key Personnel

- (a) The Service Provider:
 - (i) must ensure the Key Personnel are engaged in the carrying out of the Services in their respective capacities set out in the Workforce and Transition Plan; and
 - (ii) must only replace the Key Personnel:

- (A) in circumstances of death, serious illness or change of employment to another employer (that is not a Related Body Corporate of the Service Provider) or where otherwise directed or agreed by the Principal; and
 - (B) with others (having equivalent skill and experience) approved by the Principal's Representative acting reasonably.
- (b) The Principal may, at its absolute discretion, direct the Service Provider to remove any Key Personnel. Where directed by the Principal to remove Key Personnel, the Service Provider must replace those Key Personnel as directed by the Principal and in accordance with **clause 6.2(a)(ii)(B)**.

6.3 Keeping of Records

- (a) The Service Provider must prepare and maintain up-to-date, comprehensive, true and accurate Records.
- (b) The Records must include:
 - (i) any records provided to the Service Provider by the Principal;
 - (ii) copies of all primary source documents, including invoices and timesheets;
 - (iii) all information necessary to enable the Principal and the Principal's Representative to consider and verify any Claim by the Service Provider; and
 - (iv) copies of all documents or other material in which the Intellectual Property referred to in **clause 21.2** subsists.
- (c) Where the Records referred to in this clause belong to or are within the control of any Related Body Corporate or Associate of the Service Provider, the Service Provider must procure that the Related Body Corporate or Associate maintains those Records and provides access to them for the purposes of any audit or inspection contemplated under this Deed.

6.4 Open access principles

- (a) The Service Provider must at all times (including, where applicable, after the expiry of the Term, but subject to **clause 6.4(c)**) give the Principal, the Principal's Representative, each of the Principal's Associates and their respective nominees (including any Step-in Party) access to:
 - (i) the CRN Assets, Plant and Equipment, any other Asset used by or on behalf of the Service Provider or any of its Associates for the purposes of carrying out the Services and any place where the Services have been, or are being, carried out or materials are being prepared or stored (including any premises or land used or occupied by any of the Service Provider's Associates) for any reason, including for the purpose of conducting an audit, subject always to compliance by them with reasonable safety procedures established by the Service Provider or relevant Service Provider's Associate in relation to the CRN Assets or such other place; and
 - (ii) all Records within the custody or control of the Service Provider or any of its Related Bodies Corporate or Associates, other than Records that are Privileged Records, for any reason, including for the purpose of:
 - (A) conducting an audit;
 - (B) copying such Records;

- (C) enabling the Principal and the Principal's Representative to consider and verify any Claim by the Service Provider; or
 - (D) otherwise using such Records in connection with any tender or procurement process relating to the engagement (or potential engagement) of any Successor Service Provider or in connection with the exercise of any Step-in Powers.
- (b) For the avoidance of doubt, the right to inspect or audit under **clause 6.4(a)** includes the right to inspect or audit CRN Assets, Plant and Equipment, Records or other Assets, places or things referred to in **clause 6.4(a)** for the purposes of:
 - (i) assessing compliance by the Service Provider or those items with the requirements of this Deed; and
 - (ii) ascertaining the status, content and condition of those items.
- (c) The Service Provider must:
 - (i) ensure that the Principal, the Principal's Representative, each of the Principal's Associates and their respective nominees each have remote access to all Records and the information management systems of the Service Provider relevant to this Deed, the Services or the CRN Assets, or, if such Records are not stored electronically or capable of being accessed remotely, provide the necessary access as soon as reasonably practicable after a request from the Principal's Representative; and
 - (ii) in respect of Records (other than Records that are Privileged Records):
 - (A) that are stored on a medium other than in writing, make available on reasonable request by the Principal's Representative such facilities as may be necessary to enable a legible reproduction to be created; and
 - (B) provide the Principal, the Principal's Representative, each of the Principal's Associates and their respective nominees with all assistance, working accommodation, facilities and personnel required for the purposes of this **clause 6.4** (including the interpretation and analysis of the Records).
- (d) Without limiting **clauses 6.4(a) and 6.4(c)**, the Service Provider must:
 - (i) ensure that the Principal, the Principal's Representative, each of the Principal's Associates and their respective nominees each have direct access to any information, documents or material that:
 - (A) is maintained by a third party (including any of the Service Provider's Related Bodies Corporate or Associates); and
 - (B) the Principal, the Principal's Representative, each of the Principal's Associates and their respective nominees are each entitled to have access to, or have copies of, from the Service Provider under this Deed;
 - (ii) ensure that any contractual arrangements between the Service Provider or any of the Service Provider's Related Bodies Corporate or Associates and any third parties acknowledge and fully facilitate the rights of access under **clause 6.4(d)(i)**; and
 - (iii) on demand, provide to the Principal's Representative written evidence (including copies of any contractual arrangements referred to in **clause 6.4(d)(ii)**) showing compliance by the Service Provider with its obligations under **clause 6.4(d)(ii)**.

- (e) The Service Provider must cooperate, and must ensure that each of the Service Provider's Related Bodies Corporate and Associates cooperate, with the Principal and any other person exercising a right under this **clause 6.4**.
- (f) In addition to any other right the Principal has under this Deed, with effect from the Termination Date, where the Principal requires access to any system, Software or other Material (in respect of which the Principal has Intellectual Property rights under this Deed):
 - (i) that has been used by the Service Provider in carrying out the Services; and
 - (ii) that is hosted on a computer server or other computer system owned or controlled by the Service Provider,the Service Provider must provide the Principal with all reasonable:
 - (iii) access to that system, Software or other Material; and
 - (iv) assistance in transferring that system, Software or other Material from that computer server or other computer system, to a computer server or other computer system selected by the Principal (including any server or system of a Successor Service Provider),for a period of 12 months following the Termination Date.
- (g) In addition to its other obligations under this Deed and in accordance with **clause 6.4(h)**, the Service Provider must provide to the Principal and the Principal's Representative:
 - (i) all descriptions, data, documents and information that the Service Provider holds (including breakdowns of forecast and incurred costs and pricing); and
 - (ii) all access to any individuals employed by the Service Provider or its Associates with relevant subject matter knowledge,requested by the Principal or the Principal's Representative in order for it to:
 - (iii) review, analyse or otherwise consider the 3MWP or a proposed revised 3MWP and evaluate the value for money and scope of the Services;
 - (iv) identify, make, consider or otherwise pursue any claim under the CRN Assets Cover; and/or
 - (v) review, analyse or otherwise consider any other aspect of the Services or the CRN Assets in respect of which the Principal determines, acting reasonably, that it requires further descriptions, data, documents and information.
- (h) Any information provided by the Service Provider in accordance with **clause 6.4(g)** must be provided:
 - (i) in a clear, transparent and fully auditable manner and, where applicable, in unlocked native electronic formats; and
 - (ii) within the period of time period specified by the Principal or the Principal's Representative (acting reasonably).

6.5 Cost of Audit

- (a) Subject to **clause 6.5(b)**, any audit or inspection undertaken by, or on behalf of, the Principal in accordance with **clause 6.4** will be at the Principal's cost, unless the audit or inspection reveals a Non-Compliance or is undertaken following a Non-Compliance (including an audit or inspection undertaken by or on behalf of the Principal following a failure by the Service Provider to undertake the audit or inspection), in which case the

cost of the audit or inspection will become a debt due and payable by the Service Provider to the Principal.

- (b) Without limiting any other right of the Principal and without limiting the **KPI Schedule**:
- (i) if any two audits or inspections undertaken by, or on behalf of, the Principal in accordance with **clause 6.4** in any 12 month period reveal a Non-Compliance, the Principal may engage an auditor for a reasonable period (per instance in which this **clause 6.5(b)(i)** is triggered) to carry out a follow up audit (and inspections, as necessary) in accordance with **clause 6.4** with respect to each such Non-Compliance, the subject matter of each such Non-Compliance, and the compliance of the Service Provider with requirements of the Deed that are in respect of subject matter substantially similar to the subject matter of any such Non-Compliance; or
 - (ii) if any two audits or inspections undertaken by, or on behalf of, the Principal in accordance with **clause 6.4** in any 12 month period reveal repeated material Non-Compliances, the Principal may engage an auditor to carry out a reasonable number of follow-up audits and inspections in accordance with **clause 6.4** with respect to the material Non-Compliances, the subject matter of the material Non-Compliances, and the compliance of the Service Provider with requirements of the Deed that are in respect of subject matter substantially similar to the subject matter of any of the material Non-Compliances, until such time as:
 - (A) the audits and inspections indicate that the Non-Compliances have been rectified; and
 - (B) the Principal's Representative is satisfied (acting reasonably) based on the results of those audits and inspections that there are not any, or are unlikely to be any, systemic failures by the Service Provider to comply with the requirements of this Deed:
 - (1) in connection with the subject matter of any of the material Non-Compliances; or
 - (2) that are in respect of subject matter substantially similar to the subject matter of any of the material Non-Compliances,
- and the costs incurred (or anticipated to be incurred) by the Principal in doing so (as certified by the Principal's Representative) will become a debt due and payable by the Service Provider to the Principal.
- (c) Nothing in **clause 6.4** or this **clause 6.5** limits or otherwise affects any obligation of the Service Provider to carry out audits and inspections in accordance with the requirements of the **Scope of Works**.

6.6 State Records

In addition to the Service Provider's other obligations under this Deed, from the Mobilisation Date until the expiry of the Term, the Service Provider must:

- (a) make arrangements for the safe keeping and proper preservation of State Records;
- (b) establish and maintain and implement a records management program for State Records;
- (c) provide the Principal with any State Record the Principal requires for the purposes of the State Records Act, upon reasonable notice by the Principal;

- (d) ensure that all State Records are in a format reasonably accessible to, and able to be read and interpreted by, the Principal provided that the Service Provider may at its discretion either provide:
 - (i) the State Records;
 - (ii) copies of the State Records; or
 - (iii) other access to those State Records;
- (e) cooperate with and assist the Principal, including by providing access to the State Records Authority, in respect of any request received by the Principal from the State Records Authority pursuant to the State Records Act;
- (f) comply with all reasonable requests and Directions made by the Principal to enable it to comply with its obligations pursuant to the State Records Act;
- (g) comply with any guidelines for administrative practice issued by the State Records Authority; and
- (h) upon the Termination Date, deliver all State Records to the Principal, other than any State Records that the Principal has given the Service Provider approval in writing to dispose of.

6.7 Back-up

To the extent required by the Principal's Representative, the Service Provider must, on and from the date that is three months after the Services Commencement Date, ensure that a copy of:

- (a) all electronic Records or data emanating from the information and document management systems maintained, or required to be maintained, in any way in connection with the Services; and
- (b) any updates or amendments to any software or to the configuration of any software carried out, or undertaken by or on behalf of the Service Provider, in any way in connection with the Services, where that software is:
 - (i) software in respect of which the **Scope of Works** requires a back-up of updates to the software; or
 - (ii) software in respect of which it is reasonably practicable to provide a back-up of such updates,

is backed up (at intervals nominated by the Principal's Representative) to a computer server or other computer or electronic system, or other media approved by the Principal's Representative, in a format that the Principal's Representative can freely access.

6.8 Submission of Review Documents for review by the Principal's Representative

- (a) The Service Provider must submit Review Documents to the Principal's Representative:
 - (i) progressively and in a timely manner to ensure that the Services are commenced, carried out and completed by the times required under this Deed, and in any event by the times or within the periods:
 - (A) required by this Deed (including, where applicable, the **Scope of Works** or the **Scope of Works Deliverables Schedule**); and
 - (B) in the absence of a time or period in this Deed, required by the Principal's Representative; and
 - (ii) under cover of a written notice entitled "Submit for Review", which identifies:

- (A) the Review Document;
 - (B) the provision of this Deed (including, if applicable, the relevant sections of the **Scope of Works** or the **Scope of Works Deliverables Schedule**) under which the Review Document is submitted; and
 - (C) whether the Review Document, or compliance with the Review Document, will result in any Non-Compliance.
- (b) The Principal's Representative may (but is not obliged to) review any Review Document, or any resubmitted Review Document, prepared and submitted by the Service Provider and:
 - (i) reject the Review Document (and state reasons) if:
 - (A) in the Principal's Representative's opinion (acting reasonably) the Review Document (or any part) does not comply with this Deed, or compliance by the Service Provider with the Review Document will result in any Non-Compliance; or
 - (B) this Deed otherwise entitles the Principal's Representative to reject the Review Document;
 - (ii) make comments on the Review Document, or request clarification or additional information; or
 - (iii) notify the Service Provider that it has no (or has no further) comments to make at the relevant time,within relevantly:
 - (iv) where a time or period is stated in this Deed for review of that specific Review Document, that time or the expiry of that period; and
 - (v) for all other Review Documents, 20 Business Days (or such other period agreed between the parties) from submission.
- (c) If any Review Document is:
 - (i) rejected or deemed to be rejected by the Principal's Representative, the Service Provider must submit an amended Review Document to the Principal's Representative within 10 Business Days after the date of such rejection or deemed rejection and this **clause 6.8** will re-apply; or
 - (ii) not rejected by the Principal's Representative and the Principal's Representative responds to the Review Document with comments, or requests clarification or additional information, the Service Provider must respond to the comments or request within 5 Business Days or such other period as may be directed by the Principal's Representative.
- (d) If the Service Provider:
 - (i) responds to the Principal's Representative's comments or request within the period referred to in **clause 6.8(c)(ii)** in a manner satisfactory to the Principal's Representative and **clauses 6.8(b)(i)(A)** and **6.8(b)(i)(B)** do not apply, the Principal's Representative will, within 20 Business Days of that response, notify the Service Provider that it has no (or no further) comments to make at the relevant time; or
 - (ii) fails to respond to the Principal's Representative's comments or request within the period referred to in **clause 6.8(c)(ii)** in a manner satisfactory to the

Principal's Representative, or the Principal's Representative does not give a notice under **clause 6.8(d)(i)**:

- (A) the Review Document will be deemed to be rejected; and
- (B) **clause 6.8(c)(i)** will apply.

(da) If each of the following is satisfied in respect of the most recently submitted (or resubmitted) version of a particular Review Document:

- (i) either:
 - (A) the Principal's Representative does not reject that Review Document within the period referred to in **clause 6.8(b)**; or
 - (B) that Review Document is deemed to have been rejected in accordance with **clause 6.8(d)(ii)(A)** (because the Principal's Representative has not given a notice under **clause 6.8(d)(i)** in respect of that Review Document);
- (ii) the Principal's Representative does not make comments on that Review Document, or request clarification or additional information within the period referred to in **clause 6.8(b)**;
- (iii) the Principal's Representative does not notify the Service Provider that it has no (or has no further) comments on that Review Document within the period referred to in **clause 6.8(b)**; and
- (iv) if **clause 6.8(d)(i)** applies, the Principal's Representative does not notify the Service Provider that it has no (or has no further) comments on that Review Document within the period referred to in **clause 6.8(d)(i)**,

then the Service Provider may perform the Services based on, or otherwise use for the purposes of the Services and this Deed, that Review Document at its own risk, provided that this will not prejudice any rights, powers or discretions of the Principal or the Principal's Representative, whether under the Deed or otherwise according to Law, including the right of the Principal's Representative to subsequently reject any such Review Document if it does not comply with this Deed, or compliance by the Service Provider with such Review Document will result in any Non-Compliance.

(e) The Service Provider must not amend any Review Document that has been submitted to the Principal's Representative and, in respect of which:

- (i) the Principal's Representative has given the Service Provider the notice referred to in **clause 6.8(b)(iii)** or **6.8(d)(i)**; or
- (ii) the relevant period of time in **clause 6.8(b)** has expired and the Principal's Representative has not rejected it, made any comments on it or made a request referred to in **clause 6.8(b)(ii)** in respect of it,

unless the Service Provider submits the proposed amendments to the Principal's Representative, in which case this **clause 6.8** will re-apply.

(f) For the purposes of calculating time under this **clause 6.8**, the days between 24 December and 7 January will not be counted as Business Days.

6.9 Submission of Excluded Documents

(a) The Service Provider must submit Excluded Documents to the Principal's Representative:

- (i) progressively and in a timely manner to ensure that the Services are commenced, carried out and completed by the times required under this Deed, and in any event by the times or within the periods:
 - (A) required by this Deed (including, where applicable, the **Scope of Works** or the **Scope of Works Deliverables Schedule**); and
 - (B) in the absence of a time or period in this Deed, required by the Principal's Representative; and
- (ii) under cover of a written notice entitled "Submit for Approval", which identifies:
 - (A) the Excluded Document;
 - (B) the provision of this Deed (including, if applicable, the relevant sections of the **Scope of Works** or the **Scope of Works Deliverables Schedule**) under which the Excluded Document is submitted; and
 - (C) whether the Excluded Document, or compliance with the Excluded Document, will result in any Non-Compliance and, where the Excluded Document is a 3MWP (including a revised 3MWP proposed by the Service Provider), whether any of the matters referred to in **section 5.8.2(c)** of the **Scope of Works** arises or will arise.
- (b) Following submission of any Excluded Document to the Principal's Representative in accordance with **clause 6.9(a)**, the Principal's Representative may (subject to any limitations expressly set out in the **Scope of Works**):
 - (i) notify the Service Provider that the Excluded Document is approved;
 - (ii) make comments on the Excluded Document, or request clarification or additional information; or
 - (iii) notify the Service Provider that the Excluded Document is rejected (which notice may state reasons),within relevantly, the later of:
 - (iv) where a time or period is stated in the **Scope of Works** for a response from the Principal's Representative as to whether the Excluded Document is approved, that time or the expiry of that period; and
 - (v) for all other Excluded Documents, 20 Business Days (or such longer period as the Principal's Representative may reasonably require) from submission.
- (c) If the Principal's Representative does not give a notice under **clause 6.9(b)** within the period referred to in **clause 6.9(b)**:
 - (i) the Excluded Document will be deemed to be rejected; and
 - (ii) **clause 6.9(d)(i)** will apply.
- (d) If any Excluded Document is:
 - (i) rejected or deemed to be rejected by the Principal's Representative, the Service Provider must (or, in respect of an updated 3MWP submitted in accordance with **section 5.8.2(b)** of the **Scope of Works**, may) submit an amended Excluded Document to the Principal's Representative within 10 Business Days after the date of such rejection or deemed rejection and this **clause 6.9** will re-apply; or
 - (ii) not rejected by the Principal's Representative and the Principal's Representative responds to the Excluded Document with comments, or requests clarification or additional information, the Service Provider must respond to the comments or

request within 5 Business Days or such other period as may be directed by the Principal's Representative.

- (e) If the Service Provider:
 - (i) responds to the Principal's Representative's comments or request within the period referred to in **clause 6.9(d)(ii)** in a manner satisfactory to the Principal's Representative, the Principal's Representative will (subject to any limitations expressly set out in the **Scope of Works**):
 - (A) notify the Service Provider that the Excluded Document is approved; or
 - (B) notify the Service Provider that the Excluded Document is rejected (which notice may state reasons),

within 20 Business Days of that response (or such longer period as the Principal's Representative may reasonably require); or
 - (ii) fails to respond to the Principal's Representative's comments or request within the period referred to in **clause 6.9(d)(ii)** in a manner satisfactory to the Principal's Representative, or the Principal's Representative does not give a notice under **clause 6.9(e)(i)**:
 - (A) the Excluded Document will be deemed to be rejected; and
 - (B) **clause 6.9(d)(i)** will apply.
- (ea) If each of the following is satisfied in respect of the most recently submitted (or resubmitted) version of a particular Excluded Document:
 - (i) the Principal's Representative does not make comments on that Excluded Document, or request clarification or additional information within the period referred to in **clause 6.9(b)**; and
 - (ii) either:
 - (A) the Principal's Representative does not reject that Excluded Document within the period referred to in **clause 6.9(b)** or **6.9(e)(i)(B)** (as applicable); or
 - (B) that Excluded Document is deemed to have been rejected in accordance with **clause 6.9(e)(ii)(A)** (because the Principal's Representative has not given a notice under **clause 6.9(e)(i)** in respect of that Excluded Document),

then the Service Provider may perform the Services based on, or otherwise use for the purposes of the Services and this Deed, that Excluded Document at its own risk, provided that this will not prejudice the rights, powers or discretions of the Principal or the Principal's Representative, whether under the Deed or otherwise according to Law, including the right of the Principal's Representative to subsequently reject any such Excluded Document and to require the Service Provider to perform the Services in accordance with Excluded Documents referred to in **clause 1.3(n)** (which may involve re-performing the Services already performed).
- (f) Except as expressly required or permitted in the **Scope of Works**, the Service Provider must not amend any Excluded Document that has been submitted to the Principal's Representative and, in respect of which the Principal's Representative has given the Service Provider the notice referred to in **clause 6.9(b)(i)** or **6.9(e)(i)(A)**, unless the Service Provider submits the proposed amendments to the Principal's Representative, in which case this **clause 6.9** will re-apply.

- (g) For the purposes of calculating time under this **clause 6.9**, the days between 24 December and 7 January will not be counted as Business Days.
- (h) For the avoidance of doubt, the 3MWP which is binding on the Service Provider at any particular point in time is:
 - (i) subject to **clause 6.9(h)(ii)**, the Reset 3MWP; or
 - (ii) the most recent version of the 3MWP which has been accepted in writing by the Principal or the Principal's Representative in accordance with the **Scope of Works** and this **clause 6.9**,

in each case subject to any subsequent changes or updates in that 3MWP which have been accepted in writing by the Principal or the Principal's Representative in accordance with the **Scope of Works** and this **clause 6.9**.

- (i) Subject to **clause 6.9(j)**, the Service Provider warrants that:
 - (i) the Reset 3MWP has been prepared by the Service Provider in accordance with Good Industry Practice; and
 - (ii) all 3MWPs and Technical Maintenance Plans will be prepared by the Service Provider in accordance with Good Industry Practice.
- (j) The parties acknowledge and agree that:
 - (i) the Service Provider has not provided an ASP to the Principal's satisfaction;
 - (ii) as at the Reset Date, the Principal is deemed to have unconditionally accepted the [REDACTED] and the Service Provider may perform the Services for CY4 based on the Reset 3MWP despite the Service Provider not having provided an ASP to the Principal's satisfaction;
 - (iii) the Principal's acceptance of the Reset 3MWP in respect of CY4 is not to be taken as an agreement or acceptance of the Reset 3MWP as containing an appropriate level of detail, quality, assurance and robustness for future 3MWPs;
 - (iv) the Service Provider must:
 - (A) to ensure that the Principal is able to approve an ASP that complies with the requirements of this Deed and the TfNSW Asset Management Framework by 31 March 2025, act collaboratively with the Principal:
 - (1) in providing to the Principal draft ASPs that comply with the requirements of this Deed and the TfNSW Asset Management Framework; and
 - (2) having regard to the Principal's comments on any draft ASPs; and
 - (B) provide [REDACTED] an ASP for the Principal's approval that complies with the requirements of this Deed and the TfNSW Asset Management Framework and has regard to all of the Principal's comments on drafts of the ASP;
 - (v) the Service Provider must provide by [REDACTED] for the Principal's acceptance a 3MWP for:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED];

- (vi) the Reset 3MWP sets out the Services the Service Provider plans to carry out to satisfy this Deed, but does not create any entitlement to a Claim (including where the Reset 3MWP assumptions are not met) other than as set out in this Deed;
- (vii) for each Contract Year after CY5, the Service Provider must, by the 28 February immediately prior to the beginning of that Contract Year, provide for the Principal's acceptance a 3MWP for:

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

- (viii) any reference to the Principal providing approval of an Excluded Document will, in respect only of 3MWPs, be read as the Principal accepting the 3MWP; and
- (ix) the Principal's acceptance of a 3MWP means that the Service Provider is not required to make any further amendments or changes to such 3MWP before it is implemented and followed.

- (k) The parties acknowledge and agree that:
 - (i) from the Reset Date, the 10MSP attached to the O&M Deed will no longer be binding on the parties;
 - (ii) all future updates of the 10MSP for submission to the Principal, as required by the Scope of Works, must be to a level of detail, quality, assurance and robustness in accordance with the requirements of this Deed and the TfNSW Asset Management Framework; and
 - (iii) the Service Provider must provide [REDACTED] for the Principal's acceptance a 10MSP that meets the requirements of the O&M Deed, and has been updated to remove references to the *10MSP Units* that are unused after the Reset Date and replace these with an annual value based approach.

6.10 No relief

- (a) The Principal and the Principal's Representative do not assume or owe any duty of care or other responsibility to the Service Provider to review, or in reviewing, a Review Document or Excluded Document submitted by the Service Provider, including for errors, omissions or compliance with this Deed.
- (b) The Service Provider:

- (i) bears the risk of any errors in or omissions from, or non-compliance with the requirements of this Deed of, any Review Document or Excluded Document and that compliance by the Service Provider with any Review Document or Excluded Document will enable the Service Provider to carry out the Services in accordance with this Deed; and
- (ii) will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with:
 - (A) any error in or omission from, or non-compliance with any requirement of this Deed of, any Review Document or Excluded Document, including the Principal or the Principal's Representative not detecting or notifying the Service Provider of any errors, omissions or non-compliance with the requirements of this Deed in any Review Document or Excluded Document submitted; or
 - (B) compliance by the Service Provider with a Review Document or Excluded Document not resulting in the Service Provider carrying out the Services in accordance with this Deed.
- (c) No review of, comment upon or approval or rejection of, or failure to review or comment upon, approve or reject, a Review Document or Excluded Document, or any other direction by the Principal or the Principal's Representative in connection with the Review Document or Excluded Document, will:
 - (i) constitute an Adjustment Event (except to the extent expressly provided in **Part 3** of the **Variations Schedule**) or a Direction to carry out a Modification (except to the extent expressly provided in **clause 14**);
 - (ii) relieve the Service Provider from or limit or otherwise affect its liabilities or obligations, whether under this Deed or otherwise according to any Law; or
 - (iii) limit or otherwise affect the Principal's rights against the Service Provider, whether under this Deed or otherwise according to any Law.

6.11 Reporting

The Service Provider must report to the Principal's Representative, and (without limiting **clause 6.8**) otherwise submit documentation to the Principal's Representative, in accordance with the **Scope of Works Deliverables Schedule**.

6.12 KPIs

- (a) The Principal's Representative will measure the Service Provider's performance against the KPIs as set out in the **KPI Schedule**.
- (b) The Service Provider must meet or exceed the KPIs from the Services Commencement Date.
- (c) The Service Provider must comply with its obligations relating to the measurement and reporting of KPIs and the remedy of any failure to meet or exceed any of the KPIs, as set out in the **KPI Schedule** or elsewhere in this Deed.
- (d) From time to time prior to the expiry of the Term, the Principal's Representative may notify the Service Provider of proposed amendments to the **KPI Schedule** (including the addition or removal of KPIs or the change in the status of a KPI for the purposes of the **KPI Schedule**).

- (e) Where the Principal's Representative notifies the Service Provider under **clause 6.12(d)** of proposed amendments to the **KPI Schedule** that involve the addition of a KPI, the Principal's Representative will (to the extent the Principal's Representative is reasonably able to do so) procure the measurement of the Service Provider's performance against the proposed KPI over a 3 month period before proposing the additional KPI.
- (f) Promptly (and in any event within 10 Business Days) following receipt of any such notice, the Service Provider must notify the Principal's Representative in writing confirming that either:
 - (i) the proposed changes are agreed, in which case the **KPI Schedule** will be deemed to be amended in accordance with the Principal's Representative's notice; or
 - (ii) the proposed changes are not agreed, in which case the parties must undertake good faith negotiations for a period of 15 Business Days (or such other period agreed in writing by the parties) with a view to agreeing amendments to the **KPI Schedule**.
- (g) If the parties are able to agree amendments to the **KPI Schedule** pursuant to the negotiations referred to in **clause 6.12(f)(ii)**, then the parties must document such agreement in writing and have such documentation counter-signed by their respective representatives and the **KPI Schedule** will be deemed to be amended accordingly on and from the date such documentation is counter-signed by the last representative.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

6.13 Governance

The Service Provider and the Principal must participate in the governance of this Deed, as described in the **Governance Schedule**.

Part E – Laws and Approvals

7 Laws, Approvals and NSW Government Policy

7.1 Compliance with Laws

- (a) The Service Provider must:
 - (i) in carrying out the Services, comply with, carry out and fulfil all conditions and requirements of;
 - (ii) ensure that each of its Associates, in carrying out the Services, comply with; and
 - (iii) carry out the Services so as to ensure that, at all times during the Term:
 - (A) subject to **clause 5.1A**, the CRN Operational Assets;
 - (B) subject to **clause 5.1B** and **clause 5.1C**, the CRN Non-Operational Structures; and
 - (C) the Services,
 comply with all applicable Laws (including the HVNL) and Standards and Codes, including (subject to **clause 7.1(b)(ii)**) to the extent arising out of, or in any way in connection with, a Change in Law or Change in Standards and Codes;
 - (iv) subject to **clause 5.1B** and **clause 5.1C**, ensure the CRN Non-Operational Structures satisfy the CRN Reset Objectives; and
 - (v) in carrying out the Services, not do, or omit to do, (and ensure that its Associates do not do, or omit to do) anything that will cause or contribute to either TfNSW or TAHE breaching their respective obligations under any Law or any of the Standards and Codes.
- (b) Without limiting **clause 29**, where there is a Change in Standards and Codes:
 - (i) the Service Provider must give written notice to the Principal's Representative within 5 Business Days after it first becomes aware, or ought reasonably to have first become aware, of the Change in Standards and Codes containing:
 - (A) details of the Change in Standards and Codes; and
 - (B) a Variation Impacts Statement as an attachment; and
 - (ii) if a notice is given by the Service Provider which complies with **clause 7.1(b)(i)**, then within 10 Business Days of the notice being given, the Principal's

Representative may direct the Service Provider to disregard the Change in Standards and Codes.

- (c) The Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with:
 - (i) any Change in Law, except to the extent otherwise expressly provided in this Deed in respect of a Qualifying Change in Law; or
 - (ii) any Change in Standards and Codes, except to the extent otherwise expressly provided in this Deed in respect of a Qualifying Change in Standards and Codes in respect of which the Service Provider has complied with **clause 7.1(b)(i)**.

7.2 Service Provider to Obtain Approvals

- (a) Subject to **clause 7.2(b)**, the Service Provider must:
 - (i) expeditiously apply for, obtain and maintain, throughout the Term, all Approvals required for:
 - (A) the Services to be lawfully carried out; or
 - (B) the CRN Assets:
 - (1) in the case of the CRN Operational Assets, to be lawfully occupied, used, operated and maintained for their Intended Purpose, and
 - (2) in the case of the CRN Non-Operational Structures, to be lawfully occupied, to be used and to satisfy the CRN Reset Objectives,

other than to the extent waived in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**,

including any Principal Endorsement Approvals, which the Service Provider must obtain and maintain on the Network Owner's behalf, unless the Principal otherwise requires;
 - (ii) without limiting **clause 7.2(a)(i)**, expeditiously apply for, obtain and maintain, all Approvals required for the Early Enhancement Activities to be lawfully carried out, including any Principal Endorsement Approvals, which the Service Provider must obtain and maintain on the Network Owner's behalf, unless the Principal otherwise requires;
 - (iii) if Associates are used to carry out any part of the Services, ensure that the Associates have obtained all necessary Approvals to perform that part of the Services;
 - (iv) comply with the requirements of all Approvals; and
 - (v) not undertake any Services without a required Approval (including any Services in respect of which the Service Provider intends to procure retrospective Approvals) without the Principal's Representative's prior written consent.
- (b) The Service Provider will not be required to apply for, obtain or maintain any Excluded Approvals.
- (c) If the Service Provider requires a signature, consent, input or direction of the Principal in connection with:
 - (i) an Excluded Approval; or
 - (ii) an Approval other than a Principal Endorsement Approval,

then, unless the parties otherwise agree, the Service Provider must expeditiously request such consent or input from the Principal by written notice.

- (d) If a signature, consent, input or direction of the Principal is requested under **clause 7.2(c)(i)** or **(ii)**, the Principal will provide that signature, consent, input or direction as soon as is reasonably practicable taking into account the documentation provided by the Service Provider.

7.3 Major Approvals

- (a) The Service Provider must provide an initial draft of any application for a Major Approval which is reasonably adequate and appropriate for lodgement to the Principal at least 60 Business Days before the required date of lodgement with the relevant authority and:
 - (i) comply with any reasonable directions as to the content of that draft application from the Principal; and
 - (ii) not lodge any application for a Major Approval until it receives endorsement of that Principal Endorsement Approval from the Principal.
- (b) The Principal will provide its endorsement, direction or notification under **clause 7.3(d)** in respect of the initial draft within the period set out in **clause 7.3(a)**.
- (c) If the Principal gives a direction under **clause 7.3(a)(i)** for amendment of the content of the draft application and:
 - (i) the Service Provider provides a revised draft application which:
 - (A) addresses the Principal's direction; and
 - (B) is in a form reasonably adequate and appropriate for lodgement,then the Principal will provide its endorsement of the revised draft application within 20 Business Days; or
 - (ii) the Service Provider provides a revised draft application which:
 - (A) does not address the Principal's direction; or
 - (B) is not in a form reasonably adequate and appropriate for lodgement,then, except where **clause 7.3(d)** applies, the Principal will provide further reasonable written directions within 20 Business Days and this **clause 7.3(c)** will re-apply.
- (d) If the Principal notifies the Service Provider (acting reasonably) that:
 - (i) the draft application as submitted is inadequate or inappropriate for lodgement; and
 - (ii) such inadequacy or inappropriateness cannot be resolved by the Principal issuing a reasonable direction to amend the draft application,then the Service Provider must prepare and resubmit a revised draft application, which will be treated as an initial draft and the mechanism and time period provided in **clause 7.3(a)** will apply.
- (e) Once the Principal has provided its endorsement under **clause 7.3(b)** or **7.3(c)(i)**, then the Service Provider may proceed to lodge the endorsed application with the relevant Authority.
- (f) The Service Provider must include with each 3MWP a forward looking plan setting out all Major Approvals that the Service Provider forecasts it will procure in the period of the 3MWP.

7.4 Principal Endorsement Approvals other than Major Approvals

- (a) If the Approval is a Principal Endorsement Approval other than a Major Approval, the Service Provider must provide an initial draft application which is reasonably adequate and appropriate for lodgement to the Principal a reasonable period before the required date of lodgement with the relevant Authority and:
 - (i) comply with any reasonable directions as to the content of that draft application from the Principal; and
 - (ii) not lodge such an application until it receives endorsement from the Principal.
- (b) The Principal will provide its endorsement or direction in respect of the initial draft as soon as is practicable but no later than 40 Business Days after the submission of the initial draft.
- (c) If the Principal gives a direction under **clause 7.4(a)(i)** and:
 - (i) the Service Provider provides a revised draft application which:
 - (A) addresses the Principal's direction; and
 - (B) is in a form reasonably adequate and appropriate for lodgement,then the Principal will provide its endorsement of the revised draft application within 20 Business Days; or
 - (ii) the Service Provider provides a revised draft application which:
 - (A) does not address the Principal's direction; or
 - (B) is not in a form reasonably adequate and appropriate for lodgement,then, except where **clause 7.4(d)** applies, the Principal will provide further reasonable written directions within 20 Business Days and this **clause 7.4(c)** will re-apply.
- (d) If the Principal notifies the Service Provider (acting reasonably) that:
 - (i) the draft application as submitted is inadequate or inappropriate for lodgement; and
 - (ii) such inadequacy or inappropriateness cannot be resolved by the Principal issuing a reasonable direction to amend the draft application,then the Service Provider must prepare and resubmit a revised draft application, which will be treated as an initial draft and the mechanism and time period provided in **clause 7.4(a)** will apply.
- (e) Once the Principal has provided its endorsement under **clause 7.4(b)** or **7.4(c)(i)**, then the Service Provider may proceed to lodge the endorsed application with the relevant Authority.

7.5 Prevention

- (a) In respect of any:
 - (i) Principal Endorsement Approvals; or
 - (ii) request for guidance on the Principal's preferred heritage treatment under **clause 7.7(b)**,if the Principal does not respond within the relevant period contemplated by this **clause 7** and that prevents the Service Provider from performing some or all of its obligations

under this Deed (including with respect to the performance of the works and other Services to which the Principal Endorsement Approval relates), then:

- (iii) the Service Provider must within 20 Business Days after it becomes aware, or ought reasonably to have become aware, that it is prevented from performing its obligations, notify the Principal's Representative of that prevention;
- (iv) the requirement to perform the affected obligations specified in the notice under **clause 7.5(a)(iii)** is suspended; and
- (v) a failure by the Service Provider to perform the affected obligations during the period of suspension referred to in **clause 7.5(a)(iv)** is not a breach of this Deed.

7.6 Conditional Approvals

Where any Approval required for the Services to be lawfully provided or for the CRN Assets to be lawfully occupied, used, operated or maintained:

- (a) is or is proposed to be issued subject to terms and conditions;
 - (b) is or is proposed to be amended in a manner which affects the rights or obligations of the Principal; or
 - (c) requires the signature, consent or input of the Principal,
- the Service Provider must:
- (d) keep the Principal and the Principal's Representative fully informed;
 - (e) consult fully with the Principal and the Principal's Representative; and
 - (f) comply with the reasonable Directions of the Principal and the Principal's Representative, with respect to the Approval and the procedures relating to its issue or amendment (including the lodgement of applications, objections or appeals to and negotiations with any relevant Authority).

7.7 Heritage Guidance

- (a) The parties acknowledge and agree that as at the date of this Deed, the Principal has not provided a final heritage strategy to the Service Provider for the relevant CRN Assets.
- (b) Until the Principal provides a final heritage strategy to the Service Provider for the relevant CRN Assets, the Service Provider may request guidance on the Principal's preferred heritage treatment for the relevant CRN Assets and the Principal will provide such guidance within 60 Business Days.

7.8 Environment Protection Licences

Without limiting **clause 7.2**, the Service Provider must:

- (a) obtain and hold all Environment Protection Licences necessary to enable it to carry out the Services; and
- (b) provide the Principal with evidence of compliance with **clause 7.8(a)** upon request.

7.9 Division 5.1 Assessments

- (a) The Service Provider acknowledges that TfNSW or TAHE:
 - (i) may be a determining authority for the purposes of Division 5.1 of the EP&A Act; and
 - (ii) may have a duty to perform a Division 5.1 Assessment in considering its activities which includes activities by the Service Provider under this Deed;

- (b) The Service Provider:
 - (i) must not commence an activity that requires a Division 5.1 Assessment unless a Division 5.1 Assessment has been completed in relation to such an activity and resulted in determination that the activities can proceed; and
 - (ii) without limiting **clause 7.2**, must comply with the terms and conditions, mitigation measures or activity changes arising from the Division 5.1 Assessment and any determination made by the determining authority in reliance upon it.

7.10 Preparation of a Division 5.1 Assessment

- (a) Where the Service Provider proposes to commence an activity to which Division 5.1 of the EP&A Act applies and the environmental impact for that activity has not already been assessed and considered under Division 5.1, the Service Provider must prepare a draft Division 5.1 Assessment (including, where required, a draft Review of Environmental Factors or Environmental Impact Statement) on behalf of the Principal and submit it to the Principal.
- (b) Following receipt of the draft Division 5.1 Assessment, the Principal may by notice to the Service Provider, request:
 - (i) additional information in relation to the Division 5.1 Assessment; and
 - (ii) that the Service Provider make amendments to or change the draft Division 5.1 Assessment.
- (c) If the Principal gives a notice under **clause 7.10(b)**, the Service Provider must (at its cost):
 - (i) promptly provide the additional information requested in the notice; and
 - (ii) amend or change the draft Division 5.1 Assessment to address the matters identified in the notice and promptly resubmit the amended draft Division 5.1 Assessment to the Principal.
- (d) The provisions of **clauses 7.10(b)** and **7.10(c)** will apply to any re-submitted draft Division 5.1 Assessment as if it was the draft Division 5.1 Assessment originally submitted under **clause 7.10(b)**.
- (e) Once the Principal's Representative is satisfied with the draft Division 5.1 Assessment the Principal's Representative may finalise the draft Division 5.1 Assessment and may publicly exhibit the Division 5.1 Assessment and:
 - (i) may by notice to the Service Provider request the Service Provider to make amendments and changes to the Division 5.1 Assessment; and
 - (ii) once any the Principal is satisfied with the Division 5.1 Assessment, make any determination it considers appropriate.

7.11 Taxes, Duties and Charges

Except to the extent otherwise expressly provided in this Deed, the Service Provider must:

- (a) pay all customs duties, stamp duties and other duties, charges, Taxes or imposts payable in any way in connection with this Deed or the carrying out of the Services; and
- (b) without limiting **clauses 7.1** and **7.2**, effect all insurances, provide all security and execute any undertakings or agreements required by any relevant Authority in respect of any Approval or otherwise to comply with any Law.

7.12 NSW Government Policy

- (a) Subject to this **clause 7.12**, the Service Provider must comply, and ensure that its Subcontractors comply, with all NSW Government Policies which apply to the Services or the CRN Assets.
- (b) The Service Provider must, within a reasonable time, notify the Principal of any of the following that occurs after the date of this Deed and applies to the Services or the CRN Assets:
 - (i) repeal of or change to a NSW Government Policy; or
 - (ii) the coming into effect or implementation of a new NSW Government Policy.
- (c) Upon receipt of any notification from the Service Provider under **clause 7.12(b)**, the Principal may:
 - (i) direct the Service Provider to implement the changes required for the Service Provider to comply with its obligation under **clause 7.12(a)** as a result of the event referred to in the notice; or
 - (ii) direct the Service Provider to not implement any such changes, despite the event referred to in the notice.
- (d) Without limiting any other provision of this Deed, the Service Provider must not implement any changes as a result of an event referred to in **clause 7.12(b)** unless directed to do so by the Principal under **clause 7.12(c)(i)**.

7.13 DDA Exemption

- (a) The Service Provider warrants that:
 - (i) it is a member of the Australasian Railway Association and therefore is subject to the ARA DDA Exemption Application; or
 - (ii) it otherwise has the benefit of a DDA Exemption that is on the same or substantially similar terms to that proposed by the ARA DDA Exemption Application.
- (b) The Service Provider must take all reasonable steps to hold and maintain the benefit of a DDA Exemption on the same or substantially similar terms to that proposed by the ARA DDA Exemption Application.

7.14 AMB

- (a) The Service Provider:
 - (i) must hold and maintain TAO Authorisation in respect of all relevant Services for so long as such Services are carried out; and
 - (ii) must (and must ensure that its Subcontractors) comply with the conditions of any such TAO Authorisation.
- (b) The Service Provider must (and must ensure that its Subcontractors):
 - (i) implement and comply with the requirements of the AMB as applicable to the Asset Lifecycle Services;
 - (ii) cooperate fully with the AMB in the performance of the AMB's functions;
 - (iii) without limiting **clause 6.4**, provide access to premises and resources as reasonably required by the AMB, including so that it can effectively carry out its review, surveillance and audit functions;

- (iv) comply with the directions, instructions and requirements issued by the AMB;
 - (v) notify the AMB of any matter that could reasonably be expected to affect the exercise of the AMB's functions;
 - (vi) provide the AMB with any information relating to its activities or any documents or other things reasonably required by the AMB in the exercise of its functions; and
 - (vii) provide the Principal with such assistance as may be reasonably required by the Principal to enable the Principal to cooperate fully with the AMB and to implement and comply with the requirements of the AMB.
- (c) The Service Provider will not be entitled to make, and the Principal will not be liable for, any Claims, costs, expenses and losses arising out of, or in any way in connection with, the requirement to obtain TAO Authorisation or the obligation to comply with the requirements of the AMB and TAO Authorisation.

7.15 Rail Safety Accreditation

The Service Provider warrants and agrees that:

- (a) at all times during the Term, it will continuously hold Rail Safety Accreditation in respect of the CRN Assets that are rail infrastructure for the purpose of RSNL and as otherwise necessary for the purposes of carrying out the Services under the RSNL or, in the case that the RSNL is amended or repealed, it will continuously hold equivalent accreditation in respect of the CRN Assets that are rail infrastructure for the purpose of RSNL and as otherwise necessary for the purposes of carrying out the Services, to the extent required by Law;
- (ab) without limiting **clause 7.15(a)**, the Service Provider:
 - (i) must either:
 - (A) ensure that it holds Rail Safety Accreditation as necessary for the purposes of carrying out the Early Enhancement Activities under the RSNL or, in the case that the RSNL is amended or repealed, it will hold equivalent accreditation as necessary for the purposes of carrying out the Early Enhancement Activities, to the extent required by Law; or
 - (B) ensure that it is able to (and does) carry out the Early Enhancement Activities pursuant to the Rail Safety Accreditation of a third party under the RSNL or, in the case that the RSNL is amended or repealed, equivalent accreditation of a third party as necessary for the purposes of carrying out the Early Enhancement Activities, to the extent required by Law;
 - (ii) bears all risk associated with compliance with **clause 7.15(ab)(i)**, including the risk that the Service Provider is not able to carry out the Early Enhancement Activities pursuant to the Rail Safety Accreditation of a third party; and
 - (iii) will not be entitled to make, and the Principal will not be liable in connection with, any Claim arising out of, or in any way in connection with, any failure by, or inability of, the Service Provider to comply with **clause 7.15(ab)(i)**;
- (b) it will discharge its responsibilities as RTO imposed by and in conformity with the RSNL;
- (c) for the purpose of section 62(1)(b)(i) of the RSNL, its Rail Safety Accreditation will apply in respect of any work or activities performed (or to be performed) by any third party, including in respect of:

- (i) Carry-Over Works;
 - (ii) Third Party Constructed Enhancement Assets;
 - (iii) any activities and work carried out by third parties in connection with Carry-Over Works or Third Party Constructed Enhancement Assets; and
 - (iv) the exercise of Step-in Powers in accordance with **clause 22**,
acknowledging that in the case of a Step-in Power in accordance with **clause 22**, for the purposes of the RSNL and specifically section 62(1)(b)(i) of the RSNL
 - (v) the Service Provider remains at all times the holder of the relevant Rail Safety Accreditation in respect of the CRN Assets that are rail infrastructure for the purpose of RSNL; and
 - (vi) the Step-in Party is in no way stepping-in to the Service Provider's role as the holder of that Rail Safety Accreditation;
- (d) it will do all things necessary to ensure that:
- (i) all activities and work carried out:
 - (A) by third parties in connection with Carry-Over Works or Third Party Constructed Enhancement Assets; or
 - (B) by, or on behalf of, a Step-in Party (including the exercise of Step-in Powers),

are carried out pursuant to its Rail Safety Accreditation and the Service Provider must obtain any modifications to its Rail Safety Accreditation that may be necessary for the purposes of the carrying out of any such activities and work; and
 - (ii) any assets created as part of any work, services or activities referred to in **clause 7.15(d)(i)** that are rail infrastructure for the purpose of RSNL will be covered by its Rail Safety Accreditation and the Service Provider must obtain any modifications to its Rail Safety Accreditation that may be necessary as a result of any such assets forming part of the CRN Assets,

including by doing all things necessary to satisfy itself that the work, services, activities and assets referred to in this **clause 7.15(d)** can be carried out pursuant to, and can be or will be covered by, the Service Provider's Rail Safety Accreditation, including by:
 - (iii) ensuring the ongoing monitoring by the Service Provider of any relevant person's work;
 - (iv) engaging independent consultants or certifiers as deemed necessary by the Service Provider; and
 - (v) notifying the Principal's Representative of any changes in respect of such work, services, activities and assets that are necessary to ensure that such work, services, activities and assets can be carried out pursuant to, and can be or will be covered by, the Service Provider's Rail Safety Accreditation; and
- (e) it will comply with all ONRSR Rules for the purposes of meeting its obligations under this Deed.

7.16 Changes to Applicable Rail Safety Law

- (a) Subject to **clause 7.15** and without limiting the Service Provider's entitlements in respect of any Qualifying Change in Law, if a Rail Safety Law Change occurs, then to the maximum extent possible:
 - (i) this Deed, and the parties' obligations under it, will remain on foot;
 - (ii) any references in this Deed to:
 - (A) the RSNL will be taken to mean the RSNL as amended or the relevant legislation or other instrument giving effect to any replacement rail safety regime; and
 - (B) Rail Safety Accreditation will be taken to mean the equivalent requirement or requirements (if any) to Rail Safety Accreditation under the RSNL prior to the amendment or repeal of the RSNL, imposed on the owner of, and on any contractor exercising control over, rail networks or rolling stock under the RSNL as amended or the new or varied rail safety regime; and
 - (iii) the Service Provider must take all steps necessary to ensure that the Service Provider continues to have Rail Safety Accreditation in respect of all CRN Assets and as otherwise necessary for the purposes of carrying out the Services; and
- (b) If a Rail Safety Law Change occurs and the Principal believes, in its reasonable opinion, that the objectives of this Deed can no longer be achieved in the manner contemplated by the Principal (or that the Principal's exposure to liability as a result of the Rail Safety Law Change is unacceptable), the Principal may terminate this Deed by notice in writing to the Service Provider. Any such termination will take effect from the date specified in that notice.

7.17 Rail Safety Work and Investigative Authorities

The Service Provider must:

- (a) ensure that any person carrying out rail safety work (as defined in section 8 of the RSNL) in relation to the Services has Rail Safety Worker Competency; and
- (b) ensure that the Service Provider and its Associates:
 - (i) without limiting **clause 6.4**, promptly give all Investigative Authorities such access to premises and information as any Investigative Authority lawfully requests, within the time requested;
 - (ii) cooperate with and respond to any lawful requests made by any Investigative Authority, within the time requested; and
 - (iii) do not hinder or delay any Investigative Authority in carrying out its duties.

7.18 Priority for Passengers

The Service Provider must, in carrying out the Services, comply with the requirements of the *Transport Administration Act 1988* (NSW) in relation to priority of passenger services.

7.19 Safety Interface Agreements

- (a) The Service Provider must enter into all Safety Interface Agreements set out in **Attachment A**, as well as any others required to be entered into in accordance with the RSNL or to otherwise enable the Services to be carried out in accordance with this Deed.
- (b) If, prior to the expiry of the Term:

- (i) the Service Provider is requested by the Principal's Representative; or
- (ii) it is necessary for the carrying out of the Services in accordance with this Deed, to enter into further Safety Interface Agreements, the Service Provider, acting reasonably, must:
- (iii) develop and negotiate in good faith with the relevant third parties the necessary terms and conditions for such further Safety Interface Agreements, having regard to the terms and conditions of the Safety Interface Agreements referred to in **clause 7.19(a)**; and
- (iv) enter into Safety Interface Agreements with the relevant third parties.

7.20 Statutory Requests

- (a) The Service Provider agrees to assist the Principal to respond to Statutory Requests it receives from other Authorities to the extent they relate to the Relevant Land, CRN Assets or the Services in accordance with this **clause 7**.
- (b) Where the Principal receives a Statutory Request that relates to the Relevant Land, CRN Assets or the Services, the Principal may give a notice to the Service Provider's Representative:
 - (i) requesting that the Service Provider prepare a briefing note in respect of the Statutory Request to assist the Principal to respond to the Statutory Request;
 - (ii) listing any specific content or questions the briefing note should address;
 - (iii) attaching a copy of the Statutory Request;
 - (iv) outlining any relevant background information in relation to the Statutory Request; and
 - (v) specifying a date by which the Principal requires a briefing note.
- (c) Within the timeframe specified in **clause 7.20(b)(v)**, the Service Provider must prepare and provide to the Principal's Representative a briefing note that:
 - (i) identifies the relevant statutory obligations, guidelines and policies applicable to the Statutory Request and provides information to address those statutory obligations guidelines and policies;
 - (ii) addresses any specific content or questions request in the notice given under **clause 7.20(b)**;
 - (iii) in relation to a Statutory Request made under clause 84 of the Infrastructure SEPP, provide information on:
 - (A) any rail safety or operational issues associated with the aspects of the proposed development the subject of the Statutory Request; and
 - (B) the implications of the proposed development the subject of the Statutory Request for traffic safety including the cost of ensuring an appropriate level of safety, having regard to existing traffic and any likely change in traffic at level crossings as a result of the development; and
 - (iv) in relation to a Statutory Request made under clause 88 of the Infrastructure SEPP provide information on the likely effect of the proposed development the subject of the Statutory Request on:
 - (A) the practicability and cost of carrying out rail expansion projects on the land in the future;

- (B) without limiting **clause 7.20(c)(iv)(A)**, the structural integrity or safety of, or ability to operate, such a project, and
- (C) without limiting **clause 7.20(c)(iv)(B)**, the land acquisition costs and the costs of construction, operation or maintenance of such a project.
- (d) If following receipt of a briefing note under **clause 7.20(c)**, the Principal makes a request for further or additional information or clarification, the Service Provider must ensure that the information requested is promptly provided.

7.21 TOC Manual & TOC Waivers

- (a) The parties acknowledge and agree that:
 - (i) the Service Provider is required to obtain Rail Safety Accreditation under **clause 7.15(a)**;
 - (ii) as the accredited Rail Infrastructure Manager, the Service Provider is responsible, as far as reasonably practicable, for ensuring the safety of railway operations across the CRN;
 - (iii) in accordance with this responsibility, the Service Provider is required to establish rules, systems and procedures relating to railway operations on the CRN. This includes the maintenance of the TOC Manual;
 - (iv) further, the Service Provider is responsible for managing the CRN Operational Network, including the maintenance of network rules, systems and procedures, the TOC Manual and supporting documentation, pursuant to its obligations in **sections 9.5.6 and 9.5.7 of the Scope of Works**;
 - (v) Rolling Stock Operators are required to comply with the rules, systems and procedures relating to railway operations on the CRN Operational Network established by the Service Provider, including the requirements set out in the TOC Manual;
 - (vi) from time to time, TOC Waivers are issued by the Service Provider to temporarily allow a change in operating conditions on the CRN Operational Network against the TOC Manual. TOC Waivers may contain conditions for compliance by the Rolling Stock Operator relying on the TOC Waiver; and
 - (vii) accordingly, amendments to the TOC Manual, and the issuance, renewal, extension, modification or cancellation of any TOC Waiver (with or without conditions), or other approval for a temporary departure from the TOC Manual, is at the discretion of the Service Provider in accordance with its statutory obligations as the Rail Infrastructure Manager;
 - (viii) the Service Provider has undertaken to, and will perform, the Increased TAL TOC Waiver Additional Monitoring [REDACTED]
[REDACTED]
 - (ix) Additional Monitoring is underway to determine whether the Increased TAL TOC Waivers are to remain in place. As at the Reset Date the Service Provider has no present intention to withdraw or cancel any Increased TAL TOC Waiver or any other TOC Waiver that is in place at the Reset Date;

■

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

- (xvi) the Service Provider will process any updates required to the TOC Manual [REDACTED] [REDACTED] through its normal processes, and will work with the Principal and Rolling Stock Operators to obtain all necessary information, in

sufficient time for the Service Provider to complete its regular Quarterly update of the TOC Manual.

Expiry and cancellation of TOC Waivers

- (b) Subject to **clause 7.21(c)**, the Service Provider must, as soon as reasonably practicable, provide the Principal with prior written notice if it intends to:
- (i) withdraw or cancel a TOC Waiver; or
 - (ii) not extend a TOC Waiver for which a Rolling Stock Operator has applied for an extension,
- and if it is reasonably foreseeable that that withdrawal, cancellation or refusal to extend would have a material impact on the operations of the CRN or the relevant applicant.
- (c) The giving of such notice under **clause 7.21(b)** will not affect the Service Provider's duties and obligations under the RSNL and its powers under RSNL to cancel or withdraw a TOC Waiver without notice, including in respect of Emergency Incidents.
- (d) Despite **clause 7.21(b)**, the Service Provider may cancel or withdraw a TOC Waiver without prior written notice to the Principal if the cancellation or withdrawal is required in response to an Emergency Incident. If the Service Provider cancels a TOC Waiver under **clause 7.21(c)** it must promptly notify the Principal.

Requests for TOC Waivers

- (e) Subject to **clause 7.21(a)** above, the parties acknowledge and agree that:
- (i) the Principal or a Rolling Stock Operator may request the Service Provider issue, renew, extend or modify a TOC Waiver (including any conditions) (**Request**) to allow operations on the CRN Operational Network not currently permitted by the TOC Manual or existing TOC Waivers (**Proposed Operations**);
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- (iii) if the Service Provider is going to impose conditions on a TOC Waiver that the Principal does not consider are reasonably necessary to ensure the Service Provider's compliance with the RSNL or this Deed, the Principal may refer the matter for discussion between the senior representatives of the Parties who will in good faith discuss the conditions;
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- (v) following the Service Provider's compliance with **clause 7.21(e)(iv)**, the Principal may, if it does not agree with the TOC Waiver Determination, refer the matter for discussion between the senior representatives of the Parties who will in good faith discuss the TOC Waiver Determination; and
- (vi) the process in this **clause 7.21(e)** will in no way preclude the Service Provider amending a TOC Waiver at any time as it is entitled to do as RIM.
- (f) The Service Provider will:
- (i) ensure that all current TOC Waivers (including any conditions or expiry dates) are published on its website;
 - (ii) use reasonable endeavours to conduct assurance activities from time to time to verify the Rolling Stock Operator's compliance with the conditions of any TOC Waiver;
 - (iii) regularly update the TOC Manual to reflect:
 - (A) operations on the CRN Operational Network that have become permissible without the need for a TOC Waiver, including as a result of the performance of Enhancement Activities; and
 - (B) train operating conditions permitted by active TOC Waivers that can be incorporated into the TOC Manual on a permanent basis without the need for a TOC Waiver; and
 - (iv) subject to **clause 7.21(f)**, be entitled to cancel any TOC Waiver as required pursuant to its statutory obligations under the RSNL.
- (g) To the extent of any inconsistency between this **clause 7.21** and the documents titled 'TOC Waiver Generic Risk Assessment (CRN RM 002)' & 'TOC Waiver Process (CRN RM 003)', or any other document included in **Appendix B** to the **Scope of Works**, this **clause 7.21** prevails.

7.22 Principal Assistance to the Service Provider

- (a) The Principal will provide the Service Provider with reasonable assistance on its engagement with RSOs on the Service Provider's proposed entry into agreements between the Service Provider and the RSO that will deal with:
 - (i) the provision of information to the Service Provider;
 - (ii) ensuring the safety of operations on the CRN; and
 - (iii) the RSOs compliance with the TOC Manual.
- (b) The Service Provider acknowledges that **clause 7.22(a)** does not require that the Principal ensure that the Service Provider achieves any particular outcome of any kind (including as to whether any RSOs enter into any agreements with the Service Provider).
- (c) The Service Provider acknowledges that the terms of any agreements entered into between the Service Provider and the RSOs contemplated under **clause 7.22(a)** will be:
 - (i) limited to the matters referred to in **clause 7.22(a)(i) to (a)(iii)**; and

- (ii) consistent with the RSNL and market practice.

8 NSW Industrial Relations Guidelines (NSW IR Guidelines)

8.1 Definitions and application

In this **clause 8**, words and expressions that are defined in the NSW IR Guidelines have, unless the context otherwise indicates, the same meaning as in the NSW IR Guidelines.

8.2 Primary obligation

- (a) The Service Provider must at all times comply with, and meet any obligations imposed by, the NSW IR Guidelines.
- (b) The Service Provider must notify the Construction Compliance Unit and the Principal of any alleged breaches of NSW IR Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance. Where the Service Provider is authorised to engage a Subcontractor, and it does so, the Service Provider must ensure that any subcontract imposes on the Subcontractor equivalent obligations to those in this **clause 8** (under a heading "NSW IR Guidelines"), including that the Subcontractor must comply with, and meet any obligations imposed by, the NSW IR Guidelines. The Service Provider must not appoint or engage another party in relation to the Services where that appointment or engagement would breach a sanction imposed on the other party in relation to the NSW IR Guidelines.

8.3 Access and information

- (a) Without limiting any other obligations of the Service Provider, the Service Provider must:
 - (i) maintain adequate records of compliance with the NSW IR Guidelines by it, its Subcontractors and their respective related entities; and
 - (ii) allow, and take reasonable steps to facilitate, New South Wales Government authorised personnel (including personnel of the Construction Compliance Unit) to:
 - (A) enter and have access to sites and premises controlled by the Service Provider;
 - (B) inspect any work, material, machinery, appliance, article or facility;
 - (C) access information and documents;
 - (D) inspect and copy any record relevant to the Services;
 - (E) have access to personnel; and
 - (F) interview any person,as is necessary for the authorised personnel to monitor and investigate compliance with the NSW IR Guidelines, by the Service Provider, its Subcontractors and their respective related entities.
- (b) The Service Provider, and its related entities, must comply with any request from New South Wales Government authorised personnel (including personnel of the Construction Compliance Unit) for the production of specified documents by a certain date, whether in person, by post or electronic means.

8.4 Sanctions

- (a) The Service Provider warrants that at the time of entering into this Deed, neither it, nor any of its related entities, are subject to a sanction in connection with the NSW IR

Guidelines that would have precluded it from tendering for work to which the NSW IR Guidelines apply. If the Service Provider does not comply with, or fails to meet any obligation imposed by, the NSW IR Guidelines, a sanction may be imposed against it in connection with the NSW IR Guidelines.

- (b) Where a sanction is imposed:
 - (i) it is without prejudice to any rights that would otherwise accrue to the parties; and
 - (ii) the State of New South Wales (through its agencies, Ministers and the Construction Compliance Unit) is entitled to:
 - (A) record and disclose details of non-compliance with the NSW IR Guidelines and the sanction; and
 - (B) take them into account in the evaluation of future expressions of interest or tender responses that may be lodged by the Service Provider, or its related entities, in respect of work to which the NSW IR Guidelines apply.

8.5 Compliance

- (a) The Service Provider bears the cost of ensuring its compliance with the NSW IR Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the NSW IR Guidelines. The Service Provider is not entitled to make a claim for reimbursement or an extension of time from the Principal or the State of New South Wales, and otherwise is not entitled to make any claim, for such costs or extension of time. Compliance with the NSW IR Guidelines does not relieve the Service Provider from responsibility to carry out the Services, or from liability for any Non-Compliance or from any other legal liability, whether or not arising from its compliance with the NSW IR Guidelines.
- (b) Where a change in this Deed or the Services is proposed, and that change would, or would be likely to, affect compliance with the NSW IR Guidelines, the Service Provider must immediately notify the Principal of the change, or likely change and specify:
 - (i) the circumstances of the proposed change;
 - (ii) the extent to which compliance with the NSW IR Guidelines will, or is likely to be, affected by the change; and
 - (iii) what steps the Service Provider proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a workplace relations management plan or work health and safety management plan),and the Principal will direct the Service Provider as to the course it must adopt within 20 Business Days after receiving notice.

Part F – Safety

9 Safety

9.1 Service Provider's Compliance

In carrying out the Services, the Service Provider must conduct itself in a manner:

- (a) that is consistent with the SMS maintained by the Service Provider in accordance with the RSNL; and
- (b) that does not, by any act or omission, result in the Principal being in breach of its obligations or procedures under:

- (i) the SMS maintained by the Principal as provided by the Principal to the Service Provider on 2 September 2024 as updated from time to time by the Principal and notified to the Service Provider; or
- (ii) the RSNL, WHS Laws or the HVNL.

9.2 Principal's Activities

The Service Provider will provide all reasonable assistance to the Principal for the purpose of enabling the Principal to comply with the SMS maintained by the Principal.

9.3 Work Health and Safety

- (a) On and from the date of this Deed, to the extent that any construction project (as that term is defined in WHS Law) is carried out by, or on behalf of:
 - (i) the Service Provider on, or in relation to, the CRN Assets, then:
 - (A) the Principal engages the Service Provider as principal contractor for the construction project and the Service Provider accepts that engagement; and
 - (B) the Principal authorises the Service Provider to have management and control of the CRN Assets and other relevant workplaces and to discharge the duties of a principal contractor under any WHS Law; or
 - (ii) the Principal on, or in relation to, the CRN Assets (other than by, or on behalf of, the Service Provider), then:
 - (A) the Principal may engage a third party as principal contractor for the construction project and the Service Provider consents to that engagement; and
 - (B) the Service Provider must comply with all lawful directions and requirements of the third party engaged as principal contractor to the extent they are given in its capacity as principal contractor.
- (b) Except as otherwise provided in **clause 1.1**, all terms used in this **clause 9.3** have the meanings given to them under WHS Law.

9.4 Emergencies and Incidents

- (a) The Service Provider acknowledges that the occurrence of any Incident may have consequences for the Principal.
- (b) Without limiting any other obligation of the Service Provider, the Service Provider must, immediately notify the Principal of any Incident and, as soon as reasonably practicable after the Incident, and in any event, within the time required by any other provision of this Deed or by the Principal's Representative:
 - (i) notify the Principal in writing of any Incident which occurs in relation to the CRN Assets or the Services, including details of the Incident, its cause and the consequences;
 - (ii) provide the Principal with any documentation or information requested by the Principal in relation to any such Incident, whether or not the documentation or information is relevant to any current or anticipated investigation;
 - (iii) prepare and provide to the Principal a report into the Incident; and
 - (iv) if the Service Provider procures or undertakes any investigation in respect of, or in response to, any such Incident, or is required by an Investigative Authority to

prepare an investigation report under the RSNL, provide the Principal with copies of any such report (whether interim or final), associated interim or final reports and findings.

- (c) Without limiting any other provision of this Deed, the Principal may (by itself or via others) carry out its own investigation of any Incidents.
- (d) With respect to any investigation by or on behalf of the Principal referred to in **clause 9.4(c)**:
 - (i) the Principal may engage any third parties to provide any assistance it requires; and
 - (ii) without limiting any other obligation of the Service Provider, the Service Provider must:
 - (A) provide access to any part of the CRN Assets and Records required by the Principal;
 - (B) cooperate fully with all requests made by the Principal for the purpose of the Principal's investigation; and
 - (C) not prejudice or hinder the investigation.

9.5 Preservation of Evidence

Subject to any contrary requirement at Law, the Service Provider must:

- (a) take all necessary steps to preserve any property or thing which may be required as evidence as to the cause of any Incident and, on reasonable notice, give access to the Principal (or its nominee) to such property or thing for the purposes of inspecting, photographing or testing such property or thing; and
- (b) not engage in conduct which would prejudice or hinder any investigation into an Incident, including the disposal of any property or thing involved in such an Incident (but only to the extent that such non-disposal is necessary for such investigation).

Part G – Environment

10 Environment

10.1 General obligations

- (a) Without limiting **clause 7.1**, the Service Provider must:
 - (i) comply with all applicable Environmental Laws in connection with the Services and the use of the CRN Assets, including in respect of Pollution or Contamination caused or contributed to by the Service Provider or its Associates;
 - (ii) perform the Services in a proper and efficient manner so as not to harm the Environment;
 - (iii) manage any asbestos encountered during the performance of the Services in accordance with all applicable Laws relating to asbestos management;
 - (iv) not cause or permit unlawful Pollution or damage to the Environment or the Relevant Land;
 - (v) not cause or permit any nuisance or hazard to any member of the public;
 - (vi) handle, manage, transport and dispose of all Waste in accordance with all applicable Laws and requirements of any Authority;

- (vii) properly manages acid sulphate soils in accordance with all applicable Laws; and
 - (viii) advise the Principal's Representative as soon as reasonably practicable of any Pollution incident occurring on the CRN Assets or that may impact the CRN Assets.
- (b) The Service Provider must promptly notify the Principal's Representative after it becomes aware of:
 - (i) any breach (or suspected breach) of an Environmental Law in respect of the Relevant Land or the Services; or
 - (ii) notice, order, declaration or requirement made under any Environmental Law in respect of the Relevant Land or the Services, whether served on the Principal, the Service Provider or any other person.

10.2 Ownership of Waste

As between the Principal and the Service Provider:

- (a) unless the Principal has issued a written notice specifying in respect of particular Waste that the Principal is the owner of that Waste, the Service Provider is the owner of any Waste which is generated by any activities of the Service Provider or any Subcontractor of any tier of the Service Provider on the Relevant Land; and
- (b) the Service Provider is responsible for ensuring the lawful containment, processing, consignment, transport, disposal and management of any Waste and must ensure that all Waste which is generated by any activities of the Service Provider or any Subcontractor of any tier of the Service Provider on the Relevant Land is safely and lawfully contained, processed, consigned, transported, disposed of and managed.

11 Heritage

11.1 General Obligation

The Service Provider must comply with all Laws relating to European heritage and Aboriginal heritage.

11.2 Compliance with principles and guidelines

- (a) The Principal must provide the Service Provider with any State Owned Heritage Management Principles or Heritage Asset Management Guidelines it receives from the NSW Heritage Minister or the NSW Heritage Council under section 170A(2) or (3) of the NSW Heritage Act.
- (b) The Service Provider must manage the items on the Heritage and Conservation Register in a manner that is substantially consistent with any State Owned Heritage Management Principles or Heritage Asset Management Guidelines provided by the Principal to the Service Provider under **clause 11.2(a)**.

11.3 Listing Notices

- (a) If either party is served with a Listing Notice, or becomes aware of a Listing Notice, in connection with a CRN Asset:
 - (i) the party who received the Listing Notice or first became aware of the Listing Notice must immediately provide to the other party a copy of the Listing Notice;
 - (ii) the Principal's Representative may by written notice, request the Service Provider to:

- (A) prepare or assist with the preparation of submissions or comments in relation to the proposed listing, registration, cancellation or removal the subject of the Listing Notice either in the Service Provider's capacity as occupier or on behalf of TfNSW or TAHE as owner of the asset; and
 - (B) submit those submissions or comments either directly to the Heritage Authority in compliance with any requirements in the Listing Notice or to the Principal's Representative in which case the Principal may review and submit the submissions or comments to the Heritage Authority; and
- (iii) the Service Provider must comply with a notice under **clause 11.3(a)(ii)** within the timeframe specified in such a notice.
- (b) If either party is served with a decision by a Heritage Authority in relation to a Listing Notice in connection with a CRN Asset it must immediately provide to the other party a copy of the decision and any associated correspondence.
- (c) If the NSW Heritage Minister requests a review by the NSW Independent Planning Commission in relation to a Listing Notice in connection with a CRN Asset, the Principal may request the Service Provider to appear at the review either in the Service Provider's capacity as occupier or on behalf of TfNSW or TAHE as owner of the asset and if it does the Service Provider must comply with this request.

11.4 Aboriginal Cultural Heritage

In performing the Services:

- (a) without limiting **clause 7.1**, the Service Provider must comply with the Due Diligence Code where carrying out any part of the Services in New South Wales; and
- (b) without limiting **clause 7.2**, where an Aboriginal Heritage Impact Permit is required for the Service Provider to perform the Services, the Service Provider must apply for an Aboriginal Heritage Impact Permit and comply with the terms and conditions of any Aboriginal Heritage Impact Permit that is granted to the Service Provider.

12 Climate Change, Clean Energy and NGERs

12.1 Climate change policy

In performing the Services, the Service Provider must comply with any applicable Laws relating to the management and reduction of Greenhouse Gas emissions.

12.2 Ownership and trading of Carbon Credits

- (a) The rights to and interests in any actual or potential Carbon Credits, if any, arising from any Services or the carrying out of any obligation pursuant to this Deed will, as between the Service Provider and the Principal, vest in the Principal. If the relevant Carbon Credit Scheme provides for the Carbon Credits to vest in the Service Provider, then the Service Provider will hold the Carbon Credits on trust for the benefit of the Principal.
- (b) Nothing in this **clause 12** will be construed so as to prevent the Principal from dealing with any Carbon Credits as it sees fit (including trading them with any person).

12.3 Eligible offsets project

If part or all of the Services or CRN Land form part of an Eligible Offsets Project in respect of which the Principal is the project proponent, then the Service Provider must at its cost provide all reasonable assistance to the Principal to ensure that the Declaration of the Eligible Offsets Project is not revoked. In particular, the Service Provider must:

- (a) ensure that the Services are conducted in a manner that is consistent with the applicable methodology determination for the Eligible Offsets Project; and
- (b) comply with any written notice from the Principal's Representative requesting information in relation to the Services or CRN Land, to enable the Principal to comply with its obligations under the Carbon Farming Act (including to enable the Principal to give a written report in accordance with section 76 of that Act) and maintain the eligible offset project's Declaration, within the timeframe specified in that notice.

12.4 NGER Operational control

The parties acknowledge and agree, to the extent permitted by law, that during the Term:

- (a) the Service Provider has the greatest authority to introduce and implement the policies mentioned in sections 11(1)(a)(i), 11(1)(a)(ii) and 11(1)(a)(iii) of the NGER Act in relation to the CRN Land;
- (b) the Service Provider has operational control of the CRN Land for the purposes of the NGER Act and the Clean Energy Legislation;
- (c) the Service Provider must, in respect of its activities on the CRN Land, comply with the NGER Act and the Clean Energy Legislation including all liabilities, obligations or duties including reporting obligations; and
- (d) in the event that a determination is made to the contrary of **clause 12.4(a), 12.4(b) or 12.4(c)**:
 - (i) the Service Provider agrees to (at the election of the Principal):
 - (A) accept the transfer of operational control of the CRN Land under section 22K (if applicable) of the NGER Act;
 - (B) accept the nomination as the nominated person under section 11B of the NGER Act;
 - (C) if the Service Provider does not have operational control and the Principal does have operational control of the CRN Land, take all necessary steps to accept the transfer of liability under the Clean Energy Legislation if such transfer is lawfully permitted; or
 - (D) do any or all of those things;
 - (ii) the parties agree and acknowledge that the Service Provider is taken to have operational control of the CRN Land for the purposes of the NGER Act and the Clean Energy Legislation; and
 - (iii) the Service Provider must comply with the NGER Act and the Clean Energy Legislation including all liabilities, obligations or duties including reporting obligations; and
- (e) the Service Provider must pay on demand to the Principal any cost, expense or liability incurred by the Principal under or in connection with any obligation under the Clean Energy Legislation in connection with any activities on the CRN Land during the Term, including to surrender permits.

13 Contamination

13.1 Obligation not to cause or exacerbate

The Service Provider must not cause or exacerbate Contamination of any land or exacerbate the risks presented by the Contamination.

13.2 Acknowledgement

- (a) The Service Provider acknowledges that:
 - (i) the Identified Contamination has been disclosed to it and that:
 - (A) where the presence of the Identified Contamination is shown on a plan or diagram the location and extent of the Contamination is typically inferred only from limited sampling points and from the information available at specific dates and times;
 - (B) conditions may change over time such that Contamination may Migrate, change composition or character, abate or increase in concentration or toxicity and this may occur regardless of or independently of or in association with an activity on a property or any remediation or management measures taken in respect of Contamination; and
 - (C) as a result those plans or diagrams may not accurately represent the true depth, location and extent of and characteristics of the Contamination and may not represent the precise location of the Contamination; and
 - (ii) given the nature of past activities on the Relevant Land there is likely to be Pre-existing Contamination of the Relevant Land that is not Identified Contamination, including that which ought to have been reasonably anticipated by an experienced service provider working in the railway sector at the date of this Deed on the basis that it is typically or usually associated with the types of activities known to have been carried out at the location impacted by the Contamination.
- (b) Subject to this Deed, the Service Provider accepts that it must manage and be responsible for the management of Contamination on the Relevant Land during the Term.

13.3 Release

The Service Provider releases the Principal from any Claim against the Principal arising out of, or in any way in connection with, any Default Contamination or, except to the extent otherwise expressly provided in this Deed, Modification Contamination or Pre-existing Contamination.

13.4 Notification of Clean-Up Notice

If either party is served with a Clean-Up Notice in connection with the Relevant Land or the Services then the party who received the Clean-Up Notice must:

- (a) immediately provide to the other party a copy of the Clean-up Notice; and
- (b) provide the other party with regular updates regarding the subject matter of the Clean-up Notice and provide copies of any further correspondence to or from the Authority that served the Clean-Up notice.

13.5 Obligations upon discovering Contamination

- (a) Where the Service Provider:
 - (i) encounters, disturbs, affects, causes or contributes to any Contamination on or in relation to any Relevant Land; or
 - (ii) receives a Clean-Up Notice in connection with any Relevant Land (either from an Authority or from the Principal in accordance with **clause 13.4**),
- the Service Provider must, as soon as is reasonably practicable, perform any required Initial Response Works.

- (b) Where the Service Provider, acting reasonably, anticipates the Contamination referred to in **clause 13.5(a)** may require Contamination Management Works:
 - (i) the Service Provider must promptly notify the Principal's Representative in writing, which notice must:
 - (A) identify the Contamination, its cause (to the extent that the cause could be reasonably ascertained by a competent person with expertise in the assessment and management of Contamination in the position of the Service Provider) and the Contamination Management Works required;
 - (B) identify whether **clause 13.5(b)(iii)** or **13.5(b)(iv)(C)** applies; and
 - (C) except in respect of Default Contamination or where **clause 13.5(b)(iv)(C)** applies, attach a Variation Impacts Statement for the Variation Impacts that would apply if the Principal's Representative issued a Direction under **clause 14.1(a)** as contemplated by **clause 13.5(b)(ii)(A)**;
 - (ii) except in respect of Default Contamination or where **clause 13.5(b)(iv)(C)** applies, the Principal's Representative will respond to the Service Provider within 10 Business Days of a notice under **clause 13.5(b)(i)** by either:
 - (A) issuing a Direction under **clause 14.1(a)** requiring the Service Provider to carry out some Contamination Management Works in respect of the Contamination; or
 - (B) directing the Service Provider not to carry out any Contamination Management Works in respect of the Contamination (but without limiting the Service Provider's liabilities or obligations under this Deed or the Principal's Representative's right to issue a Direction under **clause 14.1(a)** requiring the Service Provider to carry out some Contamination Management Works in respect of the Contamination at a later date);
 - (iii) to the extent the Contamination is Default Contamination, the Service Provider must perform all required Contamination Management Works to ensure compliance with this Deed or to otherwise reduce, abate, mitigate or eliminate any risk presented by that Contamination to the standard required by Law and to ensure the safe performance of the Services; and
 - (iv) to the extent the Contamination is not Default Contamination, the Service Provider must only perform Contamination Management Works:
 - (A) in accordance with a Direction from the Principal's Representative under **clause 14.1(a)**, including any Direction given in accordance with **clause 13.5(b)(ii)(A)**;
 - (B) in accordance with an approval by the Principal's Representative under **clause 14.3(b)**; or
 - (C) to the extent those Contamination Management Works are necessary to urgently comply with the terms of a Clean-up Notice or a lawful requirement from an Authority or the Law and the failure to perform those necessary Contamination Management Works would constitute an offence.
- (c) Within 48 hours after the Service Provider notifying the Principal's Representative under **clause 13.5(b)(i)**, the Service Provider must provide a written report to the Principal's

Representative giving complete details of the matter, including the details of any Initial Response Works or Contamination Management Works performed as at the date of the report.

- (d) For the avoidance of doubt, in respect of Default Contamination:
 - (i) the Principal's Representative may direct the Service Provider to perform all required Contamination Management Works to ensure compliance with this Deed or to otherwise reduce, abate, mitigate or eliminate any risk presented by that Contamination to the standard required by Law and to ensure the safe performance of the Services and the Service Provider must comply with any such Direction; and
 - (ii) any such Contamination Management Works will not be a Modification (and will not give rise to an Adjustment Event) and the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, Default Contamination or compliance by the Service Provider with its obligations under **clause 13.5(b)(iii)** or **13.5(d)(i)**.

13.6 Prior Contamination

To the extent that a person has, prior to the date of this Deed, caused, exacerbated or contributed to any Contamination of Relevant Land and that person is:

- (a) the Service Provider;
- (b) if the Service Provider is a partnership, joint venture or special purpose vehicle, a member (including a shareholder) of the Service Provider; or
- (c) a Related Body Corporate of the Service Provider,

nothing in this Deed and no act or omission by or on behalf of the Service Provider or the Principal under or in connection with this Deed will limit any duty, obligation or liability of that person (if any) in connection with that Contamination.

Part H – Variations

14 Modifications and Adjustment Events

14.1 Principal Initiated Modifications

- (a) Subject to **clause 14.1(h)(iii)**, the Principal's Representative may, by a written notice to the Service Provider, direct the Service Provider to carry out a Modification.
- (b) Only a Direction given by the Principal's Representative in writing, expressly stating that it is a Direction given under **clause 14.1(a)** and complying with the requirements of **clauses 14.1(a)** and **16(d)** (as applicable) will constitute a Direction for the purposes of **clause 14.1(a)**.
- (c) If a Modification is directed by the Principal's Representative under **clause 14.1(a)**, then subject to **clauses 14.1(f)**, **14.2(c)**, **17.4(c)**, **29A.3** and **29A.4**, the Variation Impacts for the Modification will be determined by the Principal's Representative in accordance with **Part 2** of the **Variations Schedule**, acting reasonably.
- (d) Prior to issuing a Direction under **clause 14.1(a)**, the Principal's Representative may give the Service Provider written notice of a potential Modification it proposes to direct under **clause 14.1(a)**, and request an Inception Meeting.

- (e) Following the receipt by the Service Provider of a notice under **clause 14.1(d)** in relation to any potential Modification, **clause 14.1A** applies.
- (f) Following receipt of a Variation Impacts Statement and other documents under **clause 14.1A(h)** (or further detail or supporting information required under **clause 14.1(f)(iii)**), the Principal's Representative may:
 - (i) direct the relevant potential Modification under **clause 14.1(a)** and accept the Variation Impacts Statement and, if applicable, Tenderer Recommendation provided by the Service Provider, in which case the Variation Impacts will be as proposed by the Service Provider;
 - (ii) direct the relevant potential Modification under **clause 14.1(a)** without accepting some or all of the Variation Impacts Statement and, if applicable, Tenderer Recommendation provided by the Service Provider, in which case:
 - (A) the Variation Impacts will be, to the extent accepted by the Principal's Representative, as proposed by the Service Provider; and
 - (B) to the extent not accepted by the Principal's Representative, subject to **clauses 14.2(c), 17.4(c), 29A.3 and 29A.4**, the Variation Impacts will be determined by the Principal's Representative in accordance with **clause 14.1(c)**, acting reasonably;
 - (iii) direct the Service Provider to provide further detail or supporting information in respect of the Variation Impacts Statement under **clause 14.1A(h)**, including via submitting requests for information from the Principal to the Tenderers, in which case the Service Provider must provide such further detail or supporting information within 15 Business Days, or such longer period as determined by the Principal's Representative acting reasonably, having regard to the nature of the further detail or supporting information requested, and this **clause 14.1(f)** will re-apply; or
 - (iv) decide not to proceed with the potential Modification at that time.
- (g) Without limiting the Service Provider's express entitlements under this Deed, the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, compliance by the Service Provider with its obligations under **clause 14.1(e)** or **14.1(f)**.
- (ga) Once a direction is given under **clause 14.1(f)(i)** or **(ii)** the Service Provider must:
 - (i) promptly enter into any Approved Subcontract Agreements with the approved Tenderers; and
 - (ii) if required by the Principal's Representative, provide the Principal's Representative with a copy of the executed Approved Subcontract Agreement including the Scope of Works or design documentation relevant to that agreement.
- (h) For the avoidance of doubt:
 - (i) the Principal's Representative may issue a notice under **clause 14.1(a)** whether or not the Principal's Representative has issued a notice under **clause 14.1(d)**;
 - (ii) the Principal's Representative will not be obliged to proceed with any potential Modification the subject of a notice under **clause 14.1(d)**;

- (iii) where the Service Provider has stated (acting reasonably) a Modification is incapable of being performed safely in a Variation Impacts Statement provided in accordance with **clause 14.1A(h)** or in a notice under **clause 29.1(a)**:
 - (A) the Principal's Representative must not direct the Service Provider to carry out that Modification;
 - (B) the Service Provider is not bound to carry out that Modification; and
 - (C) the Principal may have the works the subject of the potential Modification or Modification (as applicable) performed by another contractor or perform those works itself, and may elect at its discretion for the performance of those works by the Principal or another contractor to be deemed to be a Step-In Event to which **clause 22** of this Deed applies;
- (iv) the power of the Principal's Representative to direct Modifications is not limited to the matters referred to in **Part 1** of the **Variations Schedule** and includes the power to:
 - (A) direct the Service Provider to carry out Enhancement Activities;
 - (B) reverse the effect of all or any part of a previous Modification, including by directing as a Modification the performance of activities and work that have been omitted from the Services by the exercise of an Option or the removal of activities and work that have been included as part of the Services by the exercise of an Option;
 - (C) omit any part of the Services, including by omitting:
 - (1) Enhancement Activities that have not been completed by the Service Provider at the expiry of the Term;
 - (2) any part of the Services no longer able to be performed in circumstances where the ACT Licence is terminated; or
 - (3) the whole or any part of any Major Periodic Maintenance in accordance with **clause 14.1(h)(viii)** below;
 - (D) change the Services as required following any change in status of any part of the CRN:
 - (1) from the CRN Operational Network to the CRN Non-Operational Network or vice versa; or
 - (2) from being a CRN Non-Operational Structure to no longer being a CRN Non-Operational Structure or vice versa;
 - (E) direct the Service Provider not to make good any loss of or damage to the CRN Assets in accordance with **clause 18.1(a)(vi)**;
 - (F) if the Principal's Representative has directed the Service Provider not to make good any loss of or damage to the CRN Assets in accordance with **clause 18.1(a)(vi)**, subsequently direct the Service Provider to make good any or all of such loss of or damage to the CRN Assets; and
 - (G) direct the Service Provider to carry out works on any of the CRN Early Handback Assets after the relevant CRN Early Handback Date.
- (v) the power of the Principal's Representative to direct or approve Modifications includes the power to direct or approve Enhancement Activities to be carried out prior to the Services Commencement Date, provided that those Enhancement

Activities are limited to design work of the nature described in **paragraph (b)** of the definition of “Enhancement Activities” and do not involve the physical implementation of the relevant upgrade, enhancement, addition, change, expansion, augmentation, upgrade or replacement referred to in **paragraph (a)** of the definition of “Enhancement Activities”;

- (vi) the power of the Principal’s Representative to direct or approve Modifications constituting Early Enhancement Activities includes Early Enhancement Activities in respect of the projects listed in **Attachment O**, as well as projects not listed in **Attachment O**;
- (vii) the Principal makes no representation or warranty that Modifications constituting Early Enhancement Activities will be directed or approved by the Principal’s Representative, including in respect of the projects listed in **Attachment O**, and the Principal may engage third parties to carry out and complete the whole or any part of activities or work in the nature of Early Enhancement Activities, including in respect of the projects listed in **Attachment O**;
- (viii) where:
 - (A) the Parties have been unable to agree; and
 - (B) good faith discussions between the senior representatives of the Parties have taken place without agreement,

on pricing for any Major Periodic Maintenance in a 3MWP, the Principal may:

 - (C) omit the whole or any part of the relevant Major Periodic Maintenance and have such works performed by another contractor or perform those works itself; and
 - (D) elect at its discretion to have the performance of such works by the Principal or another contractor be deemed to be a Step-In Event to which **clause 22** of this Deed applies; and
- (ix) when the Principal’s Representative directs or approves a Modification:
 - (A) it is not a pre-condition or requirement of any kind that the Principal provide; and
 - (B) the Service Provider will not seek,

any indemnities in respect of the Service Provider’s performance of the Modification.

14.1A Collaborative Tender Process

- (a) Within 10 Business Days of receipt by the Service Provider of a notice under **clause 14.1(d)** in relation to any potential Modification, or such longer period as determined by the Principal’s Representative acting reasonably, having regard to the potential Modification requirements, the Service Provider and Principal must attend an Inception Meeting.
- (b) Within 10 Business Days of the Inception Meeting, or such longer period as determined by the Principal’s Representative acting reasonably, having regard to the potential Modification requirements, the Service Provider must give to the Principal’s Representative an Inception Meeting Record, signed by the Service Provider’s Representative, in the form set out in **Attachment R**.

- (c) Within 10 Business Days after receipt of an Inception Meeting Record under **clause 14.1A(b)**, or such longer period as determined by the Principal's Representative acting reasonably, having regard to the Inception Meeting Record, the Principal's Representative may:
- (i) accept the Inception Meeting Record provided by the Service Provider and provide a Proposed Modification Letter, in which case the Service Provider must:
 - (A) prepare the Draft Tender Documentation; and
 - (B) conduct the Tender in accordance with the Inception Meeting Record and the Transport Procurement Framework; or
 - (ii) direct the Service Provider to:
 - (A) provide further detail or supporting information in respect of the Inception Meeting Record; or
 - (B) amend the Inception Meeting Record and provide an updated version, which must be provided within 10 Business Days and this paragraph (c) will re-apply.
- (d) Following receipt of the Proposed Modification Letter, the Service Provider must give to the Principal's Representative the Draft Tender Documentation based on the Inception Meeting Record, on the date agreed under the Inception Meeting Record accepted under **clause 14.1A(c)(i)**.
- (e) Following receipt of the Draft Tender Documentation under **clause 14.1A(d)**, the Principal's Representative may, on the date agreed under the Inception Meeting Record:
- (i) accept the Draft Tender Documentation and direct the Service Provider to issue a Tender based on the Draft Tender Documentation; or
 - (ii) direct the Service Provider to:
 - (A) provide further detail or supporting information in respect of the Draft Tender Documentation; or
 - (B) amend the Draft Tender Documentation and provide an updated version, which must be provided within 10 Business Days, or such longer period as determined by the Principal's Representative acting reasonably, having regard to the nature of the further detail or supporting information requested, and this paragraph (e) will re-apply.
- (f) Once directed under **clause 14.1A(e)(i)**, the Service Provider must issue the Tender Documentation to the proposed Tenderer or Tender List without delay.
- (g) The Service Provider must examine and analyse all Tenders received, and, where requested by the Principal's Representative, include the Principal's Representative in the evaluation of the Tenders and any discussions with Tenderers.
- (h) On the date agreed under the Inception Meeting Record the Service Provider must give to the Principal's Representative:
- (i) a Variation Impacts Statement; and
 - (ii) details of the Tenderer selected by the Service Provider (**Tenderer Recommendation**),
- and **clause 14.1(f)** will apply.
- (i) If either party fails to submit a document, notice or response within a required time-frame under this **clause 14.1A**, the time period within which the other party is required to

respond to that document, notice or response is extended by the duration of the first party's delay.

14.2 Options

- (a) The Principal's Representative may, by a written notice to the Service Provider, exercise any Option, provided that if the Principal's Representative is exercising:
 - (i) Option 1, such Option will take effect in accordance with **Appendix 5 of Schedule 2**; or
 - (ii) Option 8 in respect of a CRN Early Handback Asset, such notice must specify the CRN Early Handback Asset and the date from which the Option is to take effect for that CRN Early Handback Asset.
- (aa) The Principal's Representative may progressively exercise Option 8 in respect of each CRN Early Handback Assets separately and the Option shall take effect in respect of each CRN Early Handback Asset separately.
- (ab) Unless exercised earlier in respect of a CRN Early Handback Asset by the Principal's Representative in accordance with **clause 14.2(a)**, Option 8 will automatically take effect on the date that is 18 months after the date of the Reset Date, but only if the Service Provider has satisfied the requirements in **clauses 26.3A(iii) and (c)**.
- (b) Subject to **clause 36**, only a Direction given by the Principal's Representative in writing, expressly stating that it is a Direction given under **clause 14.2(a)** will constitute a Direction for the purposes of **clause 14.2(a)**.
- (c) If an Option is exercised by the Principal's Representative under **clause 14.2(a)** or automatically under **clause 14.2(ab)** in respect of a CRN Early Handback Asset, such notice must specify the CRN Early Handback Asset and the date from which the Option is to take effect for that CRN Early Handback Asset, and subject to **clauses 14.1(f), 17.4(c), 29A.3, 29A.4 and 36**, the Variation Impacts for the exercise of the Option will be:
 - (i) in respect of Option 2, Option 3A, Option 3B or Option 3C, if:
 - (A) the Option is exercised on or before the date that is 2 years after the Services Commencement Date; and
 - (B) in respect of:
 - (1) Option 2, the Principal's Representative has not previously exercised Option 3A or Option 3B;
 - (2) Option 3B, the Principal's Representative has not previously exercised Option 2, Option 3A or Option 3C; or
 - (3) Option 3A, the Principal's Representative has not previously exercised Option 2 or Option 3C,

as specified in the relevant part of **Section 9.2** of the **Payment Schedule**;
 - (ii) in respect of Option 4, Option 5 or Option 6, if the Option is exercised on or before the Services Commencement Date, as specified in the relevant part of **Section 9.2** of the **Payment Schedule**;
 - (iii) in respect of Option 1 or Option 8, as specified in the relevant part of **Section 9.2** of the **Payment Schedule**; or
 - (iv) if **clauses 14.2(c)(i) to (iii)** do not apply, determined by the Principal's Representative in accordance with **Part 2** of the **Variations Schedule**.

- (d) Nothing in this **clause 14.2** will limit or otherwise affect the ability of the Principal's Representative to exercise any right under **clause 14.1**.

14.3 Service Provider Initiated Modifications

- (a) Without limiting **clause 15(a)**, the Service Provider may, by notice in writing to the Principal's Representative, request approval from the Principal's Representative for the carrying out of a Modification by issuing a Variation Impacts Statement, but only if such Modification is necessary as a result of, or comprises, an eligible potential Modification referred to in **Part 1** of the **Variations Schedule**.
- (b) The Principal's Representative may (in its absolute discretion unless otherwise provided in **section 5.8.10(b)(ii)** of the **Scope of Works**), by a written notice to the Service Provider:
 - (i) approve or reject a Modification proposed by the Service Provider under **clause 14.3(a)**;
 - (ii) impose conditions on any approval; and
 - (iii) direct the Service Provider to provide further detail or supporting information in respect of the Variation Impacts Statement under **clause 14.3(a)**.
- (c) If a Modification is approved by the Principal's Representative under **clause 14.3(b)**, subject to **clauses 14.2(c), 17.4(c), 29A.3** and **29A.4**, the Variation Impacts for the Modification will be determined by the Principal's Representative in accordance with **Part 2** of the **Variations Schedule**.
- (d) Only an approval given by the Principal's Representative in writing, expressly stating that it is an approval given under **clause 14.3(b)** and complying with the requirements of **clause 14.3(b)**, will constitute an approval for the purposes of **clause 14.3(b)**.

14.4 Adjustment Events

If an Adjustment Event occurs:

- (a) and the Variation Impacts associated with that Adjustment Event are, or may be, beneficial to the Principal, the Service Provider must promptly (and, unless notified by the Principal's Representative as being required earlier due to the nature of the Adjustment Event, within 20 Business Days of the Adjustment Event occurring) notify the Principal's Representative of the Adjustment Event by issuing a Variation Impacts Statement;
- (b) for the avoidance of doubt, if the Service Provider wishes to make any Claim against the Principal in respect of or relating to the Adjustment Event, the Service Provider must do so in accordance with **clause 29A**; and

subject to **clauses 29A.3** and **29A.4**, the provisions of the section of **Part 3** of the **Variations Schedule** relevant to the Adjustment Event will apply.

14.5 Corrective and Emergency Maintenance Modifications

- (a) If the Service Provider considers that Corrective and Emergency Maintenance is required at any time during the Term to ensure that the CRN Assets meet the CRN Reset Objectives, then the Service Provider may:
 - (i) subject to **clause 14.5(b)**, defer its performance of Low Priority Scheduled Maintenance from the relevant Contract Year to a later Contract Year at its risk and cost; or

- (ii) subject to **clause 14.5(c)**, submit a Corrective and Emergency Maintenance Deferral Proposal to the Principal's Representative that meets all the requirements set out in the definition of Corrective and Emergency Maintenance Deferral Proposal;
- (b) The Service Provider may only defer the performance of Low Priority Scheduled Maintenance from a Contract Year if:
 - (i) the aggregate value of all Low Priority Scheduled Maintenance deferred from that Contract Year is and remains less than the Low Priority Deferral Cap for that Contract Year; and
 - (ii) the Service Provider provides the Principal with notice of the Low Priority Scheduled Maintenance prior to deferring that maintenance and prior to undertaking the relevant Corrective and Emergency Maintenance.
- (c) The Service Provider may not submit a Corrective and Emergency Maintenance Deferral Proposal to the Principal unless the aggregate value of all Low Priority Scheduled Maintenance deferred from the relevant Contract Year is equal to or more than the Low Priority Deferral Cap for that Contract Year.
- (d) If the Principal's Representative reasonably requires further information to assess a Corrective and Emergency Maintenance Deferral Proposal submitted in accordance with **clause 14.5(a)** it may by notice to the Service Provider require that the Service Provider provide, and the Service Provider will provide within the reasonable time frame specified in that notice, that further information.
- (e) Subject to **clause 14.5(h)**, following receipt of a Corrective and Emergency Maintenance Deferral Proposal in accordance with the requirements of **clause 14.5(a)(ii)**, the Principal's Representative will within 20 Business Days either:
 - (i) elect to direct any of the options set out in that proposal;
 - (ii) elect to direct none of the options set out in that proposal, in which case **clause 14.5(f)** will apply; or
 - (iii) elect to direct none of the options set out in that proposal and temporarily waive:
 - (A) the Service Provider's obligations under this Deed to meet the CRN Reset Objectives in respect of the CRN Assets that are the subject of the relevant Corrective and Emergency Maintenance; and
 - (B) any breach of this Deed directly caused by the Service Provider not undertaking that Corrective and Emergency Maintenance.
- (f) If the Principal's Representative does not direct an option set out in a Corrective and Emergency Maintenance Deferral Proposal (except in relation to Emergency Response Maintenance) submitted in accordance with and meeting the requirements of **clause 14.5(a)** within the time required in **clause 14.5(e)**, the Service Provider may:
 - (i) refer the Principal's decision to senior representatives of the Parties who will in good faith discuss the Corrective and Emergency Maintenance Deferral Proposal; and
 - (ii) if the Principal's Representative has not directed an option set out in the Corrective and Emergency Maintenance Deferral Proposal within 5 Business Days of a referral under **clause 14.5(f)(i)**, in accordance with **clause 14.6** refer to a Corrective and Emergency Maintenance Expert the question of whether the Corrective and Emergency Maintenance is required to:

- (A) ensure that the CRN Assets meet the CRN Reset Objectives; or
 - (B) comply with the RSNL,

other than as a result of the Service Provider's breach of this Deed.
- (g) If the Corrective and Emergency Maintenance Expert determines that part or all of the Corrective and Emergency Maintenance proposed in a Corrective and Emergency Maintenance Deferral Proposal (except in relation to Emergency Response Maintenance) is required to ensure that the CRN Assets meet the CRN Reset Objectives or to comply with the RSNL other than as a result of the Service Provider's breach of this Deed, the Principal may elect whether to:
 - (i) direct the performance of that part of the Corrective and Emergency Maintenance as a Modification under **clause 14.1**; or
 - (ii) temporarily waive:
 - (A) the Service Provider's obligations under this Deed to undertake that Corrective and Emergency Maintenance to the extent that the Corrective and Emergency Maintenance Expert has determined that that Corrective and Emergency Maintenance was necessary to meet the CRN Reset Objectives or comply with the RSNL or other than as a result of the Service Provider's breach of this Deed; and
 - (B) any breach of this Deed directly caused by the Service Provider not undertaking that Corrective and Emergency Maintenance.
- (h) Despite anything else in this **clause 14.5**, where the Service Provider is required to undertake Emergency Response Maintenance:
 - (i) the Principal will be deemed to have directed the performance of that Emergency Response Maintenance as a Modification under **clause 14.1(a)**; and
 - (ii) the Service Provider is not required to provide a Corrective and Emergency Maintenance Deferral Proposal under this **clause 14.5** as a precondition to commencing the Emergency Response Maintenance, but is required to demonstrate that the Emergency Response Maintenance was:
 - (A) reasonable and necessary at the time; and
 - (B) not required as a result of a Service Provider Default or Emergency Incident arising from a Service Provider Default,and provide all reasonable supporting documentation, in order to claim payment under **clause 17** and the Principal is obliged to pay the Service Provider in those circumstances.
- (i) The Service Provider acknowledges that:
 - (i) if the Principal directs an option set out in a Corrective and Emergency Maintenance Deferral Proposal, the Service Provider will not be relieved of its obligations under the Deed other than to the extent the Services are changed or waived in accordance with the directed option;
 - (ii) the Direct Costs incurred by the Service Provider for the purposes of **clause 14.5(a)(ii)** do not include:
 - (A) costs it incurs as a result of or in order to remedy or rectify the Service Provider's breach of this Deed;

- (B) costs for which the Service Provider is indemnified under any insurance policy or would have been entitled to be indemnified under an insurance policy but for a failure by the Service Provider to:
 - (1) comply with its obligations under this Deed or under an insurance policy; or
 - (2) diligently make and progress a claim under an insurance policy; and
 - (C) costs the Service Provider is entitled to recover from the Principal under **clause 19A** or would have been entitled to recover under **clause 19A** but for a failure by the Service Provider to comply with its obligations under this Deed; and
- (iii) any liability of the Service Provider to the Principal or any other Indemnified Party, by way of indemnity under this Deed does not form part of the Direct Costs incurred for the purposes of **clause 14.5(a)(ii)**.
- (j) The Service Provider acknowledges that Direct Costs do not include any double-counting of costs paid or to be paid to the Service Provider as part of the Monthly Services Fee.

14.6 Expert determination of Corrective and Emergency Maintenance

- (a) This **clause 14.6** applies if the Service Provider makes a Corrective and Emergency Maintenance Referral to a Corrective and Emergency Maintenance Expert in accordance with **clause 14.5(f)(ii)**.
- (b) Within 10 Business Days of notice from the Service Provider to the Principal that the Service Provider has made a Corrective and Emergency Maintenance Referral in accordance with **clause 14.5(f)(ii)**, the Principal may:
 - (i) appoint an expert from the Corrective and Emergency Maintenance Expert Panel as an expert to determine the Corrective and Emergency Maintenance Referral; or
 - (ii) direct that the expert will be appointed by the parties in accordance with **clause 28.5(b)**, in which case **clause 28.5(b)** will apply.
- (c) The Principal and the Service Provider:
 - (i) must enter into an agreement with the Corrective and Emergency Maintenance Expert on the terms of **Schedule 7** of this Deed or such other reasonable terms as the expert may require;
 - (ii) acknowledge and agree that **clauses 28.5(d)** and **(e)** apply to the Corrective and Emergency Maintenance Expert; and
 - (iii) acknowledge and agree that each member of the Corrective and Emergency Maintenance Expert Panel possesses the necessary technical expertise to appropriately determine any Corrective and Emergency Maintenance Referral.
- (d) The parties:
 - (i) must provide the Corrective and Emergency Maintenance Expert with all such information as the Corrective and Emergency Maintenance Expert(s) reasonably requires to determine the Corrective and Emergency Maintenance Referral and must do all things reasonably necessary to cooperate with the Corrective and Emergency Maintenance Expert(s) for the purposes of such determination; and

- (ii) may provide written submissions in relation to the Corrective and Emergency Maintenance Referral to be determined by the Corrective and Emergency Maintenance Expert provided that copies of such submissions are also submitted to the other party.
- (e) The Corrective and Emergency Maintenance Expert must:
 - (i) keep the fact that it is making a determination and its draft and final determinations confidential;
 - (ii) keep confidential all information, documents, reports or agreements provided to him or her for review by either party;
 - (iii) confirm to the parties prior to its appointment that it does not have any interest or duty which would or potentially would conflict with the performance of their duties under their contract with the parties; and
 - (iv) must notify the Parties of its decision in respect of the Corrective and Emergency Maintenance Referral within 20 Business Days of agreement under **clause 14.6(c)(i)** or such longer period agreed by the parties;
- (f) The decision of the Corrective and Emergency Maintenance Expert(s):
 - (i) must be notified to the parties within 20 Business Days of agreement under **clause 14.6(c)(i)** or such longer period agreed by the parties, failing which, the issue is to be referred back to the senior representatives of the Principal and Service Provider who will in good faith discuss the Corrective and Emergency Maintenance Deferral Proposal and attempt to reach agreement;
 - (ii) will determine what part of (and to what extent) the Corrective and Emergency Maintenance that is the subject of the Corrective and Emergency Maintenance Referral:
 - (A) is required to ensure that the CRN Assets meet the CRN Reset Objectives or otherwise comply with the RSNL; and
 - (B) is not required as a result of a Service Provider Default; and
 - (iii) will be final and binding on the parties except to the extent:
 - (A) of fraud, gross negligence or a manifest error; or
 - (B) the Principal elects to temporarily waive the Service Provider's obligations to undertake the Corrective and Emergency Maintenance and any breach directly caused by the Service Provider not undertaking that Corrective and Emergency Maintenance under **clause 14.5(g)**.
- (g) The provisions of the *Commercial Arbitration Act 2010* (NSW) and the *Commercial Arbitration Act 2017* (ACT) will not apply to the proceedings under this **clause 14.6**.

14.7 Expanded 3MWP Scope Works

- (a) If the Service Provider considers that Expanded 3MWP Scope Works are required at any time during the Term to ensure that the CRN Assets meet the CRN Reset Objectives or otherwise satisfy the Service Provider's obligations under this Deed, then the Service Provider may, subject to any urgent approval to proceed that is sought and obtained by the Service Provider, submit an Expanded 3MWP Scope Works Proposal to the Principal's Representative for approval, that meets all the requirements set out in the definition of Expanded 3MWP Scope Works Proposal.

- (b) If the Principal's Representative reasonably requires further information to assess an Expanded 3MWP Scope Works Proposal submitted in accordance with **clause 14.7(a)** it may by notice to the Service Provider require that the Service Provider provide, and the Service Provider will provide within the reasonable time frame specified in that notice, that further information.
- (c) If the Service Provider submits an Expanded 3MWP Scope Works Proposal in accordance with **clause 14.7** that meets all the requirements set out in the definition of Expanded 3MWP Scope Works Proposal, the Principal will either:
 - (i) direct the performance of the Expanded 3MWP Scope Works as a Modification under **clause 14.1(a)** and the Service Provider's entitlements will be determined in accordance with **Part 2** of the **Variations Schedule**; or
 - (ii) elect not to direct the performance of the Expanded 3MWP Scope Works as a Modification under **clause 14.1(a)**, and temporarily waive:
 - (A) the Service Provider's obligations under this Deed to meet the CRN Reset Objectives in respect of the CRN Assets that are the subject of the relevant Expanded 3MWP Scope Works Proposal; and
 - (B) any breach of this Deed directly caused by the Service Provider not undertaking the Expanded 3MWP Scope Works.
- (d) The Service Provider is not required to implement any Expanded 3MWP Scope Works unless and until the Principal's Representative has directed the performance of such Expanded 3MWP Scope Works.

14.8 Directions to accelerate Services

- (a) The Principal's Representative may, by notice expressly referring to this **clause 14.8(a)**, Direct the Service Provider to accelerate, compress or re-sequence Services (**Accelerate**).
- (b) The Principal's Representative may request that, prior to implementing any Direction under **clause 14.8(a)**, the Service Provider provide details of:
 - (i) the additional cost to the Principal of the Service Provider performing the proposed Acceleration;
 - (ii) the total cost to the Principal of the Service Provider performing the Services that are subject to the proposed Acceleration; and
 - (iii) any impact on the Services that arise as a result of the Acceleration, including any changes required to the current 3MWP,
 which the Service Provider must provide within 15 Business Days of the Principal's Representative's request.
- (c) The Service Provider must comply with a Direction given under **clause 14.8(a)**.
- (d) If a Direction has been given under **clause 14.8(a)**, it will be deemed to be a Modification under **clause 14.1(a)** and the Service Provider's entitlements will be determined in accordance with **Part 2** of the **Variations Schedule**.
- (e) Where the Service Provider considers that any Direction that is not labelled a Direction to Accelerate under **clause 14.8(a)** constitutes or involves a direction to accelerate, compress or re-sequence, then:
 - (i) the Service Provider may give notice of that fact to the Principal;
 - (ii) the Principal must, within 5 Business Days, either:

- (A) issue a confirmation of that direction to Accelerate;
 - (B) withdraw the direction; or
 - (C) clarify that the Direction stands but the Principal does not require the Service Provider to accelerate, compress or re-sequence the Services; and
- (iii) in the absence of a reply from the Principal within the timeframe set out in **clause 14.8(e)(ii)**, then the Direction is deemed withdrawn.

15 Innovation

- (a) The Service Provider may, by notice in writing to the Principal's Representative, propose an Innovation Change for the approval of the Principal's Representative.
- (b) Any notice under **clause 15(a)** must state that it is a notice under **clause 15(a)** and include:
 - (i) full details of:
 - (A) the proposed Innovation Change (including reasons why the Service Provider proposes the Innovation Change);
 - (B) how the Service Provider will ensure that the quality of the Services is maintained at the level required by this Deed (including compliance with the KPIs) if the Innovation Change were implemented; and
 - (C) the benefits of the Innovation Change to the Service Provider and the Principal, in relation to the CRN Assets and the operations of TfNSW and any other NSW Government agency more broadly;
 - (ii) the Service Provider's proposal for any of the following:
 - (A) funding capital costs, including any proposal for the Principal to fund capital costs to the extent that they relate to the overall benefits to TfNSW and any other NSW Government agency of the proposed Innovation Change;
 - (B) preserving the Service Provider's profit margin prior to the implementation of the proposed Innovation Change, whilst reducing the overall payments by the Principal to the Service Provider;
 - (C) sharing a percentage of the estimated potential cost savings if the Innovation Change were to be implemented, particularly where the Innovation Change is beneficial to TfNSW and any other NSW Government agency not only in relation to the CRN Assets but also more broadly; and
 - (D) the Principal purchasing any Intellectual Property developed by the Service Provider in relation to the Innovation Change, where such Intellectual Property has been clearly defined and appropriately valued; and
 - (iii) any other matters required in respect of a Variation Impacts Statement.
- (c) Without limiting the Principal's Representative's ability to direct Modifications under **clause 14.1(a)**, the Principal's Representative may (in its absolute discretion):
 - (i) approve or reject an Innovation Change proposed by the Service Provider under **clause 15(a)**;

- (ii) impose conditions on any approval;
 - (iii) require the Service Provider to participate in good faith negotiations for a period of 30 Business Days (as such period may be extended by agreement in writing by the parties) with a view to agreeing any part of the Service Provider's proposal; and
 - (iv) direct the Service Provider to provide further detail or supporting information in respect of the notice under **clause 15(a)**.
- (d) Despite any other provision of this Deed, the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, any Innovation Change proposed by the Service Provider under **clause 15(a)**, except as expressly approved by the Principal's Representative under **clause 15(c)**.

16 General provisions regarding Modifications or Adjustment Events

- (a) Without limiting the Service Provider's other obligations under this Deed, the Service Provider:
 - (i) must not carry out any Modification, except as Directed under **clause 14.1(a)**, **14.2(a)**, **14.3(b)** or **15(c)** or as required under **clause 29.1(d)**;
 - (ii) without limiting **clause 16(a)(i)**, must not change the CRN Assets, except as required to carry out the Services in accordance with this Deed; and
 - (iii) must take all reasonable steps to mitigate any Loss suffered or incurred by the Service Provider arising out of, or in any way in connection with, any Modification or Adjustment Event.
- (b) Despite any other provision of this Deed:
 - (i) no Adjustment Event or Modification will invalidate, or amount to a repudiation of, this Deed;
 - (ii) no Modification will entitle the Service Provider to any Claim, except for:
 - (A) Variation Impacts expressly set out in, and determined in accordance with:
 - (1) **Part 2 of the Variations Schedule**; or
 - (2) to the extent the Modification will result in Modification Assets (including under **clause 2.16(b)**) and the incorporation of those Modification Assets as part of the CRN Assets will give rise to a CRN Asset Base Change, **Part 3 of the Variations Schedule**; and
 - (B) in respect of Enhancement Activities, Claims which are expressly provided for in the relevant **Enhancement Activities Terms and Conditions**, including extensions of time;
 - (iii) no Adjustment Event will entitle the Service Provider to any Claim, except for:
 - (A) Variation Impacts expressly set out in, and determined in accordance with, **Part 3 of the Variations Schedule**; and
 - (B) in respect of Enhancement Activities, Claims which are expressly provided for in the relevant **Enhancement Activities Terms and Conditions**, including extensions of time;

- (iv) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim:
 - (A) for any adjustment to any Mobilisation Payment, any Transition Out Cost or Early Enhancement Activities Payment arising out of, or in any way in connection with, any Adjustment Event;
 - (B) for a Variation Impact or a Claim referred to in **clause 16(b)(ii)(B) or 16(b)(iii)(B)** if the relevant Modification or Adjustment Event is caused or contributed to by:
 - (1) a Non-Compliance;
 - (2) disruption of, or interference with, the Services as a result of the Service Provider not having a Track Possession other than a Qualifying Track Access Disruption;
 - (3) any CRN Assets Condition (except to the extent such CRN Assets Condition comprises, or is caused by, a Modification or an Adjustment Event); or
 - (4) without limiting **clause 16(b)(iv)(B)(1)**, any Service Provider Default; or
 - (C) to the extent such Claim or any Loss the subject of such Claim:
 - (1) is caused or contributed to by any failure by the Service Provider to comply with **clause 16(a)(iii)**; or
 - (2) relates to the CRN Assets referred to in **paragraph (e)** of the definition of 'CRN Assets' in **clause 1.1** and that Claim is not in respect of a Modification directed in respect of those CRN Assets under **clause 14.1(a)**.
- (c) The Principal may carry out itself or engage others to carry out the whole or any part of any Services which are omitted in accordance with, or as a result of, any Variation or the exercise of any Option.
- (d) If a Modification directed under **clause 14.1(a)** is Enhancement Activities, the written notice under **clause 14.1(a)** must:
 - (i) specify that the Modification constitutes Enhancement Activities for the purposes of this Deed; and
 - (ii) if the notice under **clause 14.1(a)** is given prior to the Services Commencement Date, specify whether the Modification constitutes Early Enhancement Activities for the purposes of this Deed.
- (e) If a potential Modification notified by the Principal's Representative under **clause 14.1(d)** is Enhancement Activities, the written notice under **clause 14.1(d)**:
 - (i) must specify that the potential Modification constitutes Enhancement Activities for the purposes of this Deed and the Enhancement Activities Particulars proposed by the Principal;
 - (ii) may propose amendments (including additions) to the terms and conditions in **Schedule 12** which will apply for those Enhancement Activities; and
 - (iii) if the notice under **clause 14.1(d)** is given prior to the Services Commencement Date, specify whether the potential Modification would constitute Early Enhancement Activities for the purposes of this Deed.

- [illegible]

- (B) any Approved Subcontract Agreement relating to the Enhancement Activities must be materially consistent with **Schedule 12** with regards to time, cost, quality, safety and environmental obligations, unless expressly agreed in writing by the Principal's Representative, noting that any agreement by the Principal's Representative under this **clause 16(f)(iii)(B)** does not limit the application of the **Enhancement Activities Terms and Conditions** under **clause 16(f)(ii)** to the Modification.
- (g) To the extent an Adjustment Event is a Qualifying Track Access Disruption, the Service Provider's entitlement will be proportionally reduced to the extent the delay or disruption was caused or contributed to by any act or omission of the Service Provider or any of its Associates or was within the reasonable control of the Service Provider.
- (h) The Service Provider acknowledges that it is not entitled to double recovery of any of its costs in accordance with this **clause 16** and any other provision of this Deed.

Part I – Payment

17 Payment

17.1 Payment Entitlements

The Principal agrees to pay the Service Provider:

- (a) in consideration of the Service Provider carrying out:
 - (i) the Mobilisation Activities (other than the Redeployment Activities forming part of the Mobilisation Activities) in accordance with this Deed, the Mobilisation Payments;
 - (ii) the Redeployment Activities in accordance with this Deed, the Redeployment Costs Payments;
 - (iii) the Early Enhancement Activities in accordance with this Deed, the Early Enhancement Activities Payments;
 - (iv) the Services (other than the Mobilisation Activities, the Redeployment Activities not forming part of the Mobilisation Activities, the Early Enhancement Activities and the Transition Out Activities) in accordance with this Deed, the Monthly Services Fee, which is a fixed monthly amount (subject to adjustment as set out in the **Payment Schedule**); and
 - (v) the Transition Out Activities in accordance with this Deed, the Transition Out Costs,
- in each case calculated in accordance with the **Payment Schedule**; and
- (b) other amounts expressly payable by the Principal to the Service Provider under this Deed,

subject to and in accordance with the provisions of this Deed, including this **clause 17**.

17.2 Payment Claims

The Service Provider must deliver to the Principal's Representative within 6 Business Days after the end of each month prior to the Termination Date, and then no later than the date that is 20 Business Days after the Termination Date, a written claim for payment which:

- (a) clearly and separately identifies the amount claimed on account of the following:

■ [REDACTED]

A horizontal bar chart consisting of 15 black bars of varying lengths. The bars are arranged in a single column. The lengths of the bars, from top to bottom, are approximately: 40%, 65%, 75%, 70%, 90%, 95%, 100%, 85%, 20%, 70%, 70%, 40%, 95%, 70%, and 80%.

- (b) is addressed to TAHE and otherwise in the form set out in **Attachment G**, or such other form required by the Principal's Representative acting reasonably; and
- (c) includes or encloses detailed calculations for, and evidence reasonably acceptable to the Principal's Representative verifying and substantiating amounts used for the purposes of calculating, the amounts referred to in **clause 17.2(a)**.

The Principal's Representative may, from time to time, notify the Service Provider of changes in the reporting requirements for Payment Claims or invoices or request additional material to be provided by the Service Provider for the purposes of presenting or reporting a Payment Claim or invoice, and the Service Provider must comply with its obligations regarding Payment Claim or invoice reporting on the basis of such change and comply with any such request.

17.3 Payment Response

- (a) The Principal's Representative may deliver to the Principal and the Service Provider within 10 Business Days after the Principal's Representative's receipt of a Payment Claim (or when otherwise contemplated by this **clause 17.3** a written statement which:
- (i) identifies the Payment Claim (if any) to which it relates;
 - (ii) indicates the Principal's Representative's determination of:
 - (A) the moneys due from the Principal to the Service Provider which the Principal proposes to pay, clearly and separately identifying each type of payment; or
 - (B) if the Principal's Representative determines that no moneys are due from the Principal to the Service Provider, the moneys due from the Service Provider to the Principal, including any 3 Year Maintenance Works Plan Adjustment Clawback, abatement or adjustment determined in accordance with the **Payment Schedule** or the **KPI Schedule**; and
 - (iii) includes or encloses:

- (A) details of the Principal's Representative's calculations of the stated amounts; and
 - (B) to the extent that the amount referred to in **clause 17.3(a)(ii)(A)** differs from the amounts claimed by the Service Provider in the Payment Claim (if any), a statement of the amount of that difference, together with the reasons for that difference and (if the difference is because the Principal is withholding payment for any reason) the Principal's reasons for withholding payment.
- (b) The Principal's Representative may, in its absolute discretion, whether or not the Service Provider submits (or is entitled to submit) a Payment Claim in accordance with **clause 17.2**, at any time issue a Payment Response (including for the purposes of correcting any error in a previous Payment Response).
- (c) Failure by the Principal's Representative to set out in a Payment Response an amount, or the correct amount, which the Principal is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Service Provider by the Principal will not prejudice the Principal's right to subsequently exercise its right to retain, deduct, withhold or set-off any amount under this Deed.

17.4 Payments

- (a) The Principal must pay amounts stated as payable by the Principal to the Service Provider in a Payment Response within 15 Business Days after the issue of the relevant Payment Claim or, if there is no relevant Payment Claim, within 15 Business Days after the issue of the relevant Payment Response.
- (b) If any Payment Response shows an amount that is payable by the Service Provider to the Principal, then the Service Provider must pay that amount to the Principal within 10 Business Days of receiving the Payment Response.
- (c) The Service Provider acknowledges and agrees that:
 - (i) particular Modifications may be carried out following the request of a third party to the Principal or the Service Provider, which may then form the basis of a Direction under **clause 14.1(a) or 14.3(b)**; and
 - (ii) any payment by such a third party to the Service Provider for the carrying out of such Modifications or any associated Variation Impact will be deemed to be in satisfaction of the Principal's obligation to pay the Service Provider for such Modifications or associated Variation Impacts under this Deed.
- (d) The Service Provider acknowledges and agrees that payments on account of amounts owed by the Principal to the Service Provider will be made by TAHE and that any payment received by the Service Provider from TAHE under, or in connection with, this Deed will be deemed to be a payment by the Principal under, or in connection with, this Deed.

17.5 Set Offs by the Principal

In addition to the Principal's other rights and despite any Payment Response issued by the Principal's Representative under **clause 17.3**, the Principal may:

- (a) retain, deduct, withhold or set off from moneys otherwise due to the Service Provider in connection with this Deed, the Services or the CRN Assets:
 - (i) any debt or other moneys due from the Service Provider to the Principal, whether under this Deed, pursuant to a judgment, arbitral award or expert determination in

- connection with this Deed, the Services or the CRN Assets or otherwise in any way in connection with this Deed, the Services or the CRN Assets;
- (ii) the amount of any bona fide claim the Principal may have against the Service Provider under, or in any way in connection with, this Deed, the Services or the CRN Assets;
 - (iii) without limiting **clauses 17.5(a)(i) and 17.5(a)(ii)**, any 3 Year Maintenance Works Plan Adjustment Clawback or abatement determined in accordance with the **Payment Schedule** or the **KPI Schedule**;
 - (iv) without limiting **clauses 17.5(a)(i) and 17.5(a)(ii)**, any Unpaid Previous Service Provider In-Scope Employee Allowance; or
 - (v) any Applied Tax Amount in accordance with **clause 4.6(d)**;
- (b) without limiting **clause 17.5(a)**, retain, deduct, withhold or set off from moneys otherwise due to the Service Provider any amount that the Principal is obliged to withhold from payment to the Service Provider under any Law, including the Security of Payment Act (NSW); and
- (c) retain, deduct, withhold or set off from moneys otherwise due to the Service Provider:
- (i) in circumstances where the Service Provider has not complied with **clause 17.9** or any other provision or requirement of this Deed (including the **Payment Schedule**) which is expressed to be a precondition to any entitlement of the Service Provider to submit Payment Claims or receive payment (including as referred to in **clause 3.15**), the full amount that would otherwise have been payable by the Principal to the Service Provider in respect of a Payment Claim; or
 - (ii) any amount the Principal is entitled to withhold in accordance with any Law, including section 175B of the *Workers Compensation Act 1987* (NSW), Schedule 2 Part 5 of the *Payroll Tax Act 2007* (NSW) and section 127 of the *Industrial Relations Act 1996* (NSW).

Nothing in this **clause 17.5** affects the right of the Principal to recover from the Service Provider the whole of the debt, moneys or claim or any balance that remains owing.

17.6 Payment on account

The issue of a Payment Response and payment of moneys by the Principal is not:

- (a) an admission or evidence of the value of work or that work has been carried out or completed in accordance with this Deed;
- (b) an admission of liability; or
- (c) approval by the Principal or the Principal's Representative of the Service Provider's performance or compliance with this Deed,

but is only to be taken as payment on account.

17.7 Interest on Overdue Payments

If any moneys due to either party remain unpaid after their due date, then interest will be payable on the amount due but unpaid from the day after the due date to and including the date on which the moneys are paid. The rate of interest will be an interest rate that is [REDACTED] percentage points above the [REDACTED]. Interest will be compounded at [REDACTED] intervals.

17.8 Ownership of Materials

The Service Provider:

- (a) agrees that on payment to the Service Provider of any amount for any Materials, they will be the property of the Principal free of any Security Interest;
- (b) warrants and agrees that ownership of and property in (but not risk in) any Materials will pass to the Principal upon payment being made to the Service Provider in respect of those Materials; and
- (c) must provide such evidence as the Principal's Representative requires to establish that ownership of such Materials will pass to the Principal before the Service Provider is entitled to claim any payment in respect of such Materials.

17.9 Payment of Subcontractors

With each claim for payment under **clause 17.2**, and as a precondition to any entitlement of the Service Provider to payment in respect of each Payment Claim, the Service Provider must give to the Principal's Representative a duly completed and executed statutory declaration in the form set out in **Schedule 9** (or such other form reasonably required by the Principal's Representative) dated no earlier than the date of submission of the statutory declaration from the Service Provider (or, where the Service Provider is a corporation, a representative of the Service Provider who is in a position to know the facts declared).

17.10 Trust Account

If the Service Provider:

- (a) receives any money in any way in connection with any:
 - (i) Relevant Document; or
 - (ii) advertising rights or sale of any assets or equipment (including scrap metal) relating to the CRN Assets or the Services; or
- (b) receives any other money that, but for the Service Provider's role assumed as a result of carrying out of the Services, would have been paid to the Principal or any other Rail Transport Agency, including any money received in the carrying out of the Agency Services or any money received pursuant to any Track Access Agreement or the carrying out of the Property Management Services,

the Service Provider receives that money and will hold that money on behalf of the Principal (or its nominee) and as trustee for the Principal (or its nominee) and must:

- (c) open a dedicated account (with an institution that is an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)));
- (d) deposit that money immediately into the dedicated account;
- (e) hold all money in that account on trust for the Principal (or its nominee);
- (f) not mix any other funds with the funds in that trust account;
- (g) not use those funds for any purpose;
- (h) provide online electronic access to the account to the Principal (or its nominee); and
- (i) provide the Principal (or its nominee) with accounts of those funds and transfer those funds to an account nominated by the Principal (or its nominee) on a weekly basis or as otherwise required by the Principal (or its nominee).

17.11 Long Service Levy

The Service Provider must pay any applicable Long Service Levy to the Long Service Corporation.

17.12 Notices Under the Security of Payment Act and Contractors Debts Act

The Service Provider must:

- (a) as soon as practicable give the Principal a copy of any notice the Service Provider:
 - (i) receives from a Subcontractor under section 15, 16 or 24 of the Security of Payment Act (NSW);
 - (ii) receives from a Subcontractor under section 17, 18 or 26 of the Security of Payment Act (ACT); or
 - (iii) has been required to supply to a Subcontractor under section 15(1) of the *Contractors Debts Act 1997* (NSW); and
- (b) promptly notify the Principal if it becomes aware that a Subcontractor intends to exercise a statutory lien, under section 11(3) of the Security of Payment Act (NSW) or section 13(3) of the Security of Payment Act (ACT), over unfixed plant and materials supplied by the Subcontractor for use in carrying out work forming part of the Services or any trade contract.

17.13 Suspension of Work Under the Security of Payment Act

If the Service Provider suspends the whole or part of the Services pursuant to the Security of Payment Act (NSW) or the Security of Payment Act (ACT):

- (a) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the suspension; and
- (b) the Principal may direct the Service Provider to omit the whole or part of the suspended Services and thereafter the Principal may engage others to carry out the suspended Services.

17.14 Adjudicator's Determination

Where an adjudication occurs under the Security of Payment Act (NSW) or the Security of Payment Act (ACT) and the Principal has paid the adjudicated amount to the Service Provider, if the adjudicator's determination is quashed, overturned or declared to be void, the adjudicated amount will become a debt due and payable by the Service Provider to the Principal.

17.15 GST

- (a) Unless the context requires otherwise, words used in this clause that have a specific meaning in the GST Law will have the same meaning in this clause.
- (b) Subject to **clause 17.15(c)**, the parties agree that:
 - (i) all payments of consideration for a supply made under this Deed will be subject to the prior receipt of a tax invoice;
 - (ii) if GST is payable, or notionally payable, on a supply made under or in connection with this Deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the GST Amount, on that supply, except to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge;

- (iii) subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided;
 - (iv) where any indemnity, reimbursement or similar payment under this Deed is based on any cost, expense or other liability, it will be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability;
 - (v) for the purposes of calculating the relevant reduction under **clause 17.15(b)(iv)** and unless the relevant party demonstrates otherwise before the payment is made, it must be assumed that a full input tax credit is available;
 - (vi) if an adjustment event occurs in relation to a supply under or in connection with this Deed, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties; and
 - (vii) any reference in this Deed to a cost, expense or other similar amount (**Cost**) is a reference to that Cost exclusive of GST.
- (c) Further to the requirements of and for the purposes of sub-division 153-B of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), the parties agree that:
- (i) both the Principal and the Service Provider are registered for GST;
 - (ii) the Service Provider will, on the Principal's behalf:
 - (A) make supplies to third parties;
 - (B) facilitate supplies to third parties (including by issuing invoices relating to, or receiving consideration for, such supplies);
 - (C) make acquisitions from third parties; or
 - (D) facilitate acquisitions from third parties (including by providing consideration for such acquisitions);
 - (iii) the kind of supplies or acquisitions to which this sub-division 153-B agreement applies are all supplies and acquisitions made or facilitated by the Service Provider in carrying out the Agency Services;
 - (iv) for the purposes of the GST Law:
 - (A) the Service Provider will be treated as making the above supplies to the third parties, or the above acquisitions from the third parties, or both; and
 - (B) the Principal will be treated as making corresponding supplies to the Service Provider, or corresponding acquisitions from the Service Provider, or both;
 - (v) in the case of supplies made (or treated as being made) by the Service Provider to third parties:
 - (A) the Service Provider will issue to the third parties, in the Service Provider's own name, all the tax invoices and adjustment notes relating to those supplies; and
 - (B) the Principal will not issue to the third parties any tax invoices and adjustment notes relating to those supplies;
 - (vi) in the case of supplies made (or treated as being made) by the Principal to the Service Provider, the Principal will issue to the Service Provider, displaying the Principal's name and ABN, all tax invoices and adjustment notes relating to the deemed supply of the above supplies to the Service Provider;

- (vii) in the case of supplies made (or treated as being made) by the Service Provider to the Principal, the Service Provider will issue to the Principal, displaying the Service Provider's name and ABN, all tax invoices and adjustment notes relating to the deemed supply of the above supplies to the Principal; and
- (viii) either party will inform the other party immediately if they cease to be registered for GST, and this arrangement ceases to have effect from the date that the Principal or the Service Provider or both cease to be registered for GST.

17.16 No Carbon price

- (a) The Service Provider warrants that the Monthly Services Fee is exclusive of:
 - (i) any Carbon Price applicable directly or indirectly to the Services or any input costs of the Services such that in paying the Monthly Services Fee, the Principal is not making any payment whatsoever that is attributable to any Carbon Price; and
 - (ii) any benefit (including a credit or income) under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) or under any other Carbon Credit Scheme.
- (b) The Principal's Representative may at any time during the Term request that the Service Provider repeat the warranty provided at **clause 17.16(a)** remains true, and the Service Provider must comply with that request.

Part J – Risk, Insurance and Liability

18 Risk

18.1 Risk of the CRN Assets and CRN Assets Conditions

- (a) Subject to the terms of this Deed, the Service Provider agrees:
 - (i) the CRN Assets will be in the custody, control and care of the Service Provider at all times during the Term, including for the purposes of all Laws;
 - (ii) for the purposes of the RSNL, the Service Provider will have effective control and management of the CRN Assets that are rail infrastructure for the purpose of RSNL;
 - (iii) the Service Provider must use the CRN Assets at the Service Provider's own risk;
 - (iv) the Service Provider will (at all times during the Term):
 - (A) be responsible for the care of the CRN Assets (including Modification Assets) Plant and Equipment and any other items (including unfixed Materials) in respect of which an amount has been certified as payable in a Payment Response; and
 - (B) bear the risk of loss or damage to:
 - (1) the CRN Operational Assets (including Modification Assets);
 - (2) the CRN Non-Operational Structures;
 - (3) Plant and Equipment; and
 - (4) any other items (including unfixed Materials) in respect of which an amount has been certified as payable in a Payment Response,
- other than to the extent that the loss or damage arises:

- (5) as the direct result of an Historic Defect in a CRN Operational Asset and such loss or damage is not caused by the Service Provider's failure to:
 - (I) undertake all activities and steps that are required in accordance with this Deed and Good Industry Practice to progressively discover, investigate, identify and notify the Principal of that Historic Defect;
 - (II) appropriately include and prioritise the rectification of that Historic Defect in a current or future 3MWP in accordance with this Deed and Good Industry Practice; and
 - (III) rectify that Historic Defect in accordance with any 3MWP, having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed; or
- (6) as a direct result of the CRN Non-Operational Structures being safe and in their Baseline Condition instead of satisfying any standard that applied prior to the Reset Date and such loss or damage is not caused by the Service Provider's failure to:
 - (I) comply with **clause 5.1B(a)(i), 5.1B(a)(ii)(A), or 5.1C(b)(iv) or (v)**;
 - (II) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Baseline Condition Defects in a current or future 3MWP in accordance with this Deed; or
 - (III) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Baseline Condition Defect in accordance with the 3MWP or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**,
 having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed.
- (7) as a direct result of the Service Provider not undertaking an obligation under this Deed to the extent that that obligation was waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**;
- (8) as a direct result of Approved Deterioration or Dilapidation (however, the Service Provider will be liable for any loss which is a direct result of the Service Provider's failure to comply with **clause 5.1C(b)(iv) or (v)**); or
- (9) as a direct result of any loss or damage to the CRN Assets that the Service Provider has:

- (I) been directed not to make good in accordance with clause **14.1(h)(iv)(E)**; and
 - (II) not been directed to make good under clause **14.1(h)(iv)(F)**.
- (v) the Service Provider must promptly, and in any event prior to incurring any costs associated with its obligations under **clause 18.1(a)(vi)**:
 - (A) notify the Principal's Representative in writing of any loss of or damage to the CRN Assets (including Modification Assets), Plant and Equipment and any other items (including unfixed Materials) in respect of which an amount has been certified as payable in a Payment Response, with full details of:
 - (1) the relevant loss or damage;
 - (2) the cause of the relevant loss or damage; and
 - (3) the steps proposed to be taken by the Service Provider to comply with its obligations under **clause 18.1(a)(vi)**; and
 - (B) without limiting **clause 29**, if the relevant loss or damage (or the cause of the relevant loss or damage) constitutes an Adjustment Event for which the Service Provider wishes to make a Claim, provide the Principal's Representative with a Variation Impacts Statement in respect of that Adjustment Event;
- (vi) the Service Provider must, except to the extent otherwise directed by the Principal's Representative under **clause 14.1(a)** or approved by the Principal's Representative under **clause 14.3(b)**, make good any loss of or damage to:
 - (A) the CRN Operational Assets (including Modification Assets);
 - (B) CRN Non-Operational Structures;
 - (C) Plant and Equipment; and
 - (D) any other items (including unfixed Materials) in respect of which an amount has been certified as payable in a Payment Response,which arises during, or as a result of any event or circumstance occurring during, the Term or otherwise to the extent caused or contributed to by an act or omission of the Service Provider or any of its Associates, other than to the extent that the loss or damage arises:
 - (E) as the direct result of an Historic Defect in a CRN Operational Asset and such loss or damage is not caused by the Service Provider's failure to:
 - (1) undertake all activities and steps that are required in accordance with this Deed and Good Industry Practice to progressively discover, investigate, identify and notify the Principal of that Historic Defect;
 - (2) appropriately include and prioritise the rectification of that Historic Defect in a current or future 3MWP in accordance with this Deed and Good Industry Practice; and
 - (3) rectify that Historic Defect in accordance with any 3MWP,

- having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed;
- (F) as a direct result of the CRN Non-Operational Structures being safe and in their Baseline Condition instead of satisfying any standard that applied prior to the Reset Date and such loss or damage is not caused by the Service Provider's failure to:
- (1) comply with **clause 5.1B(a)(i), 5.1B(a)(ii)(A), or 5.1C(b)(iv) or (v)**;
 - (2) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Baseline Condition Defects in a current or future 3MWP in accordance with this Deed; or
 - (3) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Baseline Condition Defect in accordance with the 3MWP or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**,
- (G) having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed;
- (H) as a direct result of the Service Provider not undertaking an obligation under this Deed to the extent that that obligation was waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**; or
- (I) as a direct result of Approved Deterioration or Dilapidation (however, the Service Provider will be liable for any loss which is a direct result of the Service Provider's failure to comply with **clause 5.1C(b)(iv) or (v)**); or
- (J) as a direct result of any loss or damage to the CRN Assets that the Service Provider has:
- (1) has been directed not to make good in accordance with **clause 14.1(h)(iv)(E)**; and
 - (2) not been directed to make good under **clause 14.1(h)(iv)(F)**; and
- (vii) except to the extent otherwise expressly provided in this Deed in respect of Contamination, Adjustment Events, Qualifying Latent CRN Asset Conditions, Historic Defects, Baseline Condition Defects or Approved Deterioration or Dilapidation, the Service Provider, assumes the risk of all the CRN Assets Conditions (whether or not they could have reasonably been anticipated at the date of this Deed or have occurred or arisen before, on or after the date of this Deed).
- (b) The Principal makes no representation and gives no warranty to the Service Provider in respect of:
- (i) the CRN Assets, including the existence, location, condition or availability of any services in respect of the CRN Assets; or

- (ii) any CRN Assets Condition (whether or not they could have reasonably been anticipated at the date of this Deed or have occurred or arisen before, on or after the date of this Deed).
- (c) Except to the extent:
 - (i) that the condition of a CRN Asset arises, subject to **clause 18.1(ca)**, as the direct result of an Historic Defect in a CRN Operational Asset or a Baseline Condition Defect in a CRN Non-Operational Structure;
 - (ii) that the condition of a CRN Asset arises as a direct consequence of:
 - (A) a CRN Non-Operational Structure satisfying the CRN Reset Objectives instead of being fit for their Intended Purpose; or
 - (B) an Approved Deterioration or Dilapidation;
 - (iii) that the condition of a CRN Asset arises as a direct result of the Service Provider not undertaking an obligation under this Deed to the extent that that obligation was waived in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**;
or
 - (iv) otherwise expressly provided in this Deed in respect of Contamination, Adjustment Events, Qualifying Latent CRN Asset Conditions, Historic Defects, Baseline Condition Defects or Approved Deterioration or Dilapidation,the Service Provider:
 - (v) accepts the CRN Assets and all CRN Assets Conditions in their existing condition (including when encountered and at all other times); and
 - (vi) agrees that it is responsible for, and assumes the risk of, and it will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, any additional work, increased costs or any Loss or delay it suffers or incurs arising out of, or in any way in connection with:
 - (A) any CRN Assets Condition (whether or not they could have reasonably been anticipated at the date of this Deed or have occurred or arisen before, on or after the date of this Deed); or
 - (B) Non-Compliances.
- (ca) Despite any other clause in this Deed, the Service Provider will be liable for:
 - (i) any loss which is a direct result of a Historic Defect to the extent that such loss is caused by the Service Provider's failure to:
 - (A) undertake all activities and steps that are required in accordance with this Deed and Good Industry Practice to progressively discover, investigate, identify and notify the Principal of that Historic Defect;
 - (B) appropriately include and prioritise the rectification of that Historic Defect in a current or future 3MWP in accordance with this Deed and Good Industry Practice; and
 - (C) rectify that Historic Defect in accordance with any 3MWP,having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed; and

- (ii) any loss which is a direct result of a Baseline Condition Defect (other than as a direct result of Approved Deterioration or Dilapidation) to the extent that such loss is caused by the Service Providers failure to:
 - (A) comply with **clause 5.1B(a)(i)** or **(a)(ii)(A)** or **5.1C(b)(iii)** or **(iv)**;
 - (B) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Baseline Condition Defects in a current or future 3MWP in accordance with this Deed; or
 - (C) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Baseline Condition Defect in accordance with 3MWP; or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with **clause 14.5(e)(iii)**, **clause 14.5(g)(ii)** or **clause 14.7(c)(ii)**,
 having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed.
- (d) Nothing in this **clause 18** disentitles the Service Provider from being paid the Monthly Services Fee in accordance with the **Payment Schedule** or from submitting a Corrective and Emergency Maintenance Deferral Proposal in accordance with **clause 14.5**.

18.2 Risk of Principal Supplied Assets

Without limiting or otherwise affecting **clauses 5.5** and **18.1(c)**:

- (a) the *Sale of Goods Act 1923* (NSW) and the *Sale of Goods Act 1954* (ACT) do not apply to the Principal Supplied Assets and the Principal makes no representation and gives no warranty to the Service Provider in respect of any Principal Supplied Assets, including as to the quality, condition or suitability of any Principal Supplied Assets, including whether the use by the Service Provider of any Principal Supplied Assets will result in the Service Provider complying with its obligations under this Deed;
- (b) the Service Provider agrees that its use of any Principal Supplied Assets will be based on the Service Provider's own assessment of the quality, condition and suitability of the Principal Supplied Assets for the purpose of carrying out the Services; and
- (c) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with:
 - (i) the quality, condition or suitability of any Principal Supplied Assets;
 - (ii) the Service Provider using any Principal Supplied Assets; or
 - (iii) without limiting **clause 18.2(c)(ii)**, the use by the Service Provider complying with its obligations under this Deed.

19 Insurances

19.1 Service Provider Insurances

Prior to the Proposed Mobilisation Date (or, in respect of the insurances referred to in **clauses 19.1(b)** and **19.1(c)**, the Proposed Services Commencement Date), the Service Provider must effect and maintain the following insurances:

██████████

- (b) a public and products liability policy of insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED];

- (c) a professional indemnity policy of insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (d) employers' liability and workers compensation insurance against liability of the Service Provider for death of, or injury to, persons employed by the Service Provider in carrying out the Services, whether under statute or at common law;
- (e) compulsory third party motor vehicle insurance in respect of all registrable motor vehicles which are used in connection with the Services;
- (f) motor vehicle third party insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(g) plant and equipment insurances:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(h) [REDACTED]

(i) asbestos liability insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(j) cyber security insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (k) any other insurances which the Principal reasonably requires or which would commonly be obtained in the exercise of Good Industry Practice.

19.1A Service Provider's Corporate Policies During Mobilisation

Prior to the Proposed Mobilisation Date, the Service Provider must effect and maintain the following insurances:

- (a) a public and products liability policy of insurance:

[REDACTED]

- (b) a professional indemnity policy of insurance:

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[illegible]

From the Mobilisation Date, the Service Provider must procure that each of its Subcontractors effect and maintain:

- [REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

- (b) if the relevant Subcontractor carries out services in a professional capacity in relation to the Services (including any design work), a professional indemnity insurance:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (c) employers' liability and workers compensation insurance against liability of the Subcontractor for death of, or injury to, persons employed by the Subcontractor in carrying out the Services, whether under statute or at common law.

19.3 Periods of Insurance

The Service Provider must:

- (a) maintain those insurances referred to in **clause 19.1** or, in the case of insurances referred to in **clause 19.2**, procure that each of its Subcontractors maintains those insurances, until the later of:
- (i) the Termination Date; and
 - (ii) the date of completion of all Enhancement Activities,
- and in the case of the insurance referred to in **clause 19.1(c) or 19.2(b)**, 6 years thereafter;
- (b) maintain the insurance referred to in **clause 19.1A(a)** until the earlier of:
- (i) the Termination Date; and
 - (ii) the date on which the Service Provider has effected the insurance referred to in **clause 19.1(b)**;
- (c) maintain the insurance referred to in **clause 19.1A(b)** until the date that is 6 years after the earlier of:
- (i) the Termination Date; and
 - (ii) the date on which the Service Provider has effected the insurance referred to in **clause 19.1(c)**; and
- (d) maintain the insurance referred to in **clause 19.1A(c)** until the earlier of:
- (i) the Termination Date; and
 - (ii) the date that is the later of:
 - (A) the Reset Date; and
 - (B) the date on which the construction of the last of the Mobilisation Constructed Assets has been completed in accordance with this Deed.

19.4 General Insurance Requirements

All insurances to be effected by the Service Provider:

- (a) must be on terms and conditions (including as to the amount of any excess or deductible):

- (i) required by this Deed and (other than insurances required under **clauses 19.1(d)** and **19.1A**) otherwise as approved in writing by the Principal (which approval must not be unreasonably withheld); and
- (ii) without limiting **clause 19.4(a)(i)**, but subject to **clause 19.12(l)**, which (other than for insurances required under **clauses 19.1(b)**, **19.1(c)** and **19.1A**) are in each case the same as those applying in respect of the relevant insurance policy referred to in **Part 2 of Attachment M**;
- (b) under **clause 19.1(d)** must have an amount of excess or deductible approved in writing by the Principal (which approval must not be unreasonably withheld); and
- (c) must not contain any unusual or project specific exclusion, endorsement or alteration, unless it is first approved in writing by the Principal (which approval must not be unreasonably withheld).

19.5 Evidence of Insurance

The Service Provider must give the Principal:

- (a) certified copies of all:
 - (i) policies in accordance with **clause 19.5(c)**;
 - (ii) renewal certificates;
 - (iii) certificates of currency, which include:
 - (A) class of insurance;
 - (B) insurer(s);
 - (C) policy number(s);
 - (D) insured;
 - (E) other interested parties;
 - (F) period of insurance;
 - (G) the business interest insured/property insured;
 - (H) situation and/or premises;
 - (I) geographical limits;
 - (J) limit of liability;
 - (K) sub-limit(s) of liability;
 - (L) deductible(s); and
 - (M) relevant policy exclusions; and
 - (iv) endorsements that materially affect the coverage applying under such policies to the Services,
- in respect of insurance required to be effected by it under this Deed as soon as possible after it receives them from the insurer and in any event:
- (v) on each anniversary of the Services Commencement Date;
 - (vi) upon renewal of each insurance policy during the Term; and
 - (vii) within 10 Business Days of a request to do so in writing by the Principal;

[REDACTED]

- (b) evidence satisfactory to the Principal's Representative that the insurances required to be effected under this Deed have been effected and maintained, within 10 days of a request by the Principal's Representative; and

[REDACTED]

- (ii) in respect of all other insurances to be effected under this Deed, by providing copies of those insurance policies to the Principal.

19.6 Failure to Produce Evidence of Insurance

If the Service Provider fails to comply with **clause 19.5(b)**, the Principal may effect and maintain the relevant insurances and pay the premiums or other amounts payable to the insurer in respect of such insurance. The costs incurred by the Principal in any way in connection with taking such action will be a debt due and payable from the Service Provider to the Principal.

19.7 Service Provider's Obligations Not Limited

The effecting of the CRN Assets Cover or the Insurances and the processes set out in **clause 19B** (including any selection by the Principal in accordance with **clause 19B(b)**) does not limit or otherwise affect the liabilities or obligations of the Service Provider, or the rights and entitlements of the Principal, under, or in any way in connection with, this Deed.

19.8 Assistance

The parties must render each other all reasonable assistance in respect of any claim under an insurance policy.

19.9 Notices

The Service Provider must immediately notify the Principal of any cancellation or other material notice concerning any insurance policy relevant to the Services.

19.10 Notices of Potential Claims

The Service Provider must:

- (a) as soon as practicable upon becoming so aware, inform the Principal in writing of any occurrence in relation to this Deed that may give rise to a claim under a policy of insurance required by this Deed;
- (b) keep the Principal informed of subsequent developments concerning the claim; and
- (c) ensure that Subcontractors in respect of their operations similarly inform the Principal, except to the extent the Principal has made, or is likely to make, a claim against the Service Provider in respect of the particular occurrence and such action will, or is likely to, prejudice the Service Provider's right of indemnification under a relevant insurance policy in respect of the particular occurrence.

19.11 Cross Liability

Any insurance required to be effected in accordance with this Deed by the Service Provider in joint names must include a cross liability 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 for the purpose of which, the insurer accepts the term 'insured' as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased thereby).

19.12 Miscellaneous Insurance Provisions

The Service Provider must:

- [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED].
- (b) effect and maintain any other insurances required by any Law in force applicable to the Services;
- [REDACTED]

■ [REDACTED]
- (d) ensure that it:
 - (i) satisfies itself as to; and
 - (ii) complies strictly with,

the terms of any policy of insurance effected by the Service Provider under this Deed;
- (e) to the extent directed by the Principal's Representative, allow the Principal to make, negotiate and settle any insurance claim to the extent of the Principal's interest in it;
- (f) ensure that all insurances which it is obliged to effect under this Deed (other than in accordance with **clause 19.1(d)**) are effected with insurers with the Required Rating and authorised to carry on insurance business in Australia by the Australian Prudential Regulation Authority (or equivalent regulatory body) or prudentially regulated as an insurer in the United Kingdom by the Financial Conduct Authority (or equivalent regulatory body);

- (g) ensure that all insurances which it is obliged to effect under this Deed (other than in accordance with **clause 19.1(d)**) are endorsed to the effect that any act, error, omission, neglect, fraud, misrepresentation, non-disclosure or breach by an individual insured party will not prejudice or invalidate the rights of other parties comprising the insured who are themselves not guilty of any such act;
- (h) not settle any insurance claim involving any act, matter or thing relating to, arising out of, or in any way in connection with:
 - (i) the CRN Assets; or
 - (ii) the carrying out of the Services,
 without the prior written consent of the Principal (which consent must not be unreasonably withheld) to the extent the claim relates to the Principal or any loss or liability (or potential loss or liability) of the Principal; and
- (i) not do anything which prejudices any insurance in relation to CRN Assets or the Services, or which the Service Provider or the Principal is otherwise required by the Deed to effect and maintain;
- (j) if necessary, rectify anything which might prejudice any such insurance;
- (k) reinstate any insurance policy required to be maintained by the Service Provider if it lapses;
- (l) not cancel, replace (other than by way of renewal without variation in policy terms) or vary any insurance policy, or allow an insurance policy to lapse, without the prior written consent of the Principal's Representative, such consent not to be unreasonably withheld in respect of any proposed replacement or variation of any insurance policy effected, or required to be effected, under **clause 19.1(d), 19.1(e), 19.1(f), 19.1(g)(i)(B), 19.1(j), 19.1(k) or 19.1A** (for which purposes the parties agree that it will be reasonable for the Principal's Representative to withhold consent where such replacement or variation will result in, or is reasonably likely to result in:
 - (i) the insurance policy or the Service Provider not complying with the requirements of this Deed in relation to the relevant insurance policy (other than, in respect of the insurance policies referred to in **clause 19.1A(a)** and **clause 19.1A(b)**, the requirement of this Deed for the relevant policy to be on terms the same as, or substantially similar to, the relevant insurance policy referred to in Part 1 of **Attachment M**); or
 - (ii) a material change in cover, including any change between the previous policy and the varied or replacement policy which either:
 - (A) involves any unusual or non-standard terms or conditions for insurance policies generally effected with reputable insurers in the commercial insurance market with the Required Rating; or
 - (B) when compared with the policy being replaced or varied, is materially prejudicial to (or is reasonably likely to be materially prejudicial to) any right or interest of the Service Provider or the Principal under or in connection with the relevant insurance policy, including in respect of any claim or potential claim under such insurance policy);
- (m) immediately notify the Principal's Representative of any event which may result in an insurance policy lapsing or being cancelled; and

- (n) give full, true and particular information to each insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any policy required to be effected under this Deed or the payment of all or any benefits under such insurance.

19.13 Application of Insurance Proceeds

- (a) To the extent that any proceeds received from any insurance claim under any insurance policy obtained in accordance with **clause 19.1(a), 19.1(g)(i)(A) or 19.1A(c)** or **clause 9.1 of Schedule 12** are received by the Service Provider, the Service Provider must ensure that those proceeds are:
- (i) except to the extent the Principal's Representative directs the Service Provider not to make good the relevant loss of or damage to the CRN Assets (excluding CRN Land) in accordance with **clause 18.1(a)(vi)**, applied to the cost of reinstating or replacing the relevant CRN Assets, and, if applicable, plant and equipment, and any excess proceeds after application in accordance with this **clause 19.13(a)** must be paid, in priority to any other payments, to compensate the Principal as fully as possible for any Loss of the Principal covered by the relevant policy; or
 - (ii) to the extent the Principal's Representative directs the Service Provider not to make good the relevant loss of or damage to the CRN Assets in accordance with **clause 18.1(a)(vi)**, paid, in priority to any other payments, to compensate the Principal as fully as possible for any Loss of the Principal covered by the relevant policy.
- (b) To the extent that the amount of insurance proceeds received by the Service Provider (or which would have been received by the Service Provider had the Service Provider properly prosecuted the insurance claim and complied with all of its obligations under this Deed and the relevant insurance policy) relates to a claim in respect of an event which entitles the Service Provider to payment in respect of loss of or damage to the CRN Assets (including pursuant to an Adjustment Event), that amount will be deemed to be a payment made by the Principal to the Service Provider under this Deed in respect of such entitlement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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SUYS 812314946 121220095
 Clause 0 (19A Coverage obtained by the Principal)

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 Clause 0 (19A Coverage obtained by the Principal)

SUYS 812314946 121220095
Clause 0 (19B Benchmarking of PPL Insurance)

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 Clause 0 (19B Benchmarking of PPL Insurance)

20.1 Acknowledgment

- (a) are comprised of significant Assets;
- (b) have a large number of users; and
- (c) have the potential, if not managed by the Service Provider properly, to cause significant injury or Loss, including:
 - (i) injury to persons;
 - (ii) damage to Assets (including those comprising the CRN Assets); and

- (iii) Contamination or other damage to the Environment,
and accordingly offers the indemnities to the Principal set out in **clause 20.2** and elsewhere in this Deed.

20.2 Indemnities

- (a) Subject to **clause 20.2(b)**, the Service Provider indemnifies each of the Indemnified Parties against any claims against, or Losses suffered or incurred by, the relevant Indemnified Party arising out of, or in any way in connection with:
- (i) any:
 - (A) loss of, loss of use of, destruction or damage to any real or personal property (including any property of the Principal); and
 - (B) any injury to or disease or death of any person (including any Associate of the Service Provider or the Principal),
 which arises out of, or in any way in connection with, the carrying out of the Services or any other act or omission of the Service Provider or any of its Associates;
 - (ii) any breach by the Service Provider of:
 - (A) **clause 2.6(c)(ii)** (Additional CRN Assets Obligations);
 - (B) **clause 2.10** (Relationship between the parties);
 - (C) **clause 5.7** (Relevant Documents) or **clause 35(e)** (Specific Relevant Documents);
 - (D) **clause 10.1** (General obligations);
 - (E) **clause 17.12** (Notices Under the Security of Payment Act and Contractors Debts Act);
 - (F) **clause 21** (Intellectual Property); or
 - (G) **clause 31.3** (Privacy);
 - (iii) the Service Provider's access to or over, or use of, any site or property referred to in **clause 2.6(c)(i)**;
 - (iv) the Service Provider acting outside the scope of its agency under **clause 2.10**;
 - (v) the matters referred to in **clause 5.8(c)**;
 - (vi) an Incident (excluding any Incident referred to in **paragraph (c) or (d)** of the definition of 'Incident' in **clause 1.1** which does not comprise and does not involve a situation, event, circumstance or occurrence that results (or will result) in a failure to satisfy, or compromises any person's ability to satisfy, any safety requirements (including under any Law or under this Deed or any Relevant Document)), irrespective of whether the Service Provider:
 - (A) was responsible for causing (directly or indirectly) the Incident; or
 - (B) was in breach of this Deed at the time of the Incident;
 - (vii) a suspension by a Subcontractor of work, which forms part of the Services, under section 27 of the Security of Payment Act (NSW) or section 29 of the Security of Payment Act (ACT);
 - (viii) a notice of claim being served on the Principal (in respect of the Services) under Part 2 of the Contractors Debts Act 1997 (NSW);

- (ix) a Subcontractor intending to exercise (or exercising) a statutory lien, under section 11(3) of the Security of Payment Act (NSW) or section 13(3) of the Security of Payment Act (ACT), over unfixed plant and materials supplied by the Subcontractor for use in carrying out the Services;
- (x) any actual or threatened Environmental damage, destruction or harm arising out of, or in any way in connection with, the Services, except to the extent caused by any:
 - (A) negligent or unlawful act or omission;
 - (B) breach of the Deed; or
 - (C) Wilful Default,committed by the Principal or its Associates;
- (xi) any Default Contamination;
- (xii) any breach by the Service Provider of any of its obligations under this Deed or otherwise at Law in relation to safety, including under **clause 9**;
- (xiii) if, despite **clauses 20.10(a)(i) to 20.10(a)(iii)**, the provisions of any Proportionate Liability Legislation are applied in relation to any claim by the Principal against the Service Provider under, or in any way in connection with, this Deed, the Services or the CRN Assets, any Loss the Principal is not able to recover from the Service Provider because of the operation of those provisions;
- (xiv) any Material (or use, possession or receipt of Material) prepared in any way in connection with the Services or any other Material (or use, possession or receipt of Material) provided by or on behalf of the Service Provider infringing any Intellectual Property or Moral Rights; or
- (xv) any cyber incident or data breach, except to the extent that such cyber incident or data breach:
 - (A) occurred despite the Service Provider and its Associates implementing and maintaining suitable security measures and procedures consistent with Good Industry Practice; and
 - (B) was not otherwise caused or contributed to by any act or omission of the Service Provider or any of its Associates.
- (b) The Service Provider's obligation to indemnify each of the Indemnified Parties under **clause 20.2(a)** will be reduced to the extent that the event otherwise giving rise to the obligation to indemnify is:
 - (i) caused by an Act of Prevention of the relevant Indemnified Party;
 - (ii) in respect of loss or damage which arises:
 - (A) as the direct result of an Historic Defect in a CRN Operational Asset and such loss or damage is not caused by the Service Provider's failure to:
 - (1) undertake all activities and steps that are required in accordance with this Deed and Good Industry Practice to progressively discover, investigate, identify and notify the Principal of that Historic Defect;
 - (2) appropriately include and prioritise the rectification of that Historic Defect in a current or future 3MWP in accordance with this Deed and Good Industry Practice; and

- (3) rectify that Historic Defect in accordance with any 3MWP, having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed; or
- (B) as a direct result of the CRN Non-Operational Structures being safe and in their Baseline Condition instead of satisfying any standard that applied prior to the Reset Date and such loss or damage is not caused by the Service Provider's failure to:
 - (1) comply with **clause 5.1B(a)(i), 5.1B(a)(ii)(A), or 5.1C(b)(iv) or (v)**;
 - (2) properly consider and prioritise the rectification and where appropriate, taking into account the priority of any existing 3MWP works, inclusion of identified Baseline Condition Defects in a current or future 3MWP in accordance with this Deed; or
 - (3) where included in a current 3MWP, or directed as a Modification under **clause 14.1**, rectify that Baseline Condition Defect in accordance with the 3MWP or the **clause 14.1** Modification (as applicable), other than to the extent that the Service Provider's obligation to do so has been waived in accordance with clause **14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**, having regard to the information and knowledge available to the Service Provider prior to the date of this Deed or to which the Service Provider has access after the date of this Deed; and
- (C) as a direct result of Approved Deterioration or Dilapidation (however, the Service Provider will be liable for any loss which is a direct result of the Service Provider's failure to comply with clause **5.1C(b)(iii) or (iv)**); or
- (iii) a direct result of the Service Provider not undertaking an obligation under the Deed to the extent that that obligation was waived in accordance with **clause 14.5(e)(iii), clause 14.5(g)(ii) or clause 14.7(c)(ii)**; or
- (iv) a direct result of any loss or damage to the CRN Assets that the Service Provider has:
 - (A) been directed not to make good in accordance with **clause 14.1(h)(iv)(E)**; and
 - (B) not been directed to make good under **clause 14.1(h)(iv)(F)**.

20.3 Deed polls

The Service Provider must:

- (a) provide the Principal with an executed deed poll in favour of the persons named in **Attachment A** in the form set out in **Attachment I** within:
 - (i) in respect of those persons named in **Attachment A** which are identifiable by the Service Provider as at the date of this Deed, within 5 Business Days of the date of this Deed; and
 - (ii) otherwise within 20 Business Days of the relevant successors or assigns of those persons named in Attachment A being identified by the Service Provider (including pursuant to any notice by the Principal's Representative),

(b) at the same time as each deed poll is required to be provided by Service Provider to the Principal under **clause 20.3(a)**, provide the Principal with:

- (i) a deed poll duly executed by each Parent Company in favour of each beneficiary of a deed poll required to be provided by Service Provider to the Principal under **clause 20.3(a)**, in the form set out at **Attachment J** and which is, where required by Law, duly stamped; and
- (ii) where a Parent Company is incorporated outside of Australia, a Foreign Legal Opinion which confirms that the deed poll has been duly executed by, and is binding and enforceable against, that Parent Company.

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

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    LQ --- UE[ ]
    LR --- UF[ ]
    LR --- UG[ ]
    LS --- UH[ ]
    LS --- UI[ ]
    LT --- UJ[ ]
    LT --- UK[ ]
    LU --- UL[ ]
    LU ---
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Clause 20 (Liability)

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Clause 20 (Liability)

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Clause 20 (Liability)

20.10 Proportionate Liability

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Clause 20 (Liability)

- (ii) the indemnity provisions of this Deed will apply despite any provision in any applicable Proportionate Liability Legislation; and
 - (iii) the Service Provider must not seek to apply the provisions of any Proportionate Liability Legislation in relation to any claim by the Principal against the Service Provider under, or in any way in connection with, this Deed, the Services or the CRN Assets.
- (b) The Service Provider must ensure that:
 - (i) each contract and subcontract into which it enters for the carrying out and completion of the whole or any part of the Services, will include provisions that, to the extent permitted by law, effectively exclude the operation of Proportionate Liability Legislation in relation to all obligations or liabilities of the other party under or in connection with each contract or subcontract, whether such obligations or liabilities are sought to be enforced as a breach of contract or claim in tort (including negligence), in equity, under statute or otherwise at law; and
 - (ii) each Subcontractor complies with the provisions of **clause 20.10(b)(i)** in respect of any contracts or subcontracts entered into by the Subcontractor in respect of the Services.
- (c) The Service Provider must ensure that all policies of insurance which the Service Provider is required by this Deed to effect or maintain provide the full extent of cover required by this Deed notwithstanding the exclusion of the Proportionate Liability Legislation.

20.11 No disentitlement

Nothing in this **clause 20** disentitles the Service Provider from being paid the Monthly Services Fee in accordance with the **Payment Schedule** or from submitting a Corrective and Emergency Maintenance Deferral Proposal in accordance with **clause 14.5**.

Part K – Intellectual Property and Branding

21 Intellectual Property

21.1 General principle

- (a) The Service Provider acknowledges that the Principal endorses open government principles and that any and all Material prepared, procured, used or provided by, on behalf of, or for, the Service Provider in relation to the Services (including those prepared by Subcontractors) may be shared by the Principal with other persons or made publicly available (including online) and that the Principal may grant such other persons or members of the public broad licences to use and sub-licence the Material (other than the Service Provider's Background Intellectual Property and the UGL Signalling IP) either on a fee or fee free basis. The Service Provider acknowledges that the Material may be branded by the Principal or a sub-licensee of the Principal with TAHE's or the licensee's branding with no acknowledgement of the input, Intellectual Property or Moral Rights of the Service Provider or any of its Associates.
- (b) Ownership of, and all Intellectual Property (other than Service Provider's Background Intellectual Property and UGL Signalling IP) in, any Material prepared, procured, used or provided by, on behalf of, or for, the Service Provider in relation to the Services (including those prepared by Subcontractors) vests in the Crown in right of the State of New South Wales acting through the Principal upon creation, without the need for further assurance.

- (c) If requested by the Principal, the Service Provider must do everything necessary (and ensure that any third party that creates any Material does everything necessary) to perfect such vesting, including the execution of documents required by the Principal.

21.2 Service Provider's Background Intellectual Property

- (a) The Service Provider grants to the Principal for all time (and despite any termination of this Deed for any reason) a non-exclusive, perpetual and irrevocable licence to use the Service Provider's Background Intellectual Property for all purposes associated with the CRN Assets (including the purposes of completing the carrying out of the Services, completing the construction of, using, maintaining, operating, repairing, modifying, extending, upgrading, altering or otherwise dealing with the CRN Assets or any purpose associated with further development or improvements of the CRN Assets) which:
 - (i) is fully paid up and granted from the Mobilisation Date; and
 - (ii) may be assigned or sub-licensed (in whole or in part) to any other person.
- (b) The Service Provider must do everything necessary to perfect such licence.

21.3 Principal's Intellectual Property

To the extent that the carrying out of the Services from time to time involves the use of any Intellectual Property of the Principal (or the adaptation or modification of any Material in respect of which such Intellectual Property applies or subsists), the Principal grants to the Service Provider a non-exclusive licence to use the Intellectual Property for the purposes of carrying out the Services in accordance with this Deed which:

- (a) is fully paid up;
- (b) may be sub-licensed by the Service Provider (in whole or in part) to any Service Provider's Associate for the purposes of carrying out the Services in accordance with this Deed; and

terminates immediately upon the termination of this Deed for any reason.

21.4 Power of Attorney

For the purpose of performing the Service Provider's obligations under this **clause 21**, the Service Provider hereby irrevocably appoints the Principal's Representative to be the Service Provider's attorney with authority to execute such documents and do such things as are necessary to give effect to the matters set out in this clause and to bind the Service Provider accordingly.

21.5 Service Provider's Warranty

The Service Provider:

- (a) warrants that it has, or will at all relevant times have, title to and owns, or will at all relevant times own (or, in the case of Subcontractor Intellectual Property, have a right to use, and license the Principal in accordance with **clause 21.8(b)** to use), the Intellectual Property in the Material prepared in any way in connection with the Services and in any other Material provided or used by or on behalf of the Service Provider; and
- (b) warrants that there is no breach of any person's Intellectual Property or Moral Rights in such Material or any use of such Material.

21.6 Moral Rights Consent of Authors

The Service Provider warrants that the Principal, or any person authorised by the Principal, may do any act, or refrain from doing any act, arising from or in any way in connection with the

exercise by the Principal of its rights of ownership or use of any materials, in which copyright subsists, provided to the Principal by the Service Provider in the course of carrying out the Services without infringing the Moral Rights of any third party.

21.7 Intellectual Property Database

The Service Provider must develop and maintain a database of Intellectual Property in accordance with **section 3.16** of the **Scope of Works**.

21.8 UGL Signalling IP

- (a) The Service Provider grants to the Principal a non-exclusive and irrevocable licence to use the UGL Signalling IP for all purposes associated with the CRN Assets (including the purposes of completing the carrying out of the Services, completing the construction of, using, maintaining, operating, repairing, modifying, extending, upgrading, altering or otherwise dealing with the CRN Assets or any purpose associated with further development or improvements of the CRN Assets) which:
- (i) is fully paid up and granted for the period commencing on the Mobilisation Date and ending on the expiry of the Term;
 - (ii) if taken up by the Principal at its sole discretion for the period commencing on the expiry of the Term and ending 12 months later, is subject to a one-off payment to the Service Provider of [REDACTED] but is otherwise royalty free (i.e. at no cost to the Principal) (except where the Principal terminates this Deed under **clause 23.2**, in which case the Service Provider is not required to grant a licence under this **clause 21.8(a)(ii)**);
 - (iii) includes, at no additional cost or fees to the Principal, the provision by the Service Provider of full maintenance and support, all necessary licences to operate the relevant systems, support services including 24/7 on-call support, preventative maintenance activities, training, system monitoring, system and cyber security audits and reporting, obsolescence management and regular critical system patching, as well as management of the preceding activities, access to the Service Provider's development and testing facilities and authorised resources for modifications or updates to the system as and when required; and
 - (iv) may be assigned or sub-licensed (in whole or in part) to any other person.
- (b) The Service Provider must do everything necessary to perfect such licence.

21.8A PPNCs IP

The Principal grants to the Service Provider a non-exclusive and irrevocable licence to use the PPNCs IP for all purposes associated with the CRN Assets (including the purposes of completing the carrying out of the Services, completing the construction of, using, maintaining, operating, repairing, modifying, extending, upgrading, altering or otherwise dealing with the CRN Assets or any purpose associated with further development or improvements of the CRN Assets), and such licence will commence on the PPNCs Switch-Over Date and will expire on expiry of the Term.

21.9 Ongoing licence to UGL Signalling IP after the Term

At its option, the Principal may continue to receive a licence (or require the Service Provider to provide a licence to the Principal's nominee) to use the UGL Signalling IP immediately following the expiration of the period applicable under **clause 21.8(a)(ii)** (if applicable, or otherwise under **clause 21.8(a)(i)**). The terms for such further licence will be agreed by the parties (acting reasonably) and will include the following aspects:

- (a) the Principal will be licensed to use the UGL Signalling IP for all purposes associated with the CRN Assets (including the purposes of completing the carrying out of services similar to the Services, completing the construction of, using, maintaining, operating, repairing, modifying, extending, upgrading, altering or otherwise dealing with the CRN Assets or any purpose associated with further development or improvements of the CRN Assets);
- (b) the right for the Principal to obtain at its option, the aspects specified in **clause 21.8(a)(iii)**;
- (c) the licence may be assigned or sub licensed (in whole or in part) to any other person; and
- (d) the annual licence fee and the fees for the aspects specified in **clause 21.8(a)(iii)** will be:
 - (i) agreed by the parties acting reasonably; and
 - (ii) no greater than the amounts the Service Provider has agreed with customers with broadly similar requirements to the Principal and which have selected the Service Provider in a tender or other competitive situation.

21.10 Escrow

At any time prior to the expiry of the Term, the Principal may require the Service Provider to enter into an escrow agreement with a reputable escrow provider on standard terms and deposit, maintain and regularly update a complete and reproducible copy of all source code relating to the Service Provider's Background Intellectual Property and the UGL Signalling IP with the escrow agent in accordance with that escrow agreement. The only applicable release events for any information that may be required to be held in escrow will be where **clause 23.6** applies.

21.11 Subcontractor Intellectual Property

Without limiting **clause 2.14**, if at any stage during the Term the Service Provider is contemplating using a Subcontractor to carry out any part of the Services (including using a Subcontractor's software to perform any part of the Services) and the proposed agreement with such Subcontractor will not enable the Service Provider to comply with the provisions of **clause 21.1** and **clause 21.2**:

- (a) the Service Provider must give the Principal as much written notice as reasonably possible (and in any event not less than 30 days' notice) in advance of so using such Subcontractor, providing relevant details to the Principal such as:
 - (i) the identity of the proposed Subcontractor;
 - (ii) information regarding the Subcontractor's relevant solution, software and/or services;
 - (iii) the Subcontractor's proposed position regarding the ownership and use of its relevant Intellectual Property (the **Subcontractor Intellectual Property**); and
 - (iv) any other information the Principal reasonably requests;
- (b) in consultation with the Principal, the Service Provider will use all reasonable endeavours to negotiate a position with the relevant Subcontractor that does enable the Service Provider to comply with the provisions of **clause 21.1** and **clause 21.2** or, failing that:
 - (i) enables the Service Provider to come as close as possible to achieving such compliance; and
 - (ii) incorporates any other protections for the Principal as the Principal may reasonably request, such as entry into an escrow arrangement regarding the source code for the Subcontractor Intellectual Property in favour of the Principal

and/or the ability for the Principal to obtain a novation of the relevant licensing agreement with the Subcontractor for example; and

following the conclusion of the negotiations required under **clause 21.11(b)** (which are not required to extend further than 10 days after the Service Provider provides notice under **clause 21.11(a)**), the Service Provider may engage the relevant Subcontractor to perform part of the Services if it obtains the prior written consent of the Principal (not to be unreasonably withheld), in which case the Subcontractor Intellectual Property will be licensed by the Service Provider to the Principal on such terms as:

- (iii) the Service Provider has agreed with the Subcontractor, having complied with this **clause 21.11**; and
- (iv) the Principal has consented to in writing.

Part L – Step-in, Default and Termination

22 Step-in

22.1 Exercise of Step-in Rights

- (a) If a Step-in Event occurs, the Principal may, following notice to the Service Provider, either itself or by engaging others, perform, carry out or otherwise exercise Step-in Powers.
- (b) The Principal's notice under **clause 22.1(a)**:
 - (i) must specify:
 - (A) if the Principal has engaged, or intends to engage, others to exercise the Step-in Powers, the identity of that person; and
 - (B) the date on which the Principal proposes that the exercise of the Step-in Powers will commence; and
 - (ii) may be given orally if the Principal considers that the Step-in Event requires urgent remedy or other action and there is insufficient time to serve the notice in writing, provided however that any such oral notice must be followed within 20 Business Days by a written notice to the same effect.

22.2 Actions Following Step-in

- (a) If a Step-in Party exercises Step-in Powers:
 - (i) the Principal is not obliged to make any payments to the Service Provider for the Services in respect of which a Step-in Party has exercised, or is exercising, Step-in Powers, except that the Service Provider will be entitled to recover the amounts payable under this Deed in respect of the Services carried out by the Service Provider at the direction of the Step-in Party during the period it is exercising Step-in Powers;
 - (ii) the Service Provider must:
 - (A) cooperate with, and assist, the Step-in Party in the exercise of the Step-in Powers;
 - (B) take any step which the Step-in Party considers necessary or desirable to remedy the Step-in Event or overcome or mitigate the risks or consequences resulting from the Step-in Event;

- (C) give the Step-in Party access to and usage of, or procure for the Step-in Party access to and usage of, the CRN Land, the CRN Assets and any other site, property or premises (including the Network Control Centre, the Backup Network Control Centre and all associated technology networks and systems) used by the Service Provider or any of its Associates in connection with the Services to enable the Step-in Party to exercise the Step-in Powers;
 - (D) provide the Step-in Party with all Records necessary to exercise the Step-in Powers;
 - (E) provide to the Step-in Party the non-exclusive use of all rights and information available to the Service Provider or any Related Body Corporate of the Service Provider; and
 - (F) without limiting **clause 22.2(a)(ii)(B)**, comply with all directions given by the Step-in Party to enable the Step-in Party to exercise the Step-in Powers;
- (iii) the parties acknowledge and agree that for the purposes of section 62(1)(b) of the RSNL:
- (A) the Step-in Party will exercise the Step-in Powers under the Service Provider's Rail Safety Accreditation;
 - (B) the Service Provider remains, at all times, the holder of the relevant Rail Safety Accreditation in respect of the CRN Assets that are rail infrastructure under RSNL; and
 - (C) the Step-in Party is in no way stepping-in to the Service Provider's role as the holder of that Rail Safety Accreditation.
- (iv) the parties acknowledge and agree that in respect of the Rail Safety Accreditation held by the Service Provider, the Step-in Party:
- (A) is carrying out its activities under this clause in mutual agreement with the Service Provider;
 - (B) must not do or omit to do anything that could:
 - (1) breach the terms and conditions of the Service Provider's Rail Safety Accreditation;
 - (2) cause the Rail Safety Accreditation of the Service Provider to be suspended or cancelled; or
 - (3) otherwise adversely impact or jeopardise the Service Provider's Rail Safety Accreditation;
 - (C) must not intentionally or negligently do or omit to do anything that:
 - (1) causes damage to any property (including any property of the Principal); and
 - (2) causes any injury to or death of any person (including any Associate of the Service Provider or the Principal);
 - (D) must co-operate with and do all things reasonably necessary to assist the Service Provider in complying with its Rail Safety Accreditation obligations and all other relevant obligations at Law in respect of rail safety and operations;

- (E) must provide, prior to carrying out the Step-in Works or as soon as is reasonably practicable thereafter:
 - (1) safe work methods statements;
 - (2) environmental plans;
 - (3) worker competencies; and
 - (4) heritage approvals;
- (F) must provide, prior to concluding the Step-in Powers in accordance with **clause 22.3**:
 - (1) all design documentation associated with the Step-in Works;
 - (2) any certifications of the associated design documentation or the Step-In Works including, without limitation, quality documentation, material certifications and site testing results; and
 - (3) as built drawings of the Step-in Works; and
- (G) will consult the Service Provider as required as to the nature of the Step-in Works being performed and prior to, or as soon as possible after, the conclusion of the Step-in Powers, the Step-in Party will provide the Service Provider with:
 - (1) the details of works carried out in the Step-in Works; and
 - (2) copies of engineering reports supporting the works carried out in the Step-in Works; and
- (v) without limiting **clause 22.2(a)(ii), 22.2(a)(iii) or 22.2(a)(iv)**, the Service Provider must ensure the Step-in Party has the right to exercise the Step-in Powers under or pursuant to any Approval (other than any Excluded Approvals) as may be necessary to exercise the Step-in Powers.
- (b) If the Step-in Party takes possession of any Plant and Equipment, the Step-in Party must maintain them in good working order and, subject to **clauses 22.2(a) and 22.3**, on ceasing to exercise of the Step-in Rights under **clause 22.3(a)**, the Step-in Party must return to the Service Provider the Plant and Equipment that are surplus.

22.3 Conclusion of Step-in Rights

- (a) A Step-in Party:
 - (i) may cease to exercise Step-in Powers at any time; and
 - (ii) in any event, will cease to exercise Step-in Powers as soon as practicable after:
 - (A) the relevant Step-in Event has been remedied (whether by the Step-in Party or otherwise) or has ceased; and
 - (B) the Principal (acting reasonably) is satisfied that the Service Provider is in a position to perform all its obligations under this Deed,

in each case by notice in writing from the Principal to the Service Provider, with effect on and from the date stated in that notice or (if no such date is stated in that notice) the date of that notice (as applicable).
- (b) The parties agree that:
 - (i) when the Step-in Party has ceased to exercise Step-in Powers (as contemplated by **clause 22.3(a)**):

- (A) the Service Provider and the Principal must consult with each other with the intention of ensuring the transition from the Step-in Party ceasing to exercise the Step-in Powers to the Service Provider resuming the performance of any relevant Services is effected without interruption to the Services;
- (B) the Service Provider must (subject to **clause 23**) immediately resume the performance of the Services in accordance with this Deed;
- (C) except where the Step-in Powers are exercised in respect of **paragraph (b)** of the definition of 'Step-in Event' in **clause 1.1**, the Principal's Representative must assess:
 - (1) the costs reasonably incurred and the Losses reasonably suffered by the Principal and the Step-in Party in and for the purpose of exercising those Step-in Rights (including, where the Principal is not the Step-in Party, any amounts paid or payable by the Principal to the Step-in Party for the purposes of the Step-in Party exercising those Step-in Rights); and
 - (2) the amount which would otherwise have been paid to the Service Provider under this Deed if the Services the subject of those Step-in Rights had been completed by the Service Provider in accordance with this Deed; and
- (D) except where the Step-in Powers are exercised in respect of **paragraph (b)** of the definition of 'Step-in Event' in **clause 1.1**, if the costs and Losses assessed pursuant to **clause 22.3(b)(i)(C)(1)** exceed the amount assessed pursuant to **clause 22.3(b)(i)(C)(2)**, the difference will be a debt due and payable from the Service Provider to the Principal;
- (ii) if the Service Provider is indebted to the Principal under **clause 22.3(b)(i)(D)**:
 - (A) the Principal may retain Plant and Equipment or other things taken under **clause 22.2(a)** until the debt is satisfied; and
 - (B) if after reasonable notice, the Service Provider fails to pay the debt, then the Principal may sell the Plant and Equipment or other things and apply the proceeds to the satisfaction of the debt and the costs of sale, and any excess proceeds from such sale must be paid to the Service Provider; and
- (iii) the Service Provider must do all things (including executing all documents) reasonably required by the Principal to enable the Principal to lawfully register any Security Interest in the Plant and Equipment or other things taken under **clause 22.2(a)** so as to ensure the Principal's rights under this **clause 22** are not adversely affected.

22.4 Not Liable

- (a) The exercise of any Step-in Powers by a Step-in Party:
 - (i) is without prejudice to the Principal's other rights, powers and entitlements in respect of the Step-in Event (including under **clause 23**); and
 - (ii) will not impose on the Step-in Party any obligation or duty to remedy, address, resolve, deal with or otherwise overcome, or overcome or mitigate any risk or

consequences of, the Step-in Event giving rise to the exercise of those Step-in Rights.

- (b) Subject to **clause 22.2(a)(iv)**, the Principal will not be liable for, and the Service Provider will not be entitled to make, any Claim arising out of, or in any way in connection with, the exercise or purported exercise of any Step-in Powers by a Step-in Party or any other act or omission of a Step-in Party relating to or in connection with the exercise or purported exercise of any Step-in Powers by a Step-in Party.

22.5 Other Rights

Nothing in this **clause 22** will prejudice the right of the Principal to recover damages or exercise any other rights or remedy (including the rights under **clause 23**).

23 Default and Termination

23.1 Preservation of Other Rights

- (a) This **clause 23** will operate exclusively to regulate the entitlement of the Service Provider to exercise any right to terminate this Deed (including acceptance of repudiation) for breach or repudiation by the Principal.
- (b) If the Service Provider breaches (including repudiates) this Deed, nothing in this **clause 23** will prejudice the right of the Principal to recover damages or exercise any other right or remedy (including a right of termination, including acceptance of repudiation).

23.2 Principal's Right to Terminate by Notice

- (a) The Principal may terminate this Deed at any time, for any or no reason, in its absolute discretion, by giving to the Service Provider not less than 6 months' written notice of termination.
- (b) If the Deed is terminated pursuant to **clause 23.2(a)**, the Service Provider's sole remedy in connection with that termination is as set out in **Part 2 of Schedule 10**.

23.3 Default Event and Default Notice

- (a) If a Default Event occurs, the Principal may give the Service Provider written notice thereof.
- (b) A Default Notice must:
 - (i) state that it is a notice given under **clause 23.3**;
 - (ii) set out details of the relevant Default Event;
 - (iii) in the case of a Default Event comprising the non-payment of moneys, notify the Service Provider that it must remedy that Default Event by paying those moneys (together with any interest payable under this Deed) within 10 Business Days of receipt of the Default Notice by the Service Provider; and
 - (iv) in the case of any other Default Event, state that the Principal requires the Service Provider to:
 - (A) remedy the Default Event, and specifying the period in which the Default Event must be remedied (which period must be no less than 10 Business Days after the receipt of the Default Notice by the Service Provider); or
 - (B) prepare a Cure Plan in respect of the Default Event, and specifying the relevant Cure Period.

23.4 Cure Plan

- (a) If, in a Default Notice, the Principal requires the Service Provider to prepare a Cure Plan, the Service Provider must prepare a Cure Plan and submit it to the Principal's Representative within 5 Business Days of the receipt of the Default Notice by the Service Provider.
- (b) The Principal's Representative may, within 20 Business Days of receipt of a Cure Plan (including any amended Cure Plan referred to in **clause 23.4(d)** or **23.5(d)**), require the Service Provider to amend the Cure Plan if the Principal's Representative believes (acting reasonably) that:
 - (i) the Service Provider's implementation of, and compliance with, the Cure Plan is not likely to (as applicable):
 - (A) result in the relevant Default Event being remedied within the relevant Cure Period; or
 - (B) address or deal with the Default Event and the consequences of the Default Event to the Principal's reasonable satisfaction within the relevant Cure Period; or
 - (ii) the Cure Plan otherwise does not comply with this Deed.
- (c) A notice under **clause 23.4(b)** may include details of any amendments to the Cure Plan required by the Principal's Representative.
- (d) If the Principal's Representative requires the Service Provider to amend a Cure Plan, the Service Provider must amend that Cure Plan (including as notified by the Principal's Representative) and resubmit the amended Cure Plan to the Principal's Representative, in which case **clauses 23.4(b) to 23.4(d)** will re-apply.
- (e) The Service Provider must:
 - (i) immediately commence to, and continue to, diligently pursue the implementation of a Final Cure Plan; and
 - (ii) otherwise implement and comply with a Final Cure Plan.

23.5 Extension of Cure Period

- (a) The Service Provider may, by notice in writing, request the Principal's Representative to extend a Cure Period. The Service Provider:
 - (i) must specify in that notice the period by which the Service Provider requests the relevant Cure Period to be extended;
 - (ii) must not request an extension of the relevant Cure Period to the extent such extension would result in the Cure Period extending beyond the date that is 6 months from the date of the relevant Default Notice; and
 - (iii) may only make one request for the extension of a Cure Period under this **clause 23.5(a)**.
- (b) The Principal's Representative must, within 20 Business Days of receipt of a notice under **clause 23.5(a)**, notify the Service Provider in writing whether it agrees to extend the relevant Cure Period.
- (c) The Principal's Representative must not unreasonably refuse to agree to the extension of a Cure Period. The parties acknowledge and agree that (without limiting the generality of the foregoing) it will be reasonable for the Principal's Representative to refuse to agree to the extension of a Cure Period if:

- (i) the Service Provider has not requested the extension in accordance with **clause 23.5(a)**;
 - (ii) such extension would result in the Cure Period extending beyond the date that is 6 months from the date of the relevant Default Notice; or
 - (iii) the Service Provider at any time has not been diligently pursuing, or is not at that time diligently pursuing, the implementation of the Final Cure Plan to which the relevant Cure Period applies.
- (d) If the Principal's Representative agrees to extend the relevant Cure Period, the Service Provider must amend the relevant Cure Plan as appropriate, and **clause 23.4(b)** will apply.

23.6 Step-in or Termination for Termination Event

- (a) If a Termination Event has occurred then the Principal may, by written notice to the Service Provider:
- (i) exercise Step-in Powers in accordance with **clause 22**; or
 - (ii) terminate this Deed from the date stated in the notice.
- (b) The Service Provider agrees that the Principal may determine in its absolute discretion how to exercise its rights under this **clause 23.6**.

23.7 Principal's Entitlements after Termination

- (a) If the Principal exercises its rights under **clause 23.6(a)(ii)**, the Principal may, without payment of compensation to the Service Provider (and without limiting the Principal's entitlements under **clause 23.10** and the **Termination Payments Schedule**) but without affecting the Service Provider's accrued entitlements to be paid the Monthly Services Fee in accordance with the **Payment Schedule**:
- (i) take possession of, and use (and permit others to use), the Plant and Equipment, materials, spares and other things on or in the vicinity of the CRN Assets as were used by the Service Provider;
 - (ii) contract with such of the Subcontractors;
 - (iii) take possession of, and use (and permit others to use), the Materials and other information in the possession of the Service Provider; and
 - (iv) require the Service Provider to comply with all or any of its obligations under the Transition Out Plan,
- as reasonably required by the Principal to facilitate completion of the Remaining Work and facilitate any transfer of the Service Provider's role to an alternative contractor or service provider, and:
- (v) may engage third parties to carry out and complete the whole or any part of the Remaining Work;
 - (vi) may exclude from the CRN Assets the Service Provider and any other person concerned with the carrying out and completion of the Services (as the case may be); and
 - (vii) is entitled to have recourse to the Security for any amounts the Principal is entitled to recover from the Service Provider in accordance with the **Termination Payments Schedule**.

- (b) If the Principal takes possession of Plant and Equipment, the Principal must maintain them in good working order and, subject to **clause 23.7(c)**, on completion of the Remaining Work, the Principal must return the Plant and Equipment that is not owned by the Principal.
- (c) If the Service Provider is indebted to the Principal, the Principal may retain Plant and Equipment or other things taken under **clause 23.7(a)** not owned by the Principal until the debt is satisfied. If after reasonable notice, the Service Provider fails to pay the debt, then the Principal may sell the Plant and Equipment or other things and apply the proceeds to the satisfaction of the debt and the costs of sale. Any excess proceeds from such sale must be paid to the Service Provider.
- (d) The Service Provider must do all things (including executing all documents) reasonably required by the Principal to enable the Principal to lawfully register any charge or other Security Interest (including any interest under the PPSA) in the Plant and Equipment or other things taken under **clause 23.7(a)** so as to ensure the Principal's rights under this **clause 23.7** are not adversely affected.

23.8 Principal's Breach of Contract

- (a) If the Principal commits a substantial breach of this Deed, the Service Provider may give the Principal a notice to show cause.
- (b) A substantial breach of this Deed by the Principal is limited to failing to make a payment due under this Deed (and which is not the subject of a bona fide dispute) within 50 Business Days of a written request from the Service Provider to do so.
- (c) If within 40 Business Days after receipt of a notice to show cause, the Principal has not shown cause why the Service Provider may not terminate this Deed, and the breach has not been remedied, the Service Provider may terminate this Deed by issuing a further notice in writing.

23.9 Termination for Force Majeure

Without limiting **clause 34**, if a Force Majeure Event prevents either party's performance of its material obligations (other than the performance of the Enhancement Activities by the Service Provider) for no less than 6 consecutive months or such other period as may be agreed in writing by the parties, this Deed may be immediately terminated by the Principal by written notice to the Service Provider.

23.10 Consequences of Termination

If either party terminates this Deed, the relevant provisions of the **Termination Payments Schedule** will apply.

23.11 Termination Rights

The Service Provider's only rights to terminate this Deed are as set out in this **clause 23** or as otherwise expressly provided in this Deed and the Service Provider waives all other rights it may have to terminate this Deed, including rights at common law.

Part M – Transition Out

24 End of Term Restrictions

24.1 Variation of terms or conditions of Dedicated Employees' employment

The Service Provider must not, without the consent of the Principal (which may not be unreasonably withheld or delayed), vary, or purport or promise to vary, the terms or conditions of employment (including superannuation entitlements and/or the terms of any Industrial Instrument) of or applicable to any Dedicated Employee where:

- (a) the variation takes effect, or will take effect, during the End of Contract Period, unless:
 - (i) it is in the ordinary course of business and, when aggregated with any other variation which takes effect during that period, represents a percentage increase in the remuneration of the Dedicated Employee of no more than that which would apply if the remuneration were LPI Indexed in accordance with **Schedule 3**; or
 - (ii) it is a variation imposed by a determination of the Fair Work Commission, the New South Wales Industrial Relations Commission or Law;
- (b) all or part of the variation first takes effect, or will first take effect, after the Termination Date;
- (c) the variation results, or will result, in the employment being for a fixed term, the expiry of which is more than six months after the Termination Date;
- (d) the variation relates, or will relate, to a payment or the provision of a benefit triggered by termination of employment (other than the employee's entitlements at Law);
- (e) the variation relates, or will relate, to the provision of a benefit (but excluding base salary and the Dedicated Employee's legal entitlements) which the Dedicated Employee will or may have a contractual right to receive after the Termination Date; or
- (f) the variation prevents, restricts or hinders the Dedicated Employee from working for a Successor Service Provider, or from performing the duties the Dedicated Employee performed in respect of the Services.

24.2 Engagement of new Associates

In the End of Contract Period, the Service Provider must not engage new Associates for or in connection with the carrying out of the Services (other than to replace existing Associates, on terms that are no more favourable than those in place between the Service Provider and the existing Associates) without the consent of the Principal's Representative (which consent must not be unreasonably withheld or delayed where the Service Provider can demonstrate to the reasonable satisfaction of the Principal's Representative that new Associates are necessary for the carrying out of the Services).

25 End of Contract Retendering Provisions

25.1 Right to appoint Successor Service Provider

The Service Provider acknowledges and agrees that the Principal may, at any time (including before the Termination Date), invite any person (which may include the Service Provider) to tender or submit a proposal for the role of Successor Service Provider.

25.2 Maintenance as going concern

The Service Provider must maintain the CRN Assets and manage the Services in such a way that a Step-in Party or Successor Service Provider (or nominee of the Principal) is able at any time to immediately take over all or any part of the Services, as determined by the Principal's Representative, as a going concern.

25.3 Handover Information

- (a) Notwithstanding the obligation to develop and maintain a Transition Out Plan, the Service Provider must, as soon as practicable and in any event no later than six months after the Services Commencement Date, prepare information on:
 - (i) all premises from which the Services are carried out;
 - (ii) material contracts relating to the Services;
 - (iii) computer and other information systems;
 - (iv) an asset register for assets used in relation to the Services (including an inventory of spares and special tools and equipment);
 - (v) Dedicated Employee details (including a list of names, terms of employment, rosters and all other information required to be provided to any person invited to carry out all or any part of the Services for the period commencing after the Termination Date pursuant to **clause 25.1**);
 - (vi) its organisational structure;
 - (vii) an up to date and complete copy of the Asset Information System; and
 - (viii) such other information as is reasonably requested by the Principal to facilitate smooth handover of the Services to a Step-in Party or Successor Service Provider (or nominee of the Principal).
- (b) The Service Provider must, upon request by the Principal, provide to the Principal (or, at the Direction of the Principal, to any person invited to carry out all or any part of the Services for the period commencing after the Termination Date pursuant to **clause 25.1**) all information relating to the following aspects of the terms of each Dedicated Employee's employment (at an aggregate and at an individual level):
 - (i) date of commencement of continuous service;
 - (ii) job title (or role, position or similar);
 - (iii) duties;
 - (iv) hours of employment;
 - (v) days of employment;
 - (vi) location of employment;
 - (vii) training records;
 - (viii) remuneration and all other payments and benefits accrued and, separately, received (i.e. not limited to salary or wages and including allowances, agreed reimbursements such as car running costs, telephones, computers or car parking, overtime and penalties);
 - (ix) general information on absenteeism, sick leave and industrial relations issues;
 - (x) arrangements regarding termination of employment;
 - (xi) post-employment restraints;

- (xii) known trade union membership (or membership of any professional or trade association) and associated arrangements, such as union membership fee deductions;
 - (xiii) the application of any Industrial Instrument (and copies of any such instrument(s)) and details of grading (if applicable);
 - (xiv) accrued annual, long service, sick, personal, maternity, paternity or other leave; and
 - (xv) template employment agreements for each class or category of any Dedicated Employee and actual employment agreements where template agreements do not apply,

in such form as the Principal's Representative may require.
- (c) The Service Provider must keep the information referred to in **clauses 25.3(a) and 25.3(b)** up to date and provide copies to the Principal on reasonable notice, and in any case on the earliest of:
 - (i) the Principal issuing a notice terminating this Deed;
 - (ii) the date that is six months prior to the expiry of the Term; and
 - (iii) one week after the commencement of the End of Contract Period.
- (d) The Service Provider must ensure that a Step-in Party, Prospective Successor Service Provider, Successor Service Provider or nominee of the Principal has, to the extent permitted by Law, immediate access to the information referred to in **clauses 25.3(a) and 25.3(b)** on reasonable notice from the Principal, and in any case on the earliest of:
 - (i) the exercise of the Step-in Rights;
 - (ii) the Principal issuing a notice terminating this Deed;
 - (iii) the date that is six months prior to the expiry of the Term; and
 - (iv) one week after the commencement of the End of Contract Period.
- (e) No later than 30 Business Days prior to the expiry of the Term or, in the event that the Principal gives a notice terminating this Deed, within 7 Business Days after the notice, the Service Provider must provide to each Dedicated Employee a statement setting out that Dedicated Employee's:
 - (i) grade/classification;
 - (ii) rate of pay;
 - (iii) date of commencement of employment; and
 - (iv) estimated accrued entitlements (including annual leave, long-service leave, sick/personal/carers leave and rostered days off) as at the Termination Date.
- (f) In the event that a Dedicated Employee notifies the Service Provider that he or she disputes any of the information contained in the statement provided to that Dedicated Employee pursuant to **clause 25.3(e)**, the Service Provider must notify the Principal of such dispute and the Principal may refer the disputed issue to an actuary.

25.4 Preparation for contracting at end of Term

- (a) Without limiting **clause 6.4**, the Service Provider must, to the extent permitted by Law, provide the Principal with reasonable access to each of the Service Provider's Associates engaged in or in connection with the carrying out of the Services and the information, books and Records kept by or on behalf of the Service Provider in connection with the

Services for the purpose of the Principal preparing reports and documents in connection with any procurement process for the carrying out of all or part of the Services or any other associated services.

- (b) The Service Provider must use reasonable endeavours to assist the Principal in the preparation for, and the conduct of, the procurement process, including, where required by the Principal, a fair and competitive expression of interest or tendering process.
- (c) Without limiting **clause 25.4(b)**, the Service Provider must, to the extent permitted by Law, make available to the Principal any information, and assist in the verification of any information (including the provision of answers to verification questions), as the Principal reasonably requires in connection with the procurement process for the Services or any other associated services.
- (d) The Service Provider warrants to the Principal that to the best of its belief, all information provided under **clauses 25.3(a), 25.3(b) and 25.4(c)** will be, at the time it is provided, true and correct in all material respects and will not be misleading by omission or otherwise.
- (e) The Service Provider must warrant to a Successor Service Provider that to the best of its belief, any other information made available to the Successor Service Provider by the Service Provider or any of its Associates is true and correct and execute such documents as the Principal may require to give effect to such warranty (including a deed poll in favour of the Successor Service Provider).

25.5 Non frustration of transfer

The Service Provider must not do anything that directly or indirectly avoids or materially prejudices or frustrates the transfer as a going concern of the Services at the Termination Date to a Successor Service Provider (or nominee of the Principal) and any procurement process in connection with such transfer.

25.6 Assistance in securing continuity

The Service Provider must do everything, whether before, on or after the Termination Date, as the Principal may reasonably require to assist and advise any Step-in Party, Prospective Successor Service Provider, Successor Service Provider or nominee of the Principal in carrying out the Services (or activities and work of a similar nature to the Services), including, without limiting the Service Provider's other obligations under this Deed, the provision of information and Records related to the carrying out of the Services (excluding confidential financial information, but including all records relating to any of the Service Provider's Associates engaged in or in connection with the carrying out of the Services).

25.7 Transfer of Approvals

The Service Provider must do everything, whether before, on or after the Termination Date, as the Principal may reasonably require to transfer all Approvals held by the Service Provider to a Successor Service Provider including:

- (a) signing all documents required to affect the transfer of such an Approval;
- (b) making any application to an Authority for consent to transfer such an Approval; and
- (c) registering the transfer of such an Approval with an Authority or on a data base or register maintained by an Authority.

25.8 Access

Without limiting the Service Provider's other obligations under this Deed, the Service Provider must ensure that a Prospective Successor Service Provider, Successor Service Provider or nominee of the Principal has access to each of the Service Provider's Associates, the CRN Assets, the Principal Supplied Assets and Service Provider Assets for the purposes of:

- (a) the Prospective Successor Service Provider, Successor Service Provider or nominee of the Principal receiving information in respect of:
 - (i) the Services or activities and work of a similar nature to the Services;
 - (ii) the CRN Assets, including operations and maintenance activities in respect of the CRN Assets;
 - (iii) the Principal Supplied Assets; and
 - (iv) the Service Provider Assets,
- (b) preparations by the Prospective Successor Service Provider, Successor Service Provider or nominee of the Principal to take over the Services or carry out activities and work of a similar nature to the Services on the Termination Date,

but only to the extent that any of the above does not unduly interfere with the carrying out of the Services.

26 Transition Out Requirements

26.1 Transition Out Audit

- (a) No earlier than 36 months prior to the Original Expiry Date, the First Extended Expiry Date and (if different) the expiry of the Term and then again no earlier than 12 months prior to the Original Expiry Date, the First Extended Expiry Date and (if different) the expiry of the Term, the Principal may procure the carrying out of an audit of the CRN Assets by an expert:
 - (i) nominated by agreement between the Principal and the Service Provider; or
 - (ii) failing agreement within 10 Business Days after a request for agreement is made in writing by the Principal's Representative, nominated by the President of Engineers Australia.
- (b) The Principal must:
 - (i) notify the Service Provider at least 10 Business Days in advance of the date it wishes to procure the carrying out of a Transition Out Audit and specify the CRN Assets that will be the subject of the Transition Out Audit; and
 - (ii) consider in good faith any reasonable request by the Service Provider for the Transition Out Audit to be carried out on a different date.
- (c) The Transition Out Auditor will inspect and assess the Transition Out Audit Assets and will independently assess through a desktop review and targeted site visits:
 - (i) whether the Service Provider has complied with its obligations under the **Scope of Works**; and
 - (ii) the outcome of the Services carried out by the Service Provider against the 3MWP, 10MSP and the 50AMP.
- (d) Upon completion of each audit referred to in **clause 26.1(a)**, the Transition Out Auditor will notify the Principal and the Service Provider in writing of:

- (i) whether the Transition Out Audit Assets have been and are being maintained by the Service Provider in accordance with this Deed;
 - (ii) any rectification, maintenance or remediation works required to be carried out by the Service Provider to bring the condition of the Transition Out Audit Assets to the condition they would have been in had the Service Provider complied with its obligations under this Deed;
 - (iii) any rectification, maintenance or remediation works required to be carried out by the Service Provider to bring the condition of the Transition Out Audit Assets to the Transition Out Condition at the Termination Date; and
 - (iv) the Transition Out Auditor's estimate of the value of the rectification, maintenance and remediation works referred to in **clauses 26.1(d)(ii)** and **26.1(d)(iii)**.
- (e) The Service Provider must cooperate with the Transition Out Auditor and provide the Transition Out Auditor with any reasonable assistance required by the Transition Out Auditor.
- (f) The Principal must use its reasonable endeavours to procure that the Transition Out Auditor minimises any disruption caused to the Services by the Transition Out Audit.
- (g) The costs of performing the Transition Out Audit incurred by the Principal will be borne by the Principal, except where the results of the Transition Out Audit show that the Service Provider has not complied with its obligations under this Deed in relation to the maintenance of the CRN Assets, in which case the cost of the Transition Out Audit will be a debt due and payable by the Service Provider to the Principal.

26.2 Rectification work

The Service Provider must carry out any required rectification, maintenance or remediation work notified pursuant to **clauses 26.1(d)(ii)** and **26.1(d)(iii)**:

- (a) to the satisfaction of the Transition Out Auditor; and
- (b) so as to satisfy the standards and other requirements applicable to the CRN Assets under this Deed,

prior to the expiry of the Term and the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, such rectification, maintenance or remediation work.

26.3 Handback obligations

- (a) At the Termination Date, the Service Provider must:
 - (i) surrender, hand back and return access to, and custody, control and care of, the CRN Assets and, unless otherwise directed by the Principal's Representative, the Principal Supplied Assets, in accordance with **clause 27**;
 - (ii) ensure that any Security Interest in respect of any part of the CRN Assets or such Principal Supplied Assets consented to by the Principal under **clause 30.1(a)** is removed;
 - (iii) ensure that the CRN Assets are in a state and condition which complies with the requirements of this Deed, including the Transition Out Condition;
 - (iv) have completed all works scheduled to be carried out under the 3MWP;
 - (v) have completed the transfer of the Asset Information System database to the Principal or the Principal's nominee such that:

- (A) all data has the capability of being processed, evaluated and viewed using standard commercially available systems;
 - (B) the Asset Information System database remains fully functional and retains interface capabilities;
 - (C) all data entry is fully up to date;
 - (D) all data archives are included; and
 - (E) all supporting documentation is included; and
- (vi) in respect of any lease, licence or agreement referred to in **clause 3.4(h)** which the Principal requires to be novated from the Service Provider to the Principal or its nominee, have complied with any end of term obligations of the Service Provider (including any make good obligations) under that lease, licence or agreement (except to the extent the Principal's Representative notifies the Service Provider in writing that such end of term obligations will be satisfied by or on behalf of the Principal or its nominee after the Termination Date).

26.3A CRN Early Handback obligations

- (a) Prior to the CRN Early Handback Date for each CRN Early Handback Asset, and in addition to any existing obligations under this Deed, including under **clauses 27.1 and 27.2**, the Parties agree:
- (i) the Service Provider and the Principal will attend a joint site inspection of the CRN Early Handback Assets to confirm the boundaries and definition of each CRN Early Handback Asset;
 - (ii) the Service Provider will provide to the Principal all descriptions, data, documents and information that it holds in respect of each CRN Early Handback Asset;
 - (iii) to work collaboratively and use their reasonable endeavours to agree an interface definition agreement for the relevant CRN Early Handback Asset that defines the CRN Early Handback Asset, the boundaries of that CRN Early Handback Assets, and the parties' respective rights and obligations after the CRN Early Handback Date in respect of such CRN Early Handback Assets, including as to any structural support and dependencies between the CRN Early Handback Assets and other CRN Assets (each, a ***CRN Early Handback Interface Definition Agreement***); and
 - (iv) the Service Provider will comply with its other obligations under this Deed, but proposes to minimise the Services performed in respect of the CRN Early Handback Assets until the CRN Early Handback Date.
- (b) At any time prior to the CRN Early Handback Date for each CRN Early Handback Asset the Principal may procure the carrying out of an audit of that CRN Early Handback Assets in accordance with **clause 26.1** and the Service Provider must carry out any required rectification, maintenance or remediation work in accordance with **clause 26.2** where directed to do so by the Principal's Representative as a Modification.
- (c) On the CRN Early Handback Date for each CRN Early Handback Asset, the Service Provider must:
- (i) surrender, hand back and return access to, and custody, control and care of, the CRN Early Handback Assets in accordance with **clause 27**;

- (ii) ensure that any Security Interest in respect of any part of the CRN Early Handback Assets consented to by the Principal under **clause 30.1(a)** is removed; and
- (iii) have completed the transfer of all information in the Asset Information System that relates to the CRN Early Handback Assets to the Principal or the Principal's nominee such that:
 - (A) all data has the capability of being processed, evaluated and viewed using standard commercially available systems;
 - (B) all data entry is fully up to date;
 - (C) all data archives are included; and
 - (D) all supporting documentation is included.
- (d) The Principal must, once the Service Provider has satisfied its obligations under **clauses 26.3A(c)(ii)** and **(iii)**, issue the Service Provider with an acceptance notice for that CRN Early Handback Asset (a ***CRN Early Handback Asset Acceptance Notice***).
- (e) Without prejudice to the Service Provider's obligations and any accrued claims that arise prior to the CRN Early Handback Date, each CRN Early Handback Asset will cease to be a CRN Asset for the purposes of this Deed, from the CRN Early Handback Date.
- (f) From the CRN Early Handback Date in respect of each CRN Early Handback Assets:
 - (i) the Service Provider will provide the Principal with all reasonable assistance that the Principal requires to enable it to carry out works, including demolition works, on the CRN Early Handback Assets;
 - (ii) the Service Provider acknowledges that the Principal has unfettered access to the CRN Early Handback Assets;
 - (iii) the Service Provider will give the Principal access to and usage of any of the CRN Assets to enable the Principal to access or carry out works, including demolition works, on the CRN Early Handback Assets; and
 - (iv) if the reasonable assistance that is to be provided by the Service Provider under **clause 26.3A(f)(i)** is a Modification (including Modifications for Excluded Support Services) for which the Service Provider may submit a Variation Impacts Statement under **clause 14.3**, the Service Provider may do so.

26.4 Final inspections

- (a) The Principal's Representative may (either prior to or a reasonable time following the Termination Date, or the CRN Early Handback Date), procure an expert:
 - (i) nominated by agreement between the Principal and the Service Provider; or
 - (ii) failing agreement within 10 Business Days after a request for agreement is made in writing by the Principal's Representative, nominated by the President of Engineers Australia,

to inspect and assess that part of the CRN Assets or the CRN Early Handback Assets nominated by the Principal and notify the Principal and the Service Provider in writing of the estimated cost (without double counting) of:

 - (iii) any rectification, maintenance or remediation works required to be carried out to bring the condition of the relevant CRN Assets to the condition they would have been in had the Service Provider complied with its obligations under this Deed; and

- (iv) making good or rectifying any failure by the Service Provider to carry out the Service Provider's obligations under **clause 26.3**,
- (b) The Service Provider must cooperate with the Final Inspection Auditor and provide the Final Inspection Auditor with any reasonable assistance required by the Final Inspection Auditor.
- (c) The costs incurred by the Principal of engaging the Final Inspection Auditor to perform the inspection and assessment in accordance with **clause 26.4(a)** will be borne by the Principal, except where the results of the inspection and assessment show that the Service Provider has not complied with its obligations under this Deed in relation to the maintenance of the CRN Assets, in which case such costs will be a debt due and payable by the Service Provider to the Principal.
- (d) The amount notified by the Final Inspection Auditor under **clause 26.4(a)** will be a debt due and payable from the Service Provider to the Principal, except to the extent that:
 - (i) the inspection by the Final Inspection Auditor occurs prior to the Termination Date; and
 - (ii) the Service Provider demonstrates to the reasonable satisfaction of the Principal's Representative that the costs notified by the Final Inspection Auditor under **clause 26.4(a)** relate to matters which have been rectified in accordance with this Deed between the date of the inspection by the Final Inspection Auditor and the Termination Date.

26.5 Service Provider Certification at Termination

No later than 10 Business Days prior to the Termination Date, the Service Provider must provide the Principal with a written certificate signed by two directors of the Service Provider confirming that the CRN Assets have been maintained and operated in accordance with this Deed and are in the condition required by this Deed.

27 Handback

27.1 Handback of CRN Assets and Principal Supplied Assets

Subject to **clause 27.1A**, except where the Service Provider is the Successor Service Provider, the Service Provider must surrender, hand back and return access to, and custody, control and care of, the CRN Assets and, unless otherwise directed by the Principal's Representative, the Principal Supplied Assets, to the Principal or the Principal's nominee:

- (a) in accordance with the requirements of this Deed; and
- (b) immediately after the Termination Date.

27.1A CRN Early Handback

Immediately on the CRN Early Handback Date, the Service Provider must surrender, hand back and return access to, and custody, control and care of, the CRN Early Handback Assets to the Principal or the Principal's nominee in accordance with the requirements of this Deed.

27.2 Indicative Statement

Except where the Service Provider is the Successor Service Provider, the Principal may, by notice to the Service Provider given a reasonable time before the Termination Date, require the Service Provider to prepare an indicative statement for all CRN Assets held by the Service Provider as at the date of the Principal's notice, setting out the current value of each of those CRN Assets (calculated on the basis of generally accepted accounting standards). The Service

Provider must provide the Indicative Statement to the Principal within one month after the date of the Principal's notice.

27.3 Successor Service Provider may be required to make offers

- (a) The Principal may, in its sole and absolute discretion, require that any Successor Service Provider makes offers of employment to any or all of the Dedicated Employees employed by the Service Provider immediately before the Termination Date:
- (i) on the same terms and conditions or substantially similar terms and conditions which (considered on an overall basis) are no less favourable than, the relevant Dedicated Employee's terms and conditions of employment with the Service Provider immediately before the Termination Date;
 - (ii) which recognises all accrued but untaken leave entitlements;
 - (iii) which recognises service by the Service Provider immediately prior to the Termination Date for all purposes; and
 - (iv) which takes effect from the Termination Date.
- (b) In respect of any Dedicated Employees who are offered employment by any Successor Service Provider in accordance with **clause 27.3(a)**, the Service Provider must:
- (i) ensure that at the Termination Date all Dedicated Employees are employed by the Service Provider; and
 - (ii) use reasonable endeavours to facilitate the making of any offers of employment that are made to Dedicated Employees by any Successor Service Provider.
- (c) The Service Provider agrees to do all things necessary to ensure that the employment of all Dedicated Employees who are offered and accept employment with any Successor Service Provider (such employees being **Transferring Dedicated Employees**) terminates with effect from the Termination Date.
- (d) The Service Provider agrees to waive, and will not enforce, any post-employment restraints applicable to Transferring Dedicated Employees to the extent that such restraints would prohibit the Transferring Dedicated Employees from commencing employment with the Successor Service Provider or otherwise curtail or restrict the performance of the Dedicated Employees' duties or responsibilities to the Successor Service Provider.
- (e) In respect of any Transferring Dedicated Employees:
- (i) within 10 Business Days of the Termination Date, the Service Provider must deliver to the Principal or the Successor Service Provider (as directed by the Principal) a schedule setting out each Transferring Dedicated Employee's Relevant Leave entitlements including the respective amounts of all accrued leave entitlements and applicable loadings; and
 - (ii) within 10 Business Days of the determination of ■ (as defined below), the Service Provider must pay to the Principal or the Successor Service Provider (as directed by the Principal) a sum determined in accordance with the following formula:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- (f) The cost of appointing an actuary in accordance with this **clause 27.3** will be shared equally between the Service Provider and the Successor Service Provider.
- (g) For the avoidance of doubt, if the amount calculated under this **clause 27.3** is a negative amount then no payment is required to be made by the Service Provider to the Principal.

27.4 Transfer Out Agreement

- (a) No later than 60 Business Days prior to the expiry of the Term, or if this Deed is terminated earlier than that date in accordance with **clause 23** or otherwise, no later than 20 Business Days after the Termination Date, the Principal's Representative may, in its absolute discretion, provide written notice to the Service Provider identifying any Service Provider Assets that the Principal requires the Service Provider to transfer to the Principal or its nominee.
- (b) The Service Provider must negotiate in good faith with the Transferee to agree and execute an agreement setting out the terms and conditions (including the price) on which the Nominated Assets will be transferred to the Transferee, which terms must include that the Nominated Assets will be transferred free of any Security Interest or claim by any person as at the date of transfer of the Nominated Assets.
- (c) If the Transferee and the Service Provider are unable to agree the terms of the Transfer Out Agreement within 20 Business Days of the commencement of the negotiations referred to in **clause 27.4(b)**, then the Service Provider may cease those negotiations and the Service Provider will have no Claim against the Principal in respect of the transfer of the Nominated Assets.

27.5 Network Control Centre Lease and Backup Network Control Centre Lease

Except where the Service Provider is the Successor Service Provider, the Service Provider must, where requested to do so by the Principal at any time within 25 Business Days after the Termination Date, novate any leases, licences and agreements for, or in connection with, the Network Control Centre, the Backup Network Control Centre and any other Depot referred to in **clause 3.4(h)(i)** to the Principal (or its nominee).

Part N – Claims and Disputes

28 Dispute Resolution

28.1 Notice of Dispute

- (a) If a dispute or difference (hereafter called a dispute) between the Service Provider and the Principal arises in connection with this Deed, then either party must deliver to the other party and to the Principal's Representative a notice of dispute in writing adequately identifying and providing details of the dispute.
- (b) Notwithstanding the existence of a dispute, the Principal and the Service Provider must continue to perform this Deed and, subject to **clauses 22 and 23**, the Service Provider must continue to carry out the Services and the Principal and the Service Provider must continue to comply with **clause 17**.

28.2 Initial Negotiations

Within 20 Business Days of service of a notice of dispute (or such longer period agreed in writing by the parties), the Principal's Representative and the Service Provider's Representative must confer, in good faith, at least once to attempt to resolve the dispute or to agree on methods of resolving the dispute by other means. If they are unable to settle the dispute within that period, then either party may by notice in writing delivered by hand or sent by registered mail to the other party, refer such dispute to senior representatives of the parties (being an Executive Director of TfNSW and an officer of similar standing of the Service Provider, or such other senior representatives of the parties with authority to resolve the dispute) for negotiation in accordance with **clause 28.3**.

28.3 Further Negotiations

The senior representatives must negotiate in good faith with a view to resolving the dispute within 20 Business Days of the dispute being referred to them (or such longer period agreed in writing by the parties). If they are unable to settle the dispute within that period, then either party may by notice in writing delivered by hand or sent by registered mail to the other party, refer such dispute to the Deputy Secretary of TfNSW with responsibility for the CRN and an officer of similar standing for the Service Provider, or such other similarly senior representatives of the parties with authority to resolve the dispute, for negotiation in accordance with **clause 28.4**.

28.4 Final Negotiations

The senior officers to which the dispute is referred to in accordance with **clause 28.3** must negotiate in good faith with a view to resolving the dispute within 20 Business Days of the dispute being referred to them (or such longer period agreed in writing by the parties).

28.5 Expert Determination

- (a) If a dispute which has been referred to senior officers of the parties for resolution pursuant to **clause 28.3** remains unresolved (in whole or in part) after the expiration of the period for negotiation referred to in **clause 28.3**, then either party may, by giving notice to the other party, require that those parts of the dispute which remain unresolved be referred to an expert for determination in accordance with this **clause 28.5**.
- (aa) The Principal and the Service Provider acknowledge and agree that:
 - (i) **clause 14.6** will apply to any disputes in relation to Corrective and Emergency Maintenance Referrals; and

- (ii) this **clause 28** will only apply to disputes in relation to Corrective and Emergency Maintenance Referrals to the extent stated in **clause 14.6**.
- (b) The expert will be:
 - (i) an independent expert agreed between the parties; or
 - (ii) if:
 - (A) the parties are unable to agree on the identity of the expert within 20 Business Days after the notice under **clause 28.5(a)**; or
 - (B) the expert otherwise agreed or appointed in accordance with this **clause 28.5(b)**:
 - (1) is unavailable;
 - (2) declines to act;
 - (3) does not respond within 10 Business Days to a request by one or both parties for advice as to whether he or she is able to conduct the determination; or
 - (4) does not make a determination within the time required by **clause 28.5(f)(i)**,

appointed on the application of any party by (unless otherwise agreed) the chairperson or other senior office bearer for the time being of the New South Wales Chapter of the Resolution Institute.
- (c) The Principal and the Service Provider must enter into an agreement with the expert on the terms of **Schedule 7** of this Deed or such other reasonable terms as the expert may require.
- (d) The expert:
 - (i) acts as an expert and not as an arbitrator;
 - (ii) may reach a decision from his or her own knowledge and expertise; and
 - (iii) may proceed in any manner he or she thinks fit but must observe the rules of natural justice;
 - (iv) may conduct any investigation which he or she considers necessary to resolve the dispute;
 - (v) may examine such documents, and interview such persons, as he or she may require;
 - (vi) notwithstanding anything else, to the extent permissible by law, will have no power to apply or have regard to the provisions of Proportionate Liability Legislation;
 - (vii) may make such directions for the conduct of the determination as he or she considers necessary;
 - (viii) must disclose to the parties any interest he or she has in the outcome of the determination; and
 - (ix) must not communicate with one party to the determination without the knowledge of the other.
- (e) Unless otherwise stated in this Deed, the costs of the expert must be borne in equal shares by the parties.

- (f) The expert's decision:
 - (i) must be notified to the parties within 20 Business Days after the date of acceptance by the expert of his or her appointment (or such longer period agreed by the parties); and
 - (ii) is final and binding on the parties, except to the extent:
 - (A) of fraud, gross negligence or a manifest error; or
 - (B) either party gives notice of appeal to the other party within 20 Business Days after the determination.
- (g) The provisions of the *Commercial Arbitration Act 2010* (NSW) and the *Commercial Arbitration Act 2017* (ACT) will not apply to the dispute resolution proceedings under this **clause 28.5**.

28.6 Litigation

- (a) If:
 - (i) the dispute is submitted to expert determination in accordance with **clause 28.5** and the circumstances in **clause 28.5(f)(ii)(A)** apply or a notice of appeal is given under **clause 28.5(f)(ii)(B)**; or
 - (ii) not used,then either party may commence proceedings in relation to the dispute.
- (b) Subject to **clause 28.8**, the parties must follow the dispute resolution procedures set out in this **clause 28** before either commences litigation or takes similar action.

28.7 Continuation of Rights and Obligations

Unless expressly stated in this Deed otherwise, despite the existence of a dispute, each party must continue to perform this Deed.

28.8 Summary Relief

Nothing herein will prejudice the right of a party to seek injunctive or urgent declaratory relief in respect of a dispute of the kind referred to in this **clause 28**.

28.9 Exchange of Information or Records

- (a) The parties acknowledge that the purpose of any exchange of information or Records or the making of any offer of settlement pursuant to this **clause 28** is to attempt to resolve the dispute between the parties.
- (b) No party may use any discussions, information or Records obtained through the above dispute resolution procedures for any purpose other than an attempt to resolve a dispute under this Deed, except to the extent required by any Law.

29 Notification of Claims regarding alleged Modifications

29.1 Communication of Claims regarding Directions

- (a) Where the Service Provider considers that a Direction given by the Principal or the Principal's Representative:
 - (i) requires the Service Provider to carry out a Modification does not satisfy the requirements of **clause 14.1(b)**, **14.2(b)** or **14.3(d)** (as applicable); or

- (ii) requires that Service Provider to carry out a Modification that is (acting reasonably) not capable of being performed safely,

then the Service Provider must, prior to commencing to comply with the Direction and in any event within 20 Business Days of the date of the Direction (whichever is earlier), notify the Principal's Representative in writing that:

 - (iii) where **clause 29.1(a)(i)** applies, the Service Provider considers it to be a Direction requiring the Service Provider to carry out a Modification; or
 - (iv) where **clause 29.1(a)(ii)** applies, the Service Provider considers it to be a Modification that is not capable of being performed safely.
- (b) Within 20 Business Days of receiving the Service Provider's notice under **clause 29.1(a)**, the Principal's Representative may:
 - (i) notify the Service Provider that the Direction is withdrawn;
 - (ii) notify the Service Provider that the Principal's Representative is of the view that the Direction does not require the Service Provider to carry out a Modification; or
 - (iii) confirm that the Direction is a Direction under **clause 14.1(a), 14.2(a) or 14.3(d)** (as applicable) for the Service Provider to carry out a Modification by issuing a Direction that satisfies the requirements of **clause 14.1(b), 14.2(b) or 14.3(d)** (as applicable).
- (c) If, within 20 Business Days of receiving the Service Provider's notice under **clause 29.1(a)**, the Principal's Representative does not take action referred to in **clause 29.1(b)(i), 29.1(b)(ii) or 29.1(b)(iii)**, the Principal's Representative will be deemed to have issued a notice under **clause 29.1(b)(ii)**.
- (d) Where the Principal's Representative:
 - (i) issues a notice under **clause 29.1(b)(i)**, the Service Provider must not comply with, or must cease to comply with, the Direction;
 - (ii) issues a notice, or is deemed to have issued a notice, under **clause 29.1(b)(ii)**, the Service Provider:
 - (A) must comply with, or continue to comply with, the Direction; and
 - (B) may, within a further 15 Business Days of the Principal's Representative having issued, or being deemed to have issued, the notice under **clause 29.1(b)(ii)**, submit a notice of dispute under **clause 28.1(a)**, in which case, to the extent it is subsequently agreed or determined under **clause 28** that the relevant Direction did require the Service Provider to carry out a Modification, the Service Provider will be entitled to:
 - (1) if:
 - (a) the Modification is an Option (other than Option 7);
 - (b) in respect of:
 - (i) Option 2, Option 3A, Option 3B or Option 3C, the Direction was issued on or before the date that is 2 years after the Services Commencement Date; or

- (ii) Option 4, Option 5 or Option 6, the Direction was issued on or before the Services Commencement Date;
- (iii) Option 1 or Option 8 the Direction was issued on or before the date that is 18 months after the Reset Date; and
- (c) in respect of:
 - (i) Option 2, the Principal's Representative has not previously exercised Option 3A or Option 3B;
 - (ii) Option 3B, the Principal's Representative has not previously exercised Option 2, Option 3A or Option 3C; or
 - (iii) Option 3A, the Principal's Representative has not previously exercised Option 2 or Option 3C,

Variation Impacts as specified in the relevant part of **Section 9.2** of the **Payment Schedule**; or

- (2) if **clause 29.1(d)(ii)(B)(1)** does not apply, subject to **clause 36**, Variation Impacts for such Modification, determined in accordance with **Part 2** of the **Variations Schedule** and, to the extent the Modification will result in Modification Assets (including under **clause 2.16(b)**) and the incorporation of those Modification Assets as part of the CRN Assets will give rise to a CRN Asset Base Change, Variation Impacts expressly set out in, and determined in accordance with, **Part 3** of the **Variations Schedule**; or
- (iii) takes the action referred to in **clause 29.1(b)(iii)**, **clause 14.1(c)**, **14.2(c)** or **14.3(c)** (as applicable) will apply.
- (e) If **clause 29.1(d)(ii)** applies, and the Service Provider fails to submit a notice of dispute within the time set out in **clause 29.1(d)(ii)(B)** then the Service Provider:
 - (i) will not be entitled to Claim or otherwise assert that the relevant Direction constitutes a Modification; and
 - (ii) must comply with, or continue to comply with, the Direction.
- (f) The Service Provider's entitlement to any relief in respect of or relating to a Direction, other than that described in this **clause 29**, is subject to **clause 29A** below.

29A Notification of Claims generally

29A.1 Communication of Claims

If the Service Provider wishes to make any Claim (other than an Excluded Claim or a Claim described in **clause 29**) against the Principal in respect of or relating to any Direction or Modification of the Principal or the Principal's Representative or any other fact, matter or thing (including an Adjustment Event, any Qualifying Latent CRN Assets Condition or a breach of this

Deed by the Principal) under, arising out of, or in any way in connection with this Deed, the Services or the CRN Assets, the Service Provider must:

- (a) in respect of any Claim for an Adjustment Event within 20 Business Days after the Adjustment Event occurs;
- (b) in respect of any Claim for Qualifying Latent CRN Assets Condition Impacts, within 20 Business Days after the commencement of the Contract Year in which the relevant renewal is required to be completed in accordance with **Schedule 13**;
- (c) in respect of any Claim (other than a Claim described in **clause 29**) in respect of or relating to a Direction within 20 Business Days after the first day on which the Service Provider could reasonably have been aware of the fact, matter or thing upon which the Claim is or will be based (as applicable);
- (d) in respect of any Claim in respect of or relating to any Modification within 20 Business Days after receipt or approval (as relevant) of the Modification under **clause 14.1(a), 14.1(e), 14.2(a), 14.3(b), 14.5(g) or 15(c)**; or
- (e) in respect of any Claim other than that referred to in **clause 29, 29A.1(a), 29A.1(b), 29A.1(c) or 29A.1(d) or 29A.3(b)**, within 20 Business Days after the first day on which the Service Provider could reasonably have been aware of the fact, matter or thing upon which the Claim is or will be based (as applicable),

submit a written Claim to the Principal's Representative in accordance with **clause 29A.2**.

29A.2 Claim requirements

Any written Claim referred to in **clause 29A.1** must include:

- (a) detailed particulars, including the date or dates, of the Direction, Modification, fact, matter or thing upon which the Claim is based;
- (b) the provisions of this Deed or other legal basis upon which the Claim is based;
- (c) in respect of Claims associated with Modifications or Adjustment Events, a Variation Impacts Statement as an attachment;
- (d) in respect of Claims associated with any Qualifying Latent CRN Assets Condition, a Qualifying Latent CRN Assets Condition Impacts Statement as an attachment; and
- (e) except to the extent **clause 29A.2(c)** applies and the information is already included in the Variation Impacts Statement or **clause 29A.2(d)** applies and the information is already included in the Qualifying Latent CRN Assets Condition Impacts Statement, details of the amount or other item claimed and how it has been calculated, with full supporting documentation and reasoning.

29A.3 Liability for failure to communicate

- (a) If the Service Provider fails to strictly comply with **clause 29A.1 or 29A.2**:
 - (i) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim; and
 - (ii) the Service Provider releases the Principal from any Claim, arising out of, or in any way in connection with, the relevant Direction, fact, matter or thing (as the case may be) to which **clause 29A.1** (as applicable) applies.
- (b) Nothing in this **clause 29A** limits or otherwise affects the operation or effect of any other provision of this Deed which requires the Service Provider to give notice to the Principal

or the Principal's Representative in order to preserve an entitlement to make a Claim against the Principal.

- (c) The Service Provider is not entitled to proceed under this **clause 29A** in relation to any Claim governed by **clause 29.1**.

29A.4 Principal's Representative's decision

- (a) Within 40 Business Days after receipt of a Claim under **clause 29A.1** the Principal's Representative must assess the Claim and notify the parties in writing of its decision, including any determination as to:
 - (i) in respect of any Variation, the Variation Impacts; and
 - (ii) in respect of any Qualifying Latent CRN Assets Condition, the Qualifying Latent CRN Assets Condition Impacts.
- (b) Unless a party within a further 20 Business Days after such notification gives a notice of dispute under **clause 28.1(a)**, the Principal's Representative's assessment will be final and binding.
- (c) Without limiting the Service Provider's entitlement to pursue the relevant Claim, failure by the Principal's Representative to assess a Claim within the time referred to in **clause 29A.4(a)** will not constitute a breach of this Deed by the Principal.

Part O – General

30 General

30.1 Assignment and Change in Control

- (a) The Service Provider must not:
 - (i) assign, novate, mortgage, charge, encumber or otherwise deal with or grant a Security Interest in respect of this Deed or any of its interests, rights and obligations under or in connection with this Deed; or
 - (ii) mortgage, charge, encumber or otherwise deal with or grant a Security Interest in any part of the CRN Assets or the Principal Supplied Assets,without the prior written consent of the Principal (which consent may be withheld or given (unconditionally or subject to conditions) in the Principal's absolute discretion).
- (b) Without limiting **clause 30.5** or any facilitative legislation, the Principal:
 - (i) subject to **clause 30.1(b)(ii)**, may assign, novate, mortgage, charge, encumber or otherwise deal with this Deed or any of its interests, rights and obligations under or in connection with this Deed at any time with the prior written consent from the Service Provider (such consent not to be unreasonably withheld or delayed and not to be withheld if the Principal will continue to have (or the party taking the benefit of the assignment, novation or other dealing has) the financial capacity to perform the Principal's remaining obligations); and
 - (ii) may, in its absolute discretion and without any consent from the Service Provider, assign, novate, mortgage, charge, encumber or otherwise deal with this Deed, any security or any of its interests, rights and obligations under or in connection with this Deed at any time to any party or parties that the New South Wales Government nominates to assume some or all of the Principal's functions, rights or obligations (including as set out in **clause 30.5**).

- (c) The Service Provider must, if requested by the Principal, execute a deed on terms required by the Principal giving effect to the assignment, novation, charge, mortgage, encumbrance or other dealing.
- (d) Subject to **clause 30.1(e)**, the Service Provider must:
 - (i) notify the Principal's Representative in writing of any potential Change in Control in respect of the Service Provider or a Parent Company as soon as the Service Provider becomes aware of the potential Change in Control; and
 - (ii) ensure that it is not, and a Parent Company is not, the subject of a Change in Control without the Principal's prior written consent (in its absolute discretion).
- (e) The Principal's approval is not required for a Change in Control arising from:
 - (i) a transfer of any share or unit or other interest in the nature of equity which is listed on a recognised stock exchange and where that transfer is actually effected via the stock exchange in the ordinary course; or
 - (ii) any transfer of a share or unit or other interest in the nature of equity between Related Bodies Corporate of the Service Provider (excluding CIMIC Group Limited), provided the Service Provider gives the Principal prior written notice of the transfer.

However, **subclause (e)(i)** will not apply to a transfer that adversely affects either the Service Provider's or the Parent Company's financial capacity or ability to perform its obligations or satisfy its liabilities under, or in connection with, this Deed or the Parent Company Guarantee (as appropriate) or any deed poll required in accordance with **clause 20.3**.

Where any potential or actual Change in Control under **clause 30.1(d)** or transfer contemplated under **clause 30.1(e)** will result in a new holding company (as defined in the *Corporations Act 2001* (Cth) of the Service Provider, the Service Provider must provide the following financial information for the Service Provider and that holding company as part of its notice to the Principal under either **clause 30.1(d)** or **clause 30.1(e)**:

- (iii) audited financial statements for the past three complete financial years;
- (iv) published interim accounts for the current financial year (audited if applicable);
- (v) any material post financial statements events;
- (vi) (if applicable) the latest credit rating reports done by any internationally recognised rating agency;
- (vii) details of any loans, cross guarantees or other commercial relationships between group entities or with other Related Parties;
- (viii) details regarding any litigation, arbitration or administrative proceeding of or before any court, arbitral body or agency which:
 - (A) have been started or threatened against the Service Provider, any such holding company or any of their respective subsidiaries; and
 - (B) if adversely determined, would result in the Service Provider or any such holding company being liable for judgement in excess of \$1,000,000, including pursuant to any legislation, including relating to construction industry payment or security of payment;
- (ix) Foreign Investment Review Board (**FIRB**) Statement covering either:

- (A) a summary of its discussions with FIRB together with a statement from FIRB confirming that there is no objection to the Service Provider being a party to this Deed; or
- (B) a statement that no such discussions with FIRB are required as entry by the Service Provider into this Deed does not fall under the *Foreign Acquisitions and Takeovers Act 1975* (Cth).
- (x) any other information the Service Provider feels it needs to provide to demonstrate its financial capacity to undertake the Services or to demonstrate a holding company's capacity to satisfy its obligations under any Parent Company Guarantee (as applicable).

30.2 Joint and Several Responsibility

- (a) If the Service Provider is made up of more than one party, this **clause 30.2** will apply to the Service Provider and each of those parties.
- (b) The parties comprising the Service Provider are jointly and severally responsible for the obligations and performance of this Deed and are jointly and severally liable for any liabilities, damages, penalties or recourse under this Deed.
- (c) Any reference in this Deed to the Service Provider is to be read as a reference to each person comprising the Service Provider. For example, a Change in Control or Insolvency Event affecting one person comprising the Service Provider is to be read as a 'Change in Control' or 'Insolvency Event' affecting the Service Provider.

30.3 Non-derogation

Without limiting any obligation to comply with the RSNL, nothing in this Deed in any way limits, derogates from or affects any right, power, privilege or immunity in whatever form that the Principal or any Authority or any other person has or may have under or by virtue of any Law and no action for breach of this Deed will lie against the Principal for the exercise of any such right, power, privilege or immunity.

30.4 Principal may act

- (a) Without limiting any other provision of this Deed, and where not prohibited by Law from doing so, the Principal may, either itself or by a third party, carry out an obligation under this Deed which the Service Provider was obliged to carry out but which it failed to carry out within the time required in accordance with this Deed (or, where no time for performance is prescribed in this Deed, within a reasonable time). The Losses suffered or incurred by the Principal in so carrying out such an obligation will be a debt due and payable from the Service Provider to the Principal.
- (b) The Parties acknowledge that **clause 30.4(a)** above does not apply to circumstances governed by **clause 22** of this Deed.

30.5 Transfer of Functions or Assets

The Service Provider acknowledges and agrees that:

- (a) TfNSW or TAHE may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, liabilities or responsibilities of TfNSW or TAHE may be transferred to or vested in another entity;
- (b) if TfNSW or TAHE is reconstituted, renamed, dissolved, replaced or restructured or if some or all of the powers, functions, assets, liabilities or responsibilities of TfNSW or TAHE are transferred to or vested in another entity, references in this Deed to TfNSW or

TAHE (as applicable) will, subject to any facilitative legislation, be deemed to refer, as applicable, to that reconstituted, renamed, restructured or new entity to the extent that the entity has assumed or has had transferred to it or vested in it those powers, functions, assets, liabilities or responsibilities;

- (c) the Principal may, or may be required to (including as a result of changes to New South Wales Government policy or directions) acquire or dispose of, any property or assets forming part of the CRN Assets at its absolute discretion;
- (d) any such change to the CRN Assets may involve amendment to the Service Provider's rights and obligations under this Deed, and may, to the extent it constitutes an Adjustment Event, entitle the Service Provider to Variation Impacts in accordance with **Part 3 of the Variations Schedule**;
- (e) the Service Provider will be taken for all purposes to have consented to any matter referred to in this **clause 30.5** and must, to the extent required by the Principal and without limiting any facilitative legislation, negotiate in good faith any amendments required to this Deed, or any replacement agreement or agreements for this Deed to give effect to TfNSW or TAHE being reconstituted, renamed, dissolved, replaced or restructured; and
- (f) the Service Provider:
 - (i) will not be entitled to make, and the Principal will not be liable for, any Claim; and
 - (ii) releases the Principal from any Claim,arising out of, or in any way in connection with, any matter referred to in this **clause 30.5**, except for any Claim expressly referred to in **clause 30.5(d)**.

30.6 Severability

To the extent any provision of this Deed is (or would be, but for the operation of this **clause 30.6**) found to be void, voidable or unenforceable under any Law (including under the Security of Payment Act (NSW) or the Security of Payment Act (ACT)), the provision will be construed or severed from this Deed in a manner which:

- (a) avoids the provision or any other provision of this Deed being void, voidable or unenforceable; and
- (b) subject to **clause 30.6(a)**, preserves to the maximum possible extent:
 - (i) the enforceability of the provision and the other provisions of this Deed; and
 - (ii) the original effect and intent of this Deed.

30.7 Waiver and Amendments

- (a) Except as provided at Law or in equity or elsewhere in this Deed, none of the terms of this Deed will be varied, waived, discharged or released (in whole or in part), except with the express prior written consent by the Principal in each instance.
- (b) No waiver or release by the Principal of any term will operate as a waiver or release of any other term of this Deed or any subsequent breach of the relevant term.
- (c) Failure by the Principal, or by the Principal's Representative, acting on behalf of the Principal, at any time, or from time to time, to enforce or require strict compliance with, or performance of, any terms or conditions of this Deed will not constitute a waiver of, or affect, or impair such terms or conditions in any way, nor will such failure affect the right of the Principal to avail itself at any time of such remedies it may have for any subsequent breach of the terms and conditions by the Service Provider.

- (d) Except to the extent otherwise agreed between the parties (including as set out in this Deed), any variation or amendment of the terms of this Deed will be effected via a deed of amendment in the form set out in **Attachment H**.

30.8 Governing Law

This Deed is governed by and will be construed according to the laws of New South Wales and each party irrevocably submits to the jurisdiction of the courts of New South Wales.

30.9 No Merger

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

30.10 Counterparts

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

30.11 Survival

All representations, warranties and indemnities, **clauses 2.9, 2.15, 2.16, 3.4(h), 3.7, 3.9, 3.10, 3.13, 5.5, 5.7(f)(iii), 5.11, 6.3, 6.4, 6.6, 6.7, 17.3(b), 17.5, 17.15, 19.1(c), 20.2, 20.4, 20.5, 20.5A, 20.6, 20.6A, 20.7, 20.8, 20.9, 20.10, 21.5, 23, 24, 25, 26, 27, 28, 29.1(e)-(f), 29A.3, 30.2 and 31, this clause 30.11, section 4.1(c) of the Payment Schedule, the Termination Payments Schedule, clause 8.6(d) of the Enhancement Activities Terms and Conditions** and any other provision of this Deed which, by its nature, is intended to survive the termination of this Deed or the expiry of the Term, will survive the termination of this Deed or the expiry of the Term (as applicable).

30.12 Conflicts of Interest

- (a) The Service Provider warrants that, to the best of its knowledge, no Conflict of Interest of the Service Provider or any of its Associates exists or is likely to arise in the carrying out of the Services.
- (b) The Service Provider must:
- (i) notify in writing, and consult with, the Principal immediately upon becoming aware of the existence, or possibility, of a Conflict of Interest of the Service Provider or any of its Associates; and
 - (ii) comply with any Direction given by the Principal in relation to the circumstances giving rise to the Conflict of Interest, or possible Conflict of Interest, designed to manage that Conflict of Interest, or possible Conflict of Interest.

30.13 Service of Notices

- (a) A notice to be given under this Deed:
- (i) must be delivered or posted by pre-paid post to the address or sent by email to the email address of the addressee stated in **Attachment A** (or such last communicated address or email address notified in writing pursuant to this clause); and
 - (ii) will be deemed to have been received by the addressee, if using:
 - (A) regular prepaid post or registered post, 6 Business Days after the date of posting;

- (B) priority prepaid post or priority registered post, 4 Business Days after the date of posting;
 - (C) express post, 2 Business Days after the date of posting; or
 - (D) email, on the first to occur of:
 - (1) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the email address stated above;
 - (2) the time that the notice enters an information system which is under the control of the recipient; and
 - (3) the time that the notice is first opened or read by an employee or officer of the recipient,but if the result is that a notice would be taken to be given or made on a day that is not a Business Day or is later than 4.00 pm (Sydney time) it will be taken to have been duly given or made at the start of business on the next Business Day.
- (b) The Principal, the Principal's Representative and the Service Provider must each notify the others promptly in writing of a change of address or other contact details.
 - (c) Without limiting the generality of 'notice', it includes a document.
 - (d) Any notice given to the Service Provider's Representative will be deemed to have been given to the Service Provider.

30.14 Entire Agreement

- (a) This Deed:
 - (i) constitutes the entire agreement between the parties about the subject matter contained in it; and
 - (ii) supersedes any contract, deed, arrangement, related condition, collateral arrangement, condition, warranty, indemnity or representation relating to the subject matter contained in it, that was imposed, given or made by a party (or an agent of a party) prior to entering into this Deed.
- (b) The Service Provider acknowledges that in entering into this Deed the Service Provider has made its own enquiries and has not relied on any representations made by or on behalf of the Principal (or its agents or employees) in respect of this Deed, the CRN Assets or the Services.

30.15 Costs

- (a) Each party will pay its own costs of negotiation, preparation and execution of this Deed.
- (b) The Principal may (in its absolute discretion) require the Service Provider to pay the reasonable costs of any amendments to this Deed sought by the Service Provider.

30.16 Further assurances

Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Deed.

31 Media Releases, Confidentiality and Privacy

31.1 Confidential Information

- (a) Confidential Information must be kept confidential and not disclosed to a third party except with the prior agreement of the other party to this Deed or as permitted pursuant to this **clause 31.1 or 31.4**.
- (b) Each party must ensure that each of its Associates complies with the terms of this **clause 31.1**.
- (c) Without limiting its other obligations under this **clause 31.1**, neither party may:
 - (i) disclose to any person; or
 - (ii) in the case of the Service Provider, use for any purpose other than the carrying out of the Services,the Confidential Information referred to in **clause 31.1(a)** unless:
 - (iii) the other party has given its prior consent in writing; or
 - (iv) it is permitted to do so pursuant to this **clause 31.1 or 31.4**.
- (d) A party (the **Disclosing Party**) may disclose Confidential Information:
 - (i) which is in the public domain through no default of the Disclosing Party;
 - (ii) if the disclosure is:
 - (A) required by Law;
 - (B) given with the written consent of the other party;
 - (C) given to a court in the course of proceedings for which the Disclosing Party is a party or to an expert or mediator agreed or nominated under this Deed; or
 - (D) to any of its financial, technical, legal or other advisers who agree to keep the Confidential Information confidential in accordance with this **clause 31.1**; or
 - (iii) if:
 - (A) the Disclosing Party has obtained a confidentiality deed relating to the Confidential Information from the party whom it intends to disclose in favour of the other party to this Deed; and
 - (B) the information is for the purposes of assigning or transferring the Disclosing Party's rights, interests and obligations under this Deed.
- (e) The Principal may also disclose Confidential Information:
 - (i) to the Secretary of TfNSW (or equivalent), the Principal's shareholding or responsible Ministers and the New South Wales Government;
 - (ii) where the Principal is engaging, or is seeking to engage, a new contractor to carry out activities and work of a similar nature to the Services (in whole or in part):
 - (A) for the purpose of any data room or equivalent; and
 - (B) to any party the Principal proposes to seek an offer, tender or proposal from, or negotiate with or enter into a contract with for those activities or work (whether or not any contract is entered into),

provided the Principal has in place reasonable confidentiality arrangements with the parties to whom such Confidential Information is disclosed; and

- (iii) where the Principal is exercising a right under **clause 6.4**, provided that the Principal has in place reasonable confidentiality arrangements with the parties to whom such Confidential Information is disclosed.
- (f) Subject to **clause 31.1(b)**, each party may disclose Confidential Information to its Associates (and, in the case of the Principal, to any counterparty to a Relevant Document) to the extent necessary to enable the party to perform its obligations under this Deed (or, in the case of the Principal, under the Relevant Document).

31.2 Media Releases

- (a) The Service Provider must not issue any information, publication, document or article for publication concerning the CRN Assets or the Services in any media:
 - (i) without the prior express written approval of the Principal's Representative, which approval must not be unreasonably withheld; and
 - (ii) without limiting **clause 31.2(a)(i)**, except in accordance with the requirements of the **Scope of Works**.
- (b) The Service Provider must refer to the Principal any enquiries concerning the CRN Assets or the Services from any media.

31.3 Privacy

The Service Provider must when it collects, uses, discloses or holds Personal Information in the course of performing its obligations under or in connection with this Deed:

- (a) collect, use, access, disclose or hold such Personal Information obtained in connection with this Deed only for the purposes of performing its obligations under this Deed;
- (b) comply with all applicable Privacy Laws as if it were a person subject to the Privacy Laws;
- (c) not do any act or engage in any practice that would breach the Privacy Laws, or which if done or engaged in by the Principal, would be a breach of any Privacy Laws;
- (d) not disclose Personal Information to any other person without the prior written consent of the Principal;
- (e) notify the Principal immediately upon becoming aware of a breach or possible breach of any of the obligations in this **clause 31.3**, whether by the Service Provider, or its Associates, and comply with any reasonable direction from the Principal with respect to remedying that breach;
- (f) notify any individual that makes a complaint to the Service Provider regarding the Service Provider's acts or practices in relation to such individual's Personal Information, that the complaint may be investigated by the Privacy Commissioner;
- (g) comply with all reasonable directions of the Principal in relation to the care and protection of Personal Information held in connection with this Deed or the rights of individuals to access and correct such Personal Information, and take all technical, organisational and other security measures reasonably within the Service Provider's power to protect the Personal Information from misuse, interference and loss and from unauthorised access or use, modification or disclosure;
- (h) not allow, or permit access to, or transfer any Personal Information that belongs to the Principal, has been provided by the Principal or has been collected, accessed or used by

the Service Provider with the consent of the Principal, outside of New South Wales, Australia, unless it has first obtained the Principal's prior approval in writing;

- (i) ensure that any of the Service Provider's Associates who are required to deal with the Personal Information for the purposes of this Deed are made aware of the obligations of the Service Provider under this **clause 31.3** and comply with this **clause 31.3**; and
- (j) ensure that any agreement with any of the Service Provider's Associates who may be fulfilling a requirement in relation to this Deed which includes the handling of Personal Information contains the same or equivalent obligations to this **clause 31.3** which are enforceable by the Service Provider against the Associate.

31.4 Disclosure by the Principal

- (a) The Service Provider acknowledges and agrees that:
 - (i) the Principal may publish or otherwise disclose parts of this Deed and information concerning the terms of this Deed to NSW Government departments or agencies or as otherwise required by Law; and
 - (ii) the Principal may be required to publish information concerning this Deed:
 - (A) in accordance with the GIPA Act in response to an access application under Part 4 of the GIPA Act or as part of its disclosure obligations for government contracts in the government contracts register under Part 3, Division 5 of the GIPA Act;
 - (B) under any similar or replacement legislation to the GIPA Act; or
 - (C) by the Auditor-General or Parliament.
- (b) The Service Provider authorises the Principal, its employees and agents to make information concerning the Service Provider available to NSW government departments or agencies. Such information may include any information provided by the Service Provider to the Principal and any information relating to the Service Provider's performance under this Deed.
- (c) The Service Provider acknowledges that any information about the Service Provider from any source, including substantiated reports of unsatisfactory performance, may be taken into account by the Principal and NSW government departments and agencies in considering whether to offer the Service Provider future opportunities for NSW government work.
- (d) The Service Provider also acknowledges that the Principal has in place processes for assessing the performance of its contractors, that these processes will apply to the Service Provider's performance under this Deed and that it will participate in the Principal's "Contractor Performance Reporting" process.

32 Personal Property Securities Act

32.1 Further Assurances

By signing this Deed, the Service Provider acknowledges and agrees that if this Deed and the transactions contemplated by it, operate as, or give rise to, a PPSA Security Interest, the Service Provider must do anything (including amending this Deed or any other document, executing any new terms and conditions or any other document, obtaining consents, getting documents completed and signed and supplying information) that the Principal considers necessary under or as a result of the PPS Law for the purposes of:

- (a) ensuring that the PPSA Security Interest is enforceable, perfected or otherwise effective and has the highest priority possible under PPS Law;
- (b) enabling the Principal to apply for any registration, or give any notification, in connection with the PPSA Security Interest, including the registration of a financing statement or financing change statement; or
- (c) enabling the Principal to exercise rights in connection with the PPSA Security Interest and this Deed.

32.2 Contracting out of PPS Act

If Chapter 4 of the PPS Act applies to the enforcement of the PPSA Security Interest, the Service Provider agrees that sections 95, 120, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPS Act will not apply to the enforcement of the PPSA Security Interest.

32.3 Acknowledgments and undertakings

The Service Provider:

- (a) acknowledges that the PPSA Security Interests created under this Deed relate to collateral and all proceeds in respect of that collateral (until the Principal is paid in full for the collateral);
- (b) acknowledges that to the maximum extent permitted by law, it waives any right to receive a verification statement under the PPS Law in respect of the PPSA Security Interest; and
- (c) undertakes it will not register a financing change statement without the prior written consent of the Principal.

32.4 Requests for information

- (a) The parties agree that neither of them will disclose information of the kind referred to in section 275(1) of the PPS Act and that this clause constitutes a confidentiality agreement within the meaning of the PPS Law.
- (b) The Service Provider agrees to waive any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.

33 Compliance with NSW Government Small and Medium Enterprise Policy Framework

To the extent that the Small and Medium Enterprise Policy Framework applies to the carrying out of the Services, the Service Provider must comply with the requirements of the Small and Medium Enterprise Policy Framework as follows:

- (a) the Service Provider acknowledges that the Principal has relied upon the SMEPP set out in **Appendix C** to the **Scope of Works** in the evaluation of the tender submitted by the Service Provider or any Related Body Corporate of the Service Provider and in deciding to enter into this Deed;
- (b) the Service Provider must comply with the requirements and commitments provided for in the SMEPP and must take all steps reasonably required to enable the Principal to monitor compliance by the Service Provider with the SMEPP; and
- (c) the Service Provider and the Principal agree that the Principal may establish mechanisms to monitor compliance by the Service Provider with the requirements of, and its commitments under, the SMEPP. The Service Provider agrees that the Principal may

take into consideration non-compliance by the Service Provider with the SMEPP when evaluating tenders submitted by the Service Provider in the future for other agreements.

34 Force Majeure

34.1 Notice

If a Force Majeure Event occurs and prevents, or will prevent, the Service Provider from performing some or all of its non-financial obligations under this Deed, the Service Provider must:

- (a) within 2 Business Days after it becomes aware, or ought reasonably to have become aware, that a Force Majeure Event is likely to prevent the Service Provider from performing some or all of its non-financial obligations under this Deed, give to the Principal's Representative a written notice:
 - (i) stating that a Force Majeure Event has occurred; and
 - (ii) stating whether the Service Provider proposes to seek suspension under **clause 34.2** of its non-financial obligations arising directly out of that Force Majeure Event;
- (b) within 10 Business Days after giving the notice under **clause 34.1(a)**, give the Principal's Representative full particulars of the Force Majeure Event, including:
 - (i) detailed particulars concerning the Force Majeure Event;
 - (ii) details of the non-financial obligations which have been (or will be) prevented from being complied with by the Service Provider as a result of the Force Majeure Event; and
 - (iii) details of the steps which the Service Provider has taken (and proposes to take) to mitigate the effects of the relevant Force Majeure Event.
- (c) If the Force Majeure Event (or its effects) is continuing, continue to give the information required by **clause 34.1(b)** every 20 Business Days after the notice under **clause 34.1(a)** was provided to the Principal's Representative until the date that is 20 Business Days after the Force Majeure Event (and its effects) has ceased.

34.2 Suspension of Affected Obligations

- (a) Without limiting **clause 23.9** or the Variation Impacts associated with any Adjustment Event, but subject to **clause 34.2(c)**, if:
 - (i) a Force Majeure Event prevents the Principal or the Service Provider from performing some or all of its non-financial obligations under this Deed; and
 - (ii) where the affected party is the Service Provider, the Service Provider has complied with the requirements of **clauses 34.1 and 34.2(c)**,then:
 - (iii) the requirement to perform the Affected Obligations is, to the extent such Affected Obligations are prevented from being performed as a result of the relevant Force Majeure Event, suspended from the date the Force Majeure Event starts preventing such performance until the date on which the Principal or Service Provider (as applicable) ceases to be prevented from such performance by the relevant Force Majeure Event;
 - (iv) a failure by the Principal or the Service Provider (as applicable) to perform the Affected Obligations during the period of suspension referred to in **clause 34.2(a)(iii)** is not a breach of this Deed; and

- (v) the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the suspension referred to in **clause 34.2(a)(iii)** or any failure by the Principal to perform the Affected Obligations during the period of suspension referred to in **clause 34.2(a)(iii)**.
- (b) The Principal or the Service Provider (as applicable) must recommence the performance of any Affected Obligations suspended under **clause 34.2(a)** as soon as reasonably practicable after the relevant Force Majeure Event ceases to prevent its performance.
- (c) The Service Provider:
 - (i) must:
 - (A) remedy or minimise the effects of the Force Majeure Event to the extent reasonably practicable; and
 - (B) take all action reasonably practicable to mitigate any Loss suffered by the Principal or any users of the CRN Assets as a result of the suspension of the requirement to perform the Affected Obligations.
 - (ii) acknowledges and agrees that the suspension of Affected Obligations under **clause 34.2(a)** will not affect any of the KPIs or how the Service Provider's performance in respect of them is determined, but the Force Majeure Event resulting in the suspension of Affected Obligations may be taken into account for the purposes of **section 2.2(d)** of the **KPI Schedule**.
- (d) The Term will not be extended due to the operation of this **clause 34**.

35 Specific Relevant Documents

The parties acknowledge and agree that:

- (a) notwithstanding **clause 5.7(a)**, as at the date of this Deed the Service Provider has not obtained or read those of the Relevant Documents which are classified as "No" under the "Agreement Available" heading in the tenancy schedule referred to in **Schedule 6 (Specific Relevant Documents)** and **clause 5.7(a)** will be construed accordingly;
- (b) notwithstanding **clause 35(a)**, the Service Provider has made due allowance in the Monthly Services Fee, each Mobilisation Payment and any rates and prices included in the **Payment Schedule** for the performance and satisfaction of its obligations in respect of the Specific Relevant Documents;
- (c) **clause 2.7(e)(i)**, **clause 5.7(b)** and **clause 5.7(c)** will not apply to the Specific Relevant Documents;
- (d) notwithstanding that, as at the date of this Deed, the Service Provider has not obtained or read the Specific Relevant Documents, the Service Provider is aware (to the extent disclosed in, or reasonably inferable from, **Schedule 6**) of the general nature of the Specific Relevant Documents, including that the Specific Relevant Documents may involve the granting of a licence in respect of certain infrastructure or other rights of access on, under, over or in respect of parts of the CRN Land, and the payment of associated rental or licence fees to the Principal;
- (e) subject to **clause 5.7(f)(ii)**, the Service Provider must perform the Services, and otherwise act, in a manner that is consistent with the Principal's rights (including rights to payment of rental or licence fees) and obligations under a licence granted in respect of certain infrastructure or other rights of access on, under, over or in respect of parts of the CRN Land, to the extent that such rights and obligations could reasonably be expected to

arise under the Specific Relevant Documents, based on the general nature of the Specific Relevant Documents (to the extent disclosed in, or reasonably inferable from, **Schedule 6**);

- (f) **clause 17.10** applies in respect of the Specific Relevant Documents; and
- (g) **clause 20.2(a)(vi)** does not apply in respect of any Incident referred to in **paragraph (c) or (d)** of the definition of 'Incident' in **clause 1.1** to the extent it results (or will result) in a failure to satisfy, or compromises any person's ability to satisfy, any requirements of a Specific Relevant Document.

36 Option 7

The parties agree that, for the purposes of this Deed, "**Option 7**" [REDACTED]

On and from the date of this Deed, the Principal and the Service Provider will undertake (each acting reasonably and in good faith) investigations and other value engineering activities (in each case to the extent it is reasonably necessary to do so) in order to determine:

- (a) whether it is necessary for the Service Provider to carry out Option 7 in order to comply with its obligations under this Deed;
- (b) whether Option 7 can be carried out by the Service Provider for an amount less than the amounts set out in Table A below; and
- (c) whether there are any arrangements that may be implemented by the Service Provider in order to avoid the need for the Service Provider to carry out Option 7 in order to comply with its obligations under this Deed (**Alternative Option**).

The parties agree that:

- (d) if, on or before [REDACTED] the parties agree in writing that it is not necessary for the Service Provider to carry out Option 7 in order to comply with its obligations under this Deed:
 - (i) the Principal's Representative will not be required to issue a Direction exercising Option 7;
 - (ii) the Service Provider will be entitled to be reimbursed the reasonable additional costs (plus a margin of [REDACTED] on those reasonable additional costs) incurred by the Service Provider from the date of this Deed in carrying out investigations and other value engineering activities and work in respect [REDACTED]; and
 - (iii) where the parties have agreed to an Alternative Option, the Principal's Representative will direct the Service Provider to carry out that Alternative Option as a Modification under **clause 14.1(a)**;
- (e) if, on or before [REDACTED] the parties have not agreed in writing that it is not necessary for the Service Provider to carry out Option 7 in order to comply with its obligations under this Deed, the Principal's Representative must issue a Direction under **clause 14.2(a)** exercising Option 7 on or before [REDACTED] and if the Principal's Representative does not do so, it will be deemed to have issued a Direction under **clause 14.2(a)** exercising Option 7 on [REDACTED]
- (f) notwithstanding any other provision of this Deed (including the **Variations Schedule**), if the Principal's Representative exercises, or is deemed to have exercised, Option 7:

- (i) the Service Provider must promptly update the Mobilisation Plan to reflect the exercise of Option 7, and submit the updated Mobilisation Plan to the Principal's Representative under **clause 6.8**;
 - (ii) **Appendix 1** of the **Payment Schedule** will be amended by adding the items in Table A below to Table 1 in **Appendix 1** of the **Payment Schedule**; and
 - (iii) except to the extent a further Modification is subsequently directed by the Principal's Representative in respect of the relevant [REDACTED], no other adjustments will be made to other amounts payable under this Deed, the **Variations Schedule** will not apply to the exercise of Option 7, and the amounts payable under **Appendix 1** of the **Payment Schedule** (as amended under **clause 36(f)(i)**) will be a limitation on the Principal's liability to the Service Provider arising out of or in connection with the exercise of Option 7; and
- (g) in the period between:
- (i) the date of this Deed; and
 - (ii) the earlier of, the date on which:
 - (A) the Service Provider is entitled under **clause 6.8** to use the updated Mobilisation Plan submitted under **clause 36(f)**; and
 - (B) the parties agree in accordance with **clause 36(d)** that it is not necessary for the Service Provider to carry out Option 7,

the Service Provider may proceed to carry out activities in respect of Option 7 (in respect of which the Service Provider's entitlements will, except as provided in **clause 36(f)(ii)**, be limited to the amount referred to in **clause 36(d)(ii)**), and the Service Provider will not be in breach of the Mobilisation Plan for carrying out activities in respect of Option 7.

Table A: Option 7 Additional items for Table 1 of Appendix 1 of Payment Schedule

Mobilisation Milestone (in each case as more particularly described in the Mobilisation Plan)	Mobilisation Milestone Date	Mobilisation Payment (Nominal AUD)
[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]

Executed as a Deed

Signed by Transport for NSW
ABN 18 804 239 602 by its Authorised
Delegate:

in the presence of:

[Redacted signature line]

[Redacted signature line]

Signed by Transport Asset Holding Entity
of New South Wales ABN 59 325 778 353
by its Authorised Delegate:

in the presence of:

[Redacted signature line]

[Redacted signature line]

Signed sealed and delivered for and on behalf of
UGL Regional Linx Pty Ltd (ACN 646 771 011) by
its Attorney under a Power of Attorney dated **21**
January 2021 (and the Attorney declares that the
Attorney has not received any notice of the
revocation of such Power of Attorney) in the
presence of:

[Redacted Signature]

[Redacted Signature]

[Redacted Signature]

Attachment A – Deed Details

Address details for the parties:

(clause 30.13)

The Principal:	Address:	231 Elizabeth Street, Sydney NSW 2000
	Attention:	Principal's Representative
	Email:	[REDACTED]
The Service Provider:	Address:	161 Kite Street, Orange NSW 2800
	Attention:	[REDACTED]
	Email:	[REDACTED]

Proposed Services Commencement Date:

(clause 1)

Safety Interface Agreements required to satisfy Conditions Precent (Services Commencement):	As required to be entered into in accordance with the RSNL or to otherwise enable the Services to be carried out in accordance with this Deed

Parent Company:	CIMIC Group Limited ACN 004 482 982

Principal's Representative:

(clause 2.10)

Service Provider's Representative:

(clause 2.13)

Independent Experts to determine any CEMP Dispute arising in relation to a Corrective and Emergency Maintenance

(clause 14.6)

Refer to Attachment Q.

Deed Poll Beneficiaries:

(clause 20.3)

Sydney Trains, NSW Trains, the Minister for Regional Transport and Roads and any of their successors and assigns.

General Liability Period Cap for First General Liability Period:

(clause 20.5(b)(i))

Renewal Requirement Auditor:

(clause 2(b) of Schedule 13)

Nil

Attachment B – Approved Form of Unconditional Undertaking

[Letterhead of guarantor financial institution]

[Date]

To: Transport for NSW (ABN 18 804 239 602) of 231 Elizabeth Street, Sydney NSW 2000
and
Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353) of 470 Pitt Street,
Haymarket NSW 2000
(jointly and severally the **Principal**).

Unconditional Undertaking

At the request of [insert Service Provider] (the **Service Provider**) and in consideration of the Principal accepting this Undertaking in relation to the Operations and Maintenance Deed dated [insert date] (the **Transaction**), [name and ABN of Financial Institution] (the **Financial Institution**) unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded under this Undertaking by the Principal to a maximum total sum of [redacted] (the **Sum**).

This Undertaking is to continue until the first to occur of:

- (a) 4.00 pm on [insert date] (the **Expiry Date**);
- (b) the return to the Financial Institution of this Undertaking at [the above address]; or
- (c) payment to the Principal by the Financial Institution of the whole of the Sum.

If the Financial Institution receives a written demand at its office at [the above address] no later than the Expiry Date that purports to be signed on behalf of the Principal and demands payment of all or any part of the Sum (not exceeding the maximum amount available under this Undertaking), then the Financial Institution unconditionally agrees to make such payment to the Principal immediately without further reference to the Service Provider and despite any notice to the contrary from the Service Provider. Despite anything else in this Undertaking, the Financial Institution may, at any time and without being required to do so, pay to the Principal the whole of the Sum or such part of the Sum as has not already been paid to the Principal by the Financial Institution and, upon such payment, the liability of the Financial Institution under this Undertaking will immediately cease and determine.

The Sum will be automatically reduced by the amount of any payment to the Principal by the Financial Institution under this Undertaking.

If two or more persons are named as the Principal, this guarantee takes effect for the benefit of them jointly and severally and a demand under this Undertaking by any one or more of them is deemed to be a demand by both or all of them jointly. Payment by the Financial Institution under this Undertaking to any one or more of them discharges this Undertaking to the extent of the amount so paid.

The Principal may, by written notice to the Financial Institution, assign the benefit of this Undertaking to Sydney Trains, NSW Trains or Sydney Metro or any of their successors or assigns.

This Undertaking is governed by the laws of New South Wales.

Signed in [Sydney] on [Date] on behalf of [name of Financial Institution]:

CRN Operations and Maintenance Deed

Authorised Signatory

Authorised Signatory

Print Name

Print Name

Position

Position

Attachment C - Parent Company Deed of Guarantee and Indemnity

Deed of Guarantee and Indemnity made at _____ on _____ 20____

Transport for NSW (ABN 18 804 239 602)

and

Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353)

(together, jointly and severally, the **Principal**)

and

CIMIC Group Limited (ACN 004 482 982)

(**Guarantor**)

RECITALS

- A. The Principal has agreed to enter into the CRN O&M Deed with the Service Provider on the condition that the Guarantor provide this Guarantee.
- B. The Guarantor has agreed on the following terms and conditions to guarantee to the Principal all of the Obligations and to indemnify the Principal against any loss arising from any failure by the Service Provider to perform the Obligations.
- C. The Guarantor considers that by providing this guarantee there will be a commercial benefit flowing to it.

THIS DEED PROVIDES

1. Definitions

1.1 Definitions and Interpretation

In this Deed:

CRN O&M Deed means the Operations and Maintenance Deed dated on or about the date of this Deed between the Principal and the Service Provider.

Deed means this Deed of Guarantee and Indemnity and includes all schedules and annexures to it.

Event of Default means any event which constitutes a breach of, or is duly and properly declared to be an event of default (howsoever described) by, the CRN O&M Deed.

GST has the meaning given in the GST Law.

GST Amount means, in respect of a supply made under or in connection with this Deed, the amount of GST payable, or notionally payable, on that supply.

GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guaranteed Money means all money the payment or repayment of which from time to time forms part of the Obligations.

Insolvency Provision means any Law relating to insolvency, sequestration, liquidation or bankruptcy (including any Law relating to the avoidance of conveyances in fraud of creditors or of preferences, and any Law under which a liquidator or trustee in bankruptcy may set aside or avoid transactions), and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person.

Obligations means all the liabilities and obligations of the Service Provider to the Principal under or arising out of or in any way in connection with the CRN O&M Deed or the work to be carried out or performed by the Service Provider under the CRN O&M Deed, and includes any liabilities or obligations which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence on or after the date of this Deed;
- (d) relate to the payment of money or the performance or omission of any act;
- (e) sound in damages only; or
- (f) accrue as a result of any Event of Default,

and irrespective of:

- (g) whether the Service Provider is liable or obligated solely, or jointly, or jointly and severally with another person;
- (h) the circumstances in which the Principal comes to be owed each liability or obligation and in which each liability or obligation comes to be secured by this Deed, including any assignment of any liability or obligation or of this Deed; or
- (i) the capacity in which the Service Provider and the Principal comes to owe or be owed such liability or obligation,

and **Obligation** means any liability or obligation forming part of the Obligations.

Power means any right, power, authority, discretion, remedy or privilege conferred on the Principal by the CRN O&M Deed, by statute, by law or by equity.

Security means a mortgage, charge, pledge, lien, hypothecation, guarantee (including this Deed), indemnity, letter of credit, letter of comfort, performance bond, contractual right of set-off or combination or other assurance against loss which secures the Guaranteed Money or the performance of any other Obligation, and whether existing at the date of this Deed or at any time in the future.

Service Provider means UGL Regional Linx Pty Ltd (ACN 646 771 011).

Specified Rate means the rate which is [REDACTED] above the rate expressed as a percentage per annum:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1.2 Defined terms

Terms used in this Deed which are not otherwise defined will have the meaning given to them in the CRN O&M Deed.

1.3 Interpretation

In this Deed unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;
- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any party to this Deed includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to any Authority, institute, association or body is:
 - (1) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
 - (2) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;
- (e) a reference to this Deed or to any other deed, agreement, document or instrument is deemed to include a reference to this Deed or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes:
 - (1) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
 - (2) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;
- (g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (h) headings are for convenience only and do not affect the interpretation of this Deed;
- (i) a reference to:
 - (1) a party or clause is a reference to a party or clause of or to this Deed; and
 - (2) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) for all purposes (other than where designated as a Business Day), "day" means calendar day;
- (l) a reference to "\$" is to Australian currency;
- (m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Deed or any part; and

- (n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

2. Guarantee

2.1 Guarantee

The Guarantor irrevocably and unconditionally guarantees to the Principal the due and punctual performance by the Service Provider of all the Obligations.

2.2 Payment by Guarantor

If the Service Provider does not pay the Guaranteed Money when due, the Guarantor must, within 5 Business Days of the Principal providing written notice to the Guarantor, pay to the Principal the Guaranteed Money which is then due and unpaid.

2.3 Perform Obligations

If the Service Provider defaults in the performance or observance of any of the Obligations, the Guarantor must, in addition to its obligations under clause 2.2 of this Guarantee, on written notice from time to time by the Principal, immediately perform any of the Obligations then required to be performed by the Service Provider in the same manner as the Service Provider is required to perform the Obligations.

2.4 Guarantor will have same entitlements as the Service Provider

Where performing Obligations of the Service Provider under the CRN O&M Deed, the Guarantor:

- (a) is entitled to rely on all defences, limitations and exclusions (including any set-off and counterclaims) available to the Service Provider under the CRN O&M Deed; and
- (b) will not be required to perform any Obligations under the CRN O&M Deed in a manner any different than that required of the Service Provider under the CRN O&M Deed had the Guarantor not assumed the Service Provider's Obligations under the CRN O&M Deed.

3. Indemnity

As a covenant separate and distinct from that contained in clause 2.1, the Guarantor irrevocably and unconditionally agrees to indemnify the Principal against any loss or damage suffered by the Principal arising out of or in connection with:

- (a) any failure by the Service Provider to perform the Obligations duly and punctually; or
- (b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Service Provider for any reason, and whether or not the Principal knew or ought to have known of that reason.

4. Liability as guarantor and indemnifier

A reference in this Deed to the obligations or liabilities of the Guarantor is a reference to the Guarantor's obligations or liabilities as either guarantor or indemnifier (or both) under this Deed. The use of the expression "Guarantor" in this Deed in relation to a party must not be construed as diminishing that party's obligations as an indemnifier under this Deed.

5. Nature and preservation of liability

5.1 Absolute liability

- (a) The liability of the Guarantor under this Deed is absolute and is not subject to the performance of any condition precedent or subsequent by the Service Provider or the Guarantor.
- (b) This Deed binds each person who has executed it, notwithstanding that:
 - (1) any person, whether named as a party or not, does not execute this Deed;
 - (2) the execution of this Deed by any person is invalid, forged or irregular in any way; or
 - (3) this Deed is or becomes unenforceable, void or voidable against any other person.

5.2 Unconditional liability

The liability of the Guarantor under this Deed will not be affected by any act, omission, matter or thing which, but for this clause 5.2, might operate in law or in equity to release the Guarantor from that liability or to reduce the Guarantor's liability under this Deed, including any of the following:

- (a) the occurrence before, on or at any time after the date of this Deed, of any Insolvency Event in relation to the Service Provider or the Guarantor;
- (b) the receipt by the Principal of any payment, dividend or distribution under any Insolvency Provision in relation to the Service Provider or the Guarantor;
- (c) the occurrence of any Event of Default;
- (d) the CRN O&M Deed or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;
- (e) the Principal accepting or declining to accept any Security from any person at any time;
- (f) the Principal granting time, waiver or other indulgence or concession to, or making any composition or compromise with, the Service Provider or the Guarantor;
- (g) the Principal not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any remedy or right it has for the enforcement of the CRN O&M Deed or any Obligation;
- (h) any laches, acquiescence or other act, neglect, default, omission or mistake by the Principal;
- (i) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Principal or the Service Provider or the Guarantor of the CRN O&M Deed or any Obligation;
- (j) any variation to the CRN O&M Deed or any Obligation, whether or not that variation is substantial or material, or imposes any additional liability on or disadvantages the Service Provider or the Guarantor;
- (k) the full, partial or conditional release or discharge by the Principal or by operation of law, of the Service Provider or the Guarantor from the CRN O&M Deed or any Obligation;
- (l) any change in membership (whether by death or retirement of an existing member, admission of a new member, or otherwise) or in the name of any partnership, firm or association in which the Service Provider or the Guarantor is a member;
- (m) the transfer, assignment or novation by the Principal or the Service Provider or the Guarantor of all or any of its rights or obligations under the CRN O&M Deed or under any other Obligation or any matter referred to in clause 9 below;

- (n) any failure by the Principal to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Principal relating to or affecting the Service Provider or the Guarantor at any time before or during the currency of this Deed, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Principal was under a duty to disclose that fact, circumstance, event or thing to the Guarantor or to the Service Provider;
- (o) the Principal agreeing with the Service Provider or the Guarantor not to sue, issue process, sign or execute judgment, commence proceedings for bankruptcy or liquidation, participate in any administration, scheme or deed of arrangement or reconstruction, prove in any bankruptcy or liquidation, or do anything else in respect of the liability of the Service Provider or the Guarantor;
- (p) (where the Guarantor is an individual) the death or mental incapacity of the Guarantor; or
- (q) the provisions of section 440J of the *Corporations Act 2001* (Cth) operating to prevent or delay:
 - (1) the enforcement of this Deed against any Guarantor; or
 - (2) any claim for contribution against any Guarantor.

5.3 No merger

- (a) This Deed is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect the CRN O&M Deed or any other Power of the Principal.
- (b) The Principal will hold any judgment or order obtained by it against any person in respect of the Guaranteed Money or the Obligations collaterally with this Deed, and this Deed will not merge in that judgment or order.

5.4 No obligation to gain consent

No consent is required from any Guarantor nor is it necessary for the Guarantor to or be made aware of any event referred to in clause 5.2, any transaction between the Principal and the Service Provider, or any particulars concerning any Obligation.

5.5 Appropriation

- (a) The Principal is under no obligation to marshal or appropriate in favour of any Guarantor, or to exercise, apply, transfer or recover in favour of any Guarantor, any Security or any funds or assets that the Principal holds, has a claim on, or has received or is entitled to receive, but may do so in the manner and order as the Principal determines in its absolute discretion.
- (b) The Principal may hold in a suspense account (without liability to pay interest) any money which it receives from the Guarantor, or which it receives on account of the Guarantor's liability under this Deed, and which the Principal may, at its discretion, appropriate in reduction of the Guarantor's liability under this Deed.

5.6 Void or voidable transactions

If:

- (a) the Principal has at any time released or discharged:
 - (1) the Guarantor from its obligations under this Deed; or
 - (2) any assets of the Guarantor from a Security,
 in either case in reliance on a payment, receipt or other transaction to or in favour of the Principal; or
- (b) any payment or other transaction to or in favour of the Principal has the effect of releasing or discharging:
 - (1) the Guarantor from its obligations under this Deed; or

- (2) any assets of the Guarantor from a Security,
- and
- (c) that payment, receipt or other transaction is subsequently claimed by any person to be void, voidable or capable of being set aside for any reason, including under an Insolvency Provision or under the general law; and
- (d) that claim is upheld or is conceded or compromised by the Principal,
- then:
- (e) the Principal will immediately become entitled against the Guarantor to all rights (including under any Security) as it had immediately before that release or discharge;
- (f) the Guarantor must immediately do all things and execute all documents as the Principal may reasonably require to restore to the Principal all those rights; and
- (g) the Guarantor must indemnify the Principal against costs, losses and expenses suffered or incurred by the Principal in or in connection with any negotiations or proceedings relating to the claim or as a result of the upholding, concession or compromise of the claim.

5.7 Limitation

Despite any other provision of this Deed or the CRN O&M Deed, the aggregate liability of the Guarantor under this Deed in respect of any Obligation will not exceed the aggregate liability of the Service Provider under the CRN O&M Deed in respect of that Obligation. Nothing in this Deed is intended to, and does not, render the Guarantor and the Service Provider liable for the same loss twice.

5.7A Discharge of Obligations

Payment or performance by either the Service Provider or the Guarantor, or both the Service Provider and the Guarantor, will be deemed good discharge against the Principal for that Obligation. The Guarantor's Obligations under this Deed expire when the Service Provider's Obligations under the CRN O&M Deed expire.

5.8 Claim on the Guarantor

Except where an Insolvency Event applies to the Service Provider, the Principal must make a claim or demand on the Service Provider prior to demanding payment of the Guaranteed Money or demanding performance of the Obligations from the Guarantor under this Deed. If the Service Provider does not pay the Guaranteed Money or perform the Obligations within 5 Business Days of the claim or demand made in accordance with this clause, then the Principal may make the claim or demand against the Guarantor.

5.9 No representation by Principal etc.

The Guarantor acknowledges that it has not entered into this Deed as a result of any representation, promise, statement or inducement to the Guarantor by or on behalf of the Principal, the Service Provider or any other person.

6. Representations and Warranties

6.1 General representations and warranties

The Guarantor or, if there is more than one Guarantor, each Guarantor represents and warrants to the Principal:

- (a) this Deed constitutes a valid and legally binding obligation of the Guarantor in accordance with its terms;
- (b) the execution, delivery and performance of this Deed by the Guarantor does not breach any law, or any document or agreement to which the Guarantor is a party or which is binding on it or any of its assets;
- (c) no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Guarantor, threatened, which, if adversely determined, may have a material adverse effect on the business assets or financial condition of the Guarantor;
- (d) all information relating to the Guarantor provided to the Principal in connection with this Deed is true in all material respects and is not, by omission or otherwise, misleading in any material respect; and
- (e) the Guarantor has not entered into this Deed as the trustee of any trust.

6.2 Corporate representations and warranties

The Guarantor, or if there is more than one Guarantor, each Guarantor, that is or purports to be a body corporate, further represents and warrants to the Principal that:

- (a) it is duly incorporated and has the corporate power to own its property and to carry on its business as is now being conducted;
- (b) the execution, delivery and performance of this Deed does not breach the Constitution of the Guarantor and, if the Guarantor or any of its subsidiaries is listed on the Australian Securities Exchange Limited or on any other stock exchange, those listing requirements or business rules;
- (c) it has the power, and has taken all corporate and other action required, to enter into this Deed and to authorise the execution and delivery of this Deed and the performance of its obligations under this Deed; and
- (d) the Guarantor has filed all corporate notices and effected all registrations with the Australian Securities and Investments Commission and all of those filings and registrations are current, complete and accurate.

6.3 Representations and warranties repeated

Each representation and warranty in this Deed will be repeated on each day whilst any of the Guaranteed Money remains outstanding (whether or not then due for payment) with reference to the facts and circumstances then subsisting, as if made on each such day.

7. Payments

7.1 On demand

All money payable by the Guarantor under this Deed must be paid by the Guarantor within 5 Business Days' written notice by the Principal and paid in immediately available funds to the account and in the manner notified by the Principal to the Guarantor.

7.2 Payment in gross

All money received or recovered by the Principal on account of the Guaranteed Money will be treated as payments in gross without any right on the part of the Guarantor to claim the benefit of any money received or recovered by the Principal or any Security, until the Principal has been paid 100 cents in the dollar in respect of the Guaranteed Money.

7.3 Interest

As a liability separate and distinct from the Guarantor's liability under clauses 2 and 3, the Guarantor must on demand by the Principal pay interest on all amounts due and payable by it and unpaid under or in respect of this Deed. Interest will accrue on those amounts from day to day from the due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Specified Rate for successive 90 day interest periods commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 7.3.

7.4 Merger

If the liability of the Guarantor to pay to the Principal any money under this Deed becomes merged in any judgment or order, then, as an independent obligation, the Guarantor will pay interest on the amount of that money at the rate which is the higher of that payable under clause 7.3 and that fixed by or payable under the judgment or order. However, nothing in this Deed is intended to, and does not, render the Guarantor liable for interest twice despite clauses 7.3 and 7.4.

7.5 No set-off or deduction

All payments by the Guarantor to the Principal under this Deed must be:

- (a) free of any set-off or counterclaim; and
- (b) without deduction or withholding for or on account of any present or future Taxes, unless the Guarantor is compelled by law to make any deduction or withholding.

If the Guarantor is compelled by law to make any deduction or withholding for or on account of any present or future Taxes (not being Taxes on the overall net income of the Principal), then the Guarantor must:

- (c) pay to the Principal any additional amounts necessary to enable the Principal to receive (after all deductions and withholdings for those Taxes) a net amount equal to the full amount which would otherwise be payable to the Principal if no deduction or withholding was required to be made;
- (d) promptly (and within the time prescribed by law) pay to the relevant taxing authority the amount of those Taxes which it is compelled by law to deduct or withhold, and indemnify the Principal for any Taxes and interest or penalties to which the Principal may become liable consequent on the failure of the Guarantor to pay those Taxes; and
- (e) deliver to the Principal, promptly on request from the Principal, a copy of any receipt issued by the relevant taxing authority on payment of those Taxes.

7.6 Currency indemnity

- (a) The Australian Dollar is the currency of payment by the Guarantor under or in connection with this Deed, except that payment by the Guarantor of or in relation to any Obligation which is denominated in a foreign currency must be made in that foreign currency.
- (b) If for any reason any amount payable by the Guarantor under or in connection with this Deed is received by the Principal in a currency (Payment Currency) other than the currency (Agreed Currency) in which that amount is required to be paid under this Deed (whether as a result of any judgment or order, the liquidation of the Guarantor or otherwise), and the amount obtained (net of charges) by the Principal on its conversion of the amount of the Payment Currency received into the Agreed Currency is less than the amount payable under this Deed in the Agreed Currency, then the Guarantor will, as an independent and additional obligation, indemnify the Principal for that deficiency and for any loss sustained as a result of that deficiency.

8. Expenses and stamp duties

8.1 Expenses

The Guarantor must on demand reimburse the Principal for and keep the Principal indemnified against all expenses, including legal fees, costs and disbursements on a solicitor/own client basis (or on a full indemnity basis, whichever is the higher) assessed without the necessity of taxation, incurred by the Principal in connection with:

- (a) any consent, agreement, approval, waiver or amendment to this Deed requested by the Guarantor or Service Provider; and
- (b) any exercise, enforcement or preservation, or attempted exercise, enforcement or preservation, of any rights under this Deed.

8.2 Stamp duties

- (a) The Guarantor must pay all stamp duties, transaction, registration and similar Taxes, including fines and penalties, financial institutions duty and debits tax which may be payable to or required to be paid by any appropriate authority, or determined to be payable in connection with the execution, delivery, performance or enforcement of this Deed or any payment, receipt or other transaction contemplated by this Deed.
- (b) The Guarantor must indemnify the Principal against any loss or liability incurred or suffered by it as a result of the delay or failure by the Guarantor to pay Taxes.

8.3 Goods and Services Tax

- (a) Unless the context requires otherwise, words used in this clause that have a specific meaning in the GST Law will have the same meaning in this clause.
- (b) The parties agree that:
 - (i) all payments of consideration for a supply made under this Deed will be subject to the prior receipt of a tax invoice;
 - (ii) if GST is payable, or notionally payable, on a supply made under or in connection with this Deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the GST Amount, on that supply, except to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.
 - (iii) subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided;
 - (iv) where any indemnity, reimbursement or similar payment under this Deed is based on any cost, expense or other liability, it will be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability;
 - (v) for the purposes of calculating the relevant reduction under clause 8.3(b)(iv) and unless the relevant party demonstrates otherwise before the payment is made, it must be assumed that a full input tax credit is available;
 - (vi) if an adjustment event occurs in relation to a supply under or in connection with this Deed, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties; and
 - (vii) any reference in this Deed to a cost, expense or other similar amount (**Cost**) is a reference to that Cost exclusive of GST.

9. Assignment and Transfer of Functions

- (a) The Principal may assign, novate or otherwise transfer all or any part of its rights under this Deed to the same party to whom it may assign, novate or transfer its rights under the

CRN O&M Deed or any other party with the consent of the Guarantor (not to be unreasonably withheld) and may disclose to a proposed assignee or transferee any information in the possession of the Principal relating to the Guarantor.

- (b) The Guarantor acknowledges and agrees that:
- (i) TfNSW or TAHE may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, liabilities or responsibilities of TfNSW or TAHE may be transferred to or vested in another entity;
 - (ii) if TfNSW or TAHE is reconstituted, renamed, dissolved, replaced or restructured or if some or all of the powers, functions, assets, liabilities or responsibilities of TfNSW or TAHE are transferred to or vested in another entity, references in this Deed to TfNSW or TAHE (as applicable) will, subject to any facilitative legislation, be deemed to refer, as applicable, to that reconstituted, renamed, restructured or new entity to the extent that the entity has assumed or has had transferred to it or vested in it those powers, functions, assets, liabilities or responsibilities; and
 - (iii) the Guarantor will be taken for all purposes to have consented to any matter referred to in this clause 9(b) and must, to the extent required by the Principal and without limiting any facilitative legislation, negotiate in good faith any amendments required to this Deed, or any replacement agreement or agreements for this Deed to give effect to TfNSW or TAHE being reconstituted, renamed, dissolved, replaced or restructured.

10. Governing law, jurisdiction and arbitration

10.1 Governing law

This Deed and where applicable, the arbitration reference contained in clause 10.3, is governed by and will be construed according to the laws of New South Wales.

10.2 Jurisdiction

- (a) This clause 10.2 only applies where clauses 10.3 to 10.7 do not apply.
- (b) The Guarantor irrevocably submits to the non-exclusive jurisdiction of the courts and appellate courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought relating in any way to this Deed.
- (c) The Guarantor 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 proceeding has been brought in an inconvenient forum, where that venue falls within paragraph (b) of this clause.

10.3 Reference to arbitration

- (a) Clauses 10.3 to 10.9 will only apply where the Guarantor is a foreign company (as defined in section 9 of the *Corporations Act 2001* (Cth)).
- (b) Any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this Deed (including any question relating to the existence, validity or termination of this Deed) must be referred to and finally resolved by arbitration in accordance with the arbitration rules of the Australian Centre for International Commercial Arbitration (known as the ACICA Arbitration Rules).
- (c) The seat of the arbitration will be Sydney.

- (d) The number of arbitrators will be one.
- (e) The language of the arbitration will be English.

10.4 Powers of the arbitrator

The arbitral tribunal has the power to grant all legal, equitable and statutory remedies, except punitive damages.

10.5 Consolidation

The parties agree that section 24 of the *International Arbitration Act 1974* (Cth) will apply in respect of consolidations.

10.6 Joinder

The arbitral tribunal has the power, on the application of any party to this arbitration agreement, to allow a third party who the arbitrator considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. Each party to this Deed hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitrator has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.

10.7 Award final and binding

Any award will be final and binding upon the parties.

10.8 Exclusion from determination or award

- (a) The powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) and Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT) are not conferred on an arbitral tribunal appointed in accordance with this clause 10.
- (b) The arbitral tribunal has no power to make a binding or non-binding determination or any award in respect of any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this deed by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) and Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this deed referred to the arbitral tribunal.

10.9 Urgent relief

Nothing in this clause 10 will prejudice the right of a party to seek urgent injunctive or declaratory relief from a court.

11. Miscellaneous

11.1 Notices

- (a) Any notices contemplated by this Deed must be in writing and delivered to the relevant address or sent to the email address as set out below (or to any new address or email address that a party notifies to the others).
 - (1) to the Principal:
Attention: the Principal's Representative

Address: 231 Elizabeth Street, Sydney NSW 2000

Email: [REDACTED]

(2) to the Guarantor:

[REDACTED]

[REDACTED]

[REDACTED]

- (b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.
- (c) A notice sent by email will be taken to have been received on the earlier of:
 - (i) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the email address stated above;
 - (ii) the time that the notice enters an information system which is under the control of the recipient; and
 - (iii) the time that the notice is first opened or read by an employee or officer of the recipient,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day or is later than 4:00pm (Sydney time) it will be taken to have been duly given or made at the start of business on the next Business Day.

11.2 Continuing obligation

Subject to clauses 2.4, 5.7 and 5.8, this Deed is a continuing obligation notwithstanding any termination by the Guarantor, settlement of account, intervening payment, express or implied revocation or any other matter or thing, and the Principal will continue to be entitled to the benefit of this Deed as regards the due and punctual performance of all the Obligations until a final discharge has been given to the Guarantor.

11.3 Further assurance

The Guarantor must immediately on the request of the Principal, and at the cost of the Guarantor, do and perform all further acts and things and execute and deliver all further documents as the Principal reasonably requires, or as are required by law, to perfect or to give effect to the rights and powers of the Principal created, or intended to be created, by this Deed.

11.4 Form of written notice

A written notice served on the Guarantor for payment under this Deed may be in the form and contain any information as the Principal determines, but must state that it is made under this Deed, and where applicable, identify the amount being claimed and the reason for the claim. It need not specify the amount of the Guaranteed Money, nor the method or basis of calculation of all or any part of the Guaranteed Money, including amounts of, or in the nature of, interest.

11.5 Entire agreement

This Deed constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite, and supersede:

- (a) any prior agreement (whether in writing or not), negotiations and discussions between the parties in relation to the subject matter of this Deed; or
- (b) any correspondence or other documents relating to the subject matter of this Deed that may have passed between the parties prior to the date of this Deed and that are not expressly included in this Deed.

11.6 Joint and several liability

The obligations of the Guarantor, if more than one person, under this Deed, are joint and several. Each person constituting the Guarantor 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 and the Principal may proceed against any or all of them. This Deed binds each person who signs as a "Guarantor" even if another person who was intended to become a "Guarantor" does not become a "Guarantor" or is not bound by this Deed.

11.7 Severance

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

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

11.8 Remedies cumulative

Each Power is cumulative and in addition to each other Power available to the Principal.

11.9 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed by the Principal will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed.
- (b) Any waiver or consent given by the Principal under this Deed will only be effective and binding on the Principal if it is given or confirmed in writing by the Principal.
- (c) No waiver by the Principal of:
 - (1) a breach of any term of this Deed; or
 - (2) any other failure by the Guarantor to comply with a requirement of this Deed, will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Deed or failure to comply with any other requirement of this Deed.

11.10 Consents

Any consent of the Principal referred to in, or required under, this Deed may be given or withheld, or may be given subject to any conditions, as the Principal (in its absolute discretion) thinks fit, unless this Deed expressly provides otherwise.

11.11 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws operating directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed, or to delay or otherwise prevent or prejudicially affect the exercise of any Power, are expressly waived.

11.12 Set-off

- (a) The Principal may (without prior notice at any time) set off any obligation then due and payable by the Guarantor under this Deed against any obligation (whether or not due and payable) by the Principal to the Guarantor, regardless of the place or currency of payment of either obligation or the office or branch through which either obligation is booked. If the obligations are in different currencies, the Principal may convert either obligation into the currency of the other obligation at a market rate of exchange determined by it for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Principal may effect the set off in an amount estimated by it in good faith to be the amount of that obligation.
- (b) The Principal is not obliged to exercise any right of set off pursuant to clause 11.12(a), which is in addition to its other rights of combination of account, set-off or lien (by contract or operation of law).
- (c) On its exercise of any set off pursuant to clause 11.12(a) against the Guarantor, the Principal will promptly notify the Guarantor of details of that set-off.

11.13 Variations

This Deed may only be varied by a document signed by or on behalf of both the Principal and the Guarantor.

11.14 Provisions limiting or excluding liability

Any provision of this Deed which seeks to limit or exclude a liability of the Principal or the Guarantor is to be construed as doing so only to the extent permitted by law.

11.15 Counterparts

- (a) This Deed need not be executed by the Principal.
- (b) If the Guarantor is more than one person, a Guarantor may execute this Deed in one or more separate counterparts, each of which constitutes the deed of that Guarantor.

Executed as a deed.

Executed by

Signed sealed and delivered for and on behalf of **CIMIC Group Limited** (ACN 004 482 982) by its Attorneys under a Power of Attorney dated **9 February 2021** (and the Attorneys declare that the Attorneys have not received any notice of the revocation of such Power of Attorney) in the presence of:

Signature of Attorney

Name of Attorney

Signature of witness

Name of Witness in full

Signature of Attorney

Name of Attorney

Signature of witness

Name of Witness in full

Signed by Transport for NSW (ABN 18 804 239 602), by its Authorised Delegate:

Signature of Authorised Delegate

Name of Authorised Delegate (print)

Signature of Witness

Name of Witness (print)

**Signed by Transport Asset Holding Entity
of New South Wales (ABN 59 325 778
353), by its Authorised Delegate:**

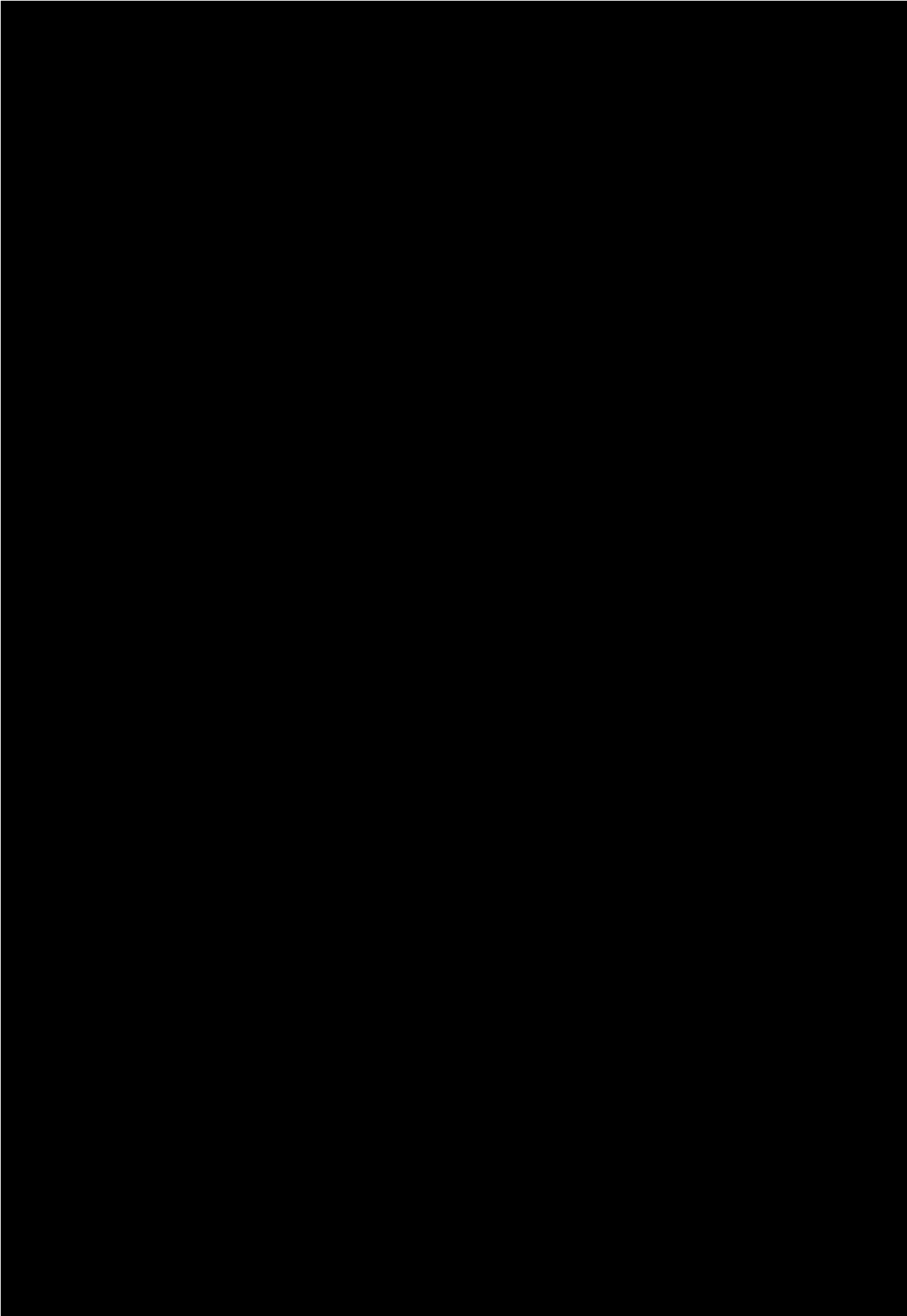
Signature of Authorised Delegate

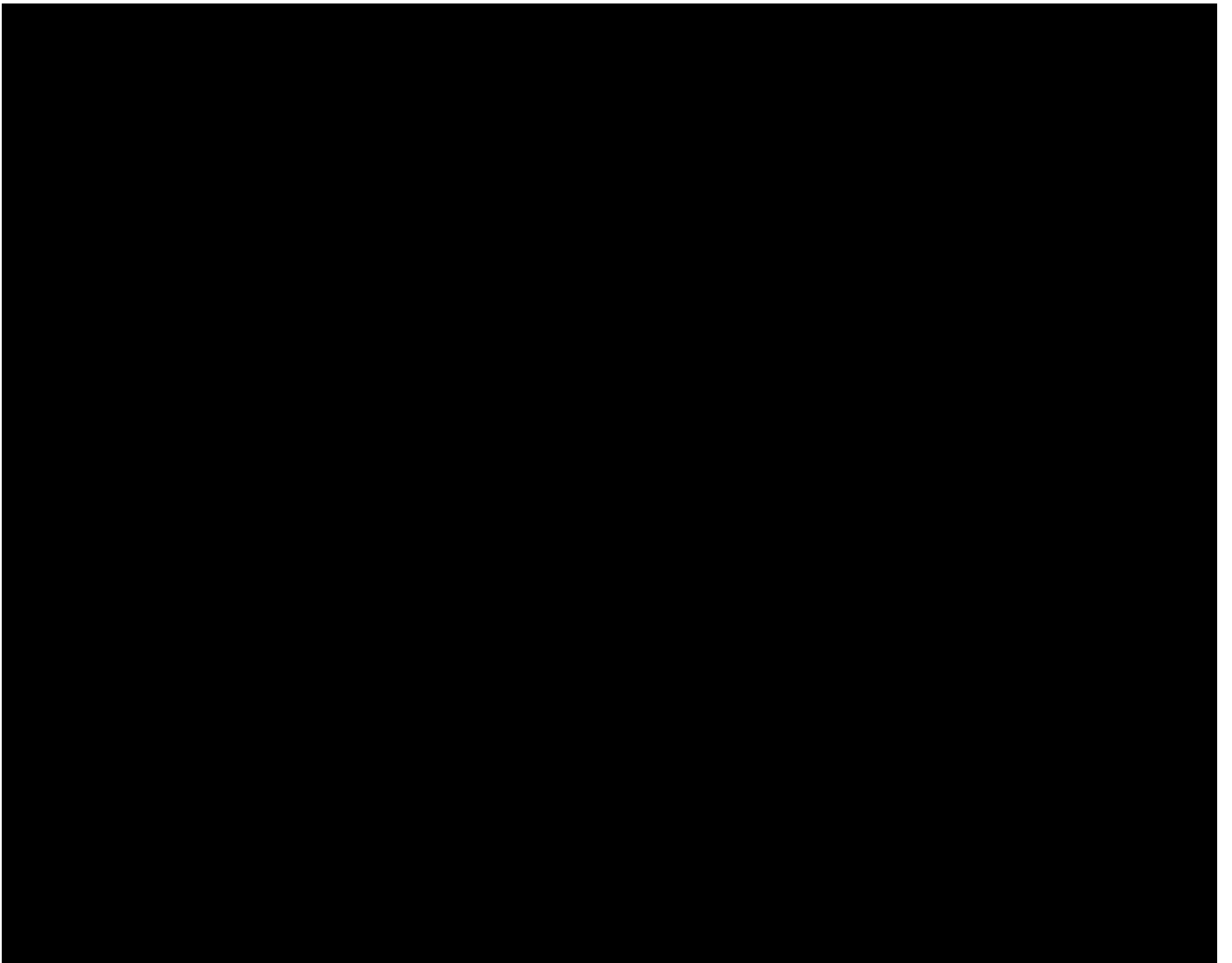
Signature of Witness

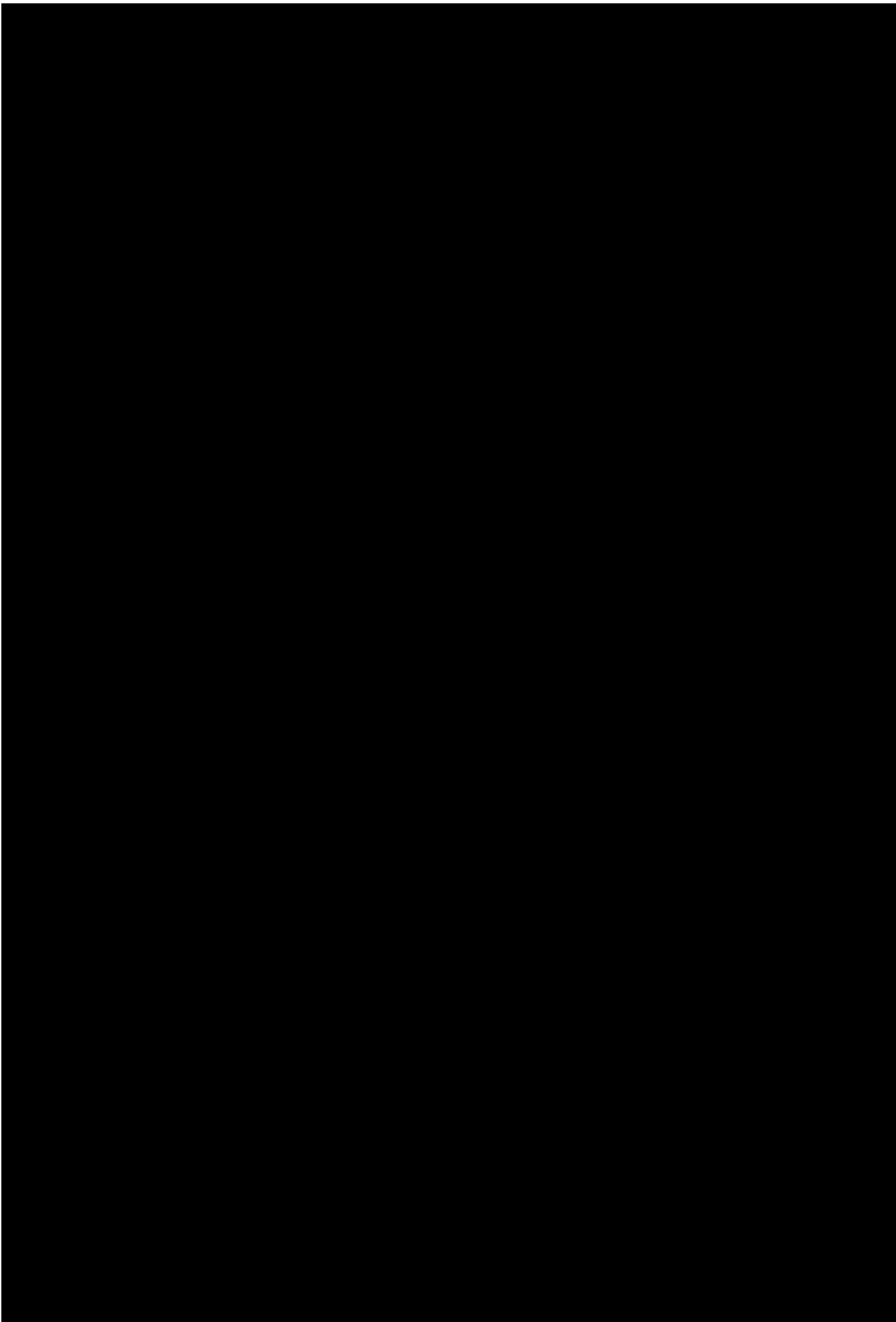
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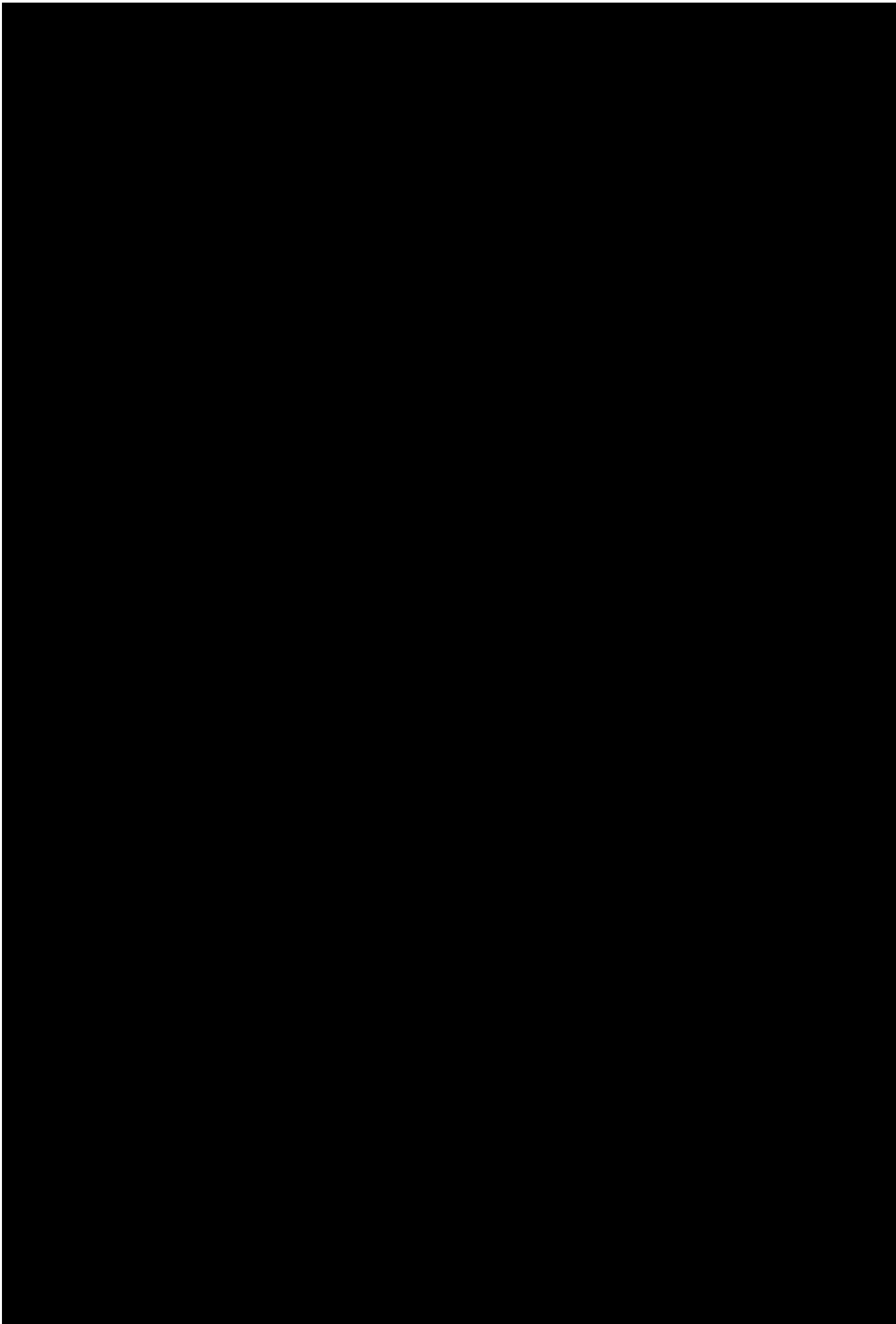
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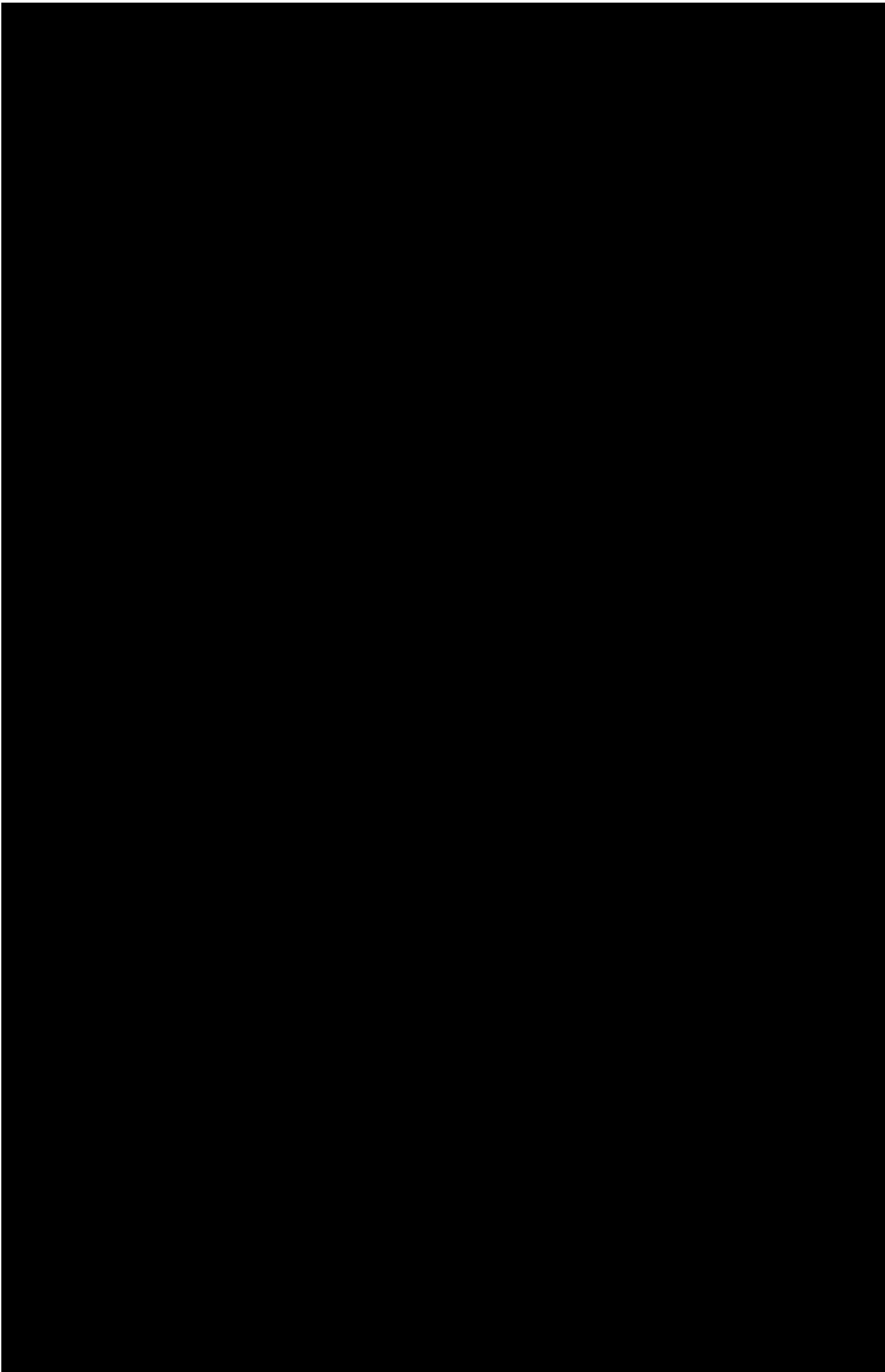
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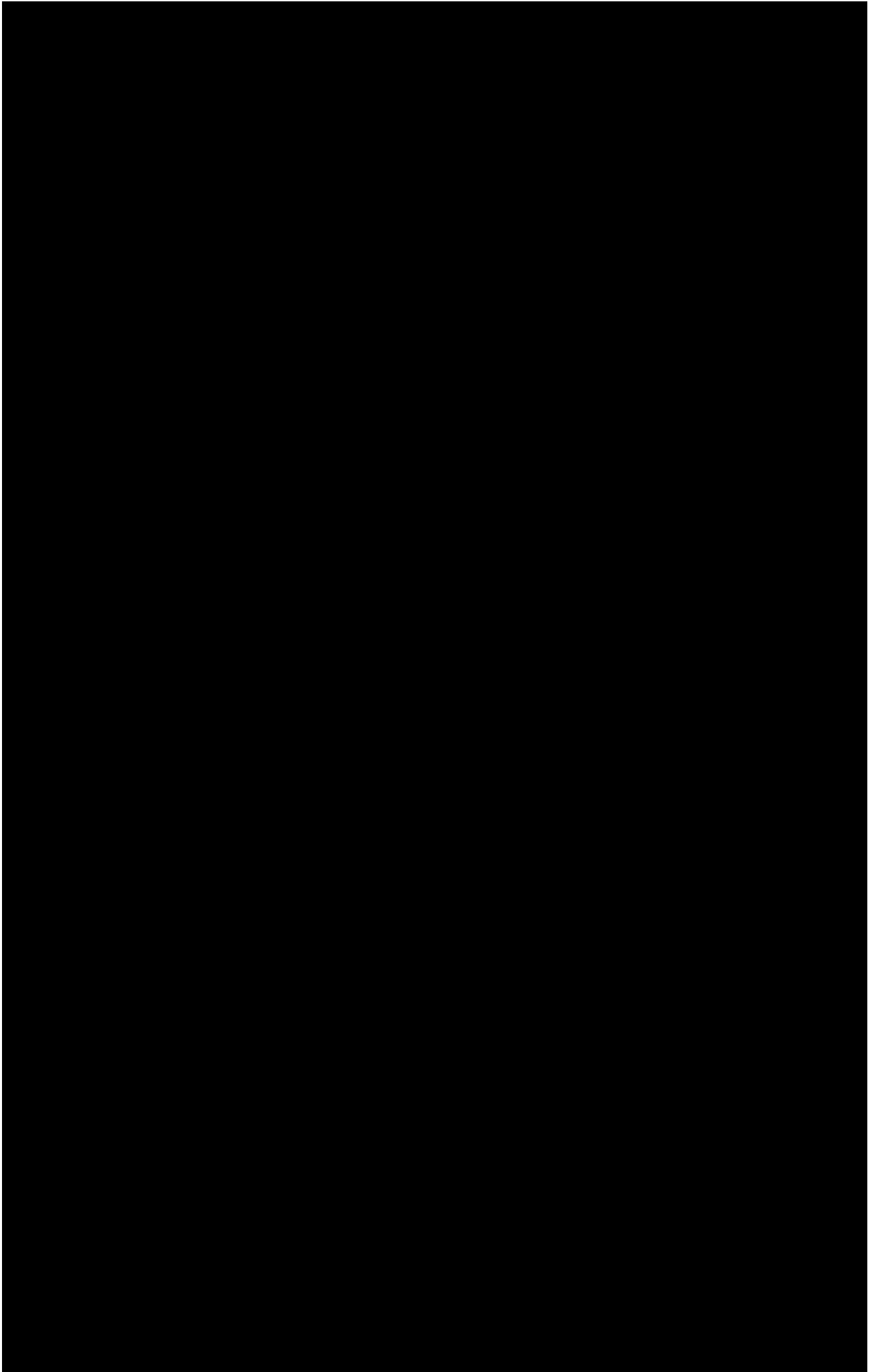


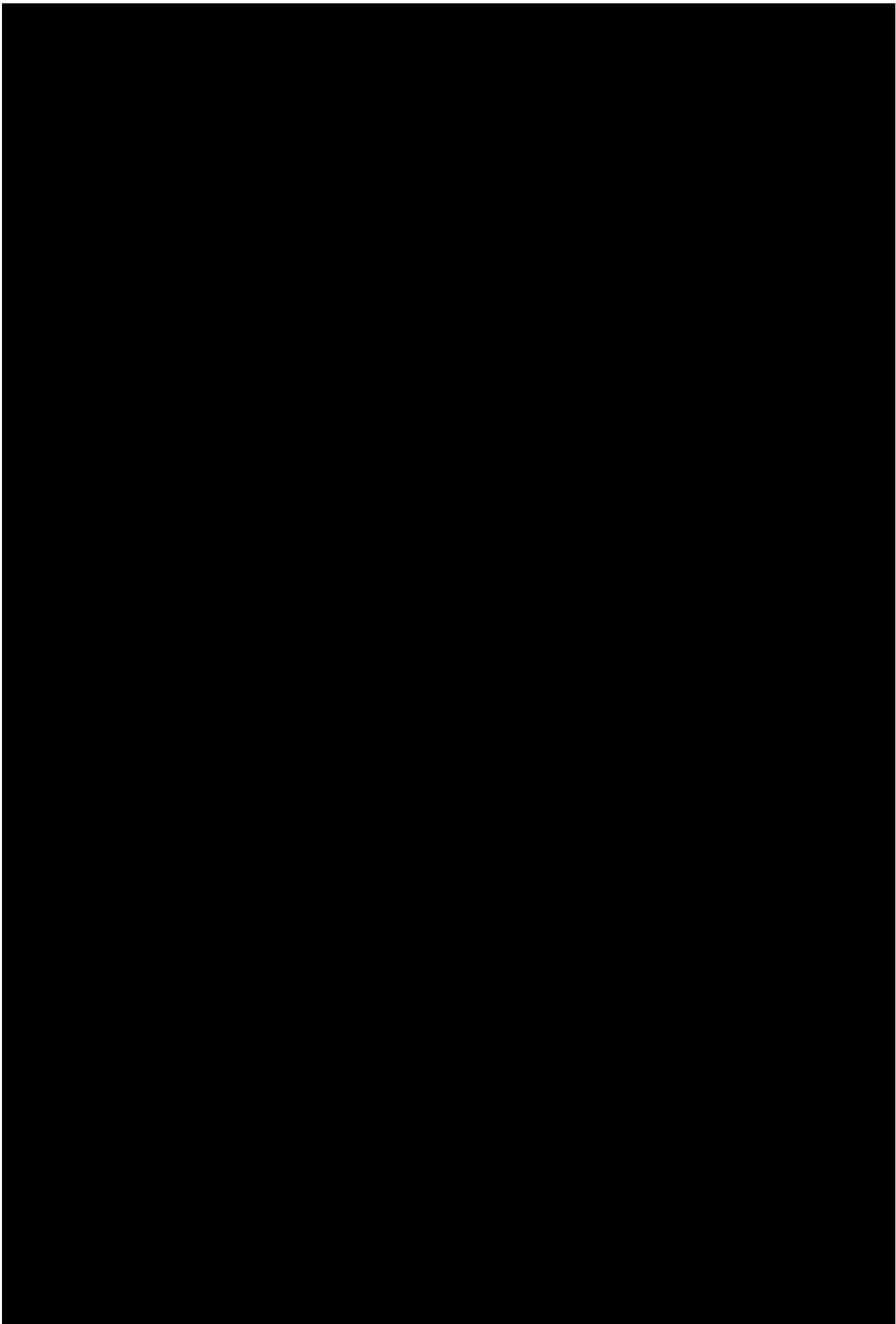


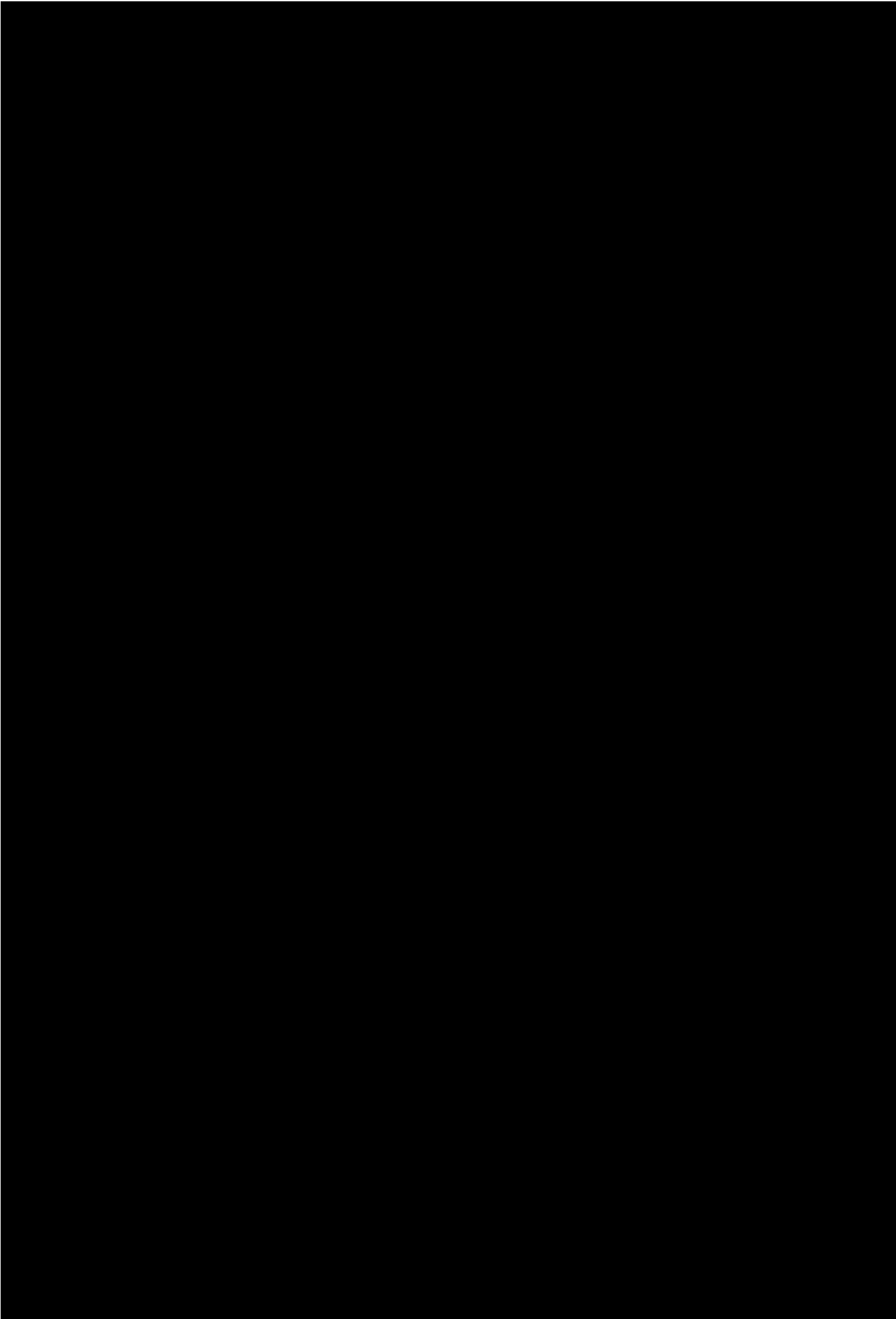


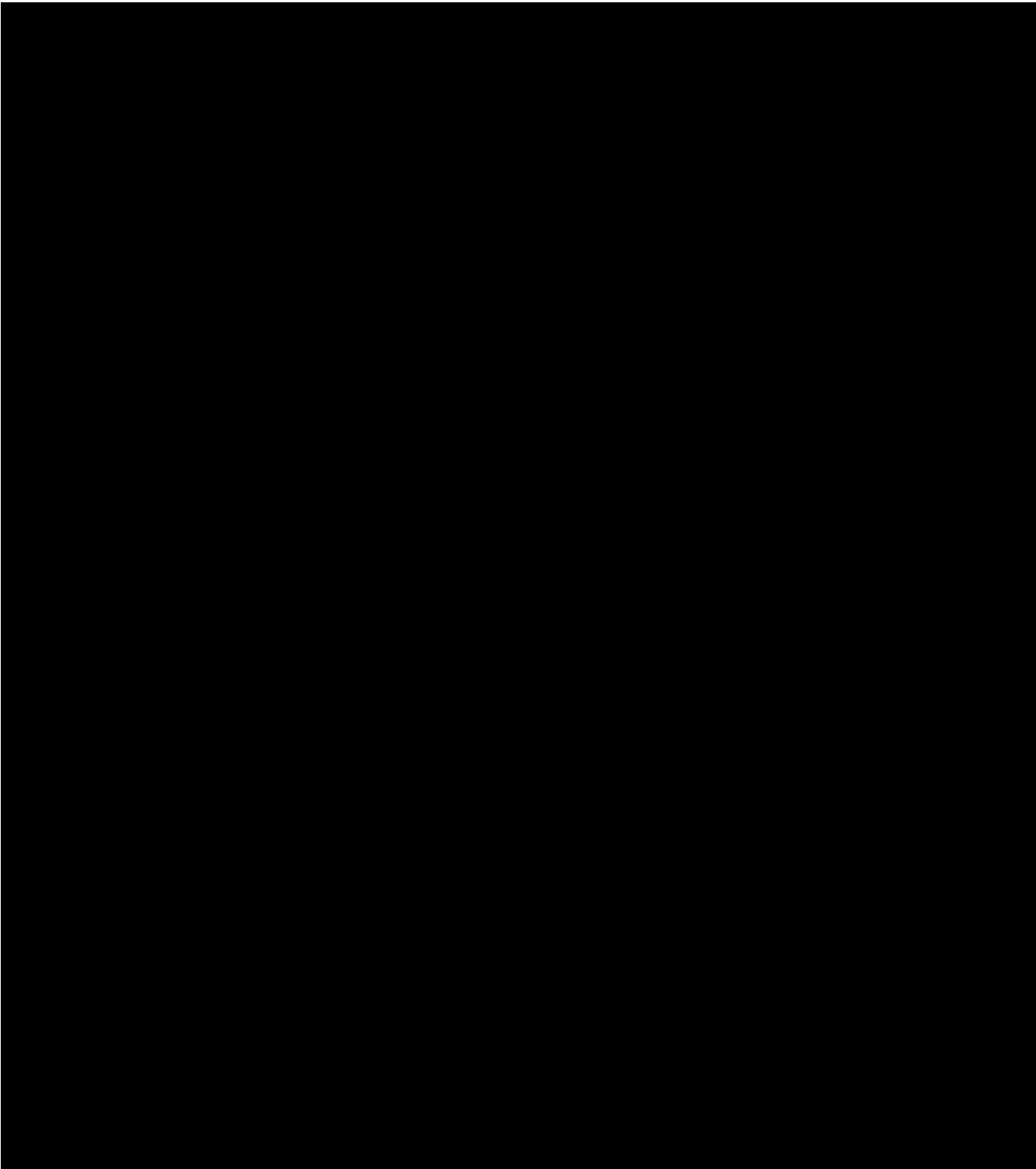


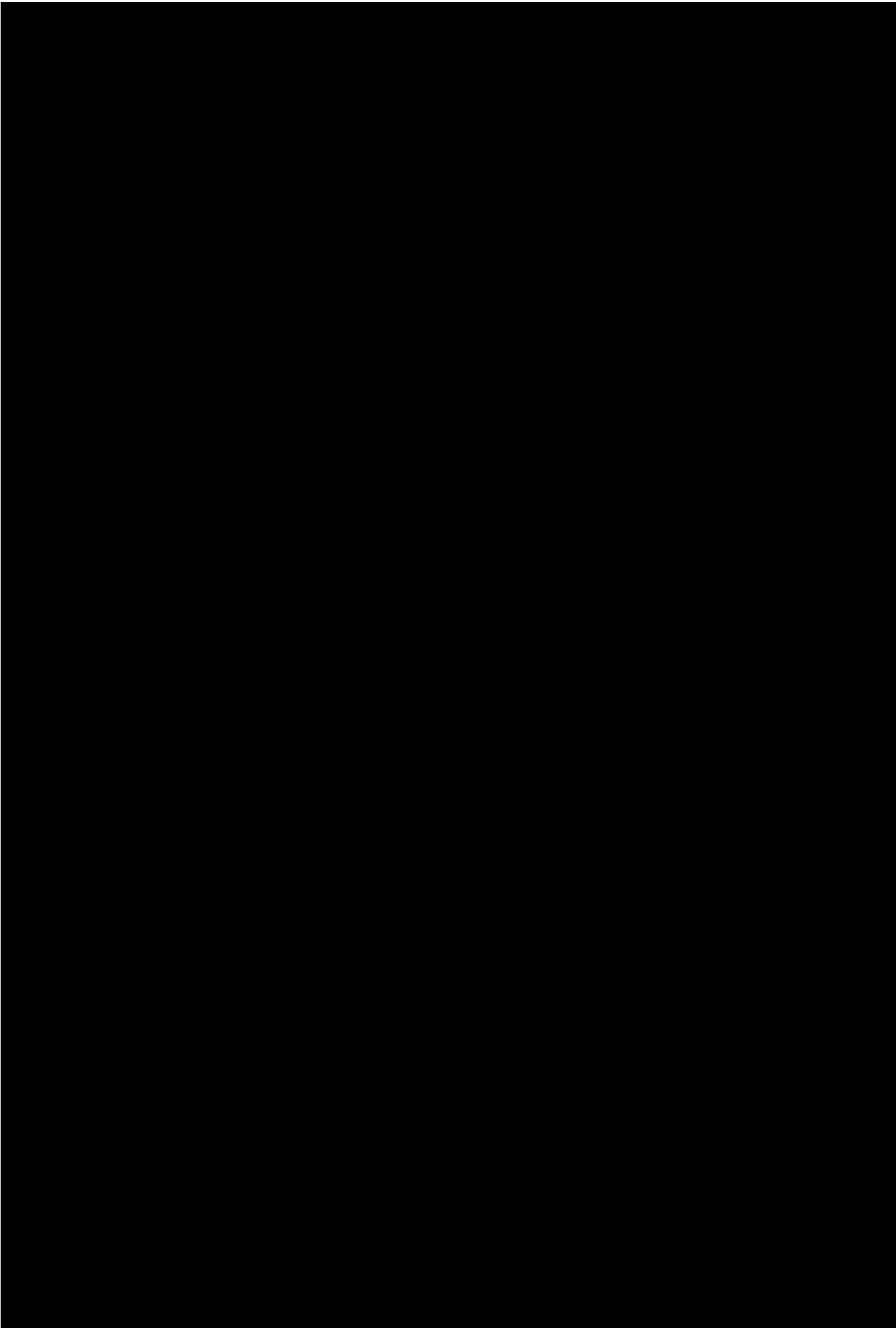


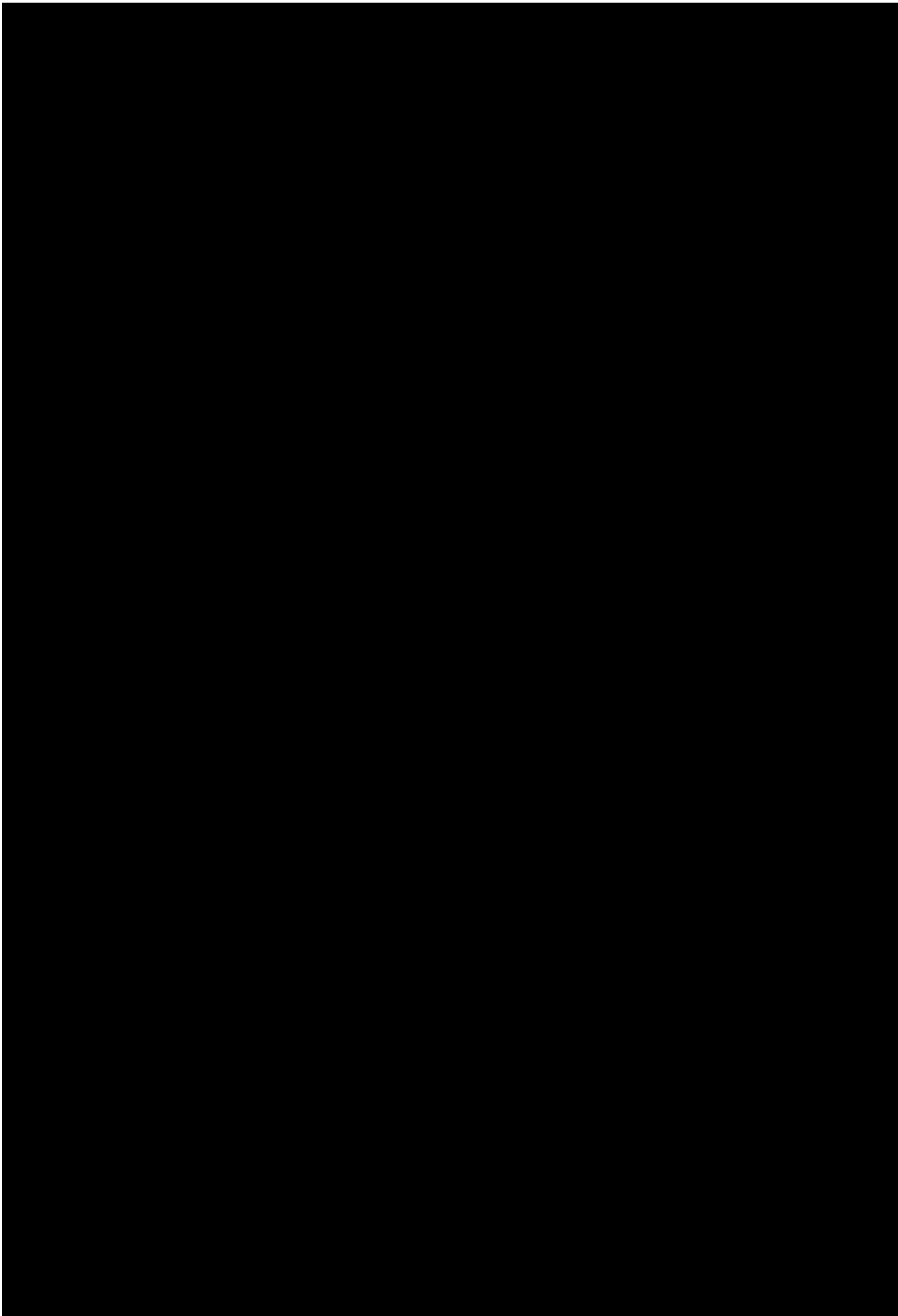


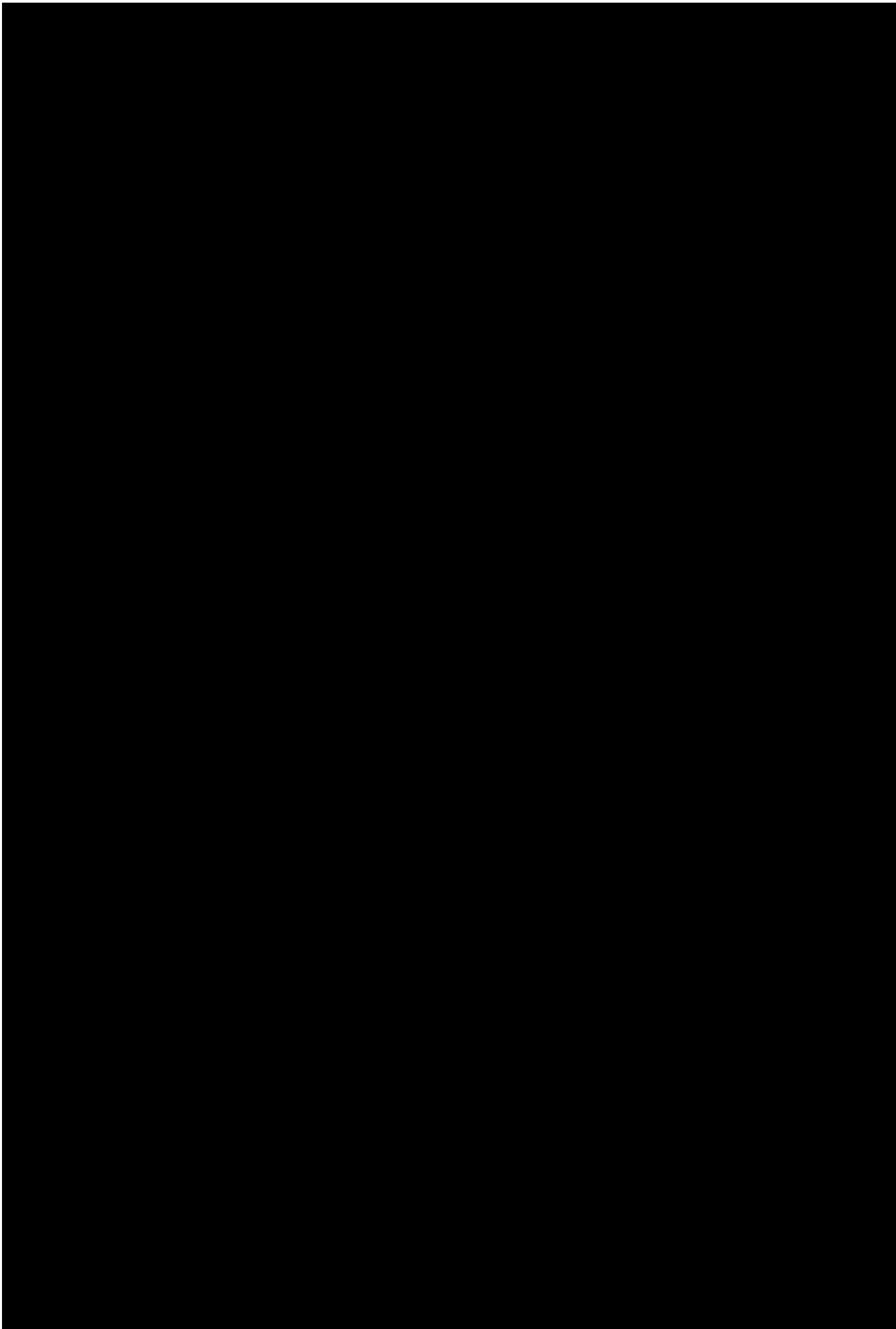


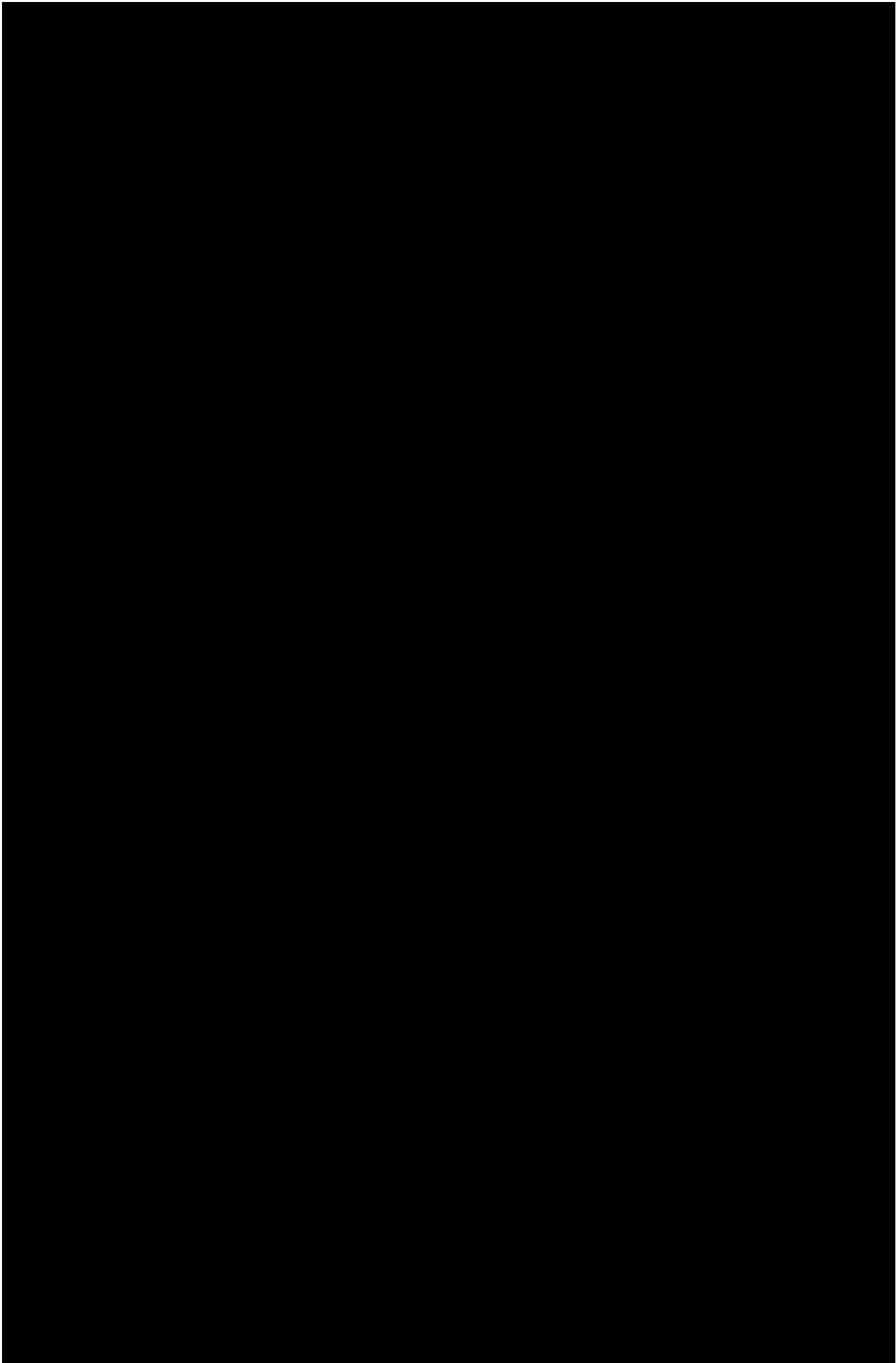


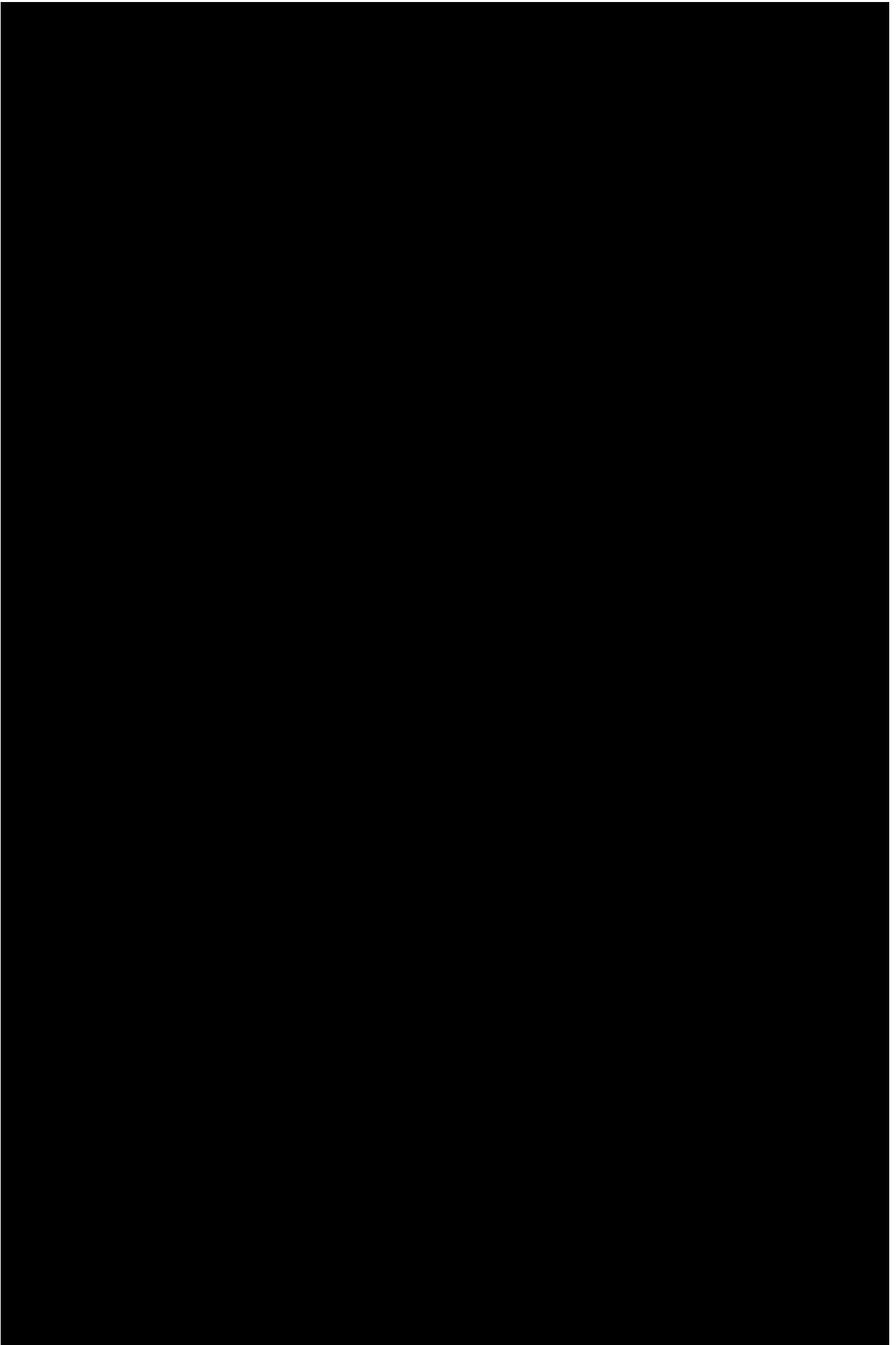


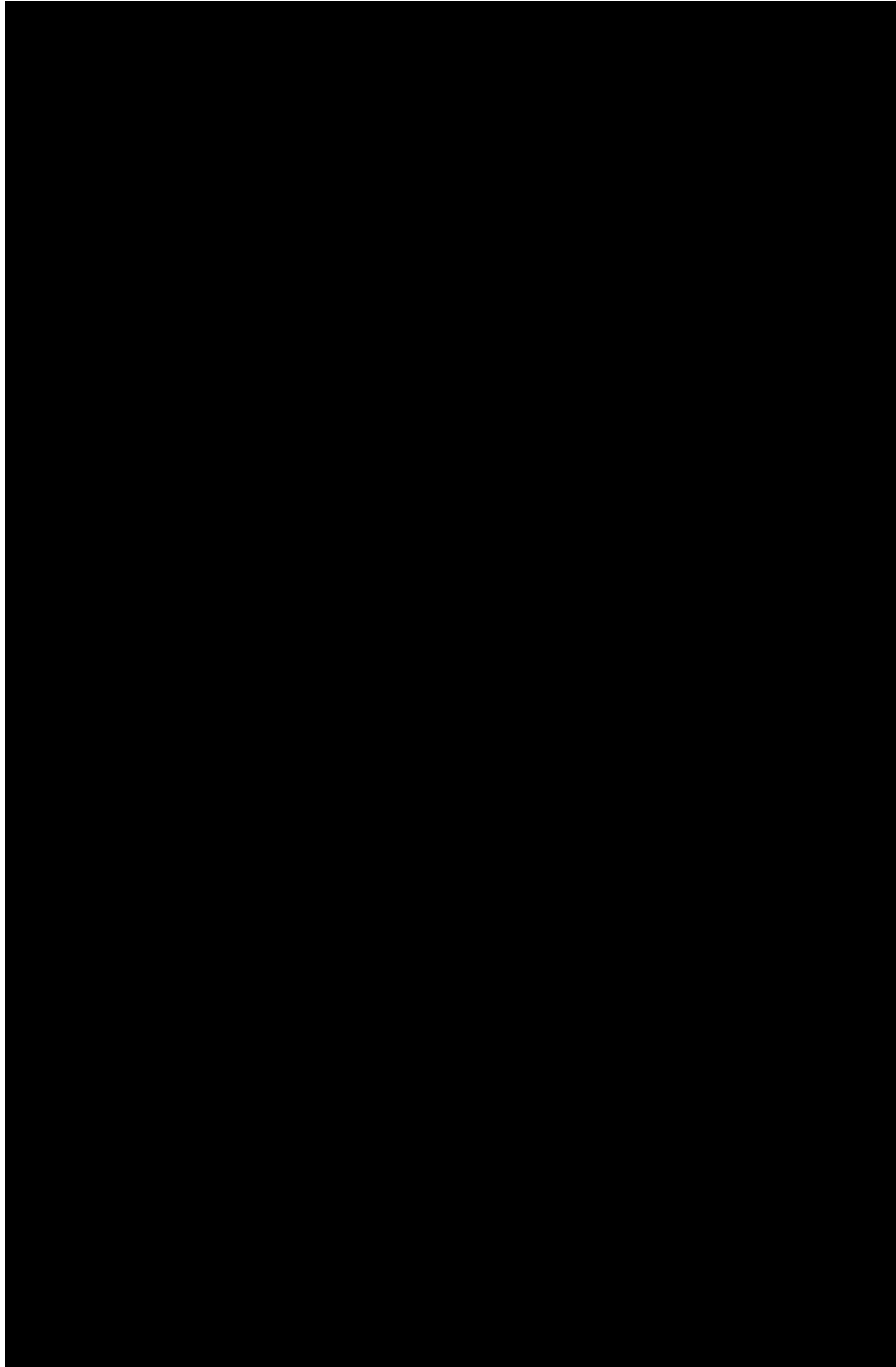


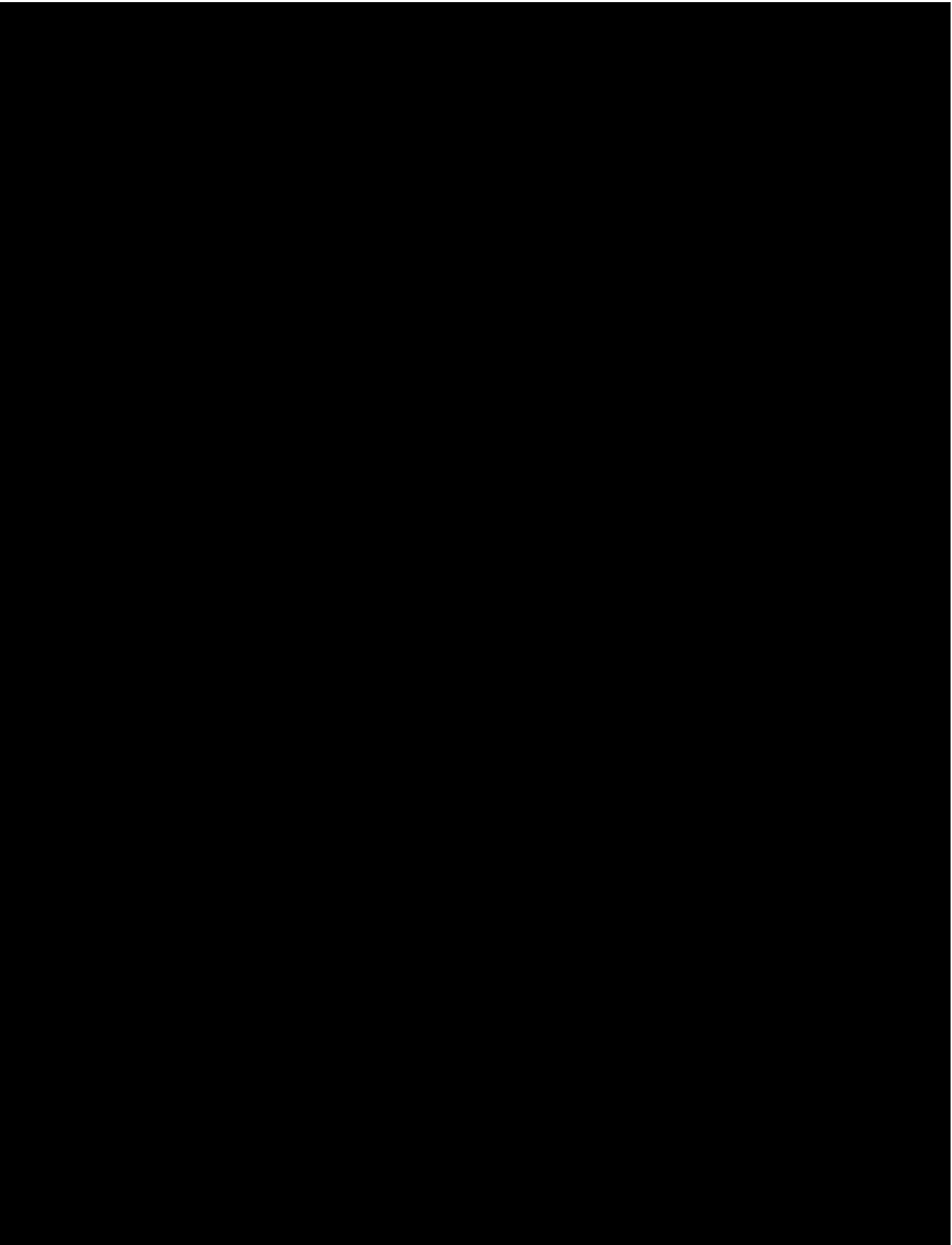


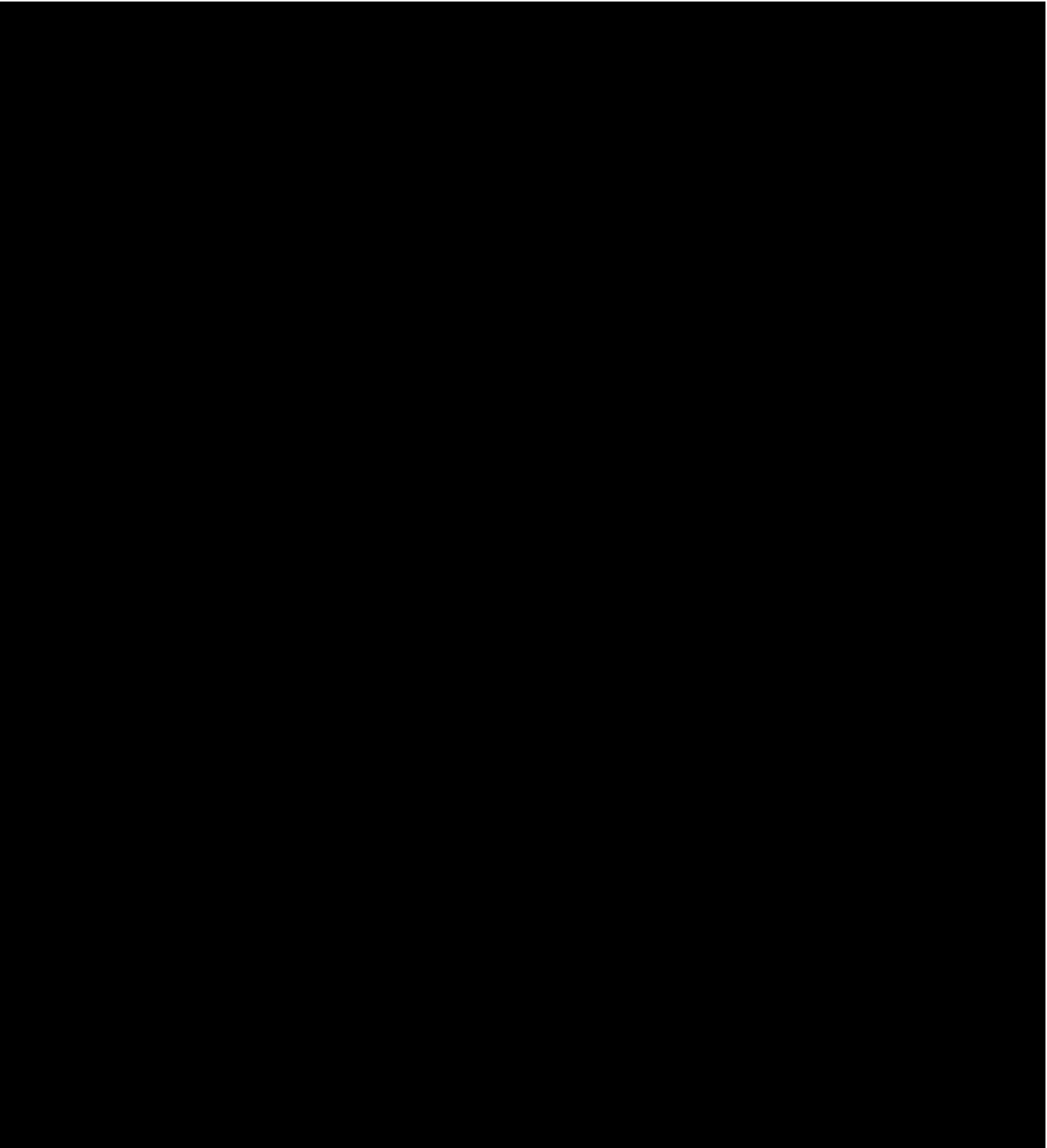


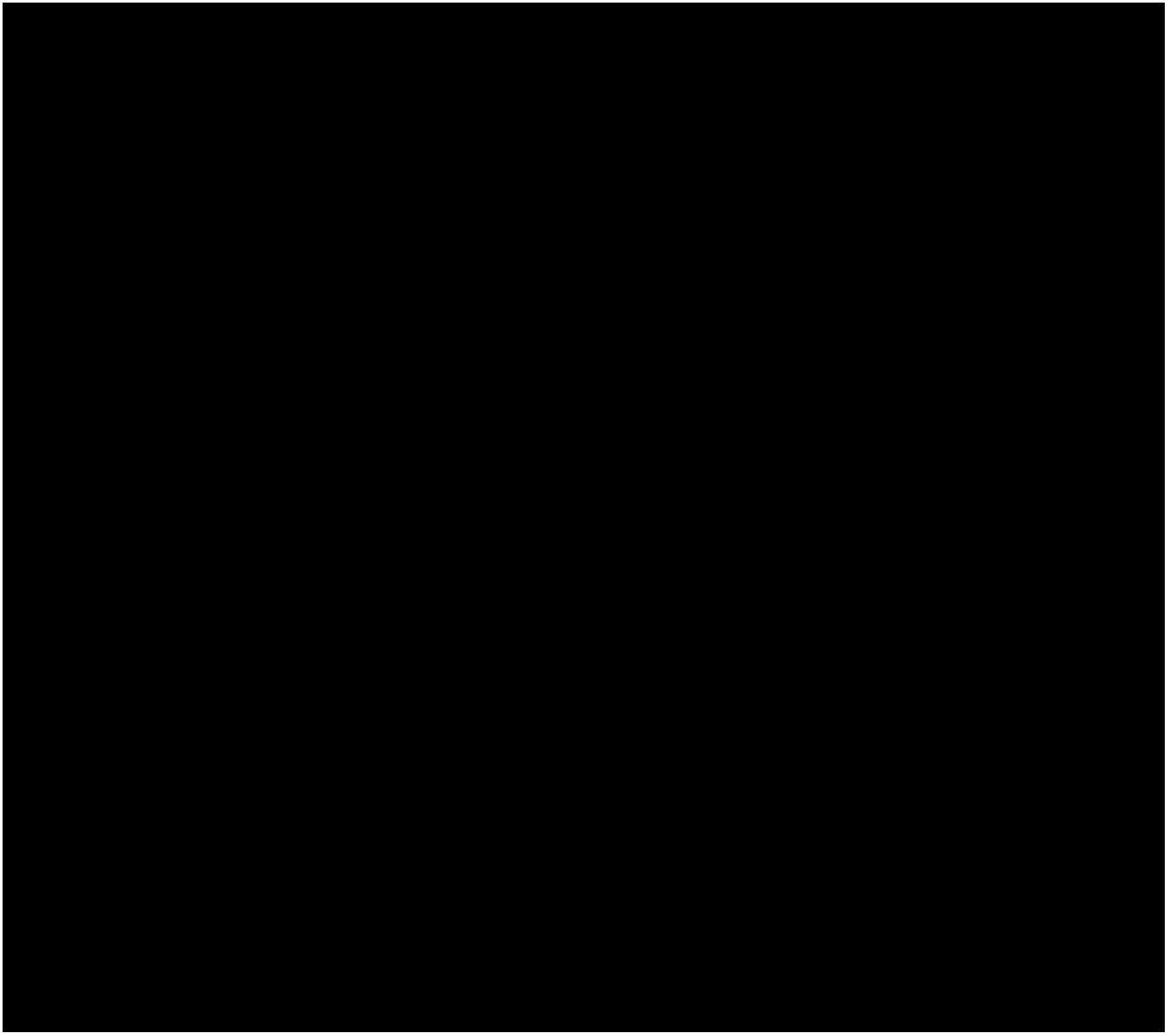




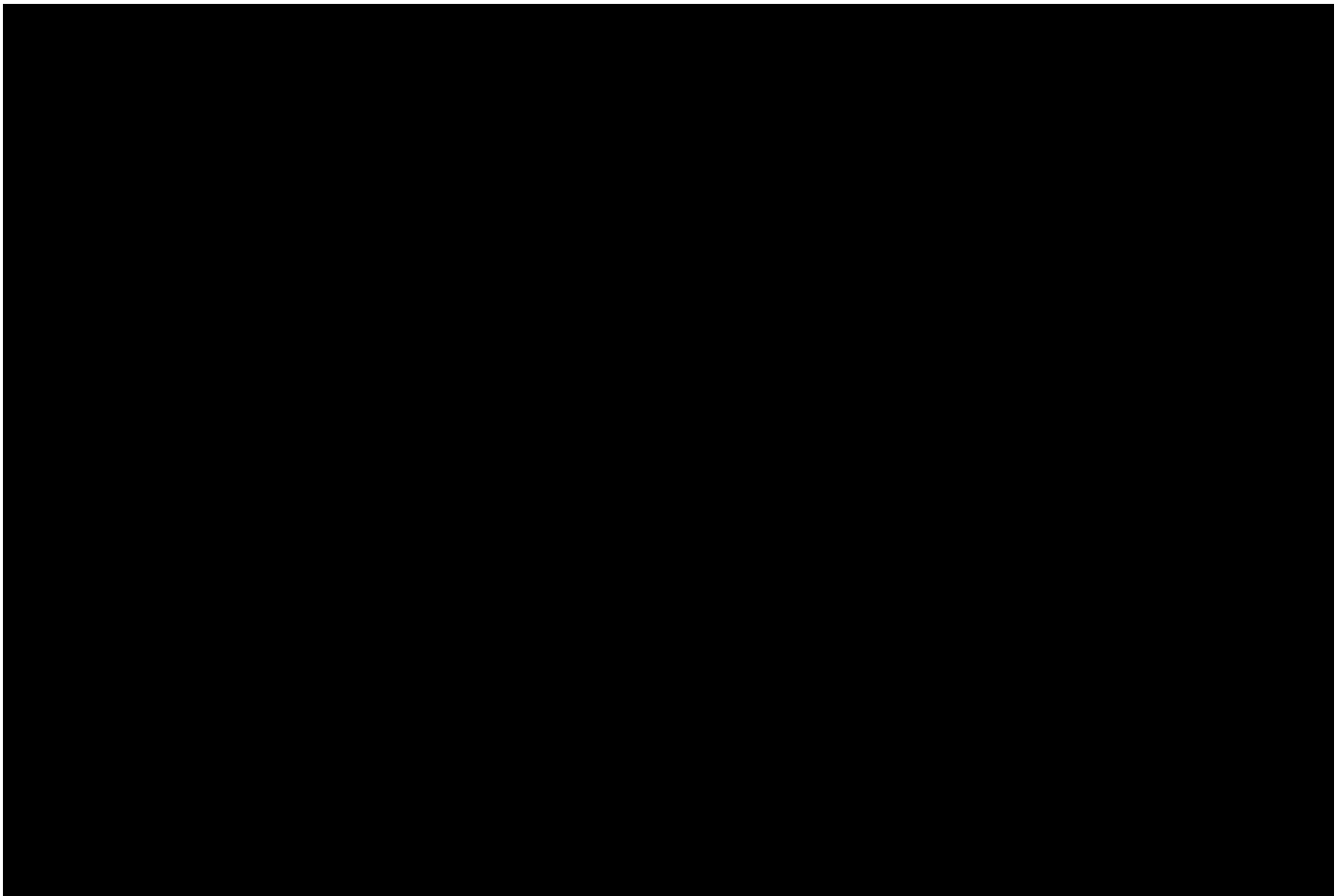












Attachment E – CRN Land

Attachment E comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of this Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Attachment E – CRN Land”.

1. CRN Core Lots document
2. CRN Sectors document
3. CRN Isolated Boxes document

Attachment F - List of CRN Assets

Attachment F comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of this Deed via the hard drive labelled "Hard Drive - CRN Operations and Maintenance Deed" in the subfolder on that hard drive labelled "Attachment F – List of CRN Assets".

1. List of CRN Assets

Attachment F1 – List of CRN Operational Assets

Attachment F1 comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the Reset Deed via the hard drive / USB labelled “Hard Drive - CRN Reset Deed” in the subfolder on that hard drive / USB labelled “Attachment F1 – List of CRN Operational Assets”.

1. List of CRN Operational Assets

Attachment G - Form of Payment Claim

PAYMENT CLAIM

Clause 17.2

Payment Claim No. [##]

In accordance with **clause 17.2** of the General Conditions of the Country Regional Network Operations and Maintenance Deed, we claim:

- [REDACTED]

Invoice in conjunction with this Payment Claim No. [##] is attached [REDACTED]

[REDACTED] Please be advised that all calculations concerning the claim are clearly stated in the attached invoice. The relevant calculations to support each pricing component are also attached.

[include or attach detailed calculations for, and evidence reasonably acceptable to the Principal's Representative verifying and substantiating amounts used for the purposes of calculating, all amounts claimed]

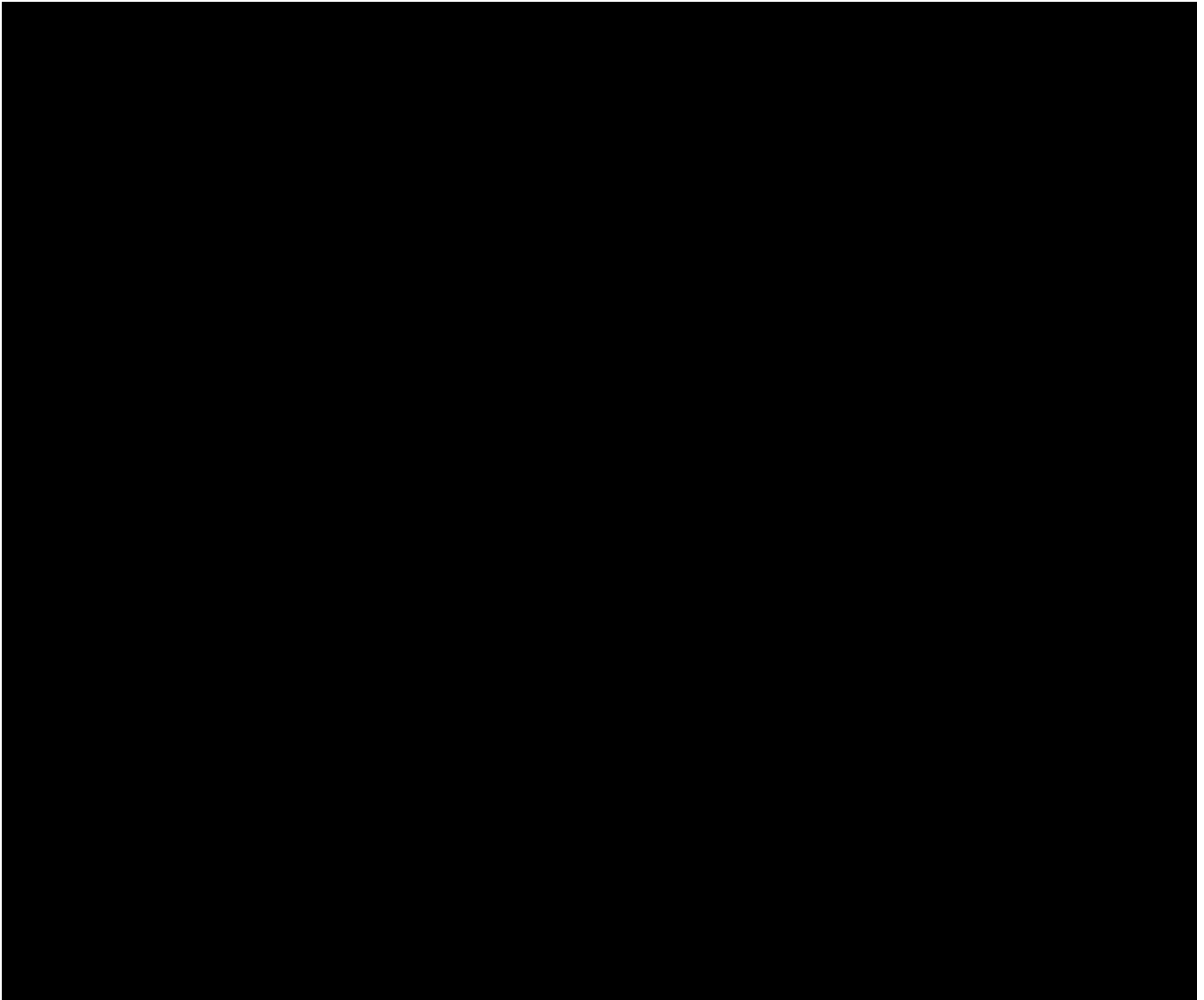
[include or attach any other information/documents which may be required by law (such as a supporting statement for the purposes of the Security of Payment Act (NSW)).]

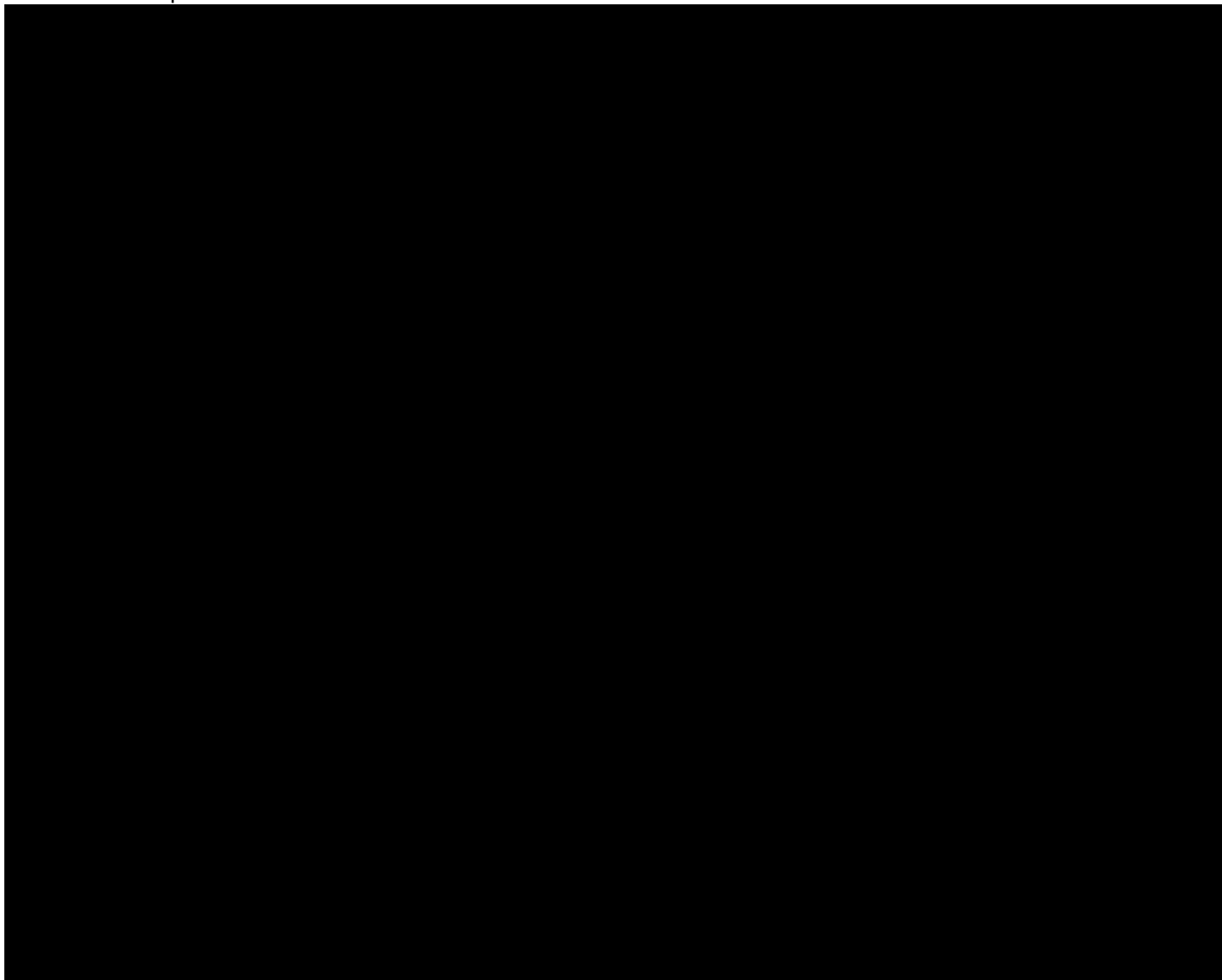
Yours sincerely,

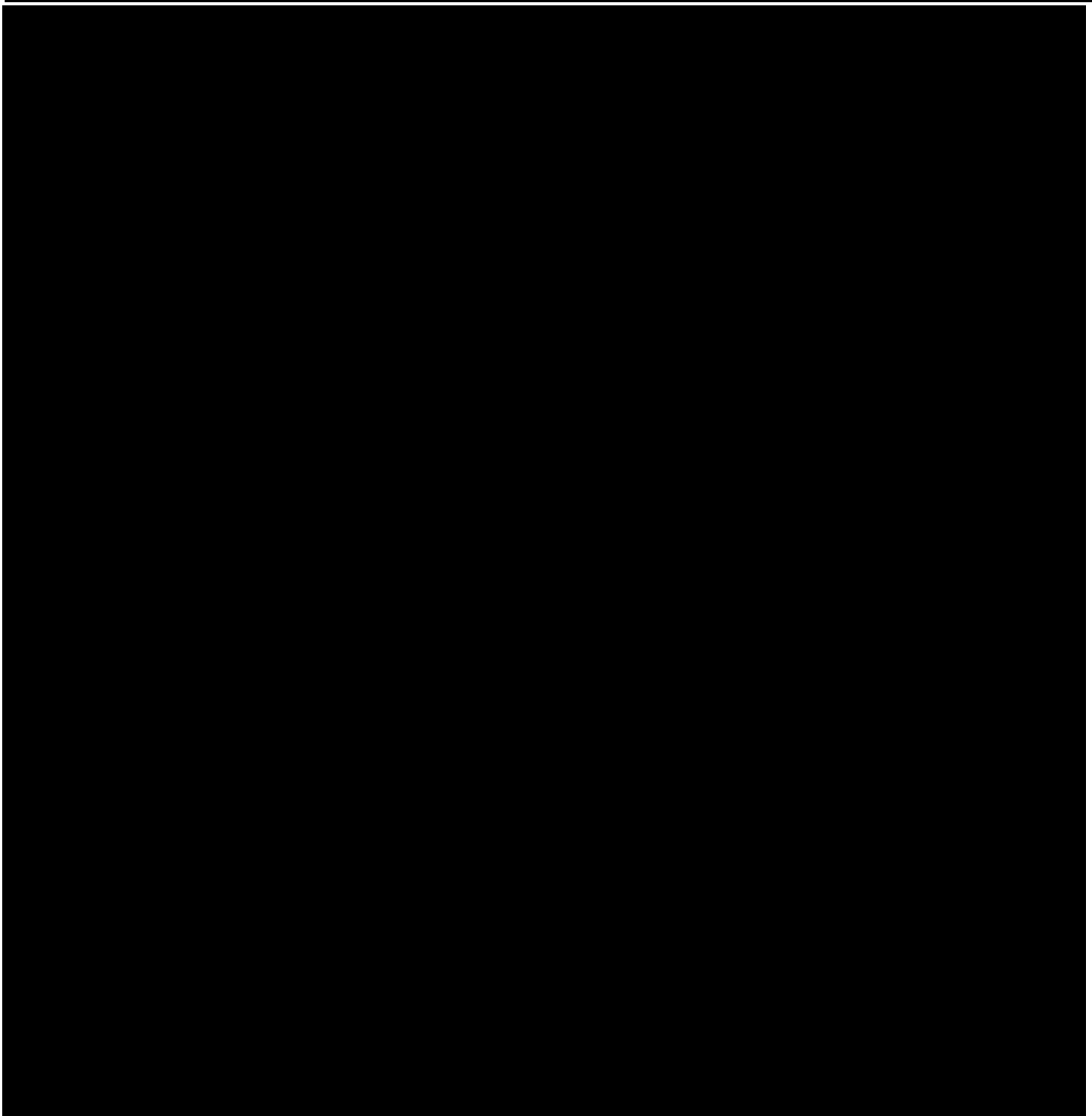
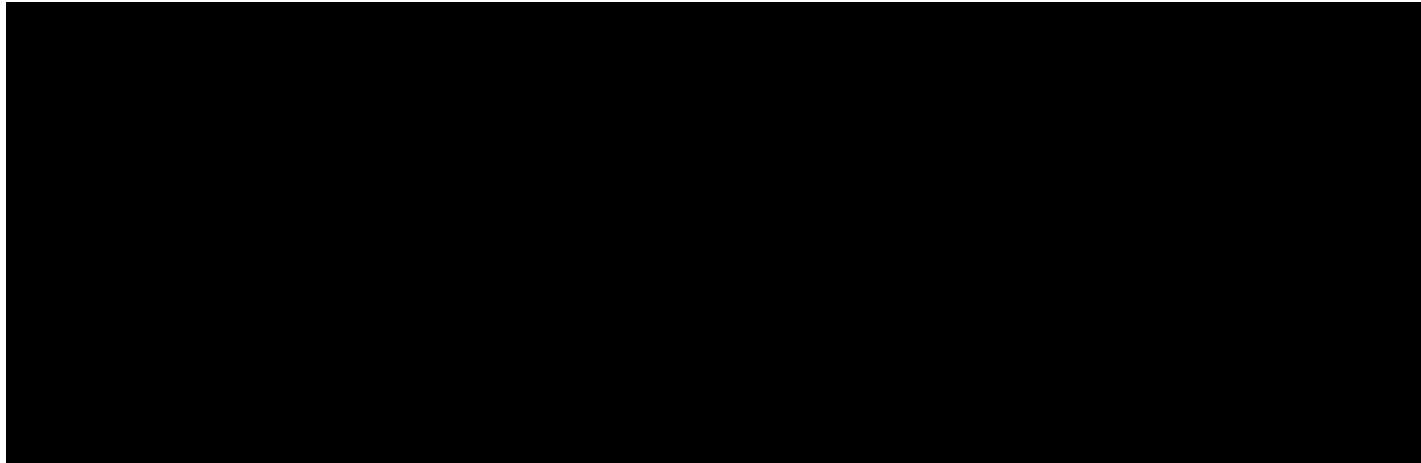
[insert name of Service Provider's Representative]

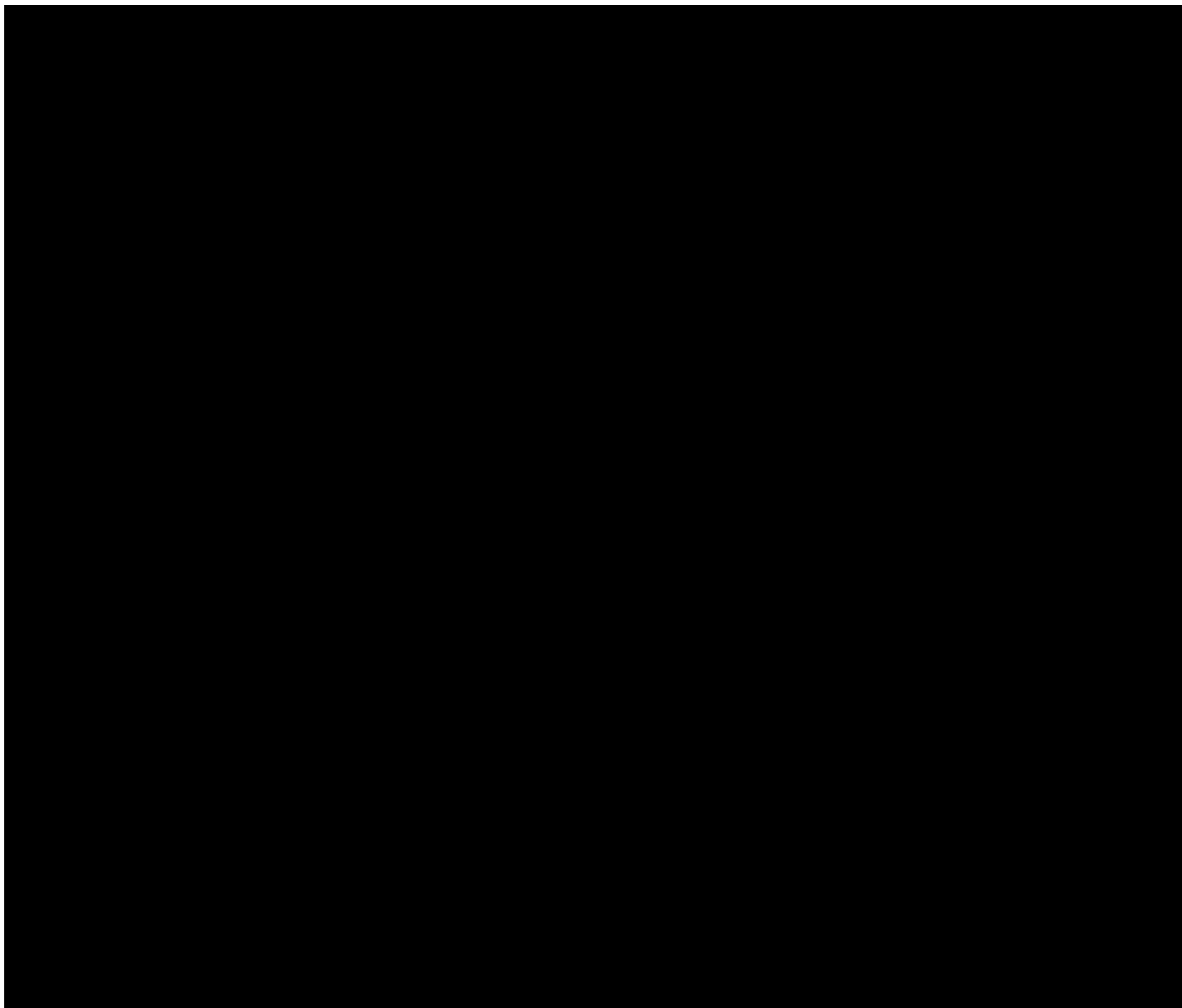
[Insert Service Provider]

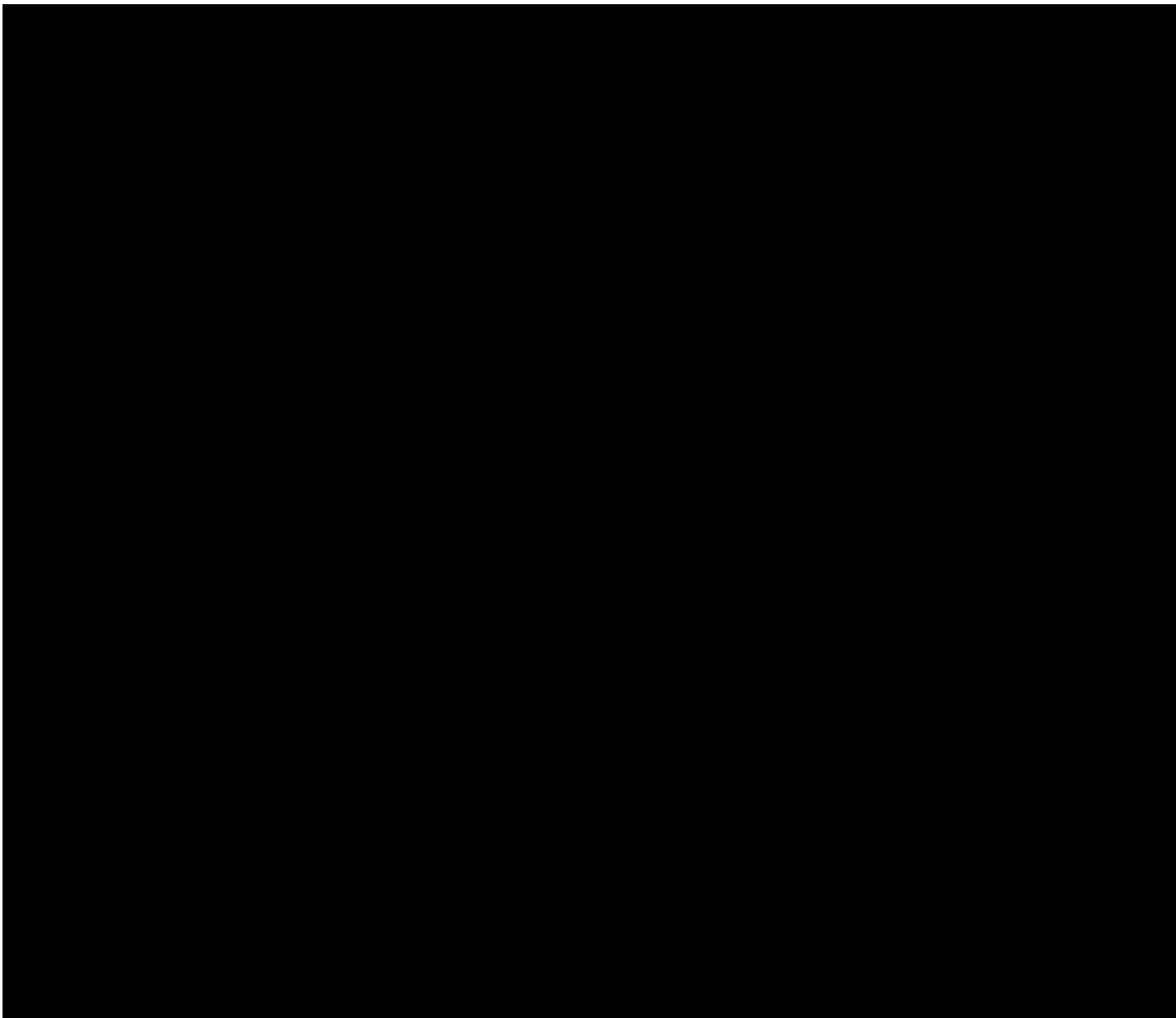
Attachments: [Invoice xxxx, supporting calculations, insert where required]











Attachment H - Form of Deed of Amendment

Deed of Amendment

Transport for NSW (ABN 18 804 239 602)

Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353)

UGL Regional Linx Pty Ltd ACN 646 771 011

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DETAILS

1 **Date**

2 **Parties**

3 **Name** **Transport for NSW (ABN 18 804 239 602)**

Short form name **TfNSW**

Address 231 Elizabeth Street, Sydney NSW 2000

Attention

Email

4 **Name** **Transport Asset Holding Entity of New South Wales
(ABN 59 325 778 353)**

Short form name **TAHE**

Address 470 Pitt Street, Haymarket NSW 2000

Attention

Email

5 **Name** **UGL Regional Linx Pty Ltd**

ACN 646 771 011

Short form name **Service Provider**

Address Level 8, 40 Miller Street, North Sydney NSW 2060

Attention

Email

BACKGROUND

- A The Principal and the Service Provider are parties to the Operations and Maintenance Deed dated [insert date of contract] [as amended by [a] deed[s] of amendment dated [xxx]] (**Contract**).
- B The Principal and the Service Provider have agreed to amend the Contract from the Effective Date in accordance with the terms of this Deed.

TERMS

1 Interpretation

1.1 Definitions

The following words have the following meanings in this document, unless the context requires otherwise.

Contract means the Operations and Maintenance Deed dated on or about [insert date] between the Principal and the Service Provider.

Deed means this Deed of Amendment and includes all schedules and annexures to it.

Effective Date means the date of this Deed.

Government Agency means any authority, government, government department or government agency, a governmental semi-governmental or judicial person or a person (whether autonomous or not) charged with administration of any applicable Law.

Law means the common law and equity together with any legislation, delegated legislation, regulations, statutory instruments, statutory notices and statutory directions.

Principal means TfNSW and TAHE, jointly and severally.

Schedule means the Schedule setting out the amendments to the Contract as attached to this Deed.

1.2 Definitions in the Contract

The definitions in the Contract apply in this Deed unless the context requires otherwise.

1.3 Interpretation

The following apply in the interpretation of this Deed, unless the context requires otherwise:

- (a) a reference to this agreement, this Deed, this document or a similar term means either the agreement set out in this document or the document itself, as the context requires;

- (b) a reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it, and any regulation or other statutory instrument issued under it;
- (c) a reference to the singular includes the plural number and vice versa;
- (d) a reference to a gender includes a reference to each gender;
- (e) a reference to a party means a person who is named as a party to this Deed;
- (f) a person includes a firm, corporation, body corporate, unincorporated association and a governmental authority;
- (g) a reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this Deed, their substitutes and assigns;
- (h) includes means includes but without limitation;
- (i) where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning;
- (j) a reference to doing something includes an omission, statement or undertaking (whether or not in writing) and includes executing a document;
- (k) a reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or an annexure to this Deed; and
- (l) a heading is for reference only and does not affect the meaning or interpretation of this Deed.

2 Amendments to the Contract

2.1 Amendments

The parties agree that, in accordance with clause 30.7 of the Contract, on and from the Effective Date, the Contract is amended as set out in the Schedule.

2.2 Confirmation of the Contract

Subject only to the amendments referred to in the Schedule, the parties acknowledge that they are, and continue to be, bound by the terms of the Contract, which will remain in full force and effect as amended by this Deed.

2.3 No other amendments

The parties further agree that, other than as outlined in this Deed, there are no other amendments to the Contract.

3 Representations and warranties

Each party represents and warrants for the benefit of the other party that:

- (a) **(authority)** it has full power and authority to enter into and perform its obligations under this Deed;
- (b) **(authorisations)** it has taken all necessary actions to authorise the execution, delivery and performance of this Deed in accordance with its terms; and
- (c) **(binding obligations)** this Deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

4 General

4.1 Further action

Each party agrees, at its own cost, to promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the amendments, covenants and arrangements recorded in this Deed.

4.2 Further amendment

A provision of this Deed can only be amended by a later written document executed by or on behalf of the parties.

4.3 Confidentiality

The contents of this Deed will be treated as Confidential Information for the purposes of clause 31.1 of the Contract and the parties must comply with their obligations under clause 31.1 of the Contract accordingly.

4.4 Severability

A term or part of a term of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining terms or parts of the term of this Deed continue in force.

4.5 Entire Agreement

This Deed and the Contract:

- (a) record the entire agreement between the parties; and
- (b) supersede all previous negotiations, understandings, representations and agreements,

in relation to the subject matter of this Deed and the Contract.

4.6 Costs

Each party must pay for its own legal costs and disbursements of and incidental to the negotiation, preparation, completion and signing of this Deed.

4.7 Counterparts

This Deed may consist of a number of copies each signed by one or more parties to the Deed. If so, the signed copies are treated as making up the one document.

4.8 Governing Law and jurisdiction

This Deed is governed by New South Wales law and the parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

Schedule: Amendments to the Contract

On and from the Effective Date, the Contract is amended as follows:

EXECUTED AS A DEED ON

[20XX]

Signed by Transport for NSW (ABN 18 804 239 602), by its Authorised Delegate:

Signature of Authorised Delegate

Signature of Witness

Name of Authorised Delegate (print)

Name of Witness (print)

Signed by Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353), by its Authorised Delegate:

Signature of Authorised Delegate

Signature of Witness

Name of Authorised Delegate (print)

Name of Witness (print)

**Executed by UGL Regional Linx Pty Ltd
(ACN 646 771 011)** in accordance with
section 127 of the *Corporations Act 2001*

Signature of Director

Signature of Director/Company Secretary
(Please delete as applicable)

Name of Director (Print)

Name of Director/Company Secretary (Print)

Attachment I – Deed Poll

This deed poll ("Deed Poll") made the day of 20

By: **UGL Regional Linx Pty Ltd (ACN 646 771 011)** of Level 8, 40 Miller Street, North Sydney NSW 2060 ("**Service Provider**")

in favour of: **[insert details of relevant beneficiary] ("**Beneficiary**")**

Recitals

- A. Transport for NSW (ABN 18 804 239 602) a NSW Government agency constituted by section 3C of the *Transport Administration Act 1988* (NSW), of 231 Elizabeth Street, Sydney NSW 2000, and Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353) a corporation constituted under section 4 of the *Transport Administration Act 1988* (NSW) immediately before its substitution by the *Transport Administration Amendment (Transport Entities) Act 2017* (NSW) and continued by section 4 of the *Transport Administration Act 1988* (NSW), of 470 Pitt Street, Haymarket NSW 2000 (jointly and severally the "**Principal**"), entered into an Operations and Maintenance Deed ("**CRN O&M Deed**") with the Service Provider in respect of the Country Regional Network.
- B. The CRN O&M Deed purports to grant certain rights to the Beneficiary and this Deed Poll is intended to perfect such rights and otherwise grant rights to the Beneficiary.
- C. It is a condition of the CRN O&M Deed that the Service Provider executes this Deed Poll.

This deed witnesses that the Service Provider hereby covenants, warrants and agrees with and for the benefit of the Beneficiary as follows:

- 1. If the Beneficiary is a Rail Transport Agency, the Minister for Regional Transport and Roads or the Crown in Right of the State of New South Wales, it will comply with its obligations under the CRN O&M Deed.
- 2. Where the CRN O&M Deed provides that the Service Provider grants an indemnity or release in favour of the Beneficiary, the Service Provider agrees that such indemnity or release applies as if it were set out in full in this Deed Poll.
- 3. The aggregate of the Service Provider's liability to the Beneficiary under this Deed Poll, any liability of the Service Provider to any other beneficiary of a deed poll executed in accordance with **clause 20.3** of the CRN O&M Deed and the Service Provider's liability to the Principal under the CRN O&M Deed:
 - (a) will not exceed the liability which the Service Provider would have had under the CRN O&M Deed if the CRN O&M Deed had named, in place of the Principal, the Beneficiary, each such other beneficiary and the Principal jointly and severally; and
 - (b) is subject to the same limitations of liability, and qualifications on such limitations of liability, as are specified in the CRN O&M Deed.
- 4. Any provision of this Deed Poll which seeks to limit or exclude a liability of the Service Provider is to be construed as doing so only to the extent permitted by law.
- 5. The Beneficiary may assign or charge the benefits and rights accrued under this Deed Poll.
- 6. This Deed Poll is governed by the laws of the State of New South Wales.

7. This Deed Poll may not be revoked or otherwise modified without the prior written consent of the Beneficiary and the Principal.
8. Where terms used in this Deed Poll are defined in the CRN O&M Deed, those terms have the meaning given to them in the CRN O&M Deed.

Executed as a deed poll.

Signed sealed and delivered for and on behalf of **UGL Regional Linx Pty Ltd** (ACN 646 771 011) by its Attorney under a Power of Attorney dated **21 January 2021** (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

Name of witness in full

Signature of Attorney

Name of Attorney

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Attachment J – Parent Company Deed Poll

This deed poll made the day of 20

By: **CIMIC Group Limited (ACN 004 482 982)** of Level 25, 177 Pacific Highway, North Sydney NSW 2060 ("**Guarantor**")

in favour of: [insert details of relevant beneficiary] ("**Beneficiary**")

Recitals

- A. Transport for NSW (ABN 18 804 239 602) a NSW Government agency constituted by section 3C of the *Transport Administration Act 1988* (NSW), of 231 Elizabeth Street, Sydney NSW 2000, and Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353) a corporation constituted under section 4 of the *Transport Administration Act 1988* (NSW) immediately before its substitution by the *Transport Administration Amendment (Transport Entities) Act 2017* (NSW) and continued by section 4 of the *Transport Administration Act 1988* (NSW), of 470 Pitt Street, Haymarket NSW 2000 (jointly and severally the "**Principal**"), entered into an Operations and Maintenance Deed ("**CRN O&M Deed**") with the Service Provider in respect of the Country Regional Network.
- B. Pursuant to the Deed, the Service Provider executed a deed poll in favour of the Beneficiary.
- C. The Guarantor has agreed on the following terms and conditions to guarantee to the Beneficiary all of the Obligations and to indemnify the Beneficiary against any loss arising from any failure by the Service Provider to perform the Obligations.
- D. The Guarantor considers that by providing this guarantee there will be a commercial benefit flowing to it.

This deed witnesses that the Guarantor hereby covenants, warrants and agrees with and for the benefit of the Beneficiary as follows:

1. Definitions

1.1 Definitions and Interpretation

In this Deed:

Deed means this deed poll and includes all schedules and annexures to it.

Guaranteed Money means all money the payment or repayment of which from time to time forms part of the Obligations.

Insolvency Provision means any law relating to insolvency, sequestration, liquidation or bankruptcy (including any law relating to the avoidance of conveyances in fraud of creditors or of preferences, and any law under which a liquidator or trustee in bankruptcy may set aside or avoid transactions), and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person.

Obligations means all the liabilities and obligations of the Service Provider to the Beneficiary under or arising out of or in any way in connection with the Service Provider Deed Poll or the work to be carried out or performed by the Service Provider under the Service Provider Deed Poll, and includes any liabilities or obligations which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence on or after the date of this Deed;
- (d) relate to the payment of money or the performance or omission of any act; or
- (e) sound in damages only,

and irrespective of:

- (f) whether the Service Provider is liable or obligated solely, or jointly, or jointly and severally with another person;
- (g) the circumstances in which the Beneficiary comes to be owed each liability or obligation and in which each liability or obligation comes to be secured by this Deed, including any assignment of any liability or obligation or of this Deed; or
- (h) the capacity in which the Service Provider and the Beneficiary comes to owe or be owed such liability or obligation,

and **Obligation** means any liability or obligation forming part of the Obligations.

Power means any right, power, authority, discretion, remedy or privilege conferred on the Beneficiary by the Service Provider Deed Poll, by statute, by law or by equity.

Security means a mortgage, charge, pledge, lien, hypothecation, guarantee (including this Deed), indemnity, letter of credit, letter of comfort, performance bond, contractual right of set-off or combination or other assurance against loss which secures the Guaranteed Money or the performance of any other Obligation, and whether existing at the date of this Deed or at any time in the future.

Service Provider means UGL Regional Linx Pty Ltd (ACN 646 771 011).

Service Provider Deed Poll means the deed poll executed by the Service Provider in favour of the Beneficiary pursuant to a requirement of the CRN O&M Deed.

Specified Rate means the rate which is [REDACTED] above the rate expressed as a percentage per annum:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1.2 Defined terms

Terms used in this Deed which are not otherwise defined will have the meaning given to them in the Service Provider Deed Poll.

1.3 Interpretation

In this Deed unless the context otherwise requires:

- (a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;

- (b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
- (c) a reference to any party to this Deed includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;
- (d) a reference to any Authority, institute, association or body is:
 - (1) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
 - (2) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;
- (e) a reference to this Deed or to any other deed, agreement, document or instrument is deemed to include a reference to this Deed or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (f) a reference to any legislation or to any section or provision of it includes:
 - (1) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
 - (2) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;
- (g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;
- (h) headings are for convenience only and do not affect the interpretation of this Deed;
- (i) a reference to:
 - (1) a party or clause is a reference to a party or clause of or to this Deed; and
 - (2) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;
- (j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (k) for all purposes (other than where designated as a Business Day), "day" means calendar day;
- (l) a reference to "\$" is to Australian currency;
- (m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Deed or any part; and
- (n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

2. Guarantee

2.1 Guarantee

The Guarantor irrevocably and unconditionally guarantees to the Beneficiary the due and punctual performance by the Service Provider of all the Obligations.

2.2 Payment by Guarantor

If the Service Provider does not pay the Guaranteed Money when due, the Guarantor must, within 5 Business Days of the Beneficiary providing written notice to the Guarantor, pay to the Beneficiary the Guaranteed Money which is then due and unpaid.

2.3 Perform Obligations

If the Service Provider defaults in the performance or observance of any of the Obligations, the Guarantor must, in addition to its obligations under clause 2.2 of this Guarantee, on written notice from time to time by the Beneficiary, immediately perform any of the Obligations then required to be performed by the Service Provider in the same manner as the Service Provider is required to perform the Obligations.

2.4 Guarantor will have same entitlements as the Service Provider

Where performing Obligations of the Service Provider under the Service Provider Deed Poll, the Guarantor:

- (a) is entitled to rely on all defences, limitations and exclusions (including any set-off and counterclaims) available to the Service Provider under the Service Provider Deed Poll; and
- (b) will not be required to perform any Obligations under the Service Provider Deed Poll in a manner any different than that required of the Service Provider under the Service Provider Deed Poll had the Guarantor not assumed the Service Provider's Obligations under the Service Provider Deed Poll.

3. Indemnity

As a covenant separate and distinct from that contained in clause 2.1, the Guarantor irrevocably and unconditionally agrees to indemnify the Beneficiary against any loss or damage suffered by the Beneficiary arising out of or in connection with:

- (a) any failure by the Service Provider to perform the Obligations duly and punctually; or
- (b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Service Provider for any reason, and whether or not the Beneficiary knew or ought to have known of that reason.

4. Liability as guarantor and indemnifier

A reference in this Deed to the obligations or liabilities of the Guarantor is a reference to the Guarantor's obligations or liabilities as either guarantor or indemnifier (or both) under this Deed. The use of the expression "Guarantor" in this Deed in relation to a party must not be construed as diminishing that party's obligations as an indemnifier under this Deed.

5. Nature and preservation of liability

5.1 Absolute liability

- (a) The liability of the Guarantor under this Deed is absolute and is not subject to the performance of any condition precedent or subsequent by the Service Provider or the Guarantor.
- (b) This Deed binds each person who has executed it, notwithstanding that:

- (1) any person, whether named as a party or not, does not execute this Deed;
- (2) the execution of this Deed by any person is invalid, forged or irregular in any way;
or
- (3) this Deed is or becomes unenforceable, void or voidable against any other person.

5.2 Unconditional liability

The liability of the Guarantor under this Deed will not be affected by any act, omission, matter or thing which, but for this clause 5.2, might operate in law or in equity to release the Guarantor from that liability or to reduce the Guarantor's liability under this Deed, including any of the following:

- (a) the occurrence before, on or at any time after the date of this Deed, of any Insolvency Event in relation to the Service Provider or the Guarantor;
- (b) the receipt by the Beneficiary of any payment, dividend or distribution under any Insolvency Provision in relation to the Service Provider or the Guarantor;
- (c) the Service Provider Deed Poll or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;
- (d) the Beneficiary accepting or declining to accept any Security from any person at any time;
- (e) the Beneficiary granting time, waiver or other indulgence or concession to, or making any composition or compromise with, the Service Provider or the Guarantor;
- (f) the Beneficiary not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any remedy or right it has for the enforcement of the Service Provider Deed Poll or any Obligation;
- (g) any laches, acquiescence or other act, neglect, default, omission or mistake by the Beneficiary;
- (h) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Beneficiary or the Service Provider or the Guarantor of the Service Provider Deed Poll or any Obligation;
- (i) any variation to the Service Provider Deed Poll or any Obligation, whether or not that variation is substantial or material, or imposes any additional liability on or disadvantages the Service Provider or the Guarantor;
- (j) the full, partial or conditional release or discharge by the Beneficiary or by operation of law, of the Service Provider or the Guarantor from the Service Provider Deed Poll or any Obligation;
- (k) any change in membership (whether by death or retirement of an existing member, admission of a new member, or otherwise) or in the name of any partnership, firm or association in which the Service Provider or the Guarantor is a member;
- (l) the transfer, assignment or novation by the Beneficiary or the Service Provider or the Guarantor of all or any of its rights or obligations under the Service Provider Deed Poll or under any other Obligation or any matter referred to in clause 9(b);
- (m) any failure by the Beneficiary to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Beneficiary relating to or affecting the Service Provider or the Guarantor at any time before or during the currency of this Deed, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Beneficiary was under a duty to disclose that fact, circumstance, event or thing to the Guarantor or to the Service Provider;
- (n) the Beneficiary agreeing with the Service Provider or the Guarantor not to sue, issue process, sign or execute judgment, commence proceedings for bankruptcy or liquidation, participate in any administration, scheme or deed of arrangement or reconstruction, prove

in any bankruptcy or liquidation, or do anything else in respect of the liability of the Service Provider or the Guarantor;

- (o) (where the Guarantor is an individual) the death or mental incapacity of the Guarantor; or
- (p) the provisions of section 440J of the *Corporations Act 2001* (Cth) operating to prevent or delay:
 - (1) the enforcement of this Deed against any Guarantor; or
 - (2) any claim for contribution against any Guarantor.

5.3 No merger

- (a) This Deed is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect the Service Provider Deed Poll or any other Power of the Beneficiary.
- (b) The Beneficiary will hold any judgment or order obtained by it against any person in respect of the Guaranteed Money or the Obligations collaterally with this Deed, and this Deed will not merge in that judgment or order.

5.4 No obligation to gain consent

No consent is required from any Guarantor nor is it necessary for the Guarantor to or be made aware of any event referred to in clause 5.2, any transaction between the Beneficiary and the Service Provider, or any particulars concerning any Obligation.

5.5 Appropriation

- (a) The Beneficiary is under no obligation to marshal or appropriate in favour of any Guarantor, or to exercise, apply, transfer or recover in favour of any Guarantor, any Security or any funds or assets that the Beneficiary holds, has a claim on, or has received or is entitled to receive, but may do so in the manner and order as the Beneficiary determines in its absolute discretion.
- (b) The Beneficiary may hold in a suspense account (without liability to pay interest) any money which it receives from the Guarantor, or which it receives on account of the Guarantor's liability under this Deed, and which the Beneficiary may, at its discretion, appropriate in reduction of the Guarantor's liability under this Deed.

5.6 Void or voidable transactions

If:

- (a) the Beneficiary has at any time released or discharged:
 - (1) the Guarantor from its obligations under this Deed; or
 - (2) any assets of the Guarantor from a Security,in either case in reliance on a payment, receipt or other transaction to or in favour of the Beneficiary; or
- (b) any payment or other transaction to or in favour of the Beneficiary has the effect of releasing or discharging:
 - (1) the Guarantor from its obligations under this Deed; or
 - (2) any assets of the Guarantor from a Security,

and

- (c) that payment, receipt or other transaction is subsequently claimed by any person to be void, voidable or capable of being set aside for any reason, including under an Insolvency Provision or under the general law; and
- (d) that claim is upheld or is conceded or compromised by the Beneficiary,

then:

- (e) the Beneficiary will immediately become entitled against the Guarantor to all rights (including under any Security) as it had immediately before that release or discharge;
- (f) the Guarantor must immediately do all things and execute all documents as the Beneficiary may reasonably require to restore to the Beneficiary all those rights; and
- (g) the Guarantor must indemnify the Beneficiary against costs, losses and expenses suffered or incurred by the Beneficiary in or in connection with any negotiations or proceedings relating to the claim or as a result of the upholding, concession or compromise of the claim.

5.7 Limitation

Despite any other provision of this Deed or the Service Provider Deed Poll, the aggregate liability of the Guarantor under this Deed in respect of any Obligation will not exceed the aggregate liability of the Service Provider under the Service Provider Deed Poll in respect of that Obligation. Nothing in this Deed is intended to, and does not, render the Guarantor and the Service Provider liable for the same loss twice.

5.7A Discharge of Obligations

Payment or performance by either the Service Provider or the Guarantor, or both the Service Provider and the Guarantor, will be deemed good discharge against the Beneficiary for that Obligation. The Guarantor's Obligations under this Deed expire when the Service Provider's Obligations under the Service Provider Deed Poll expire.

5.8 Claim on the Guarantor

Except where an Insolvency Event applies to the Service Provider, the Beneficiary must make a claim or demand on the Service Provider prior to demanding payment of the Guaranteed Money or demanding performance of the Obligations from the Guarantor under this Deed. If the Service Provider does not pay the Guaranteed Money or perform the Obligations within 5 Business Days of the claim or demand made in accordance with this clause, then the Beneficiary may make the claim or demand against the Guarantor.

5.9 No representation by Beneficiary etc.

The Guarantor acknowledges that it has not entered into this Deed as a result of any representation, promise, statement or inducement to the Guarantor by or on behalf of the Beneficiary, the Service Provider or any other person.

6. Representations and Warranties

6.1 General representations and warranties

The Guarantor or, if there is more than one Guarantor, each Guarantor represents and warrants to the Beneficiary:

- (a) this Deed constitutes a valid and legally binding obligation of the Guarantor in accordance with its terms;
- (b) the execution, delivery and performance of this Deed by the Guarantor does not breach any law, or any document or agreement to which the Guarantor is a party or which is binding on it or any of its assets;
- (c) no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Guarantor, threatened, which, if adversely

determined, may have a material adverse effect on the business assets or financial condition of the Guarantor;

- (d) all information relating to the Guarantor provided to the Beneficiary in connection with this Deed is true in all material respects and is not, by omission or otherwise, misleading in any material respect; and
- (e) the Guarantor has not entered into this Deed as the trustee of any trust.

6.2 Corporate representations and warranties

The Guarantor, or if there is more than one Guarantor, each Guarantor, that is or purports to be a body corporate, further represents and warrants to the Beneficiary that:

- (a) it is duly incorporated and has the corporate power to own its property and to carry on its business as is now being conducted;
- (b) the execution, delivery and performance of this Deed does not breach the Constitution of the Guarantor and, if the Guarantor or any of its subsidiaries is listed on the Australian Securities Exchange Limited or on any other stock exchange, those listing requirements or business rules;
- (c) it has the power, and has taken all corporate and other action required, to enter into this Deed and to authorise the execution and delivery of this Deed and the performance of its obligations under this Deed; and
- (d) the Guarantor has filed all corporate notices and effected all registrations with the Australian Securities and Investments Commission and all of those filings and registrations are current, complete and accurate.

6.3 Representations and warranties repeated

Each representation and warranty in this Deed will be repeated on each day whilst any of the Guaranteed Money remains outstanding (whether or not then due for payment) with reference to the facts and circumstances then subsisting, as if made on each such day.

7. Payments

7.1 On demand

All money payable by the Guarantor under this Deed must be paid by the Guarantor within 5 Business Days' written notice by the Beneficiary and paid in immediately available funds to the account and in the manner notified by the Beneficiary to the Guarantor.

7.2 Payment in gross

All money received or recovered by the Beneficiary on account of the Guaranteed Money will be treated as payments in gross without any right on the part of the Guarantor to claim the benefit of any money received or recovered by the Beneficiary or any Security, until the Beneficiary has been paid 100 cents in the dollar in respect of the Guaranteed Money.

7.3 Interest

As a liability separate and distinct from the Guarantor's liability under clauses 2 and 3, the Guarantor must on demand by the Beneficiary pay interest on all amounts due and payable by it and unpaid under or in respect of this Deed. Interest will accrue on those amounts from day to day from the due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Specified Rate for successive 90 day interest

periods commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 7.3.

7.4 Merger

If the liability of the Guarantor to pay to the Beneficiary any money under this Deed becomes merged in any judgment or order, then, as an independent obligation, the Guarantor will pay interest on the amount of that money at the rate which is the higher of that payable under clause 7.3 and that fixed by or payable under the judgment or order. However, nothing in this Deed is intended to, and does not, render the Guarantor liable for interest twice despite clauses 7.3 and 7.4.

7.5 No set-off or deduction

All payments by the Guarantor to the Beneficiary under this Deed must be:

- (a) free of any set-off or counterclaim; and
- (b) without deduction or withholding for or on account of any present or future Taxes, unless the Guarantor is compelled by law to make any deduction or withholding.

If the Guarantor is compelled by law to make any deduction or withholding for or on account of any present or future Taxes (not being Taxes on the overall net income of the Beneficiary), then the Guarantor must:

- (c) pay to the Beneficiary any additional amounts necessary to enable the Beneficiary to receive (after all deductions and withholdings for those Taxes) a net amount equal to the full amount which would otherwise be payable to the Beneficiary if no deduction or withholding was required to be made;
- (d) promptly (and within the time prescribed by law) pay to the relevant taxing authority the amount of those Taxes which it is compelled by law to deduct or withhold, and indemnify the Beneficiary for any Taxes and interest or penalties to which the Beneficiary may become liable consequent on the failure of the Guarantor to pay those Taxes; and
- (e) deliver to the Beneficiary, promptly on request from the Beneficiary, a copy of any receipt issued by the relevant taxing authority on payment of those Taxes.

7.6 Currency indemnity

- (a) The Australian Dollar is the currency of payment by the Guarantor under or in connection with this Deed, except that payment by the Guarantor of or in relation to any Obligation which is denominated in a foreign currency must be made in that foreign currency.
- (b) If for any reason any amount payable by the Guarantor under or in connection with this Deed is received by the Beneficiary in a currency (Payment Currency) other than the currency (Agreed Currency) in which that amount is required to be paid under this Deed (whether as a result of any judgment or order, the liquidation of the Guarantor or otherwise), and the amount obtained (net of charges) by the Beneficiary on its conversion of the amount of the Payment Currency received into the Agreed Currency is less than the amount payable under this Deed in the Agreed Currency, then the Guarantor will, as an independent and additional obligation, indemnify the Beneficiary for that deficiency and for any loss sustained as a result of that deficiency.

8. Expenses and stamp duties

8.1 Expenses

The Guarantor must on demand reimburse the Beneficiary for and keep the Beneficiary indemnified against all expenses, including legal fees, costs and disbursements on a solicitor/own

client basis (or on a full indemnity basis, whichever is the higher) assessed without the necessity of taxation, incurred by the Beneficiary in connection with:

- (a) any consent, agreement, approval, waiver or amendment to this Deed requested by the Guarantor or Service Provider; and
- (b) any exercise, enforcement or preservation, or attempted exercise, enforcement or preservation, of any rights under this Deed.

8.2 Stamp duties

- (a) The Guarantor must pay all stamp duties, transaction, registration and similar Taxes, including fines and penalties, financial institutions duty and debits tax which may be payable to or required to be paid by any appropriate authority, or determined to be payable in connection with the execution, delivery, performance or enforcement of this Deed or any payment, receipt or other transaction contemplated by this Deed.
- (b) The Guarantor must indemnify the Beneficiary against any loss or liability incurred or suffered by it as a result of the delay or failure by the Guarantor to pay Taxes.

9. Assignment

The Beneficiary may assign, novate or otherwise transfer all or any part of its rights under this Deed to the same party to whom it may assign, novate or transfer its rights under the Service Provider Deed Poll or any other party with the consent of the Guarantor (not to be unreasonably withheld) and may disclose to a proposed assignee or transferee any information in the possession of the Beneficiary relating to the Guarantor.

10. Governing law, jurisdiction and arbitration

10.1 Governing law

This Deed and where applicable, the arbitration reference contained in clause 10.3, is governed by and will be construed according to the laws of New South Wales.

10.2 Jurisdiction

- (a) This clause 10.2 only applies where clauses 10.3 to 10.7 do not apply.
- (b) The Guarantor irrevocably submits to the non-exclusive jurisdiction of the courts and appellate courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought relating in any way to this Deed.
- (c) The Guarantor 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 proceeding has been brought in an inconvenient forum, where that venue falls within paragraph (b) of this clause.

10.3 Reference to arbitration

- (a) Clauses 10.3 to 10.9 will only apply where the Guarantor is a foreign company (as defined in section 9 of the *Corporations Act 2001* (Cth)).
- (b) Any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this Deed (including any question relating to the existence, validity or termination of this Deed) must be referred to and finally resolved by arbitration in accordance with the arbitration rules of the Australian Centre for International Commercial Arbitration (known as the ACICA Arbitration Rules).
- (c) The seat of the arbitration will be Sydney.

- (d) The number of arbitrators will be one.
- (e) The language of the arbitration will be English.

10.4 Powers of the arbitrator

The arbitral tribunal has the power to grant all legal, equitable and statutory remedies, except punitive damages.

10.5 Consolidation

Section 24 of the *International Arbitration Act 1974* (Cth) will apply in respect of consolidations.

10.6 Joinder

The arbitral tribunal has the power, on the application of the Guarantor or the Beneficiary, to allow a third party who the arbitrator considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. The Guarantor hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitrator has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.

10.7 Award final and binding

Any award will be final and binding upon the Guarantor.

10.8 Exclusion from determination or award

- (a) The powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) and Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT) are not conferred on an arbitral tribunal appointed in accordance with this clause 10.
- (b) The arbitral tribunal has no power to make a binding or non-binding determination or any award in respect of any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this deed by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) and Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this deed referred to the arbitral tribunal.

10.9 Urgent relief

Nothing in this clause 10 will prejudice the right of a party to seek urgent injunctive or declaratory relief from a court.

11. Miscellaneous

11.1 Continuing obligation

Subject to clauses 2.4, 5.7 and 5.8, this Deed is a continuing obligation notwithstanding any termination by the Guarantor, settlement of account, intervening payment, express or implied revocation or any other matter or thing, and the Beneficiary will continue to be entitled to the benefit of this Deed as regards the due and punctual performance of all the Obligations until a final discharge has been given to the Guarantor.

11.2 Further assurance

The Guarantor must immediately on the request of the Beneficiary, and at the cost of the Guarantor, do and perform all further acts and things and execute and deliver all further documents as the Beneficiary reasonably requires, or as are required by law, to perfect or to give effect to the rights and powers of the Beneficiary created, or intended to be created, by this Deed.

11.3 Form of written notice

A written notice served on the Guarantor for payment under this Deed may be in the form and contain any information as the Beneficiary determines, but must state that it is made under this Deed, and where applicable, identify the amount being claimed and the reason for the claim. It need not specify the amount of the Guaranteed Money, nor the method or basis of calculation of all or any part of the Guaranteed Money, including amounts of, or in the nature of, interest.

11.4 Entire agreement

This Deed will take effect according to its tenor despite, and supersede:

- (a) any prior agreement (whether in writing or not), negotiations and discussions between the Guarantor and the Beneficiary in relation to the subject matter of this Deed; or
- (b) any correspondence or other documents relating to the subject matter of this Deed that may have passed between the Guarantor and the Beneficiary prior to the date of this Deed and that are not expressly included in this Deed.

11.5 Joint and several liability

The obligations of the Guarantor, if more than one person, under this Deed, are joint and several. Each person constituting the Guarantor 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 and the Beneficiary may proceed against any or all of them. This Deed binds each person who signs as a "Guarantor" even if another person who was intended to become a "Guarantor" does not become a "Guarantor" or is not bound by this Deed.

11.6 Severance

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

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

11.7 Remedies cumulative

Each Power is cumulative and in addition to each other Power available to the Beneficiary.

11.8 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed by the Beneficiary will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed.
- (b) Any waiver or consent given by the Beneficiary under this Deed will only be effective and binding on the Beneficiary if it is given or confirmed in writing by the Beneficiary.

- (c) No waiver by the Beneficiary of:
- (1) a breach of any term of this Deed; or
 - (2) any other failure by the Guarantor to comply with a requirement of this Deed, will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Deed or failure to comply with any other requirement of this Deed.

11.9 Consents

Any consent of the Beneficiary referred to in, or required under, this Deed may be given or withheld, or may be given subject to any conditions, as the Beneficiary (in its absolute discretion) thinks fit, unless this Deed expressly provides otherwise.

11.10 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws operating directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed, or to delay or otherwise prevent or prejudicially affect the exercise of any Power, are expressly waived.

11.11 Variations

This Deed may only be varied with the written consent of the Beneficiary.

11.12 Provisions limiting or excluding liability

Any provision of this Deed which seeks to limit or exclude a liability of the Beneficiary or the Guarantor is to be construed as doing so only to the extent permitted by law.

11.13 Notices

- (a) Any notices contemplated by this Deed must be in writing and delivered to the relevant address or sent to the email address as set out below (or to any new address or email address that a party notifies to the others).
- (1) to the Guarantor:
Attention: Company Secretary
Address: Level 25, 177 Pacific Highway, North Sydney NSW 2060
Email: [REDACTED]
 - (2) to the Beneficiary:
Attention: [insert details of relevant beneficiary]
c/o the Principal's Representative
Address: 231 Elizabeth Street, Sydney NSW 2000
Email: [REDACTED]
- (b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.
- (c) A notice sent by email will be taken to have been received on the earlier of:
- (i) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the email address stated above;

- (ii) the time that the notice enters an information system which is under the control of the recipient; and
- (iii) the time that the notice is first opened or read by an employee or officer of the recipient,

but if the result is that a notice would be taken to be given or made on a day that is not a Business Day or is later than 4:00pm (Sydney time) it will be taken to have been duly given or made at the start of business on the next Business Day.

Executed as a deed poll.

Signed sealed and delivered for and on behalf of **CIMIC Group Limited** (ACN 004 482 982) by its Attorneys under a Power of Attorney dated **9 February 2021** (and the Attorneys declare that the Attorneys have not received any notice of the revocation of such Power of Attorney) in the presence of:

Signature of Attorney

Name of Attorney

Signature of witness

Name of Witness in full

Signature of Attorney

Name of Attorney

Signature of witness

Name of Witness in full

Attachment K – Form of Variation Impacts Statement

VARIATION IMPACTS STATEMENT

Clause [insert]

This Variation Impacts Statement is issued in respect of the following [Modification / Adjustment Event / proposed Modification / alleged Adjustment Event]:

[insert full details of the relevant Modification or Adjustment Event, including:

- reasons why the Service Provider believes that it constitutes a Modification or Adjustment Event and, if **clause 14.3(a)** applies, reasons why the Service Provider proposes the Modification;
- a detailed scope of the proposed Modification;
- a schedule for the proposed Modification; and
- a cost for the proposed Modification]

In respect of the [Modification / Adjustment Event / proposed Modification / alleged Adjustment Event]:

- [the schedule and expected timeline to commence and complete capital works]
- [the cost and an explanation as to how the proposed Modification provides value for money]
- [confirmation that all works will be undertaken and delivered in accordance with the Standards and Codes]
- [the Variation Impacts proposed by the Service Provider and the Payment Periods (if any) each of the Variation Impacts will apply to]
- [the details of any actual or likely claim under an insurance policy]
- [the details of any actual or likely insurance proceeds]
- we propose the application of [Variation Capital Works Milestone Payments / Variation Capital Works Progress Payments / Variation Enhancement Activities Pass Through Payment];
- [any risks, constraints, and/or opportunities associated with the proposed Modification]
- [any items specifically excluded from the proposed Modification]
- [we attach the proposed Modification Scope;]

- **[include in respect of Modifications]** [we confirm that the Modification Scope:
 - (i) is consistent with and otherwise incorporates (as required by the Principal's Representative) any documentation provided by;
 - (ii) complies with any requirements notified by the Principal's Representative;
 - (iii) is fit for its Intended Purposes and sufficient to enable the potential Modification, if proceeded with, to be carried out in accordance with the Operations and Maintenance Deed; and]

[is capable of being performed safely and in accordance with the RSNL | is not capable of being performed safely and in accordance with the RSNL for the following reasons:]

- **[include in respect of Enhancement Activities]** we confirm that the Modification comprises Enhancement Activities **[and that the Modification comprises Early Enhancement Activities]** and propose the following Enhancement Activities Particulars:

Date for Completion	[insert]
Total value of security required for the purposes of clause 2.3(a) of the Enhancement Activities Terms and Conditions	[insert]
Additional events (if any) for which the Service Provider will be entitled to an extension of time to the Date for Completion for the purposes of clause 7.6(a) of the Enhancement Activities Terms and Conditions	[insert]
Rate of liquidated damages that will apply for the purposes of clause 8.6(a) of the Enhancement Activities Terms and Conditions	[insert]

- **[in respect of Modifications comprising Contamination Management Works, include all information required under paragraph (h) of the definition of Variation Impacts Statement];**
- [any Approvals required to implement the proposed Modification, the effect of the Modification on any existing Approvals and our proposal for obtaining those further Approvals]
- [our proposal for community, customer and stakeholder engagement]
- [our risk assessment of safety issues that arise from the Modification and our proposal for undertaking the Modification safely and otherwise in accordance with the Deed and the RSNL]
- [the impact on the 3MWP, 10MSP, 50AMP and Organisation Structure]
- we **[agree/disagree]*** with the amendments (including additions) to the terms and conditions in **Schedule 12** of the Operations and Maintenance Deed proposed by the Principal's Representative; and **[if disagreeing, set out the extent of the disagreement and any alternatives to those amendments proposed]**

- *[in respect of Modifications comprising Enhancement Activities]* we propose that the Approved Subcontract Agreement will depart from the terms and conditions in **Schedule 12** of the Operations and Maintenance Deed in the following ways:
- *[in respect of Modifications comprising Enhancement Activities undertaken on a Reimbursable Cost basis]* [the time intervals at which we must reconcile actual Reimbursable Costs against the Agreed Budget]
- *[in respect of Modifications comprising Enhancement Activities undertaken on a Reimbursable Cost basis]* [particulars relating to the Self-Performed On-Site Work as required by **clause 2.2(d) of Schedule 12A**]
- the additional information reasonably requested by the Principal's Representative is as follows:

[insert as required]

The Service Provider acknowledges and agrees that, notwithstanding anything in this Variation Impacts Statement, the Variation Impacts for the relevant Modification or Adjustment Event will be determined in accordance with the Operations and Maintenance Deed.

Yours sincerely,

[insert name of Service Provider's Representative]

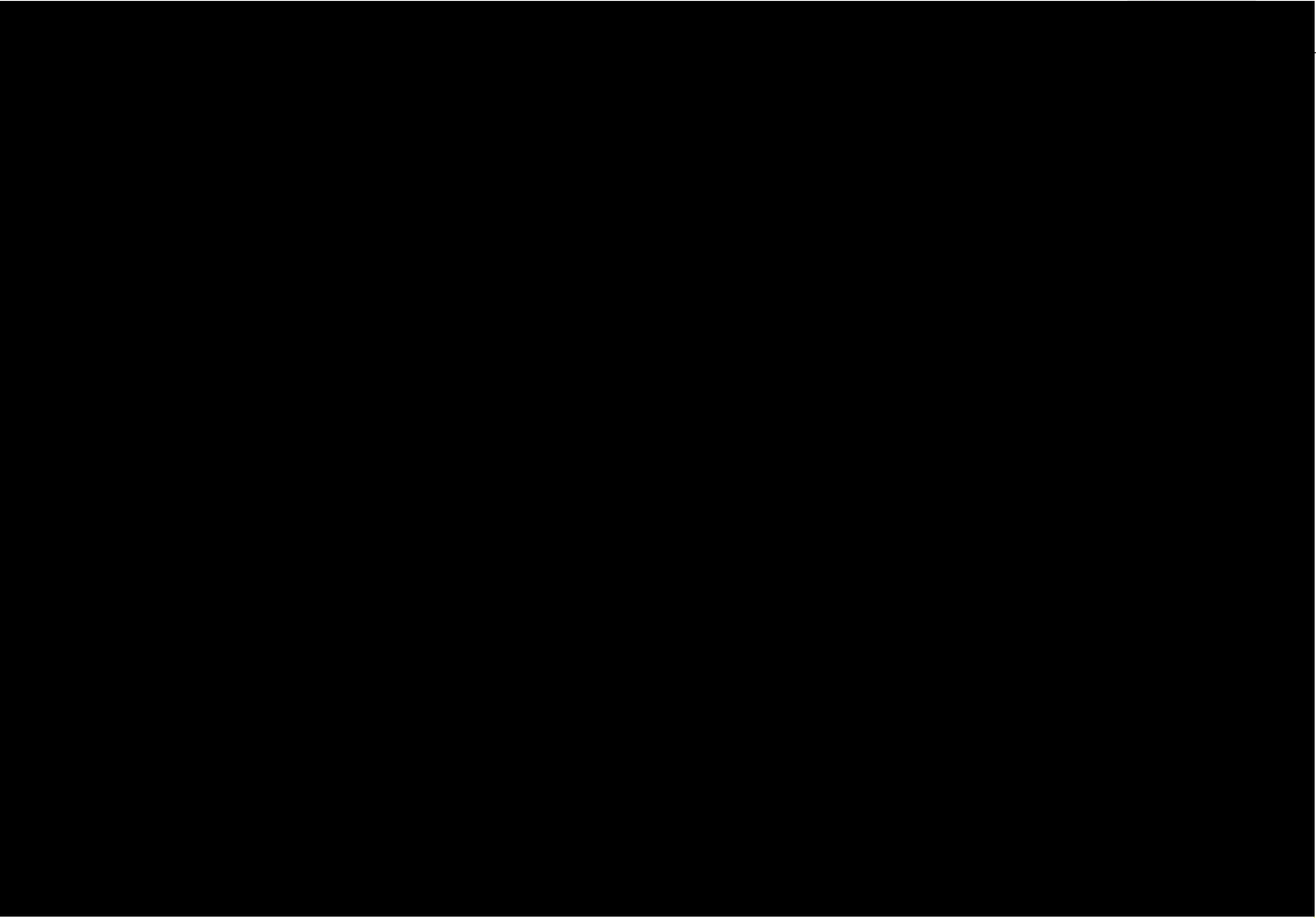
[Insert Service Provider]

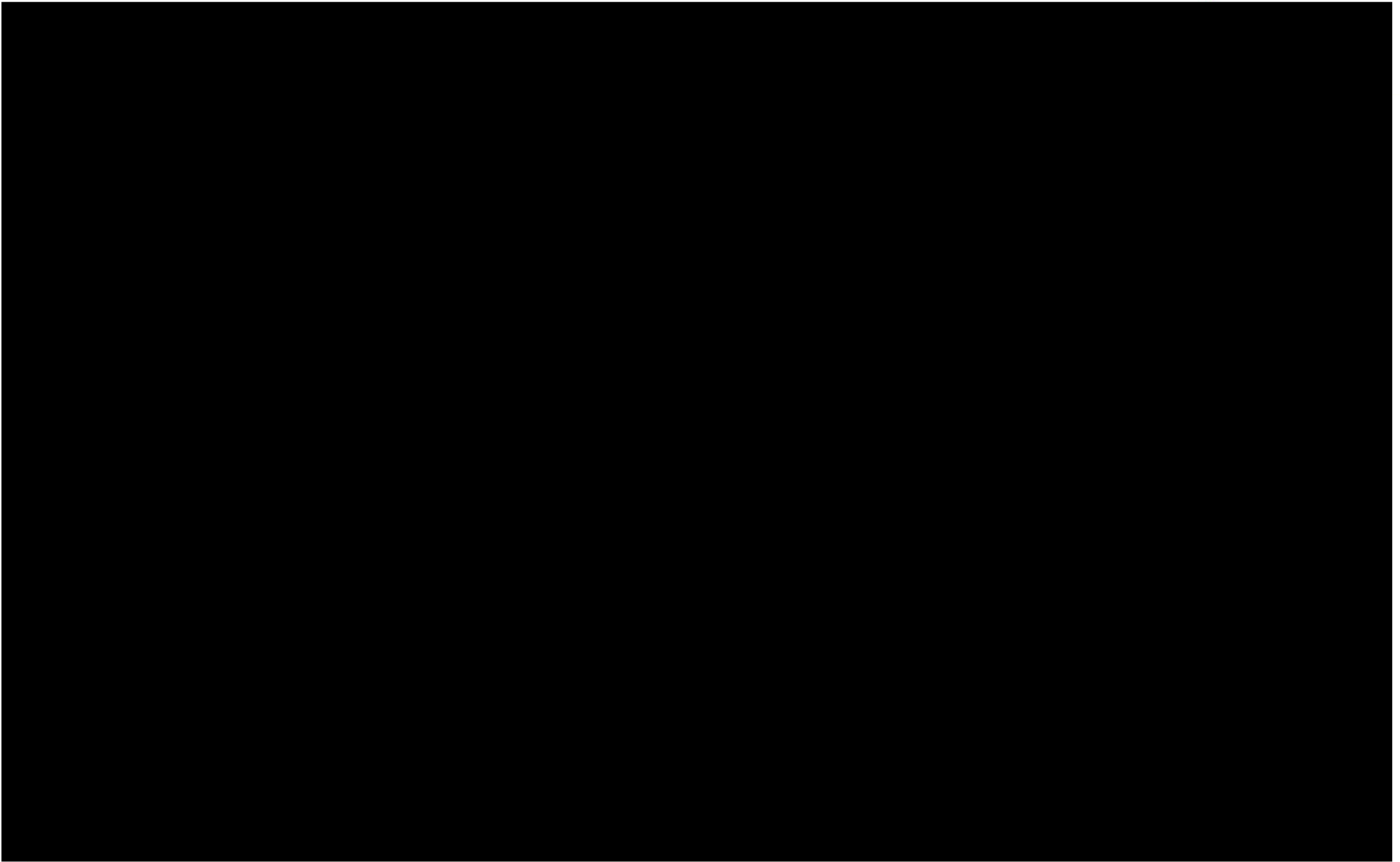
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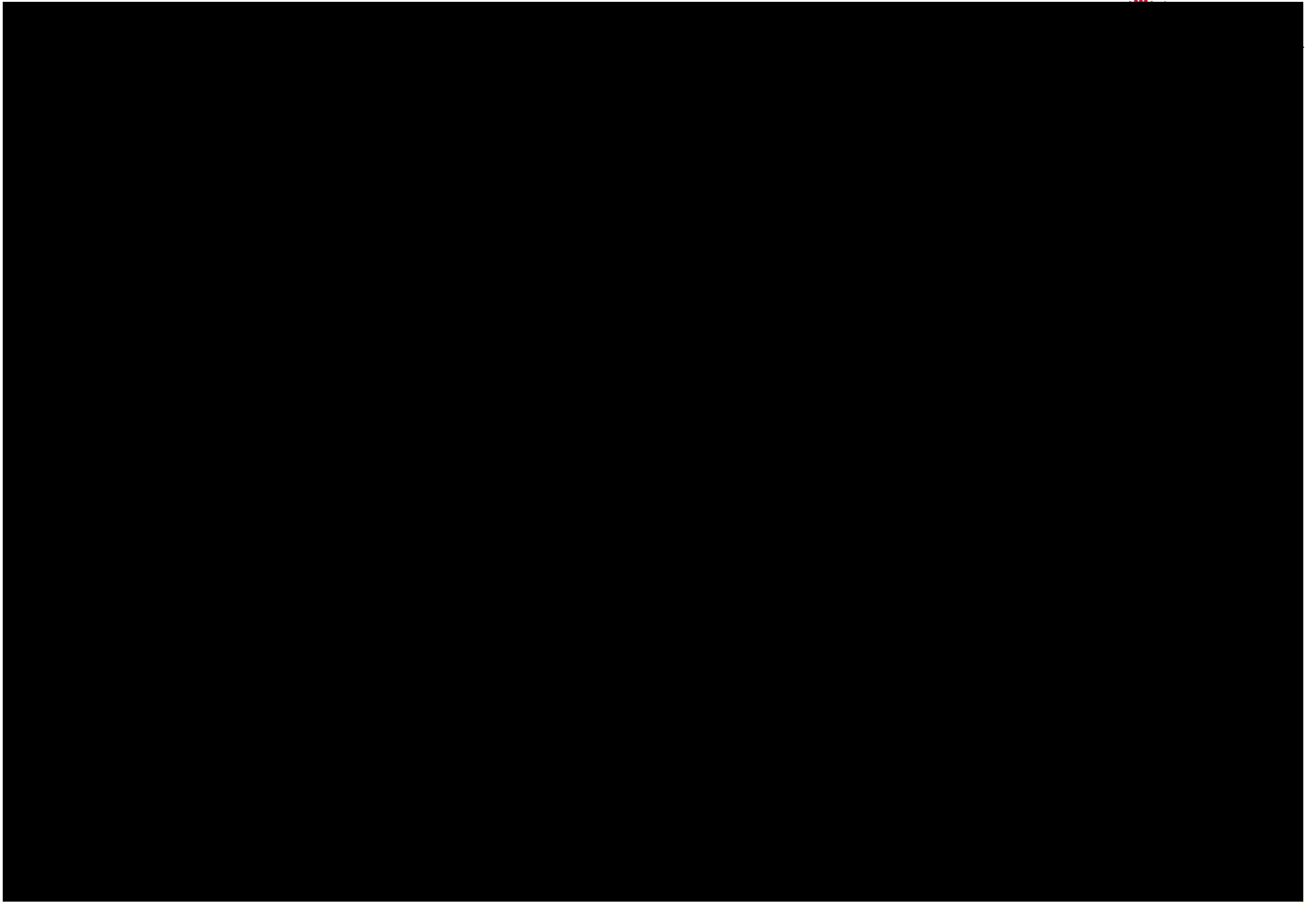
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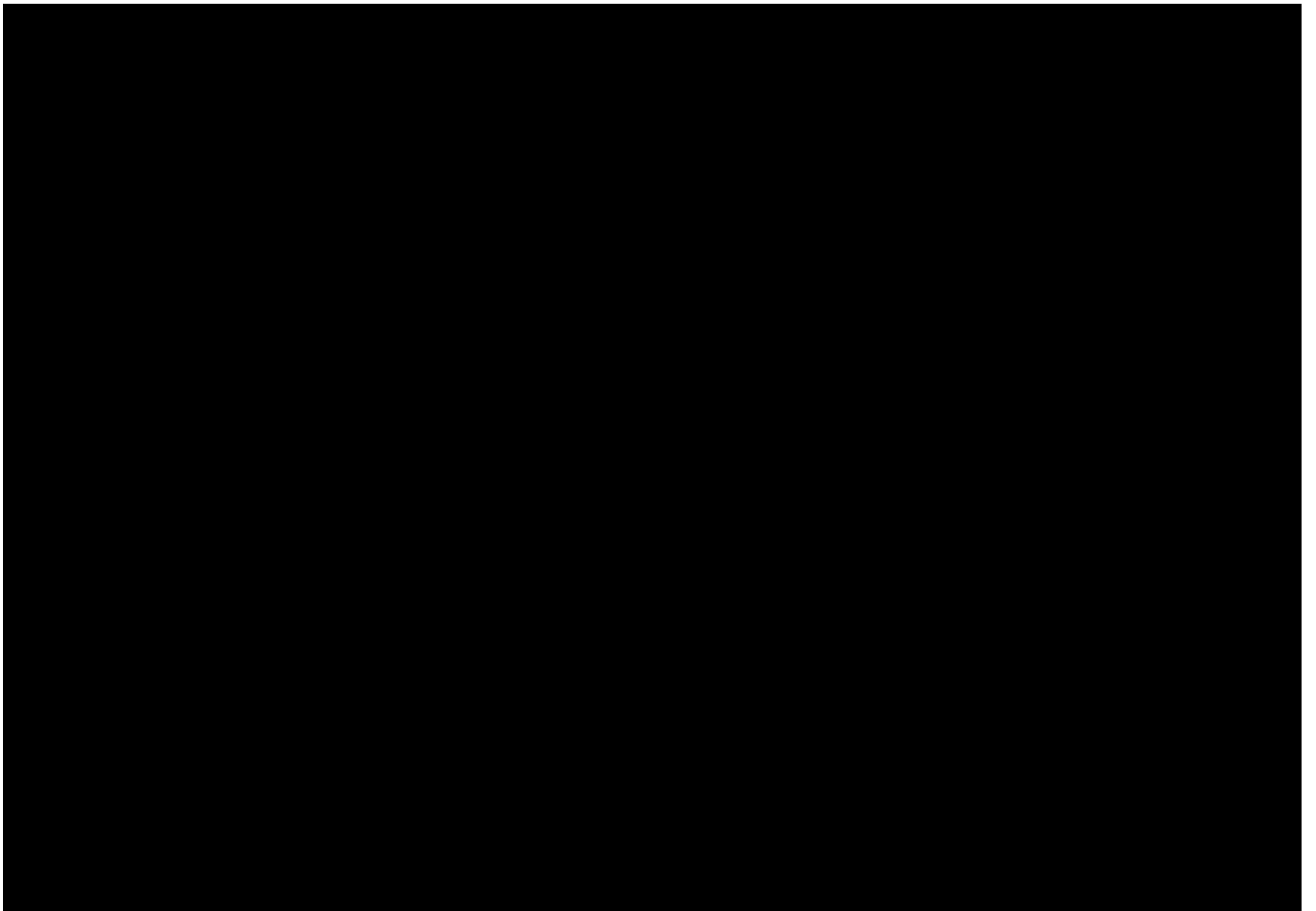
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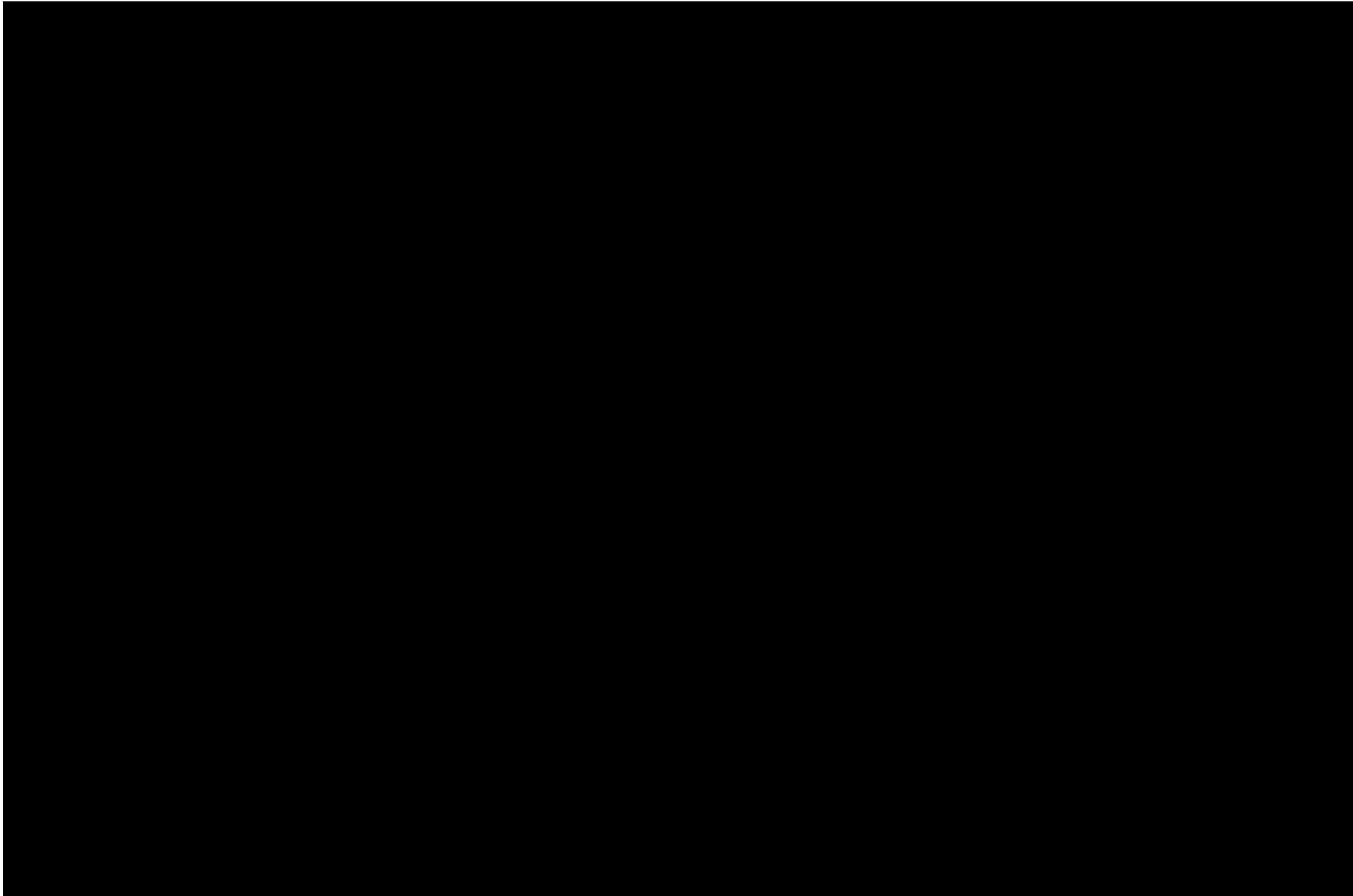
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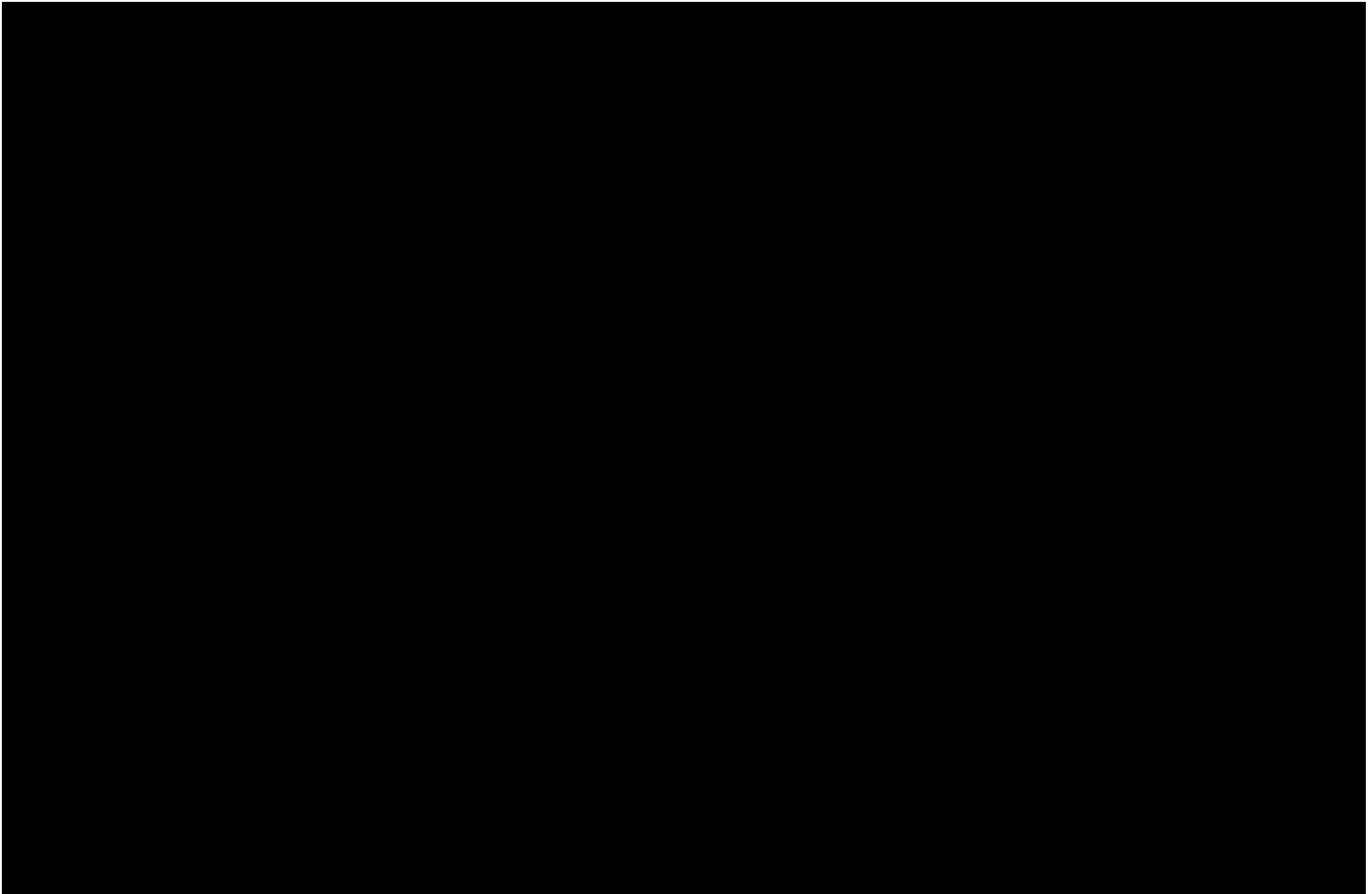


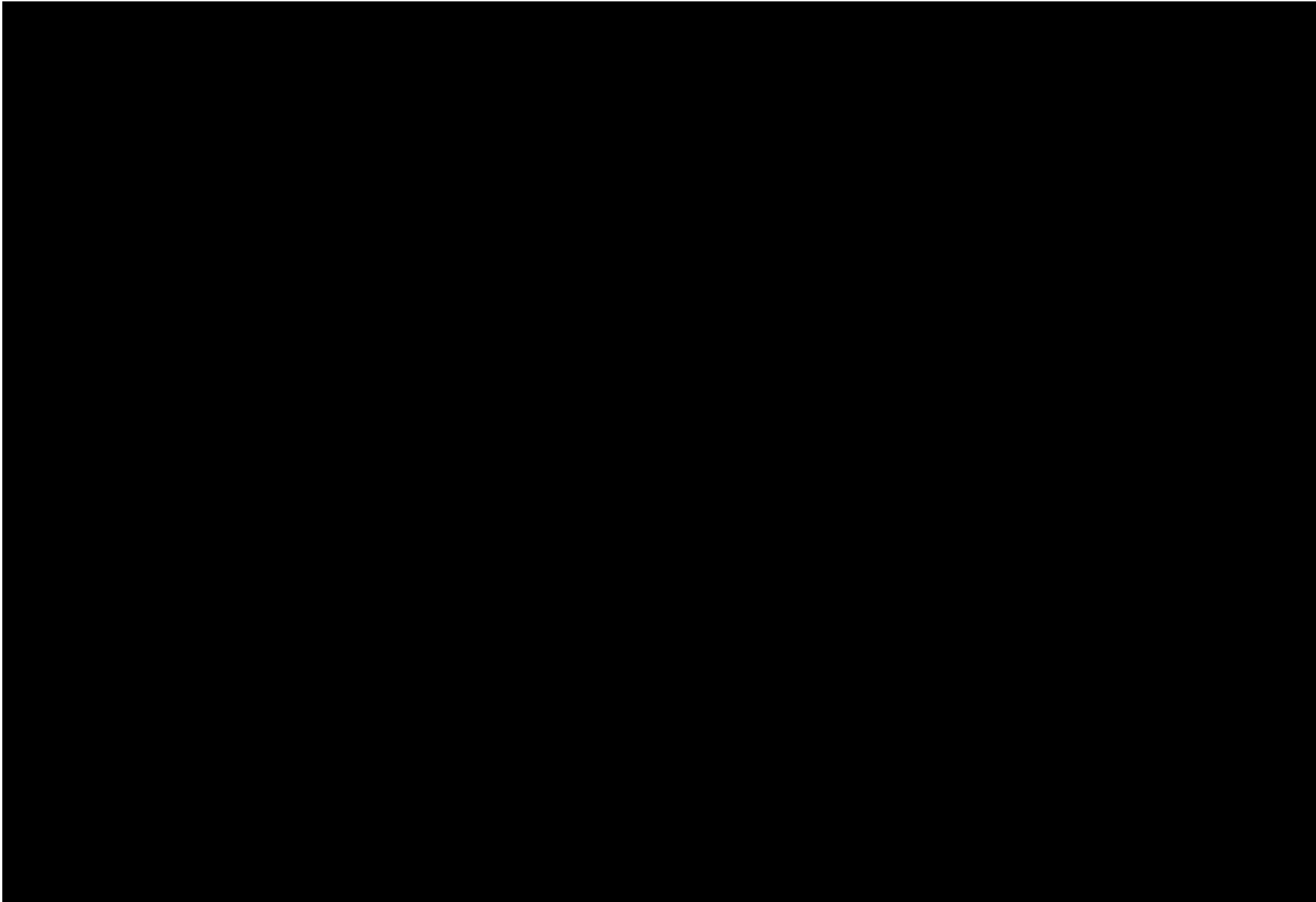


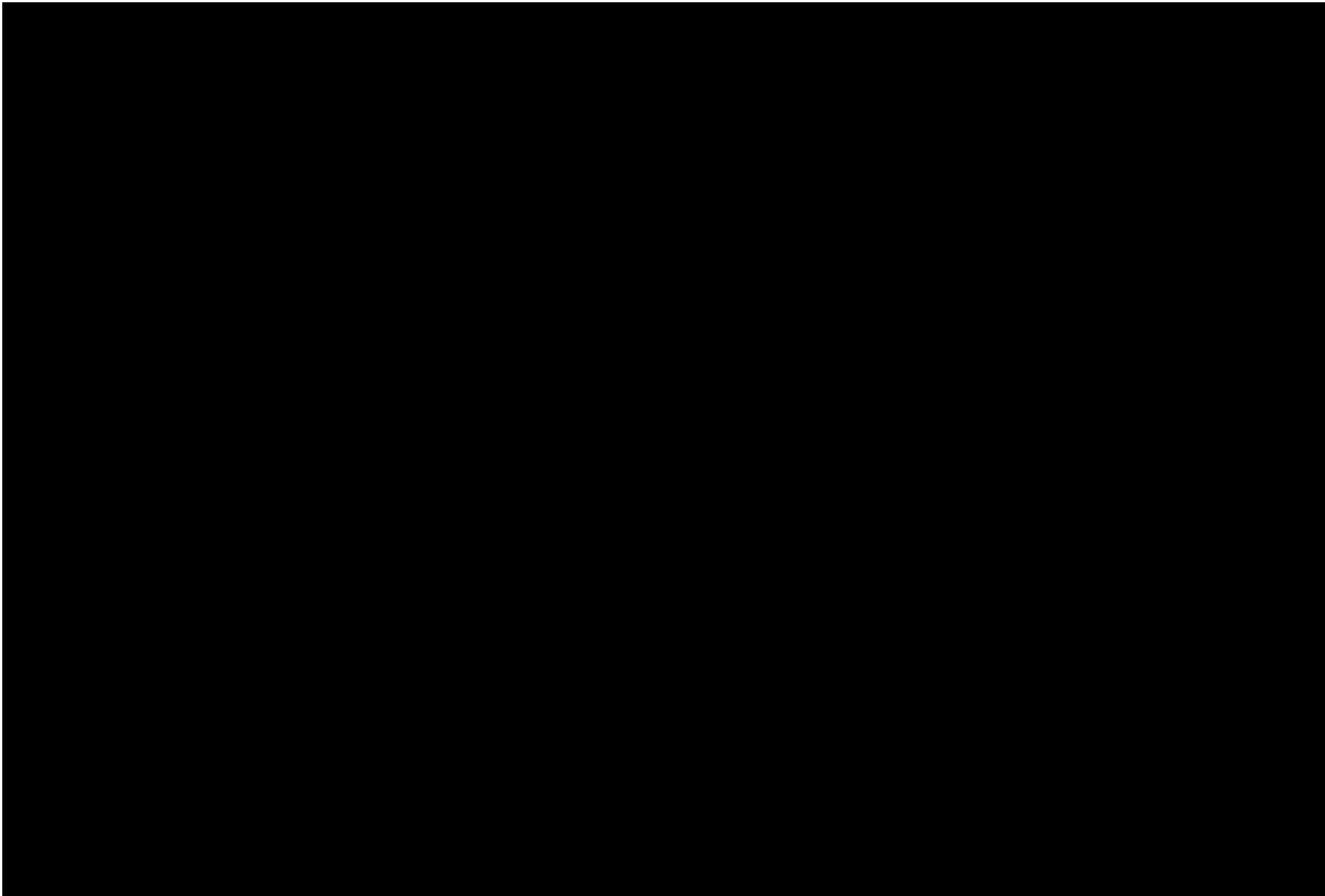


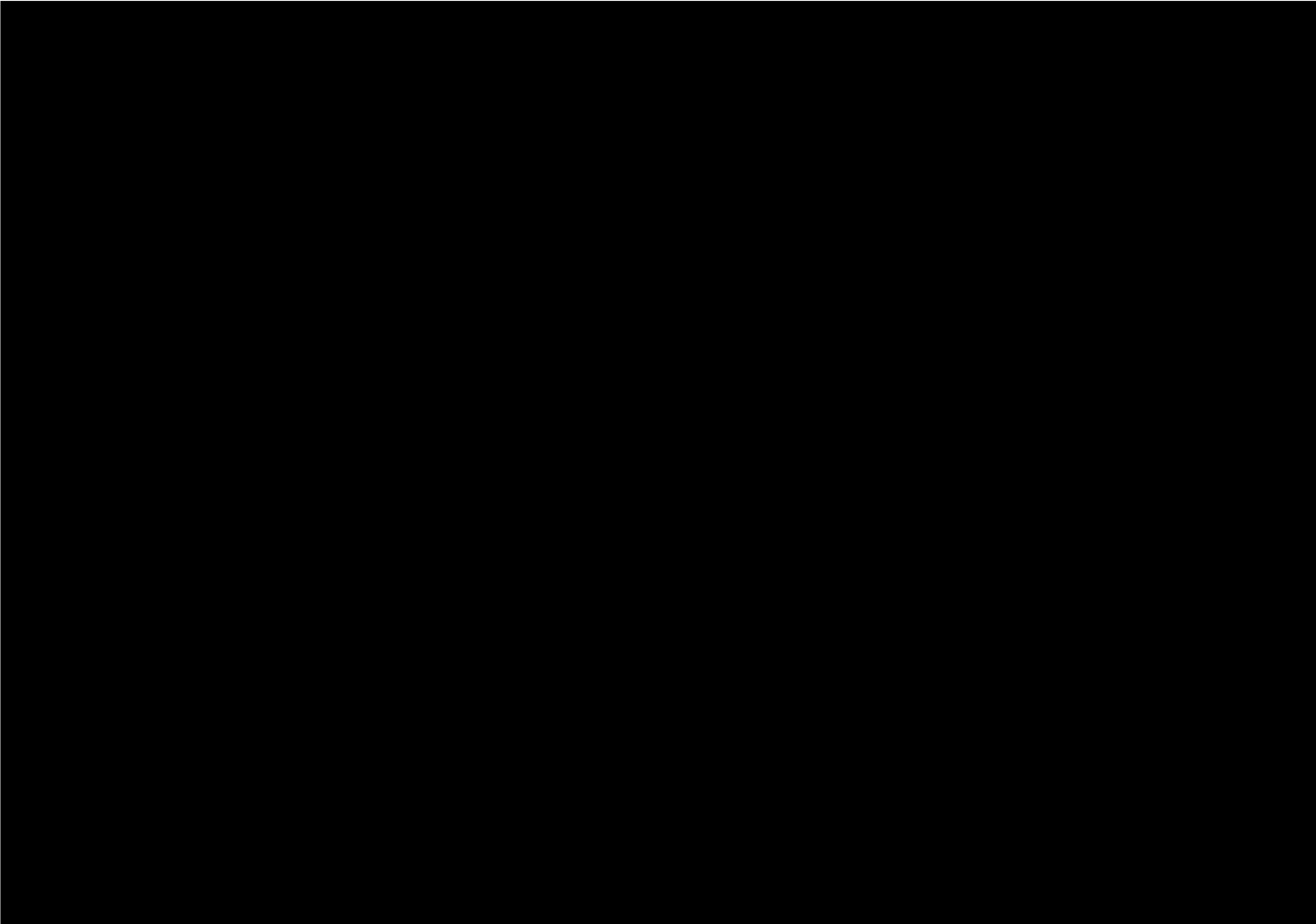






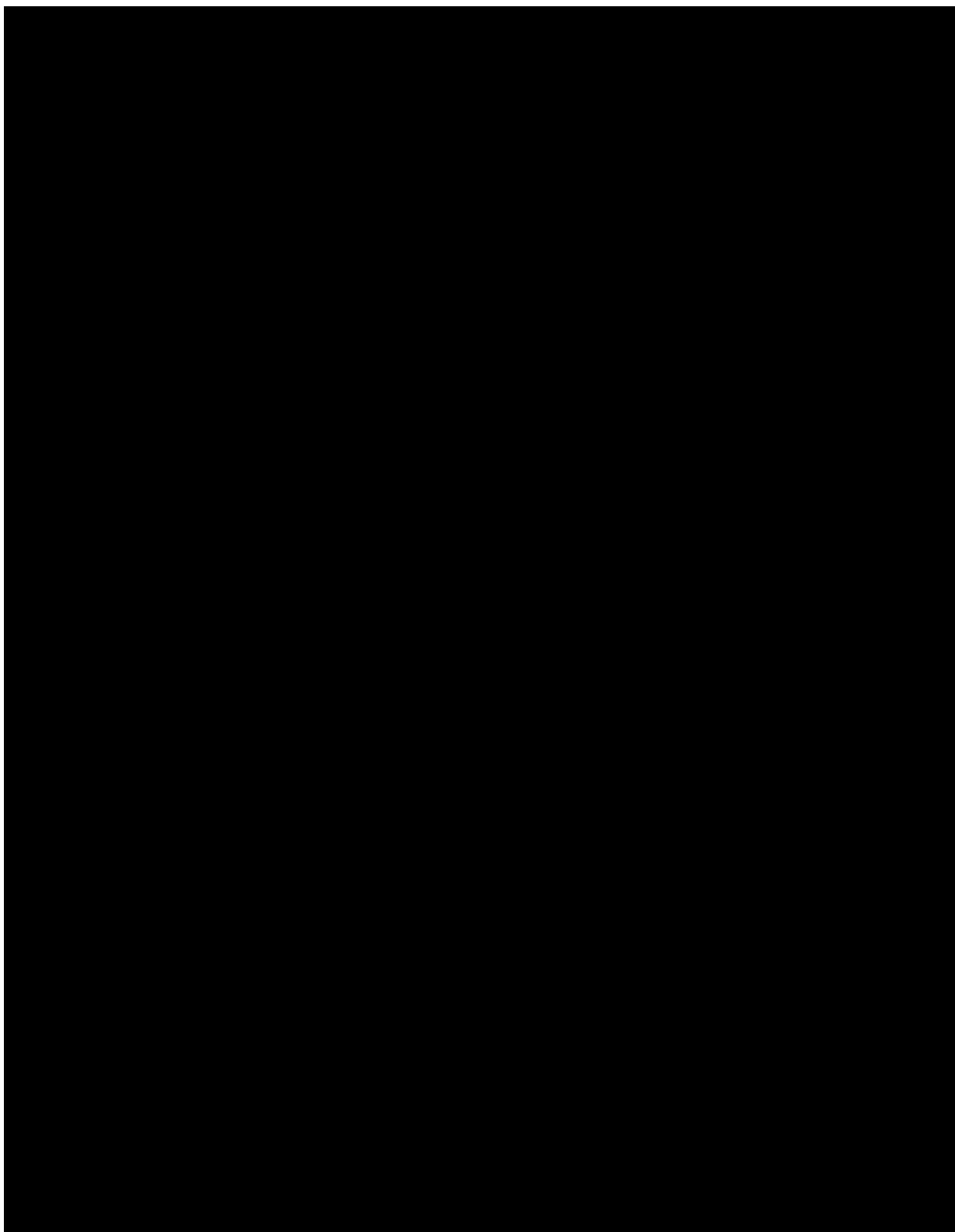








Attachment M – Insurances

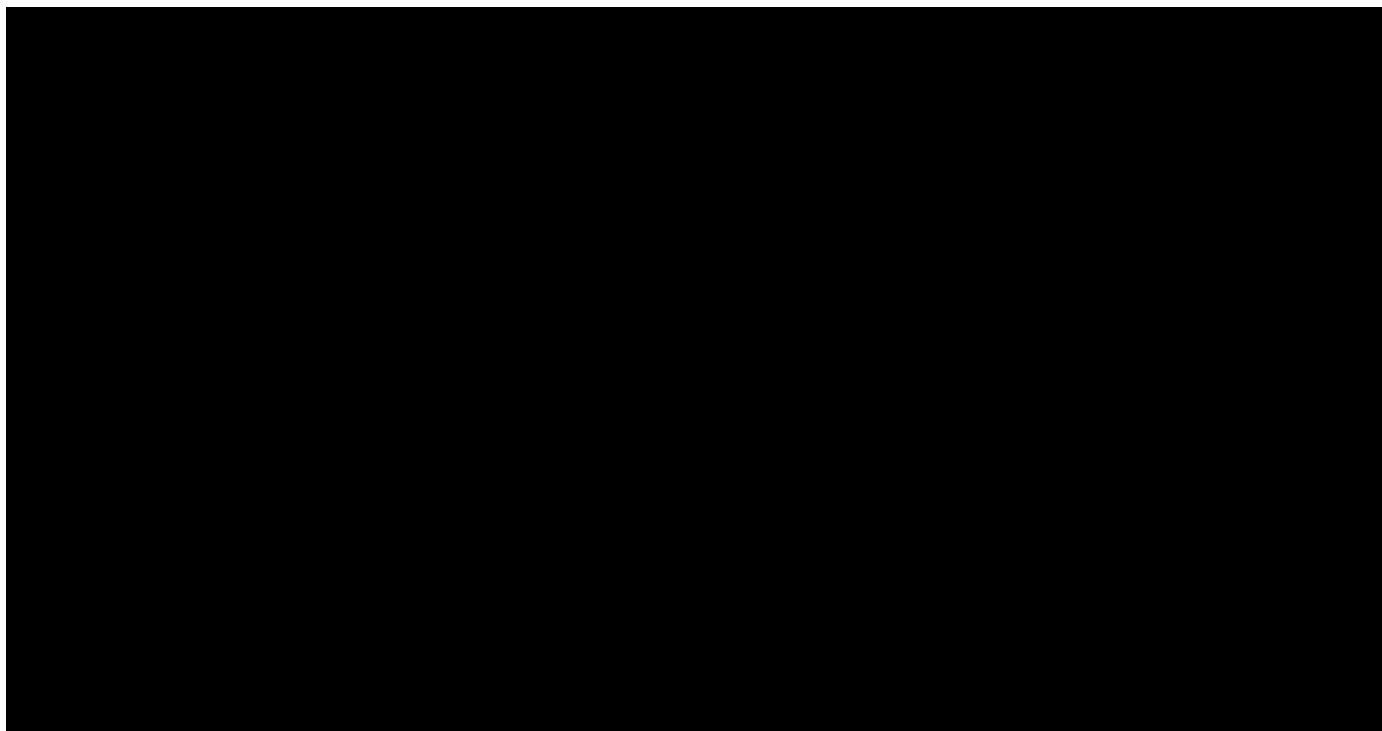


Attachment N – ARA DDA Exemption Application

Attachment N comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of this Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Attachment N – ARA DDA Exemption Application”.

1. Australasian Railway Association Application to The Human Rights Commission for Temporary Exemptions to the *Disability Standards for Accessible Public Transport 2002 (Cth)* and the *Disability (Access to Premises – Buildings) Standards 2010 (Cth)*.
2. Australasian Railway Association Application to The Australian Human Rights Commission – A Supplementary Submission to public submissions made regarding the ARA Temporary Exemptions Application to the *Disability Standards for Accessible Public Transport 2002 (Cth)* and the *Disability (Access to Premises – Buildings) Standards 2010 (Cth)*.

Attachment O – Example list of projects for which Early Enhancement Activities may be required



Attachment P – List of Historic Defects

Attachment P comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the Reset Deed via the hard drive / USB labelled “Hard Drive - CRN Reset Deed” in the subfolder on that hard drive / USB labelled “Attachment P – List of Historic Defects”.

2. List of Historic Defects

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Attachment R – Inception Meeting Record

 Transport for NSW		Project Initiation Meeting Brief		
		Issue no:		Issue date:

Project Name:				
Project No:	Contract Year Period:	Project Type:		
	[CY4]	[enhancement/contamination/ property renewal/other]		
Project Location:				
TfNSW Project Manager	[Name, Position] Who has authorised/asked for the work to be done?		[Phone] [Email]	
UGLRL Project Manager	[Name, Position] Who is responsible for managing this project?		[Phone] [Email]	
Status	Budget	Target date	Risk level	Priority
Proposed Approved Completed	[Total Amount] [Funding Source]	[Insert]	H / M / L	H / M / L

- Project Description

Brief description of the project.

- Project Purpose/ Justification

Why has the project been initiated / justification of project?

What is the reasoning behind this project?

What is the problem?

What are we trying to solve?

- Measurable objectives & related success criteria

Objective	Success Criteria
• What will the project achieve when it is a success? • State here the client's <u>mandatory</u> objectives for the project that are required to be satisfied (e.g. Reduce maintenance costs by xxx, Improve road safety by xxx, etc)	How will you know the objective has been met? How do you measure or recognise if you are successful in meeting the objective? Define the success criteria related to each objective.
<i>Objectives are quantifiable criteria that must be met for the project to be considered to be successful</i> These criteria should be: • Specific (Unambiguous) • Measurable (How will we know we have finished?) • Achievable (Can we do it?) • Relevant (Is it the right thing to do?) • Timed (When will we do it?)	

* Note: If the success criteria are long term success criteria or are not appropriate for immediate measurement, then potential acceptance criteria may be also noted for immediate, or short term measure.

- High Level Requirements

What conditions must be met for project success?

How will we know if the work we do will acceptability meet this requirement?

- Known Risks

What are considered to be key known risks to this project?

(Note: only identify known risks at this point, a detailed risk assessment will be carried out during scoping and development of the project)

What could impact on or delay the project?

What commitments have been made? (e.g. political, financial etc)

Are there any business, WHS and/or environmental issues to be managed?

- Summary milestone and budget schedule

Project Phase	Equip Usage	Deliverable Milestones	Completion Date	Financial Year Funding / Budget		
			Planned	[16/17]	[17/18]	[18/19]
Initiate	03100	Project brief issued				
	06100	Initiation meeting conducted				
Develop	22500	Community consultation plan developed				
	23200	Risk assessment (concept) developed				
	26500	Preferred option announced				
	28700	Environmental assessment determined				
	28800	Concept design approved				
	36200	Structural designs approved				
	38700	Detail design approved				
Deliver	53000	Infrastructure contract awarded				
	53500	Infrastructure commenced				
	54200	Infrastructure risk assessment complete				
	58400	Infrastructure placed in service				
Finalise	61000	Handover of infrastructure complete				

- Project Stakeholders

Stakeholder List			
TfNSW RSC Director	Name and Contact Details	Ambulance Service	Name and Contact Details
TfNSW RSC Project Manager	Name and Contact Details	NSW Police	Name and Contact Details
UGLRL Project Manger	Name and Contact Details	Rural Fire Service	Name and Contact Details
TfNSW Communications Branch	Name and Contact Details	Business 1	Name and Contact Details
TfNSW Environmental Branch	Name and Contact Details	Business 2	Name and Contact Details
Local Council	Name and Contact Details	Resident 1	Name and Contact Details
Local Member	Name and Contact Details	(Other internal TfNSW or external stakeholders, eg. Local bus company, Community Centre, RSL, Hotel, Pub, Shops, etc)	
State Emergency Services	Name and Contact Details		

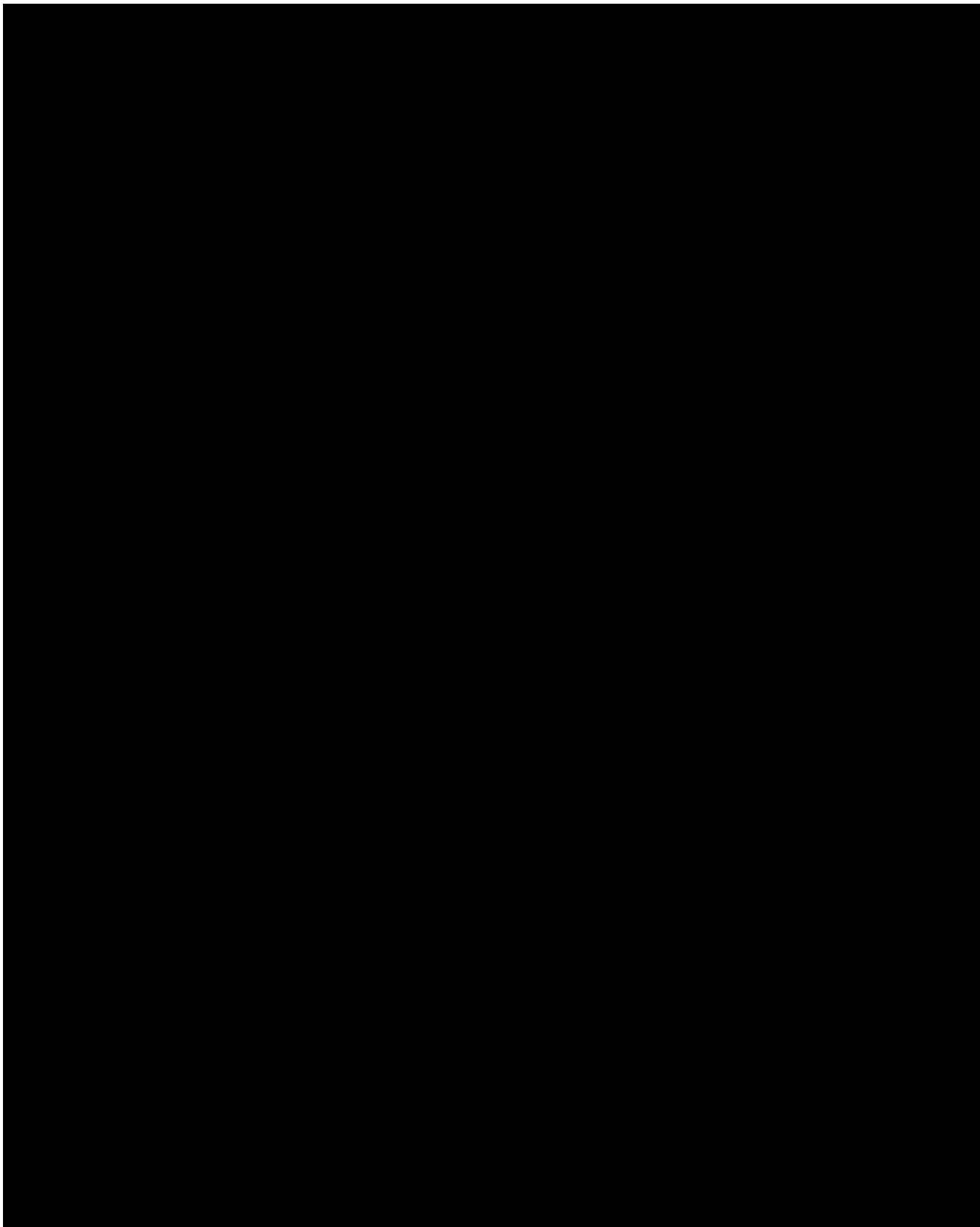
- Project approval requirements

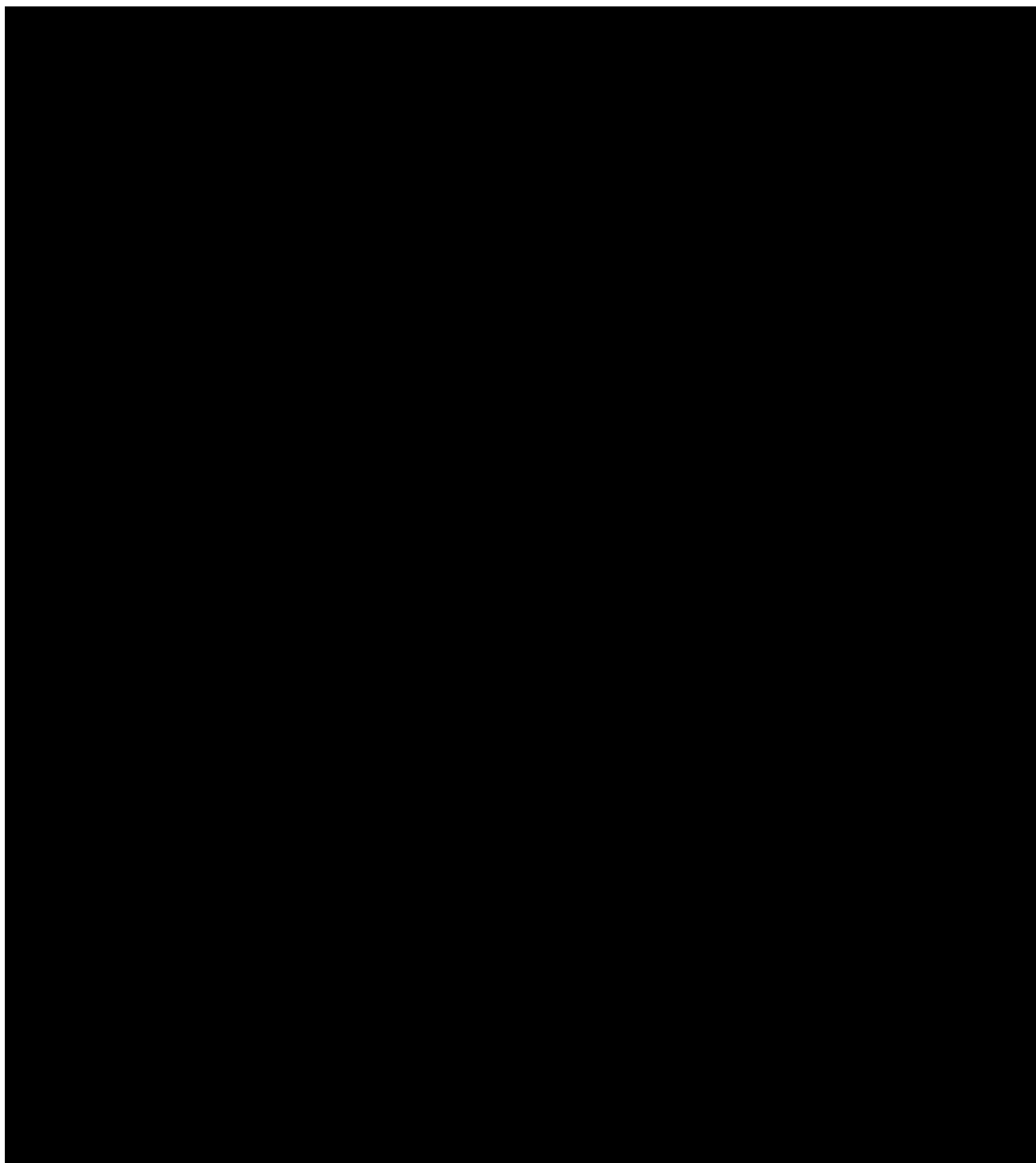
Approvals			
TfNSW Project Manager		UGLRL Project Manager	
(Signature)		(Signature)	
Name		Name	
Position Title	Date	Position Title	Date

TfNSW Project Initiation Meeting Brief Verification			
(Signature)			
Name			
Position Title	Date		

[REDACTED]

[REDACTED]





[Redacted text block]

Part 2: Variation Impacts for Modifications**1 Variation Impacts for Modifications****1.1 Impact on Pricing**

- (a) Subject to any provision of this Deed limiting or excluding any entitlement of the Service Provider (including **clauses 16(b), 29A.3 and 29A.4** of the General Conditions), if a Modification is directed by the Principal's Representative under **clause 14.1(a)** of the General Conditions or approved by the Principal's Representative under **clause 14.3(b)** of the General Conditions, then:
- (ia) to the extent the Modification constitutes Early Enhancement Activities (and no previous Modification has been directed by the Principal's Representative under **clause 14.1(a)** of the General Conditions or approved by the Principal's Representative under **clause 14.3(b)** of the General Conditions in respect of the relevant Early Enhancement Activities Package), the Early Enhancement Activities Payment will be an amount equal to the increase in costs that have been, or will be, directly and reasonably incurred by the Service Provider in carrying out the Modification in accordance with this Deed (plus an amount on account of profit), as determined by the Principal's Representative as follows:
- (A) by agreement between the parties, including to the extent the Service Provider proposes Variation Impacts for the purposes of the Modification and those Variation Impacts are accepted by the Principal's Representative in writing (including under **clause 14.3(b) or 15(c)** of the General Conditions), in respect of which the Service Provider must not propose adjustments that are less favourable to the Principal than those which would apply in the absence of any agreement contemplated by this **clause 1.1(a)(ia)(A)** of this **Part 2** of the **Variations Schedule**;
- (B) not used;
- (C) not used;
- (D) not used;
- (E) not used; or
- (F) to the extent **clause 1.1(a)(ia)(A)** of this **Part 2** of the **Variations Schedule** does not apply, using reasonable rates and prices including a profit margin of 6.36% and a risk margin of 4.5% (for a total margin of 10.86%);
- (i) to the extent **clause 1.1(a)(ia)** does not apply and the Modification involves changes in the Mobilisation Activities (other than the Redeployment Activities), the Redeployment Activities, the Transition Out Activities or the Early Enhancement Activities, for the purposes of **Appendix 1, Appendix 2 or Appendix 13** (as applicable) of the **Payment Schedule** or the definition of 'Early Enhancement Activities Payment' for the relevant Early Enhancement Activities Package (as applicable), the Mobilisation Payments, Redeployment Costs Payments, Transition Out Costs or Early Enhancement Activities Payment (as applicable) will be increased or decreased (as applicable) by an amount equal to:

- in carrying out the Mobilisation Activities (other than the Redeployment Activities), the Redeployment Activities, the Transition Out Activities or the Early Enhancement Activities (as applicable) in accordance with this Deed as a result of the Modification (plus, in either case, an amount on account of profit), as determined by the Principal's Representative as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

-
- page 320

(D) increase in costs that have been, or will be, directly and reasonably incurred by the Service Provider; or

(E) decrease in costs that have been, or will be, incurred by the Service Provider,

in carrying out the Services (other than the Mobilisation Activities, the Redeployment Activities, the Transition Out Activities or the Early Enhancement Activities) in accordance with this Deed as a result of the Modification (including, in either case, an amount on account of profit and overheads), as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(iii) subject to **clause 1.1(d)** of this **Part 2** of the **Variations Schedule**, to the extent the Modification results in:

- (A) an increase in costs that have been, or will be, directly and reasonably suffered or incurred by the Service Provider; or
- (B) a decrease in costs that have been, or will be, suffered or incurred by the Service Provider,

in carrying out the Property Management Services, the CRN Non-Operational Scope of Works, the State Road Overbridge Maintenance Services, the Overbridge Maintenance Services, the ARTC Lease State Road Overbridge Maintenance Services, the Level Crossing Closure Services, the Turnout Rationalisation Services or the Structures Disposal Services (as applicable), the Principal's Representative will determine adjustments to the amounts specified in **Appendices 5, 6, 7, 8, 9, 10, 11 and 12** (as applicable) of the **Payment Schedule** based on such increase or decrease in costs (plus, in either case, an amount on account of profit), as follows:

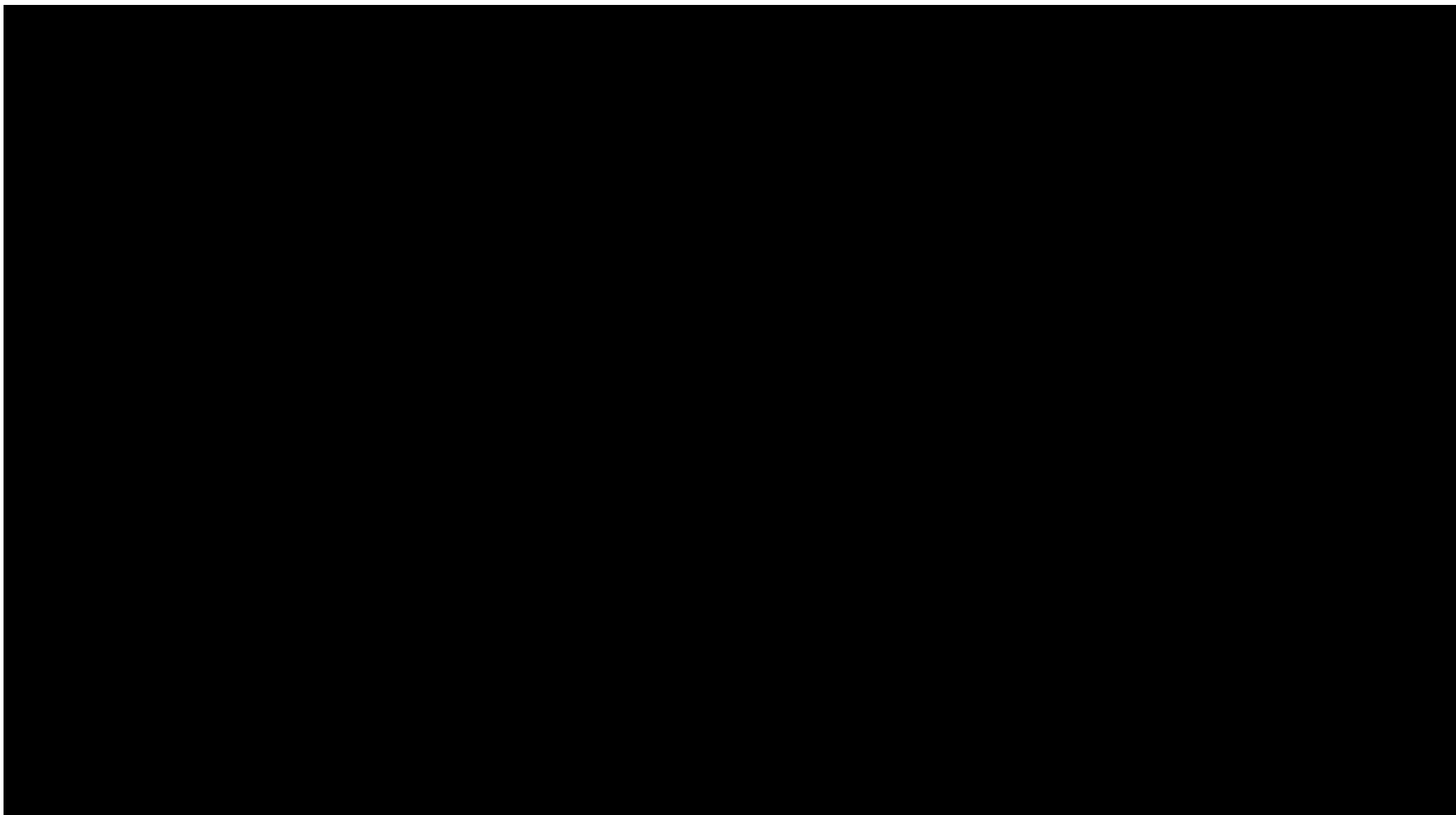
(b) The Principal's Representative must promptly notify the Service Provider in writing of any determination made in accordance with **clause 1.1(a)** of this **Part 2** of the **Variations**

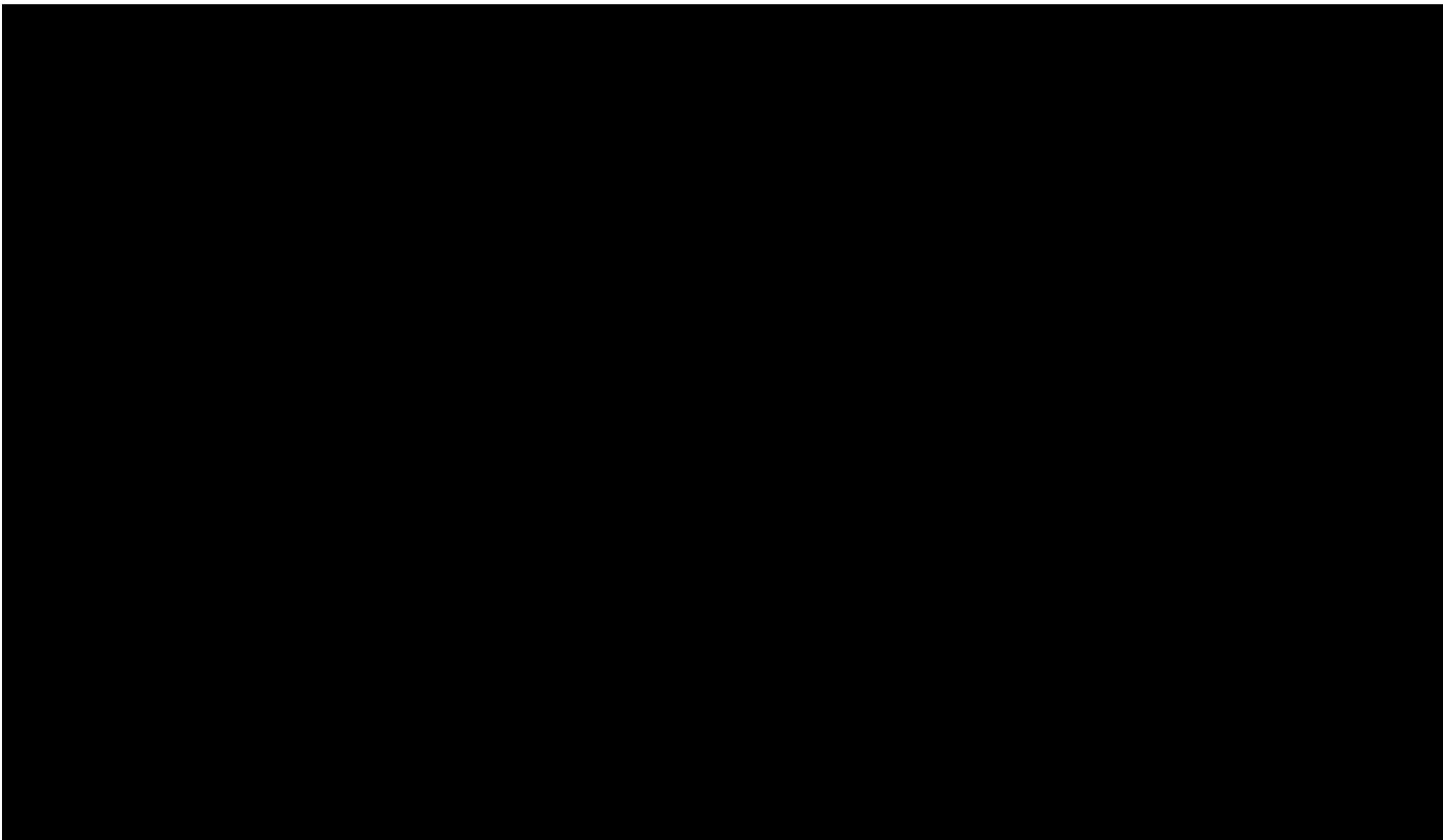
Schedule and the Payment Periods (if any) in respect of which the relevant amounts the subject of that determination will (subject to the provisions of this Deed) be payable.

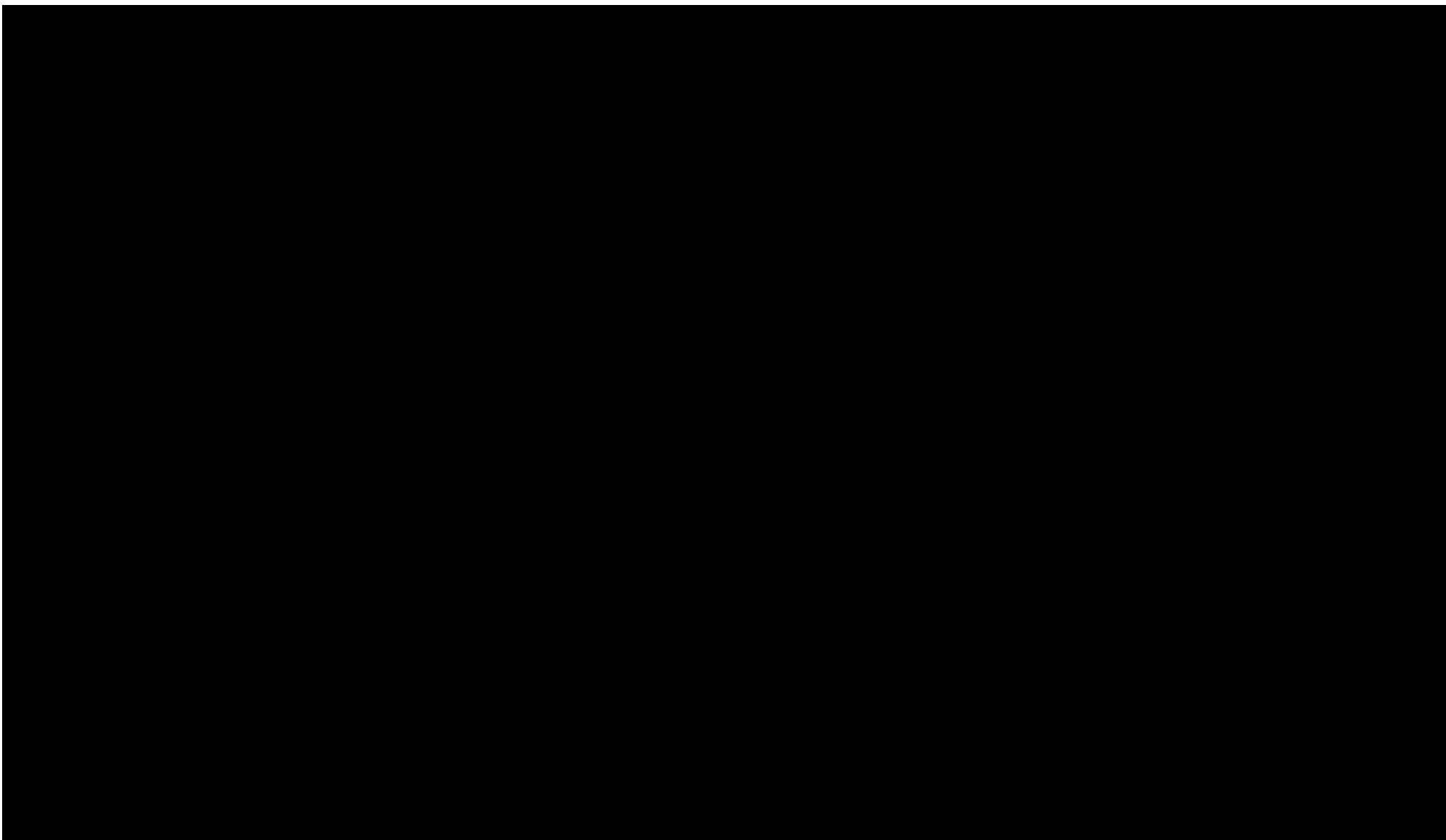
- (c) For the avoidance of doubt:
- (i) the Principal's Representative may (in its absolute discretion) make a determination in accordance with **clause 1.1(a)** of this **Part 2** of the **Variations Schedule**:
 - (A) for the benefit of the Principal; or
 - (B) which has retrospective effect based on the date of the relevant direction or approval; and
 - (ii) the Service Provider will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, any Modification referred to in the table in **Part 1** of the **Variations Schedule**, to the extent such Claim relates to any matter, cost or payment falling within the relevant threshold specified in the table in **Part 1** of the **Variations Schedule**.
- (d) **Clause 1.1(a)(iii)** of this **Part 2** of the **Variations Schedule** will not apply:
- (i) if the Principal's Representative has already exercised the relevant Option in accordance with **clause 14.2(a)** of the General Conditions; or
 - (ii) after:
 - (A) in respect of Option 2, Option 3A, Option 3B or Option 3C, the date that is 2 years after the Services Commencement Date; or
 - (B) in respect of Option 4, Option 5 or Option 6, the Services Commencement Date.

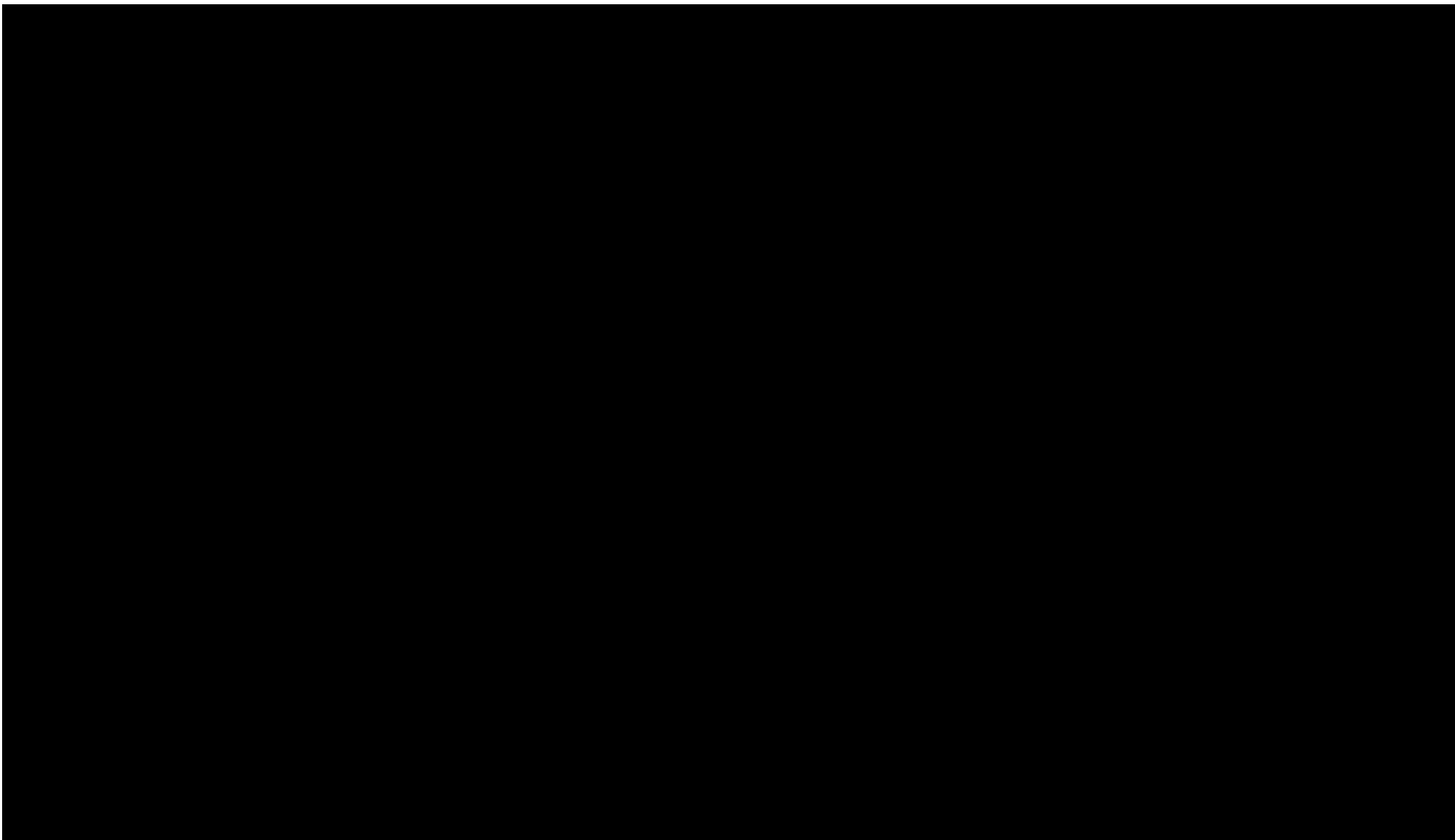
1.3 Variation Impacts Statement

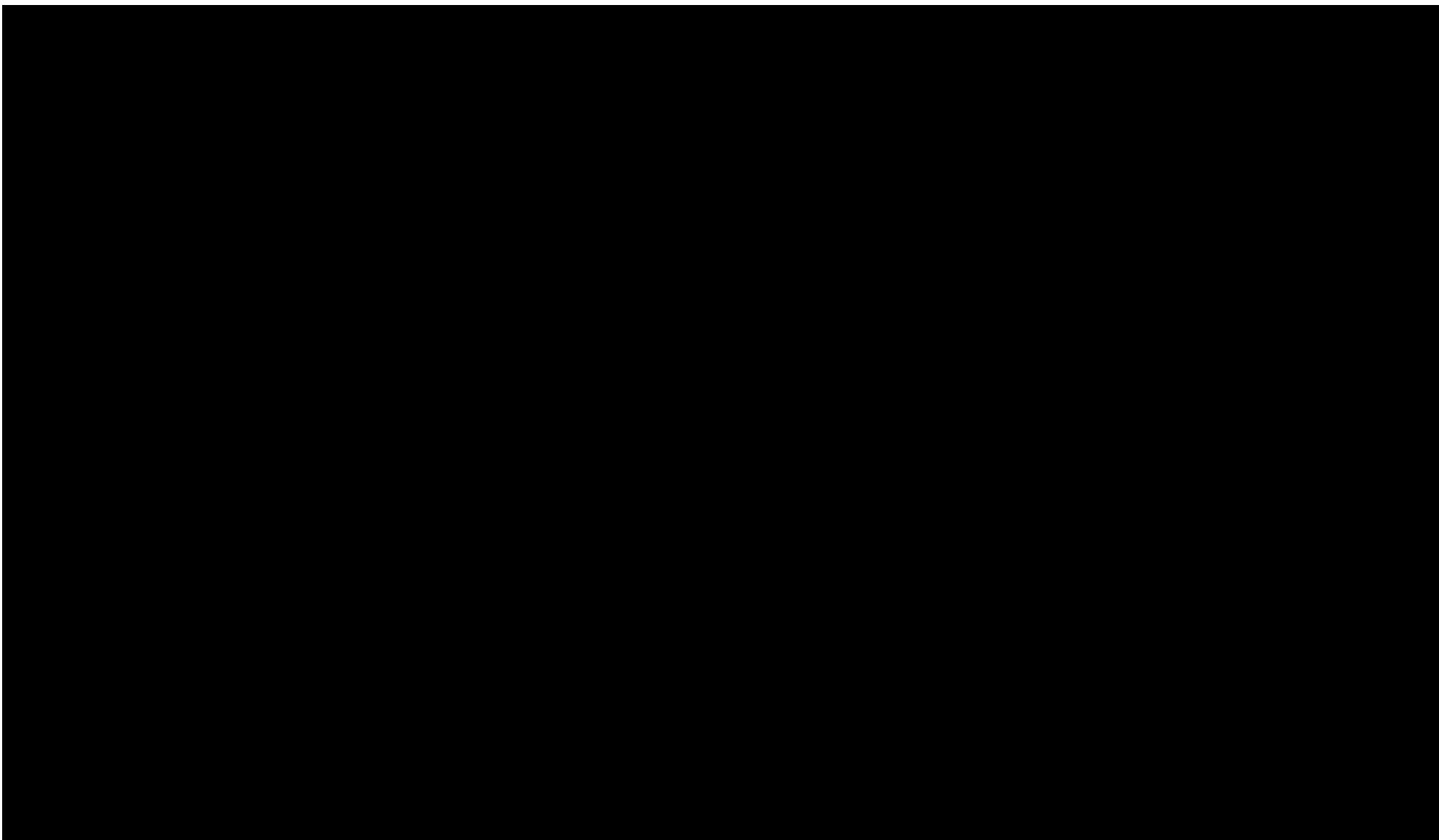
- (a) Despite any other provision of this Deed and other than in the case of Variation Enhancement Activities Pass Through Payments for Enhancement Activities in accordance with **Schedule 12** and **Schedule 12A**, the Service Provider's entitlements in respect of Variation Impacts associated with any Modification must not exceed the Variation Impacts proposed by the Service Provider in any Variation Impacts Statement submitted under this Deed.

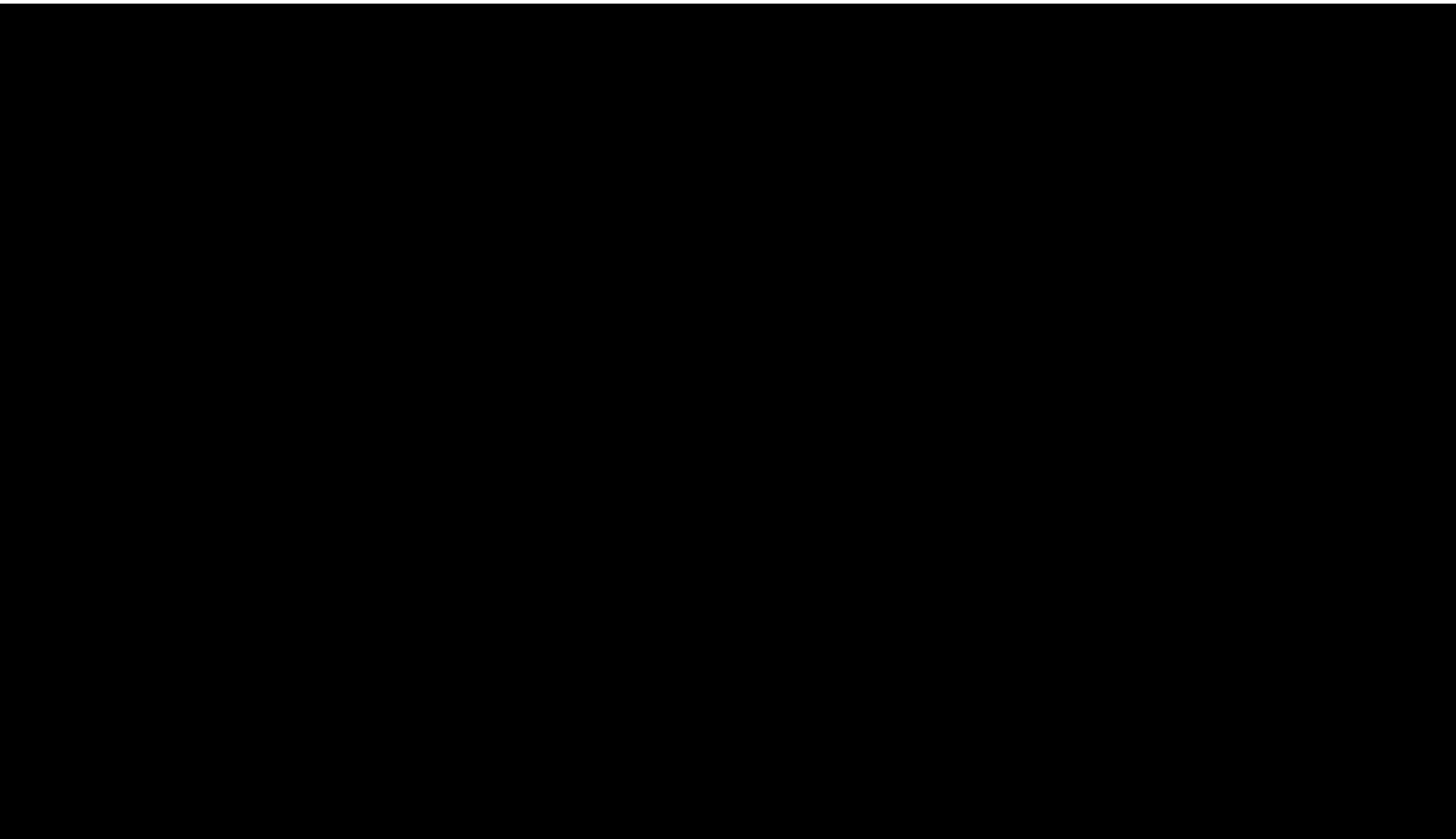


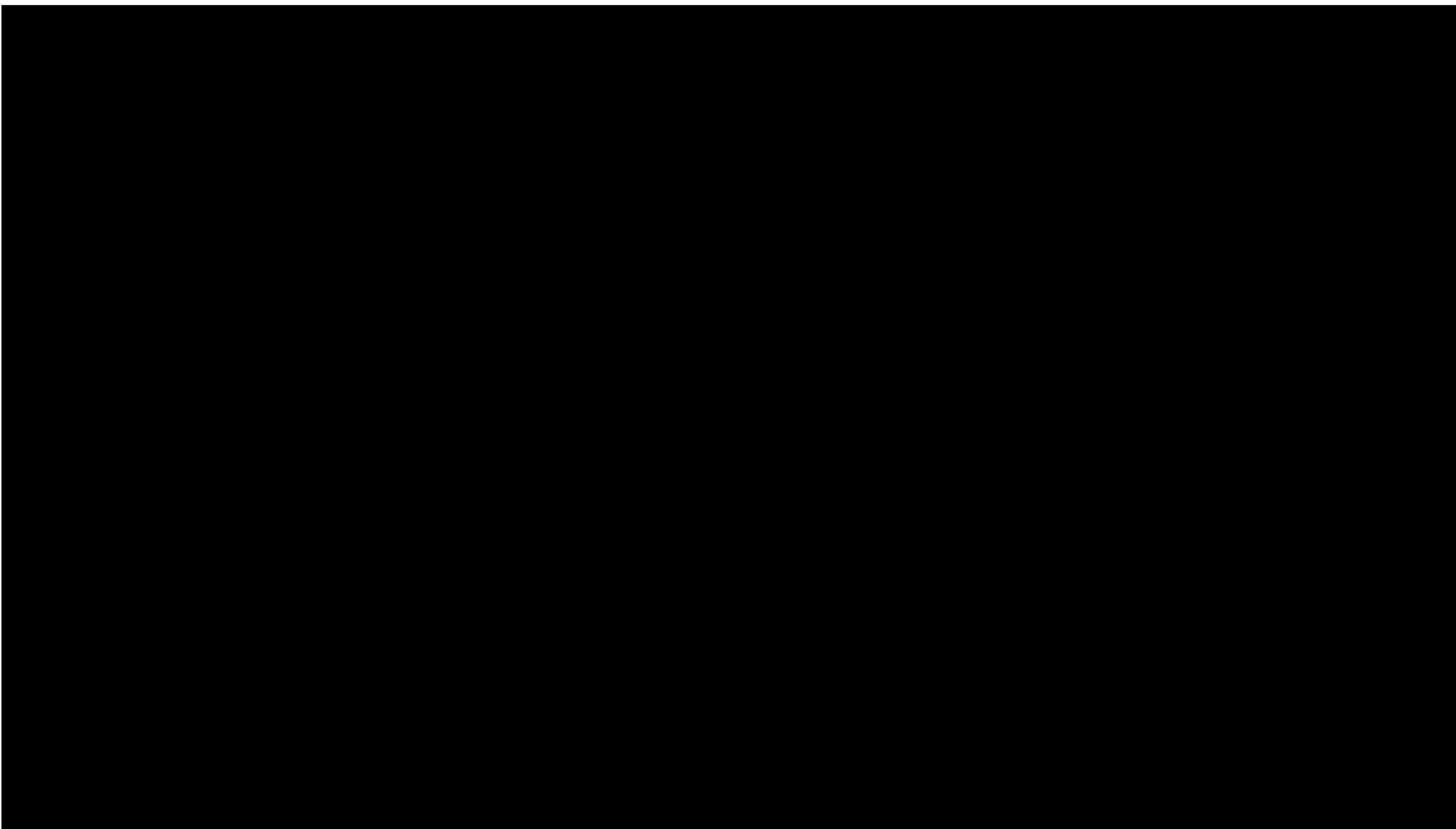


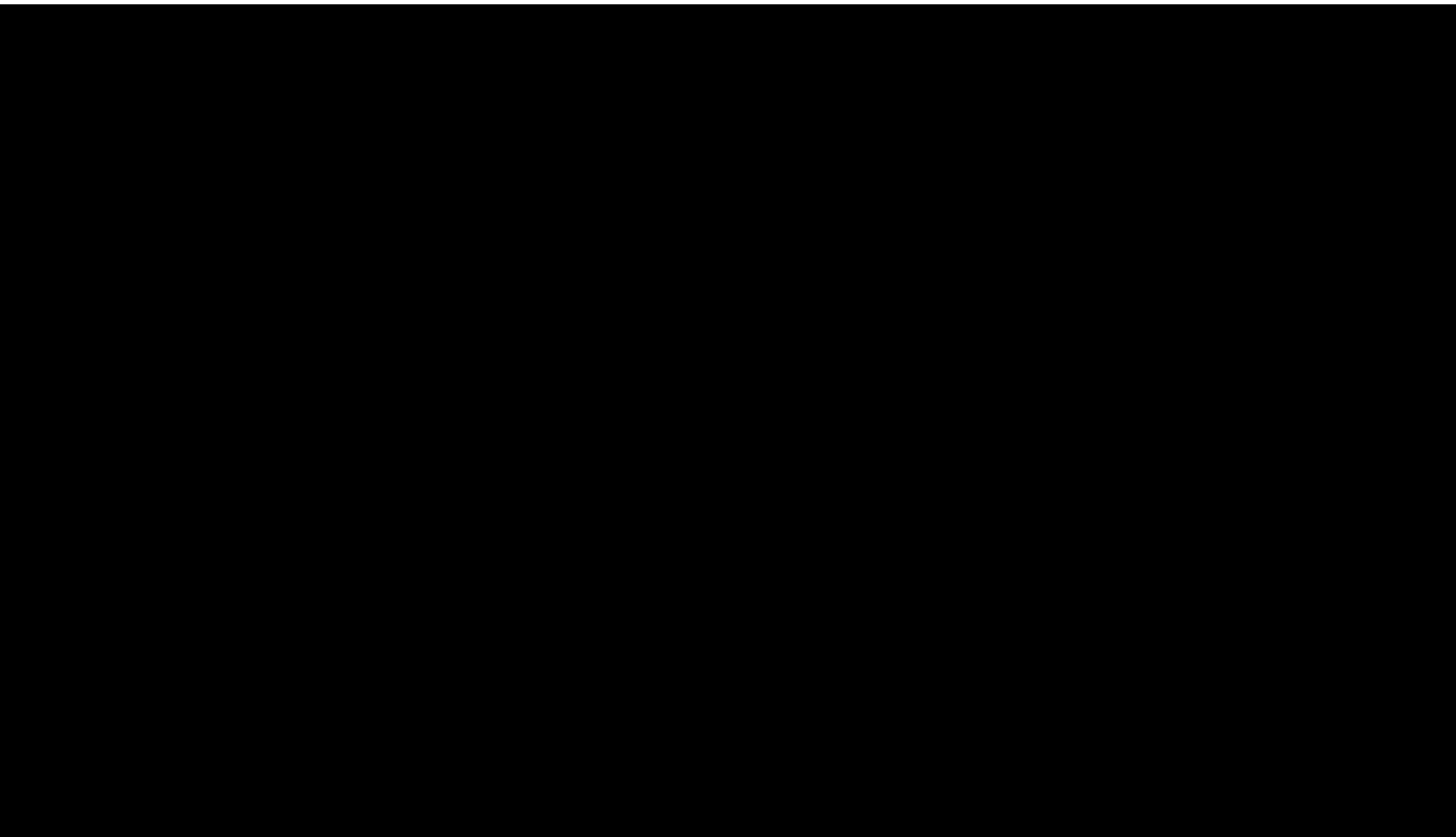


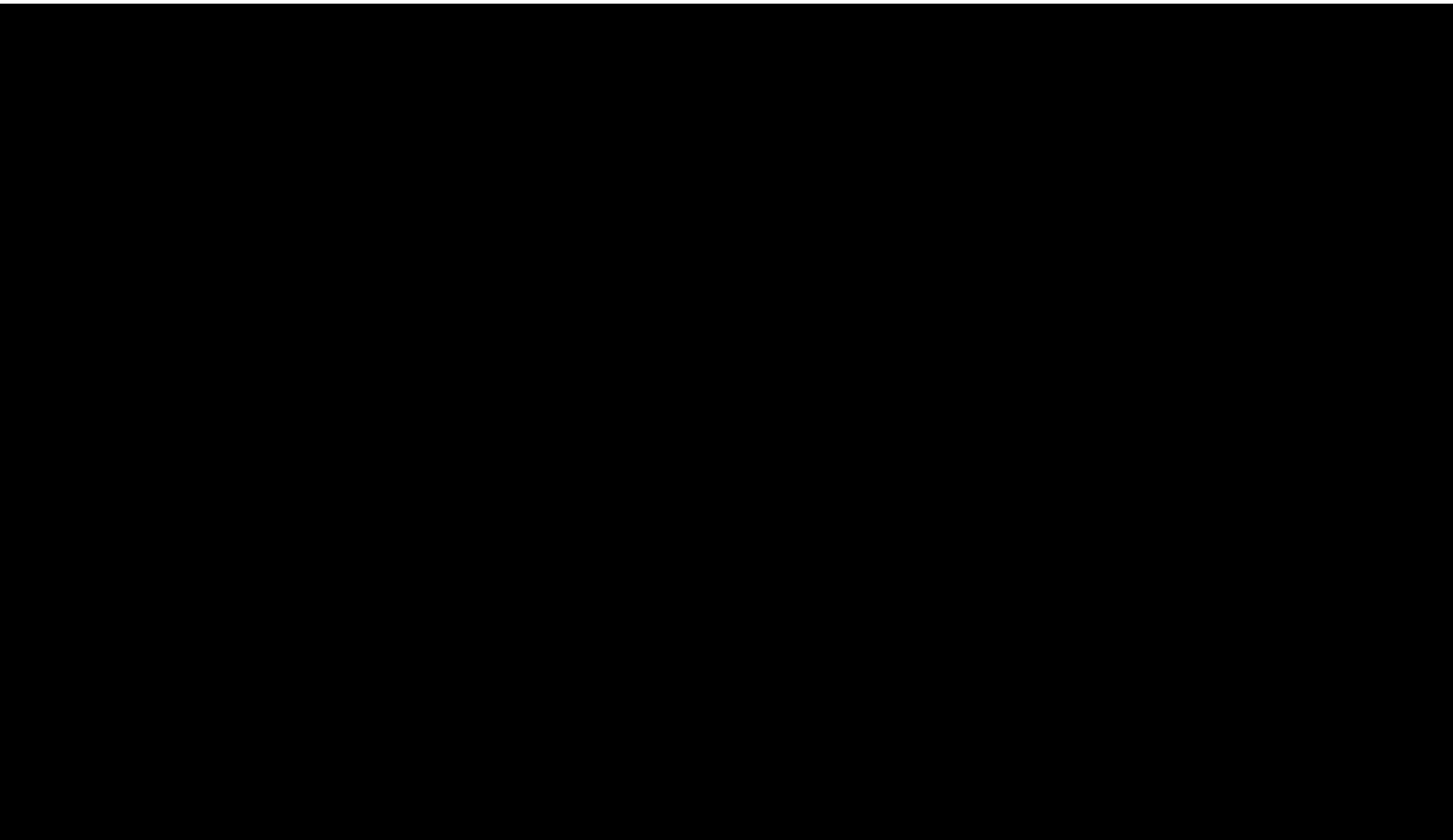


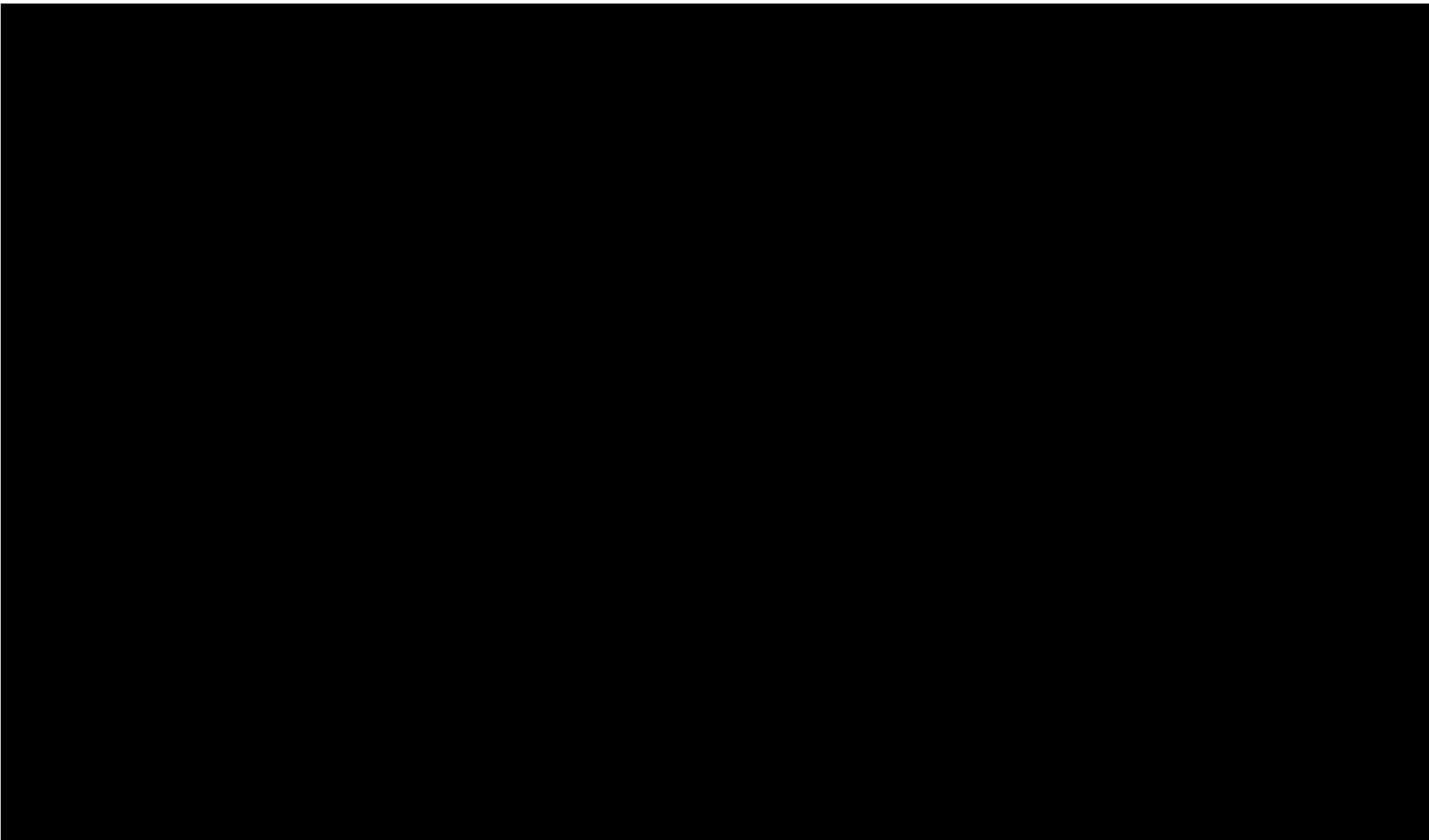


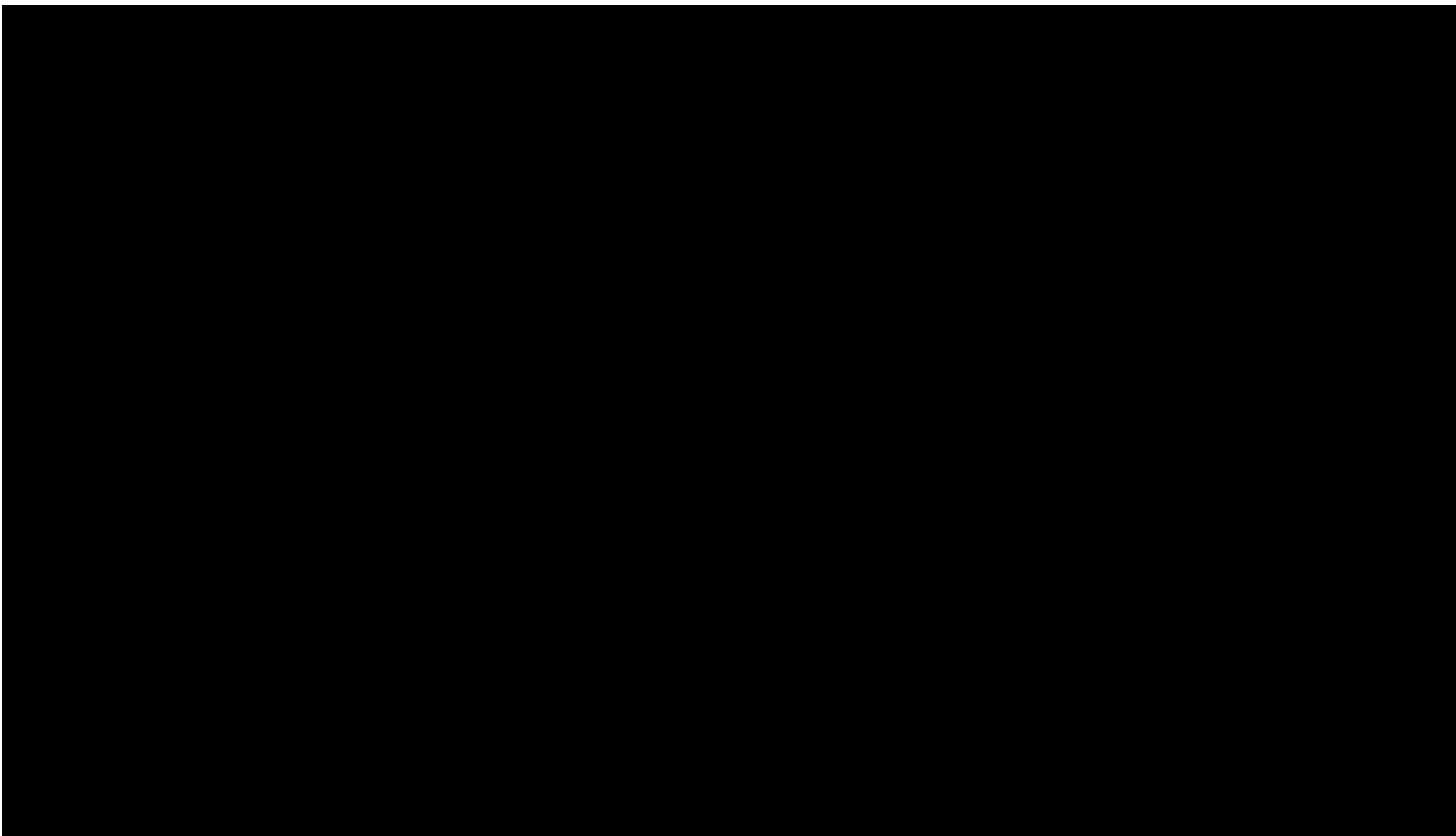


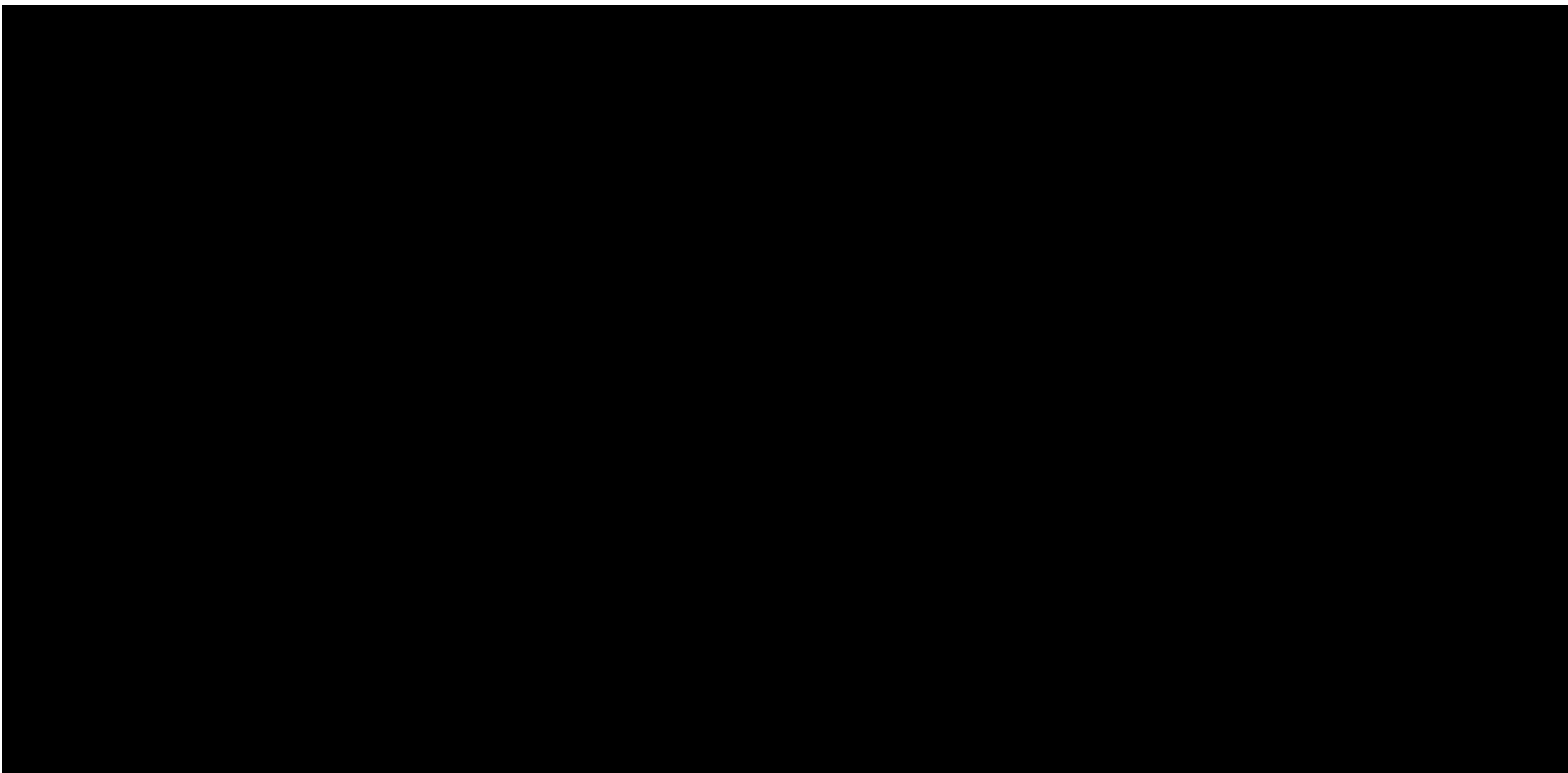












Note 1

The location will be determined by the Principal's Representative applying the following rules in the following order:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 Variation Impacts for Adjustment Events

1.1 Thresholds and conditions

- (a) The provisions of **clauses 1.2(a) and 1.3(a)** of this **Part 3** of the **Variations Schedule** will only apply if (and to the extent that) each of the relevant thresholds and conditions specified in column B of the above table are exceeded or satisfied (as applicable). For the avoidance of doubt, the Service Provider will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, any Adjustment Event, to the extent such Claim relates to any matter, cost or payment falling within the relevant threshold specified in column B of the above table.
- (b) Except to the extent expressly stated in **clauses 1.2 and 1.3** of this **Part 3** of the **Variations Schedule** or otherwise in the General Conditions, the Service Provider will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, any event or circumstance referred to in the above table.

1.2 Impact on Pricing

- (a) Subject to any provision of this Deed limiting or excluding any entitlement of the Service Provider (including **clauses 16(b), 29A.3 and 29A.4** of the General Conditions), if an Adjustment Event arises then:
 - (i) to the extent provided for that Adjustment Event in column C of the table above, for the purposes of **Section 9.1** of the **Payment Schedule**:
 - (A) either:
 - (1) if Variation Capital Works Milestone Payments are agreed between the parties, the Variation Capital Works Milestone Payments; or
 - (2) if Variation Capital Works Milestone Payments are not agreed between the parties, the Variation Capital Works Progress Payments (Lump Sum), with the Service Provider acknowledging that Variation Capital Works Milestone Payments will not apply except to the extent agreed by the Principal;
 - (B) the Variation Capital Works Monthly Payments; and
 - (C) the Variation Recurring Expenditure Monthly Payments,
 for that Adjustment Event will be determined by the Principal's Representative based on the:
 - (D) increase in costs that have been, or will be, directly and reasonably incurred by the Service Provider; or
 - (E) decrease in costs that have been, or will be, incurred by the Service Provider,
 in carrying out the Services (other than the Mobilisation Activities, the Redeployment Activities, the Transition Out Activities or the Early Enhancement Activities) in accordance with this Deed as a result of that Adjustment Event (plus, in either case, an amount on account of profit), as follows:

[illegible]

██████████

██████████

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- (ii) to the extent provided for that Adjustment Event in column D of the table above, subject to **clause 1.2(d)** of this **Part 3** of the **Variations Schedule**, to the extent the Adjustment Event results in:
- (A) an increase in costs that have been, or will be, suffered or incurred by the Service Provider; or
- (B) a decrease in costs that have been, or will be, suffered or incurred by the Service Provider,

in carrying out the Property Management Services, the CRN Non-Operational Scope of Works, the State Road Overbridge Maintenance Services, the Overbridge Maintenance Services, the ARTC Lease State Road Overbridge Maintenance Services, the Level Crossing Closure Services, the Turnout Rationalisation Services or the Structures Disposal Services (as applicable), the Principal's Representative will determine adjustments to the amounts specified in **Appendices 5, 6, 7, 8, 9, 10, 11, 12 and 12A** (as applicable) of the **Payment Schedule** based on such increase or decrease in costs (plus, in either case, an amount on account of profit), as follows:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- (b) The Principal's Representative must promptly notify the Service Provider in writing of any determination made in accordance with **clause 1.2(a)** of this **Part 3** of the **Variations Schedule** and the Payment Periods (if any) in respect of which the relevant amounts the subject of that determination will (subject to the provisions of this Deed) be payable.
- (c) For the avoidance of doubt, the Principal's Representative may (in its absolute discretion) make a determination in accordance with **clause 1.2(a)** of this **Part 3** of the **Variations Schedule**:
- (i) for the benefit of the Principal, including where the Service Provider has failed to notify the Principal's Representative of the Adjustment Event in accordance with **clause 14.4(a)** of the General Conditions; or
 - (ii) which has retrospective effect based on the date on which the relevant Adjustment Event occurred.
- (d) **Clause 1.2(a)(ii)** of this **Part 3** of the **Variations Schedule** will not apply:
- (i) if the Principal's Representative has already exercised the relevant Option in accordance with **clause 14.2(a)** of the General Conditions; or
 - (ii) after:
 - (A) in respect of Option 2, Option 3A, Option 3B or Option 3C, the date that is 2 years after the Services Commencement Date; or
 - (B) in respect of Option 4, Option 5 or Option 6, the Services Commencement Date.

1.4 Not used

Schedule 4 – KPI Schedule

1 List of terms

3 Year Maintenance Works Plan Completion Rate – means, in respect of each Contract Year, the rate calculated in accordance with **Section 6.2** of this **Schedule 4 – KPI Schedule**.

3 Year Maintenance Works Plan Delivery Abatement – means, in respect of each Contract Year, the abatement calculated in accordance with **Section 6.2** of this **Schedule 4 – KPI Schedule**.

Abatement Adjustment – means, in respect of each Payment Period, the adjustment calculated in accordance with **Section 3.1** of this **Schedule 4 – KPI Schedule**.

Aboriginal and Torres Strait Islander Jobs Employment Rate – means the rate calculated in accordance with **Section 7.3(b)** of this **Schedule 4 – KPI Schedule**.

Aboriginal Participation Plan – has the meaning given to it in Section 1 of the Scope of Works.

Actual Activity Volumes – has the meaning given to it in the Payment Schedule.

Actual Delivery Date – means, in respect of each Scope of Works Deliverable, the date that the Scope of Works Deliverable is delivered by the Service Provider to the Principal or the Principal's Representative (as applicable) in an accurate and complete state and that otherwise complies with the requirements of this Deed.

Actual Earned Activity Value – has the meaning given to it in the Payment Schedule.

Actual Possession Hours – means, in respect of each Payment Period, the actual Possession Hours that occurred.

Ad Hoc Train Path Request – has the meaning given to it in Section 1 of the Scope of Works.

Asset Condition Adjustment – means, in respect of each Payment Period, the amount calculated as such in accordance with **Section 6.1** of this **Schedule 4 – KPI Schedule**.

Average Indexed – has the meaning given to it in **Schedule 3 – Indexation Schedule**.

Bedding-In Adjustment – means, in respect of each Payment Period, the amount calculated as such in accordance with **Section 9.1** of this **Schedule 4 – KPI Schedule**.

Cancelled Scheduled Trains – means a Train Path held or scheduled for use by a Rolling Stock Operator that has been cancelled by the Service Provider.

Category A Notifiable Occurrence means either –

- (a) a Category A Notifiable Occurrence as defined in Regulation 57 of the Rail Safety National Law National Regulations 2012 (NSW); or
- (b) any Serious Injury.

Category B Selected Occurrence – means any **Category B Notifiable Occurrence** except for:

- (a) an incident in which a vehicle or vessel strikes an associated railway track structure;
- (b) an accident or incident where rolling stock exceeds the limits of authorised movement given in a proceed authority;
- (c) any slip, trip or fall by a person on railway premises;
- (d) a person being caught in the door of any rolling stock;
- (e) any situation where a load affects, or could affect, the safe passage of trains or the safety of people, or cause damage to adjoining property;

- (f) an accident or incident involving dangerous goods that affects, or could affect, the safety of railway operations or the safety of people, or cause damage to property;
- (g) the detection of an irregularity in any rolling stock that could affect the safety of railway operations;
- (h) a fire or explosion on, in, or near, rail infrastructure or rolling stock that endangers the safety of railway operations or the safety of 1 or more people, or causes service terminations or track or station closures;
- (i) any incident on railway property where a person inflicts, or is alleged to have inflicted, an injury on another person;
- (j) a suspected attempt to suicide;
- (k) the notification that a rail safety worker, when required to do so under the drug and alcohol management program of a rail transport operator, has failed to submit to a test in accordance with the testing regime set out in the operator's drug and alcohol management program;
- (l) the notification that a rail safety worker has returned a result to a test undergone by the worker in accordance with the testing regime set out in the drug and alcohol management program of a rail transport operator that suggests that the worker was in breach of the operator's drug and alcohol management program at a relevant time;
- (m) the infliction of wilful or unlawful damage to, or the defacement of, any rail infrastructure or rolling stock that could affect the safety of railway operations or the safety of people; and
- (n) a security incident associated with railway premises that affects the safety of railway operations, including an act of trespass, vandalism, sabotage or theft that could affect the safety of railway operations.

Category B Notifiable Occurrence – has the meaning given to it in Regulation 57 of the Rail Safety National Law National Regulations 2012 (NSW).

Class 1 KPIs – means the KPIs listed in Table 2 in **Section 2.4** of this **Schedule 4** – KPI Schedule.

Class 2 KPIs - means the KPIs listed in Table 2 in **Section 2.4** of this **Schedule 4** – KPI Schedule.

Class 2 KPI Failure Trend – means, in respect of each Payment Period and each Class 2 KPI, an instance where the Service Provider has failed to achieve the relevant Class 2 KPI (over and above any relevant tolerance level specified in Table 3 in **Section 2.4** of this **Schedule 4** – KPI Schedule) in that Payment Period and any two or more prior Payment Periods over the rolling period of the last 6 Payment Periods (comprising the current relevant Payment Period plus the five Payment Periods immediately prior).

CRN CM 003 – Defect Management Guidelines – means the civil engineering manual of the same name as referred to in Appendix B of the Scope of Works.

CRN CM 203 – Track Inspection – means the civil engineering manual of the same name as referred to in Appendix B of the Scope of Works.

CRN CM 211 – Track Geometry & Stability – means the civil engineering manual of the same name as referred to in Appendix B of the Scope of Works.

CRN CS 100 – Civil Technical Maintenance Plan – means the civil engineering standard of the same name as referred to in Appendix B of the Scope of Works.

CRN-S-P001 Procedure for Incident and Failure Notification – means the TfNSW procedure for reporting incident and failures as referred to in Appendix A of the Scope of Works.

CRN-P-P011 Procedure for Third Party Works Access & Activity – means the TfNSW procedure for third party works access and failures as referred to in Appendix A of the Scope of Works.

Customer Focus Adjustment – means, in respect of each Payment Period, the amount calculated as such in accordance with **Section 5.1** of this **Schedule 4** – KPI Schedule.

Daily Train Plan – means the documents comprising all the advices which are prepared for each day in accordance with relevant procedures by the Service Provider and which, taken together, show all the Train Paths on the CRN for a particular day.

Due Date – means, in respect of each Scope of Works Deliverable, the date by which that Scope of Works Deliverable is required to be provided by the Service Provider to the Principal or the Principal's Representative (as applicable) as specified in Appendix H of the Scope of Works.

EHB Non-Compliance Instance – means:

- (a) an instance where there is an obligation on the Service Provider, the Principal or any of their respective Associates to report to a relevant Authority; or
- (b) a notice or notices are issued by any relevant Authority to the Service Provider, the Principal or any of their respective Associates,

as a result of, or in respect of, any breach of any Environmental Law or Heritage Law arising out of, or in any way in connection with, the Services or the CRN Assets.

Emergency and Priority Defects – means the E1, E2 and P1 defects specified for each asset class as defined in *CRN CM 203 – Track Inspection*.

Emergency Incident – has the meaning given to it in *CRN-S-P001 Procedure for Incident and Failure Notification*.

Failure Report – means a report that details the relevant KPI failure or Non-Compliance and includes a detailed explanation and root cause analysis of the KPI failure or Non-Compliance.

Freight Train Service – means a train service that is operating on any part of the CRN that is transporting goods including grain stock.

Heritage Law – means any of the *Heritage Act 1977* (NSW), the *Heritage Act 2004* (ACT) and any other Law relating to the protection or preservation of heritage assets.

Inadequate Aboriginal and Torres Strait Islander Employment Abatement – means the abatement calculated in accordance with **Section 7.3** of this **Schedule 4** – KPI Schedule.

Inadequate Aboriginal and Torres Strait Islander Participation Abatement – means the abatement calculated in accordance with **Section 7.4** of this **Schedule 4** – KPI Schedule.

Inadequate Regional Employment Abatement – means the abatement calculated in accordance with **Section 7.2** of this **Schedule 4** – KPI Schedule.

Key Performance Indicator (or KPI) – means each of the indicators specified in Table 2 and Table 3 of this **Schedule 4** – KPI Schedule.

Late and/or Inaccurate Scope of Works Deliverable Abatement – means the abatement for Scope of Works Deliverables where the Actual Delivery Date does not occur by the Due Date, referred to as 'LIRA' in **Section 8.1** of this **Schedule 4** – KPI Schedule.

Late Train Service – means a:

- (a) Passenger Train Service which originates within or traverses any part of the CRN, and either:
 - (i) crosses into a network adjacent to the CRN at the relevant Network Border later than its scheduled time by a duration that exceeds 5 minutes; or

- (ii) arrives at a Train Path Destination within the CRN later than its scheduled time by a duration that exceeds 5 minutes; or
- (b) Freight Train Service which originates within or traverses any part of the CRN, and either:
 - (i) crosses into a network adjacent to the CRN at the relevant Network Border later than its scheduled time by a duration that exceeds 5 minutes; or
 - (ii) arrives at a Train Path Destination within the CRN later than its scheduled time by a duration that exceeds 10 minutes.

Leases and Licenses – means all current and expired leases and licenses that are the subject of the Services.

Major Incident – has the meaning given to it in *CRN-S-P001 Procedure for Incident and Failure Notification*.

Minor Incident – has the meaning given to it in *CRN-S-P001 Procedure for Incident and Failure Notification*.

Monthly Report – has the meaning given to it in Section 1 of the Scope of Works.

Monthly Services Fee – means, in respect of each Payment Period, the amount calculated as such in accordance with **Section 3.1** of **Schedule 2** – Payment Schedule.

Network Borders – has the meaning given to it in Section 1 of the Scope of Works.

Non-Compliance – has the meaning given in the General Conditions, but (for the purposes of this **Schedule 4** – KPI Schedule only and without limiting the provisions of this **Schedule 4** – KPI Schedule in respect of KPI failures) excludes a KPI failure.

Passenger Train Service – means a train service that is operating on any part of the CRN that is carrying passengers.

Permanent Speed Restriction – means a reduction in maximum allowable track speed applied to a section of the CRN, undertaken as a configuration change to the TOC Manual that is current as at the Services Commencement Date.

Planned Activity Volumes – has the meaning given to it in the Payment Schedule.

Planned Annual Activity Value – has the meaning given to it in the Payment Schedule.

Planned Possession Hours – means, in respect of each Payment Period, the forecast Possession Hours for that Payment Period set out in the Possessions Plan that is submitted as part of the 3MWP.

Possession Hours – means the total period in hours that all or any part of the CRN is the subject of a Track Possession, provided that any concurrent or overlapping Track Possessions will count separately towards that total.

Rectification Plan – means a plan which:

- (a) specifies the relevant KPI failure or Non-Compliance;
- (b) details how the Service Provider will address the relevant KPI failure or Non-Compliance, including proposed actions (and timings), including for the Service Provider to ensure that the same or similar KPI failure or Non-Compliance does not occur in the future; and
- (c) complies with the requirements of this Deed and is otherwise satisfactory to the Principal's Representative.

Rectification Plan Non-implementation – means a failure by the Service Provider to implement or comply with a Rectification Plan.

Regional Jobs Employment Rate – means the rate calculated in accordance with **Section 7.2** of this **Schedule 4** – KPI Schedule.

Reportable Incident – means any of the following incidents that occur in respect of the Services or the CRN Assets during the Term:

- Emergency Incident;
- Major Incident;
- Minor Incident; or
- any other incident as notified by the Principal's Representative from time to time during the Term.

Reporting and Submission Adjustment – means, in respect of each Payment Period, the amount calculated in accordance with **Section 8.1** of this **Schedule 4** – KPI Schedule.

Routine Maintenance – has the meaning given to it in Section 1 of the Scope of Works.

Safety Adjustment – means, in respect of each Payment Period, the amount calculated in accordance with **Section 4.1** of this **Schedule 4** – KPI Schedule.

Safety Incident – means any incident involving any member of the public, any customer, any Associate, the Service Provider or any counterparty to a Relevant Document resulting in death, arising out of, or in any way in connection with, the Services or the CRN Assets.

Scope of Works Deliverable – means a deliverable required to be provided by the Service Provider as specified in Appendix H of the Scope of Works.

Serious Injury – has the meaning given to “serious injury or illness of a person” in section 36 of the *Work Health and Safety Act 2011* (NSW).

Stakeholder – means any person, including passenger and freight customers, Rolling Stock Operators, neighbours on properties adjacent to any CRN Asset or other Rail Infrastructure Managers and Authorities, that has a connection with, interest in or is otherwise affected by, the CRN or the Services.

Stakeholder Management Plan – has the meaning given to it in Section 1 of the Scope of Works.

Standard Working Timetable – has the meaning given to it in Section 1 of the Scope of Works.

Support Services Adjustment (SPSA) – means, in respect of each Payment Period, the adjustment calculated in accordance with Section 10.1 of this Schedule 4 – KPI Schedule.

Sustainability and Social Adjustment – means, in respect of each Payment Period, the adjustment calculated in accordance with **Section 7.1** of this **Schedule 4** – KPI Schedule.

Technical Maintenance Plan – has the meaning given to it in Section 1 of the Scope of Works.

Temporary Speed Restriction – has the meaning given to it in Section 1 of the Scope of Works.

TfNSW Regional and Outer Metropolitan Areas – means the area outside the areas specified as “Greater Sydney” as per the map in this link: <https://www.stayinformed.com.au/boundaries>.

Theoretical Time Lost – means the amount of time in minutes lost as a result of a Temporary Speed Restriction or Permanent Speed Restriction as reported by the TrackSpeed System, however does not include any time lost as a result of a WOLO speed restriction that has been applied in accordance with *CRN CM 211 – Track Geometry & Stability*.

Third Party Works Application – means an application that has been received from a third party to the Service Provider to conduct Third Party Works.

Track Condition Index – has the meaning of the index calculated based on a number of parameters of track geometry, top twist, line and gauge as measured by a track recording vehicle in accordance with *CRN CS 100 – Civil Technical Maintenance Plan*.

Track Condition Index Excluding Gauge – has the meaning of the index calculated based on a number of parameters of track geometry, top twist, and line as measured by a track recording vehicle in accordance with *CRN CS 100 – Civil Technical Maintenance Plan*.

TrackSpeed System – means the system used by TfNSW to manage and record Temporary Speed Restrictions and Permanent Speed Restrictions on the CRN.

Train Path – means an entitlement for a train to operate on any part of the CRN along a given route, incorporating origin, destination and intermediate timing points at a day and time nominated in the Standard Working Timetable and/or Daily Train Plan.

Train Path Destination – means the destination as recorded in the relevant Train Path.

Train Service – means a passenger and/or freight train service operating on any part of the CRN.

Unearned Activity Value – has the meaning given in the Payment Schedule.

Unscheduled Overbridge Closure – means the closure by or on behalf of the Service Provider of an overbridge forming part of the CRN Assets, where such closure does not occur as scheduled in accordance with the 3 Year Maintenance Works Plan.

Variation Impacts Statement (VIS) – has the meaning given to it in clause 1.1 of the General Conditions.

2 Key Performance Indicators

2.1 KPI Principles

- (a) The Service Provider acknowledges and agrees that:
 - (i) the purpose of the KPI regime is to incentivise the Service Provider for the purposes of ensuring that the Services are carried out so as to meet the Principal's requirements, with a focus on critical service areas and on performance improvement where the Service Provider fails to carry out the Services in accordance with the Principal's requirements;
 - (ii) unless otherwise specified in this Schedule or directed by the Principal's Representative, KPIs apply from the Services Commencement Date;
 - (iii) the Service Provider must accurately self-report on its performance in carrying out the Services and achieving the KPIs;
 - (iv) without limiting **clauses 6.3 and 6.4** of the General Conditions, the Service Provider must ensure that data evidencing the Service Provider's performance in respect of KPIs is readily available at the request of the Principal's Representative, in a format that is satisfactory to the Principal's Representative and at no additional cost to the Principal; and
 - (v) without limiting **clause 6.12(h)** of the General Conditions, the rights of the Principal, and the obligations and liabilities of the Service Provider, under this Schedule are in addition to, and do not limit or otherwise affect, any other rights of the Principal, or obligations or liabilities of the Service Provider, arising out of, or in any way in connection with, this Deed, the Services or the CRN Assets, including in respect of any failure by the Service Provider to carry out the Services in accordance with this Deed.
- (b) Where an Abatement Adjustment (or any element of an Abatement Adjustment) calculated in accordance with this Schedule is not applied in the Payment Period to which it relates (including where the events or circumstances giving rise to the Abatement Adjustment (or element of the Abatement Adjustment) are not known to the Principal's Representative at the time), the Principal's Representative may (in its absolute discretion) apply such Abatement Adjustment (or such element of an Abatement Adjustment) in any subsequent Payment Period.

2.2 KPI Reporting

- (a) In accordance with Appendix H of the Scope of Works and as part of the Monthly Report, the Service Provider must provide a written report to the Principal's Representative regarding its performance in respect of the KPIs containing, at a minimum, the following information:
 - (i) numerical data and graphical presentation setting out the KPI performance in respect of the period for which each KPI is measured against similar data for the preceding 12 months;
 - (ii) a summary table demonstrating historic performance for each KPI from the Services Commencement Date to the current Payment Period;
 - (iii) commentary explaining any performance variations and performance trends;

- (iv) in respect of each current Rectification Plan, the status of the actions required by that Rectification Plan and an explanation of any relationship between the Rectification Plan and current performance; and
 - (v) the total amount of Abatement Adjustments as calculated by the Service Provider during the Payment Period.
- (b) Where, in respect of a Payment Period, there is a KPI failure, the Service Provider must for each KPI failure, with the exception of Class 1 KPI 20 as per Table 2:
 - (i) prepare a Failure Report and provide it to the Principal's Representative for its review;
 - (ii) calculate the related Abatement Adjustment (if applicable); and
 - (iii) prepare a Rectification Plan and provide it to the Principal's Representative for its review, unless, pursuant to **Section 2.2(d)** of this **Schedule 4 – KPI Schedule**, the Principal's Representative has notified the Service Provider in writing that a Rectification Plan is not required.
- (c) Where, in respect of a Payment Period, there is a Non-Compliance in respect of which the Principal's Representative has not issued a Direction under **clause 5.5(a)(ii)(A)** of the General Conditions, then the Service Provider must for each Non-Compliance:
 - (i) prepare a Failure Report and provide it to the Principal's Representative for its review; and
 - (ii) prepare a Rectification Plan and provide it to the Principal's Representative for its review, unless, pursuant to **Section 2.2(d)** of this **Schedule 4 – KPI Schedule**, the Principal's Representative has notified the Service Provider in writing that a Rectification Plan is not required.
- (d) To the extent that the Service Provider demonstrates through the Failure Report to the satisfaction of the Principal's Representative, acting reasonably, that the KPI failure or Non-Compliance:
 - (i) was not caused or contributed to by any act or omission of the Service Provider or its Associates;
 - (ii) not used,then, upon request by the Service Provider, the Principal's Representative must notify the Service Provider in writing that:
 - (iii) the KPI failure or Non-Compliance is not to be considered for the purposes of application of Tables 2 and 3 and **Sections 3 to 10** inclusive of this **Schedule 4 – KPI Schedule**;
 - (iv) a corresponding Rectification Plan is not required to be developed by the Service Provider; and/or
 - (v) the relevant Abatement Adjustment will not apply for that Payment Period (or, to the extent that the Abatement Adjustment has already been included in the determination of the Monthly Services Fee for a previous Payment Period, will be reimbursed in a subsequent Payment Period).
- (e) The Service Provider must implement and diligently comply with any Rectification Plan.

- (f) The Service Provider must include such other information in the reports required by this Schedule to be provided to the Principal or the Principal’s Representative as is specified in this Schedule.
- (g) The Principal’s Representative may, from time to time, notify the Service Provider of changes in the requirements for KPI reporting or request additional material to be provided by the Service Provider for any KPI, and the Service Provider must (at its own cost) comply with its obligations regarding KPI reporting on the basis of such change and comply with any such request. Nothing in this paragraph (g) will be interpreted as effecting a change to the actual KPIs specified.
- (h) Any Abatement Adjustment the subject of a request under **Section 2.2(d)** of this **Schedule 4** – KPI Schedule will not apply until the Principal’s Representative provides its determination under that section.

2.3 KPI Classes

- (a) The parties acknowledge and agree that KPIs are classified into KPI classes as defined in the [Table 1](#) below:

[REDACTED]

[REDACTED]	
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

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[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]			[REDACTED]	[REDACTED]
[REDACTED]				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	
	[REDACTED]	[REDACTED]	[REDACTED]	

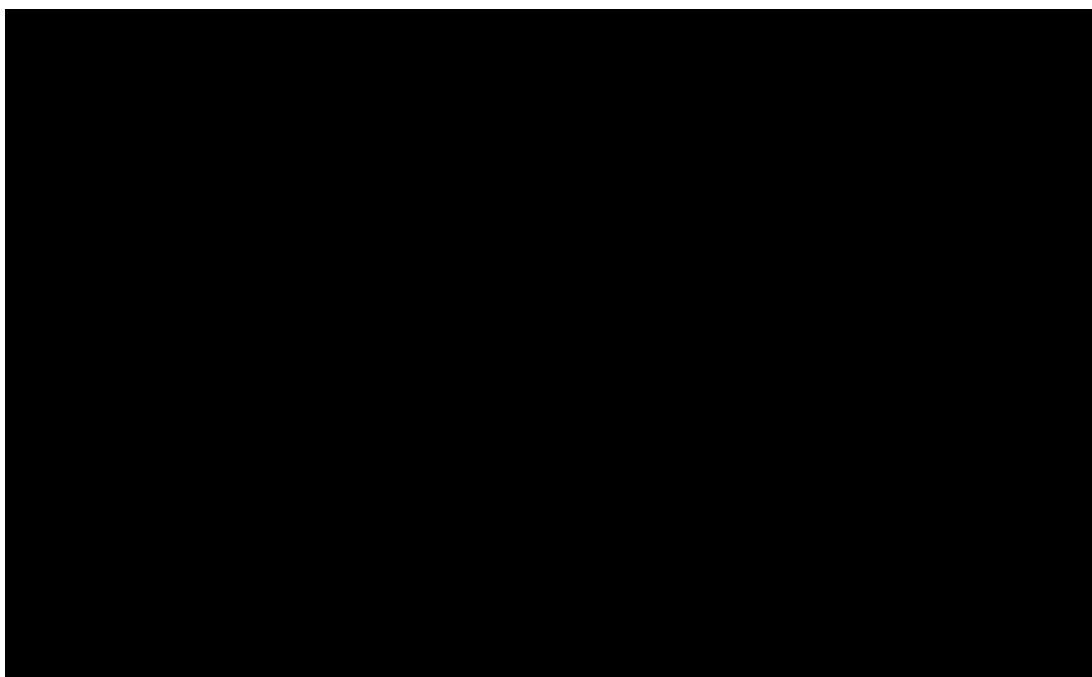
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Schedule 4 – KPI Schedule

[REDACTED]				
■	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
■	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

3 Abatement Adjustment

3.1 Calculation of the Abatement Adjustment

- (a) [REDACTED]
[REDACTED]
[REDACTED] The AA for each Payment
Period will be calculated as follows:

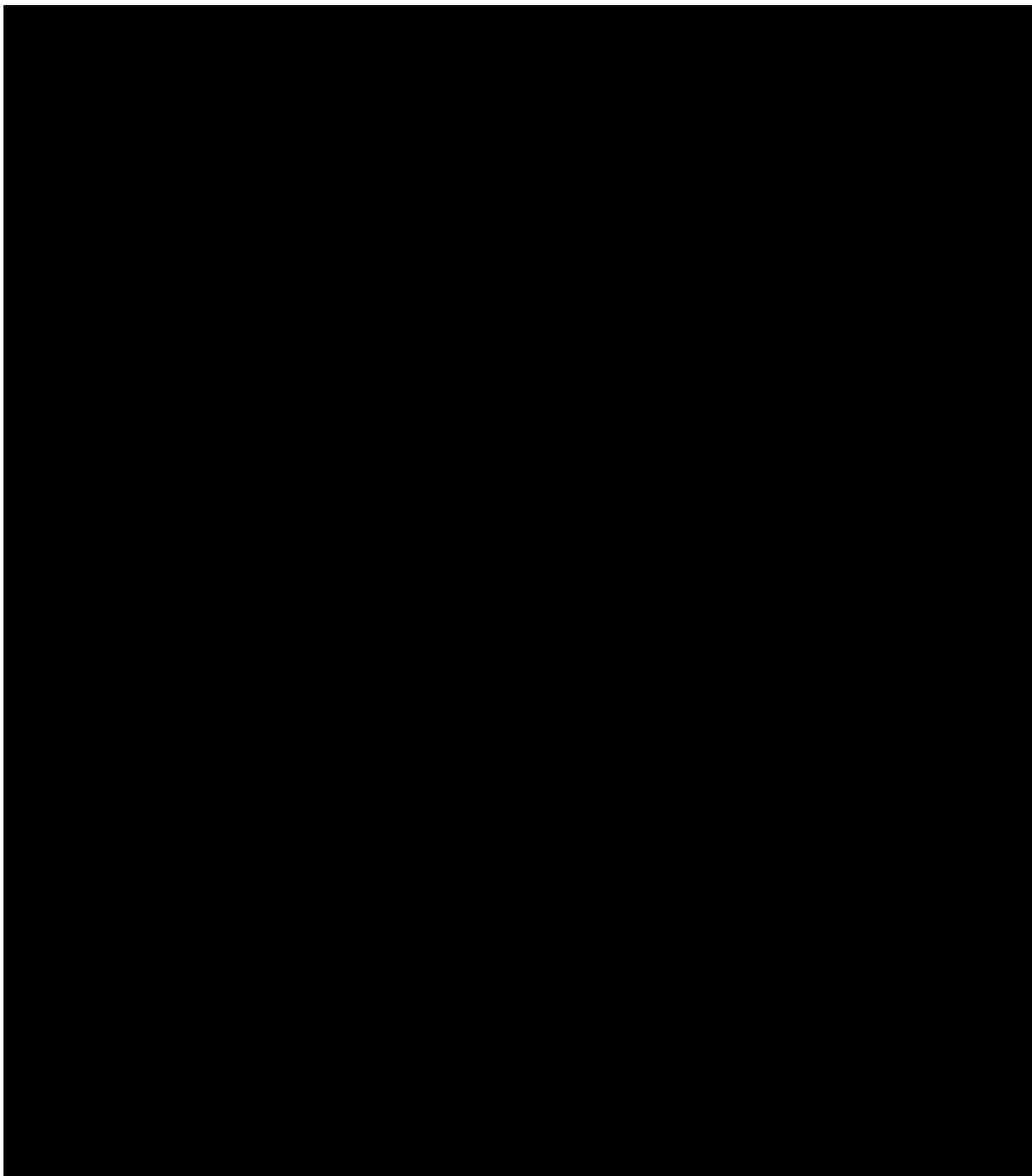


- (b) Where two or more adjustments would otherwise occur as a result of a single event, only the adjustment which attracts the highest dollar amount will apply, with the exception of the Late and/or Inaccurate Scope of Works Deliverable Abatement as part of the Reporting and Submission Adjustment. The Late and/or Inaccurate Scope of Works Deliverable Abatement can apply irrespective of whether a single event has triggered two or more adjustments (and in addition to another highest dollar amount adjustment associated with the single event). Notwithstanding the foregoing, the Service Provider shall remedy all KPI failures triggered by the related event.
- (c) For the avoidance of doubt, for the purposes of **section 3.1(b)**, a KPI failure and any subsequent failure to implement or comply with the associated Rectification Plan will be considered separate events, and adjustments will be applied for each event.

4 Safety Adjustment

4.1 Calculation of the Safety Adjustment

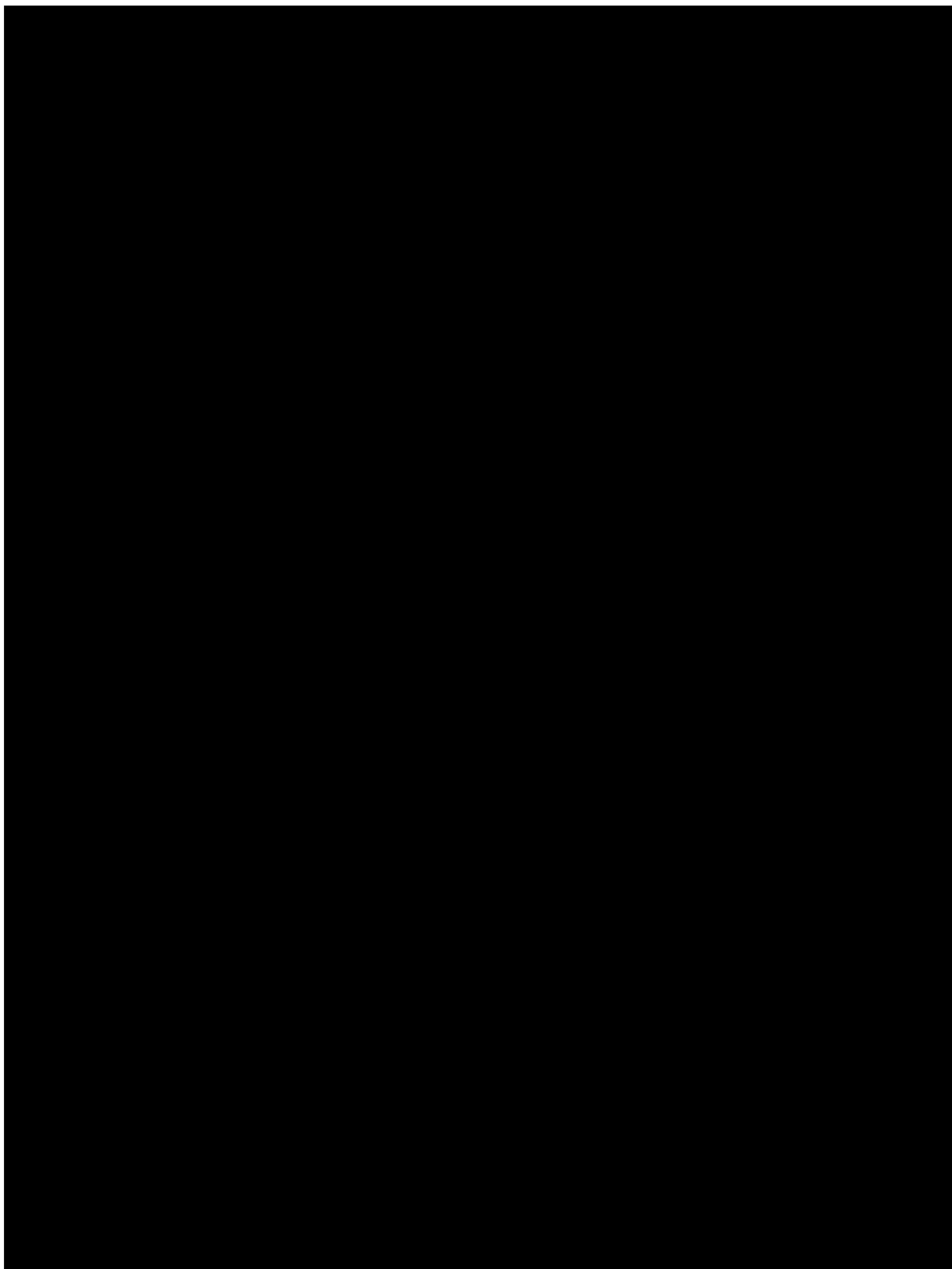
- (a) The Safety Adjustment (SA) for each Payment Period will be calculated as follows:



5 Customer Focus Adjustment

5.1 Calculation of the Customer Focus Adjustment

- (a) The Customer Focus Adjustment (CFA) for each Payment Period will be calculated as follows:



5.2 Calculation of the Train Delay Abatement

- (a) The Train Delay abatement (TDA) for the relevant Payment Period is calculated with reference to the number of Late Train Services during that Payment Period that are above the Train Delay Tolerable Limit for the relevant Train Service.
- (b) For the avoidance of doubt, the number of Late Train Services will only be measured for:
 - a. Train Services that commence their journey within the CRN; or
 - b. Train Services that arrived at or earlier than the scheduled arrival time into the CRN.
- (c) The Train Delay Tolerable Limit for each Train Service is set out in Table 4, where the tolerable limit is defined as the acceptable number of Late Train Services during that Payment Period that fall below or are equal to the set percentage tolerable limits for each Train Service as measured at the end of the Payment Period. In the event that the acceptable number of Late Train Services, as calculated with reference to the set percentage, is not a whole number, the applied acceptable number of Late Train Services should be rounded down to the nearest whole number.

For the avoidance of doubt and by way of example:

- (i) if during the Payment Period there are 100 Passenger Train Services (that have commenced their journey within the CRN or that arrived at or earlier than the scheduled arrival time into the CRN) then the tolerable limit of Late Train Services that would not incur an abatement is 5 Late Train Services of a Passenger Train Service. Subsequently a Train Delay Abatement would be applied from the 6th Late Train Service of a Passenger Train Service that occurred during the related Payment Period; and
- (ii) if during the Payment Period there are 90 Freight Train Services (that have commenced their journey within the CRN or that arrived at or earlier than the scheduled arrival time into the CRN) then the tolerable limit of Late Train Services that would not incur an abatement is 13 Late Train Services of a Freight Train Service. Subsequently a Train Delay Abatement would be applied from the 14th Late Train Service of a Freight Train Service that occurred during the related Payment Period.

Table 4: Train Delay Tolerable Limits by Train Service

Train Service	Train Delay Tolerable Limit
Passenger Train Service	5 of Passenger Train Services, as measured at the end of the Payment Period, are allowed to be Late Train Services
Freight Train Service	13 of Freight Train Services, as measured at the end the Payment Period, are allowed to be Late Train Services

- (d) The number of Late Train Services that are above the Train Delay Tolerable Limit are counted at the end of each Payment Period, which determines the corresponding TDA that is applicable, as set out in Table 5.

Table 5: Train Delay abatement levels

Number of Late Train Services above the Train Delay Tolerable Limit	Train Delay abatement
1	1
2	2
3	3

5.3 Calculation of the Speed Restrictions Abatement

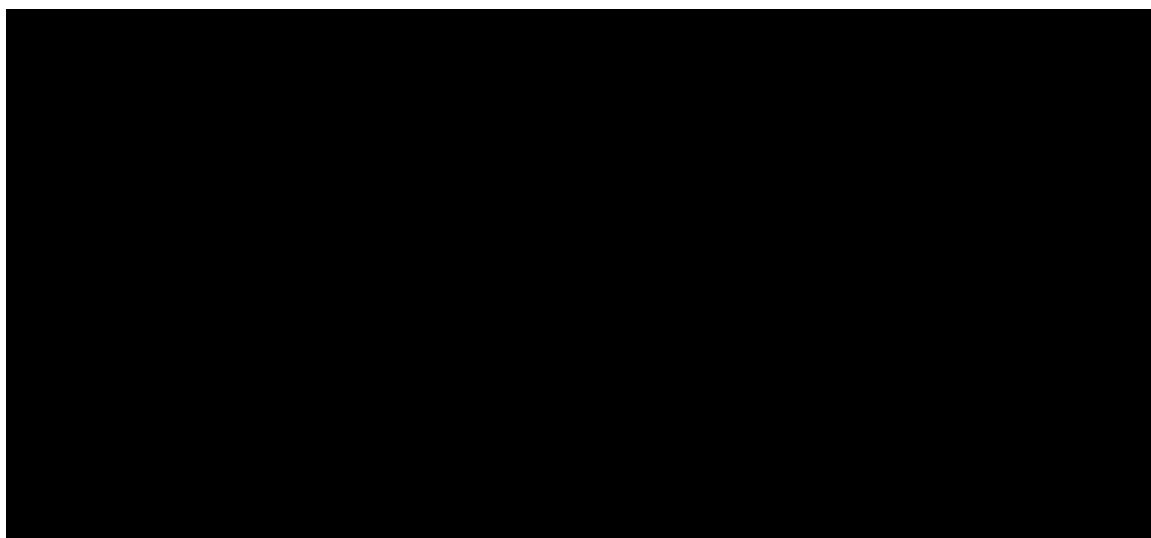
- (a) The Speed Restrictions abatement (SRA) for the Payment Period is calculated by reference to the number of instances in the relevant Payment Period where the Theoretical Time Lost for either a Line Type, individual Train Line or Train Line grouping (determined in accordance with Appendix 1) is above the tolerance levels as set out in Appendix 1 and determined in accordance with Table 6.
- (b) For the purposes of calculating the Theoretical Time Lost in the first 6 Payment Periods from the Services Commencement Date, the Theoretical Time Lost in this period does not include any time lost as a result of a Temporary Speed Restriction that was pre-existing from the Services Commencement Date. For the avoidance of doubt the Theoretical Time Lost additionally does not include any time lost as a result of a WOLO speed restriction that has been applied in accordance with CRN CM 211 – Track Geometry & Stability.
- (c) For the avoidance of doubt from the 7th Payment Period after the Services Commencement Date, the Theoretical Time Lost will include all time lost as a result of a Temporary Speed Restriction or Permanent Speed Restriction as reported by the TrackSpeed System including any Temporary Speed Restriction that was pre-existing from the Services Commencement Date. However, consistent with the definition of Theoretical Time Lost, this does not include any time lost as a result of a WOLO speed restriction that has been applied in accordance with CRN CM 211 – Track Geometry & Stability.

Table 6: Speed Restrictions abatement level

Number of instances where the Theoretical Time Lost exceeds the tolerance limit	Speed Restrictions abatement
1	1
2	2

5.4 Calculation of the Lease and Licenses Abatement

- (a) The Leases and Licenses abatement (LLA) is determined by reference to Table 7, and the Expired Leases and Licenses Rate (ELLR), which is calculated in accordance with the following formula:



- (b) The LLA is determined by reference to the ELLR and relevant abatement levels set out in **Table 7**. Note that the LLA will not be applied in the first 18 Payment Periods from the Services Commencement Date, however the Service Provider is still required to report the ELLR for every Payment Period commencing from the Services Commencement Date.
- (c) For the purposes of determining the Σ ELL, this abatement calculation does not include:
- (i) any expired Leases and Licenses that are the subject of a legal process, third party administrative delays and disputed ownership for a period of up to 6 months from the end date of the related lease or license, provided that during the 6 months the Service Provider actively pursues agreeable terms between the tenant/licensee and the Principal. If a new lease or license has not been executed or the existing tenant/licensee has not yet vacated the premises by the end of the 6 months, the existing expired lease or license will be included in the Σ ELL abatement calculation; and
 - (ii) any expired Leases and Licenses for which the Service Provider has provided an active management plan to the Principal.

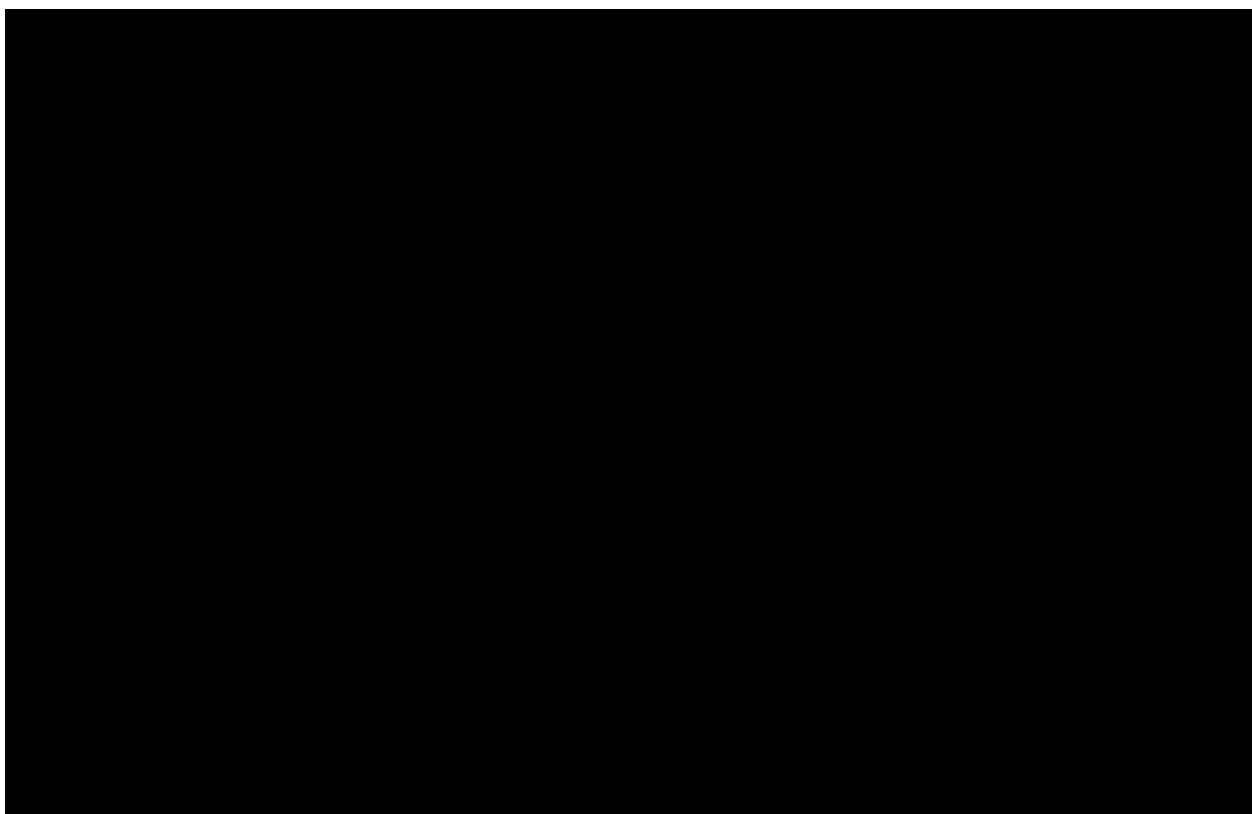
Table 7: Leases and Licenses abatement levels

Expired Lease and Licenses Rate (ELLR)	Leases and Licenses abatement (LLA)
For each Payment Period in the 1st and 2nd Quarters ending after the Reset Date	
██████████	██
██████████	██
██████████	██
For each Payment Period in the 3rd and 4th Quarters ending after the Reset Date	

Expired Lease and Licenses Rate (ELLR)	Leases and Licenses abatement (LLA)
For all Payment Periods in the 5th Quarter ending after the Reset Date and all subsequent Quarters	

5.5 Calculation of the Timely Notification Adjustment

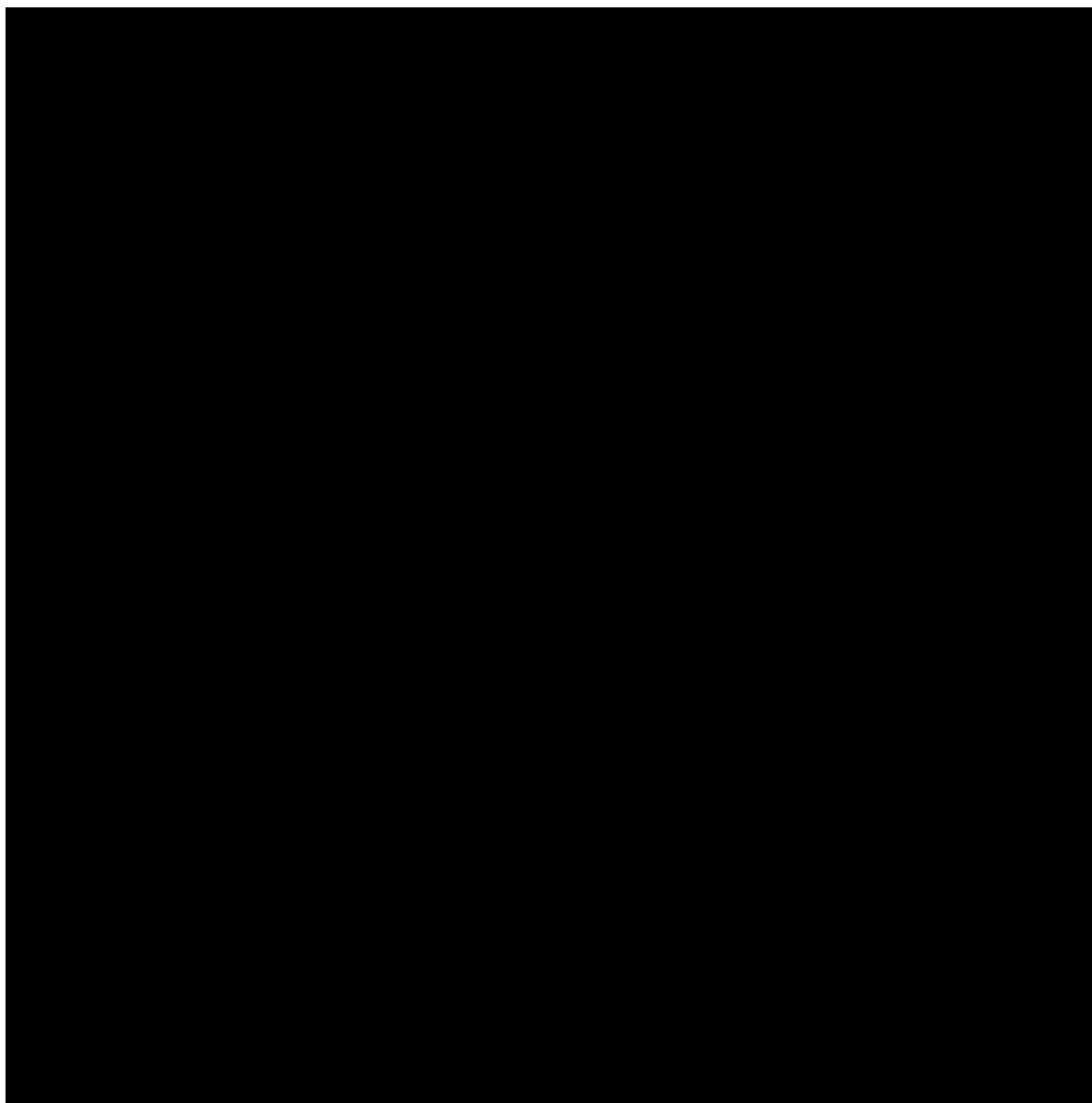
- (a) The Timely Notification Adjustment (TNA) is measured per Quarter and applies in the last Payment Period of each Quarter. The Timely Notification Adjustment (TNA) for:



5.6 Calculation of the Timely Processing Adjustment (RSO)

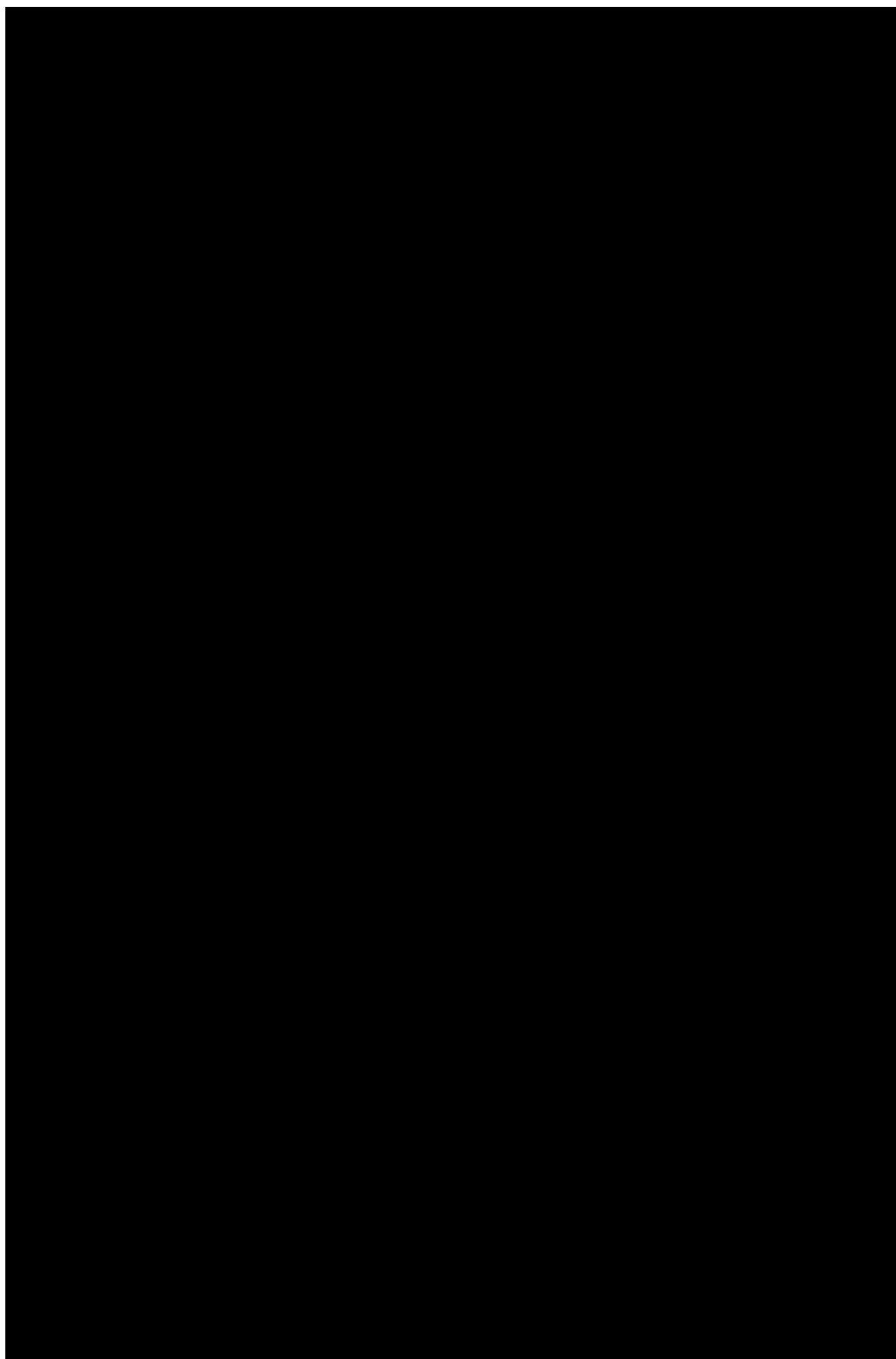
- (a) The Timely Processing Adjustment (RSO) (TPAR) is measured per Quarter and applies in the last Payment Period of each Quarter. The Timely Processing Adjustment (RSO) (TPAR) for:
- (i) each Payment Period in the first four Quarters after the Reset Date, is zero;
 - (ii) the last Payment Period of the fifth Quarter after the Reset Date and each subsequent Quarter is calculated in accordance with section 5.6(b), below; and
 - (iii) all other Payment Periods, zero.

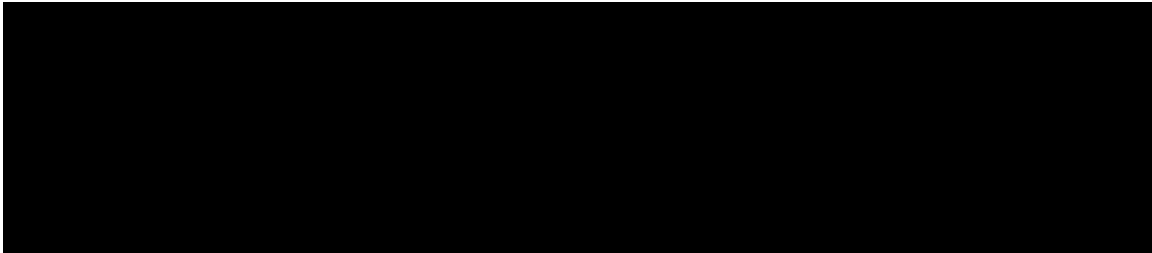
- (b) The Timely Processing Adjustment (RSO) (TPAR) for the last Payment Period of the fifth Quarter after the Reset Date and each subsequent Quarter is calculated as follows:



5.7 Calculation of the Timely Processing Adjustment (TPW)

- (a) The Timely Processing Adjustment (TPW) (TPAT) is measured per Quarter and applies in the last Payment Period of each Quarter. The Timely Processing Adjustment (TPW) (TPAT) for:
- (i) each Payment Period in the first four Quarters after the Reset Date, is zero;
 - (ii) the last Payment Period of the fifth Quarter after the Reset Date and each subsequent Quarter is calculated in accordance with section 5.7(b), below; and
 - (iii) all other Payment Periods, zero.
- (b) The Timely Processing Adjustment (TPW) (TPAT) for the last Payment Period of the fifth Quarter after the Reset Date and each subsequent Quarter is calculated as follows:

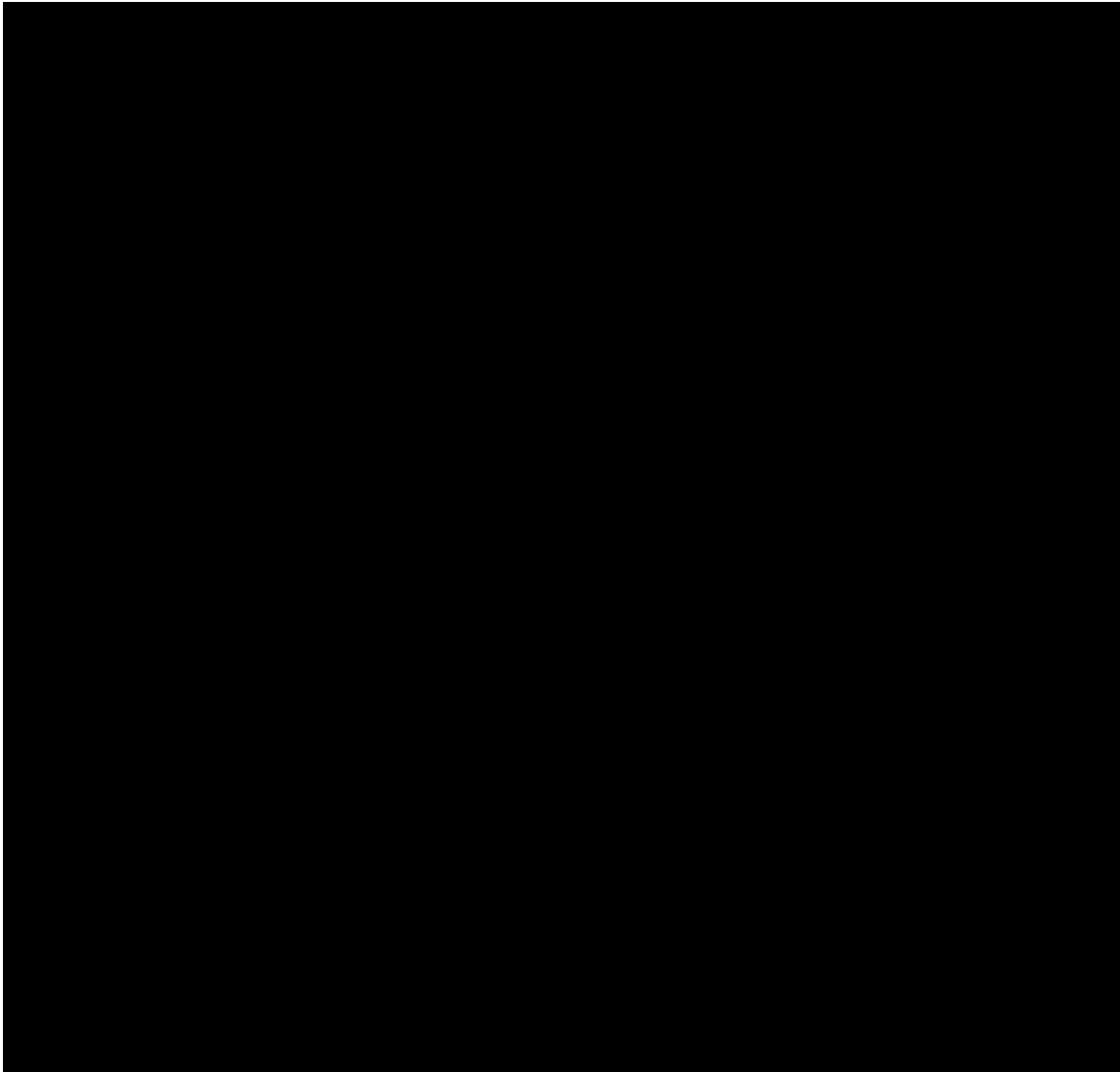




6 Asset Condition Adjustment

6.1 Calculation of the Asset Condition Adjustment

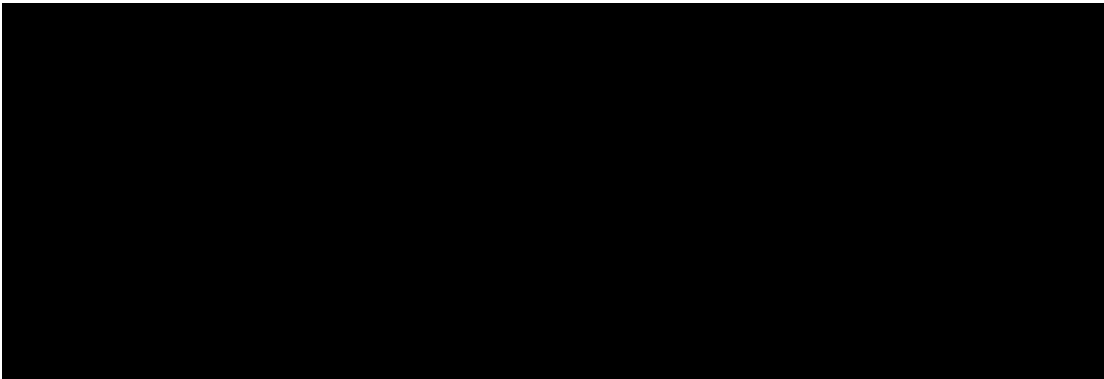
- (a) The Asset Condition Adjustment (ACA) for each Payment Period will be calculated as follows:



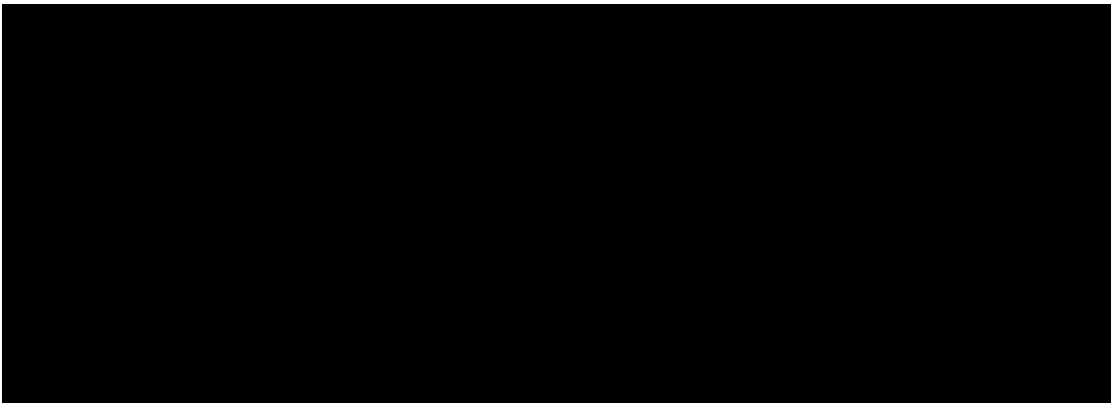
6.2 Calculation of the 3 Year Maintenance Works Plan Delivery Abatement

- (a) The 3MWPDA is measured per Contract Year and applies in the last Payment Period of each Contract Year.

- (b) The 3MWPDA is determined for each Contract Year by reference to the 3 Year Maintenance Works Plan Completion Rate (3MWPCR), which is calculated in accordance with **paragraphs (ba) and (bb)**, below.
- (ba) For each Contract Year ending prior to the Reset Date, the 3 Year Maintenance Works Plan Completion Rate is calculated in accordance with the following formula:



- (bb) For each Contract Year ending after the Reset Date, the 3 Year Maintenance Works Plan Completion Rate is calculated in accordance with the following formula:



- (c) The 3MWPDA is determined by reference to the 3MWPCR and the abatement levels set out in **Table 8**.

Table 8: 3 Year Maintenance Works Plan Delivery Abatement levels

3 Year Maintenance Works Plan Completion Rate (3MWPCR)	3 Year Maintenance Works Plan Delivery Abatement (3MWPDA)
For all Contract Years other than end of Contract Year 11	
For end of Contract Year 11	

- (d) For the avoidance of doubt, if the Service Provider achieves a greater number of AAV or AEAV for any individual planned number of projects or services as scoped in the current Contract Year's allocation of the 3 Year Maintenance Works Plan the additional numbers do not contribute to the overall total 3MWPCR and as a result the 3MWPCR cannot exceed 100%.
- (e) In the event that the Service Provider has not satisfactorily completed 100% of the PAV or PAAV, in addition to the 3 Year Maintenance Works Plan Delivery Abatement, a '3 Year Maintenance Works Plan Adjustment Clawback' will be applied in accordance with **Section 7.1** of **Schedule 2** – Payment Schedule.

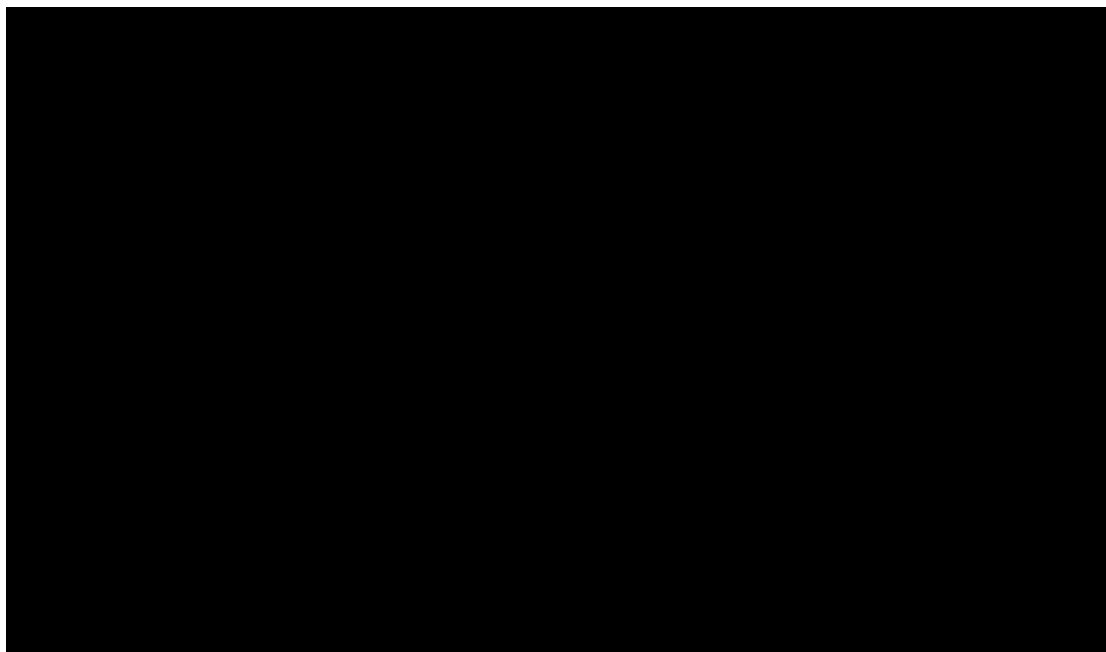
6.3 Calculation of the Routine Maintenance Delivery Abatement

- (a) The Routine Maintenance delivery abatement (RMDA) is measured at the end of each Payment Period.
- (b) The RMDA is [REDACTED] and is applied if the Service Provider has not carried out all the Routine Maintenance as set out in the Technical Maintenance Plan during the relevant Payment Period.

7 Sustainability and Social Adjustment

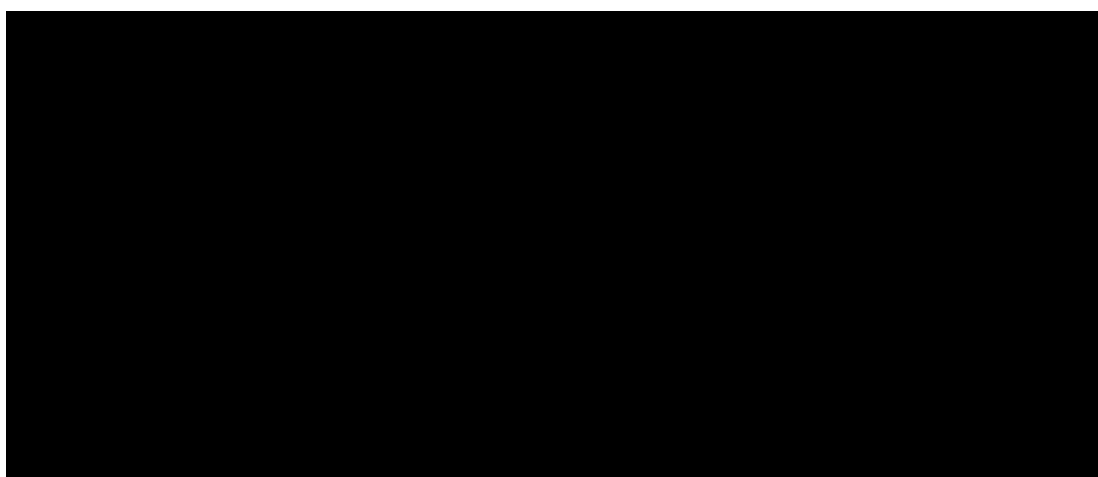
7.1 Calculation of the Sustainability and Social Adjustment

- (a) The Sustainability and Social Adjustment (SSA) for each Payment Period will be calculated as follows.



7.2 Inadequate Regional Employment Abatement

- (a) The Inadequate Regional Employment Abatement (IREA) is measured per Contract Year and applies in the last Payment Period of each Contract Year.
- (b) The IREA is determined by reference to the Regional Jobs Employment Rate (RJER), which is calculated in accordance with the following formula:



- (c) The IREA is determined by reference to the RJER and the abatement levels set out in Table 9.

Table 9: Inadequate Regional Employment Abatement levels

7.3 Inadequate Aboriginal and Torres Strait Islander Employment Abatement

- _____

- Table 10: Inadequate Aboriginal and Torres Strait Islander Employment Abatement levels*

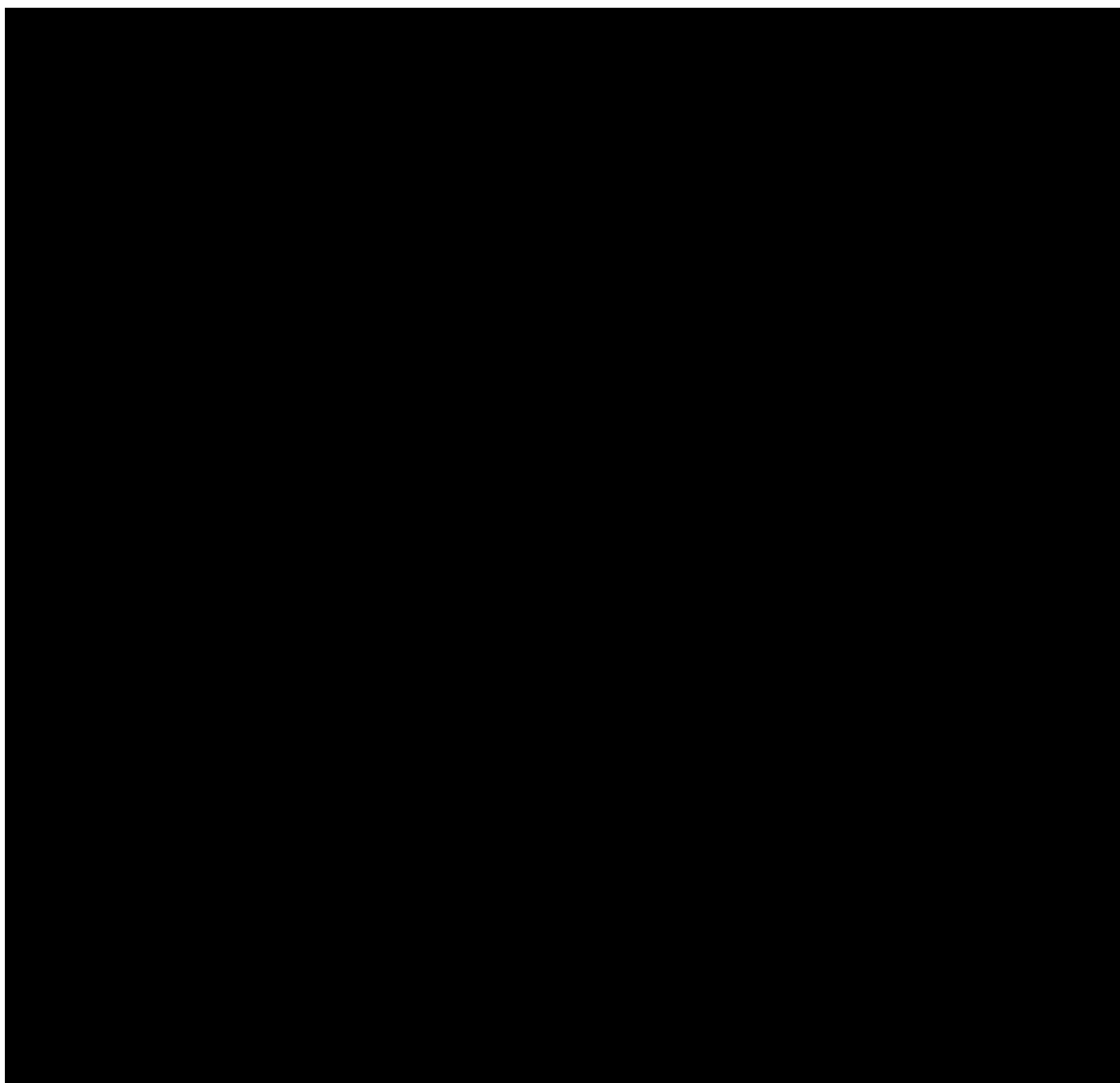
7.4 Inadequate Aboriginal and Torres Strait Islander Participation Abatement

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8 Reporting and Submission Adjustment

8.1 Calculation of the Reporting and Submission Adjustment

- (a) The Reporting and Submission Adjustment (RSA) for each Payment Period will be calculated as follows:



- (b) For the avoidance of doubt and without limiting the definition of ADD, if it is revealed either through self-admission by the Service Provider or detected by the Principal or the Principal's Representative that a Scope of Works Deliverable that was delivered to the Principal or the Principal's Representative is inaccurate or incomplete or does not otherwise comply with the requirements of this Deed, then the LIRA will apply for every day between the original DD and the ADD of the revised Scope of Works Deliverable that is in an accurate and complete state and otherwise compliant with the requirements of this Deed, unless the Principal's Representative determines (acting reasonably) that each such inaccuracy, incompleteness or non-compliance with the requirements of this Deed:

-
- (i) is minor in nature (such as being a minor grammatical or other error in form which does not affect the substance of the relevant Scope of Works Deliverable); and
 - (ii) has not had, and will not have, a materially adverse effect on the CRN or the Services.
 - (c) If there is a Minor Incident that eventually leads to a Major Incident or a Major Incident that leads to an Emergency Incident, the Service Provider must report these as separate Reportable Incidents.

9 Bedding-In Adjustment

9.1 Calculation of the Bedding-In Adjustment

- (a) The Bedding-In Adjustment (BIA) for each Payment Period will be:
- (i) in respect of the first [REDACTED] Payment Periods from the Services Commencement Date, [REDACTED] and
 - (ii) in respect of all other Payment Periods, [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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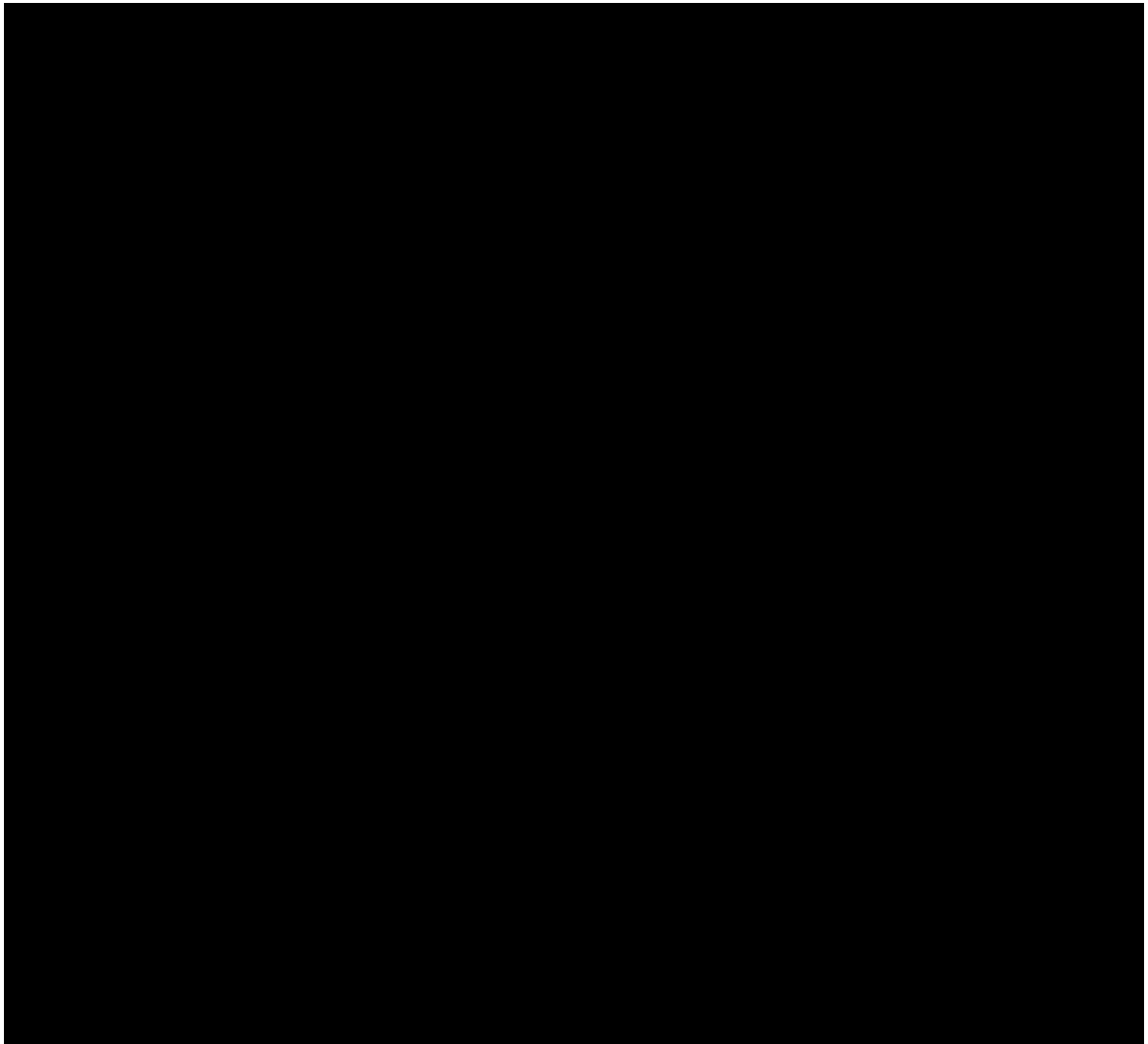
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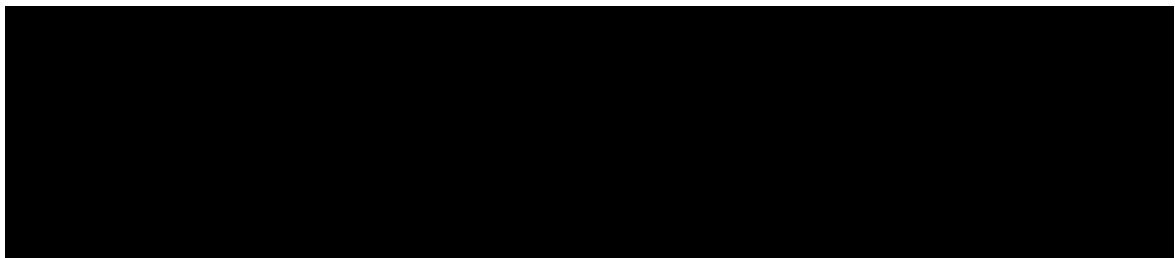
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[REDACTED]

[REDACTED]

[REDACTED]

Appendix 1 – Speed Restrictions tolerance levels

CRN AK Car Track Code			Description		Indicative Line Type	Indicative Length (KM)
714310	Joppa Jct - Canberra	Single line			Passenger & Freight	99.01
714711	Junee - Yanco	Single line			Passenger & Freight	120.049
717510	Yanco Griffith	Single line			Passenger & Freight	54.404
721011	Bathurst - Newbridge	Single line			Passenger & Freight	33.832
721012	Murrobo - Spring Hill	Single line			Passenger & Freight	21.133
721013	Orange East Fork - Molong	Single line			Passenger & Freight	39.847
721014	Molong - Goobang Junction	Single line			Passenger & Freight	86.29
721021	Wallerawang - Bowenfels	Up main			Passenger & Freight	12.676
721022	Bathurst - Tarana	Up main			Passenger & Freight	40.765
721023	Murrobo - Newbridge	Up main			Passenger & Freight	14.088
721024	Orange East Fork - Spring Hill	Up main			Passenger & Freight	12.367
721031	Bowenfels - Wallerawang	Down main			Passenger & Freight	12.676
721032	Wallerawang - Bathurst	Down main			Passenger & Freight	67.904
721033	Newbridge - Murrobo	Down main			Passenger & Freight	14.088
721034	Spring Hill - Orange East Fork	Down main			Passenger & Freight	12.38

CRN AK Car Track Code				Indicative Line Type	Indicative Length (KM)
721610	Stuart Town - Dubbo	Single line		Passenger & Freight	81.89
721630	Orange East Fork - Stuart Town	Single line		Passenger & Freight	58.187
735210	Armidale - Werris Ck (ARTC boundary)	Single line		Passenger & Freight	167.699
717010	Stockinbingal - Temora	Single line		Freight	34.527
717111	Temora - Griffith	Single line		Freight	151.287
721511	Kandos - Wallerawang	Single line		Freight	77.505
726711	Narromine (ARTC boundary) to Nyngan	Single line		Freight	124.691
726712	Nyngan to Cobar	Single line		Freight	131.98

Appendix 2 – Track Condition Index tolerance levels

CRN AK Car Track Code	Description		Indicative Line Type	Indicative Length (KM)
714310	Joppa Jct - Canberra	Single line	Passenger & Freight	99.01
714711	Junee - Yanco	Single line	Passenger & Freight	120.049
717510	Yanco - Griffith	Single line	Passenger & Freight	54.404
721011	Bathurst - Newbridge	Single line	Passenger & Freight	33.832
721012	Murrobo - Spring Hill	Single line	Passenger & Freight	21.133
721013	Orange East Fork - Molong	Single line	Passenger & Freight	39.847
721014	Molong - Goobang Junction	Single line	Passenger & Freight	86.29
721021	Wallerawang - Bowenfels	Up main	Passenger & Freight	12.676
721022	Bathurst - Tarana	Up main	Passenger & Freight	40.765
721023	Murrobo - Newbridge	Up main	Passenger & Freight	14.088
721024	Orange East Fork - Spring Hill	Up main	Passenger & Freight	12.367
721031	Bowenfels - Wallerawang	Down main	Passenger & Freight	12.676
721032	Wallerawang - Bathurst	Down main	Passenger & Freight	67.904
721033	Newbridge - Murrobo	Down main	Passenger & Freight	14.088
721034	Spring Hill - Orange East Fork	Down main	Passenger & Freight	12.38
721610	Stuart Town - Dubbo	Single line	Passenger & Freight	81.89
721630	Orange East Fork - Stuart Town	Single line	Passenger & Freight	58.187

CRN AK Car Track Code				Indicative Line Type	Indicative Length (KM)
Description					
735210	Armidale - Werris Ck (ARTC boundary)	Single line		Passenger & Freight	167.699
717010	Stockinbingal - Temora	Single line		Freight	34.527
717111	Temora - Griffith	Single line		Freight	151.287
721511	Kandos - Wallerawang	Single line		Freight	77.505
726711	Narromine (ARTC boundary) to Nyngan	Single line		Freight	124.691
726712	Nyngan to Cobar	Single line		Freight	131.98
714910	The Rock - Boree Creek	Single line		Grain	56.625
717011	Temora -Barmedman	Single line		Grain	36.427
717012	Barmedman - West Wyalong	Single line		Grain	31.54
717013	West Wyalong - Ungarie	Single line		Grain	40.41
717014	Ungarie - Lake Cargelligo	Single line		Grain	71.36
717112	HILLSTON - GRIFFITH	Single line		Grain	107.33
717410	Ungarie - Naradhan	Single line		Grain	60.439
721910	Tottenham - Bogan Gate ARTC/CRN Boundary	Single line		Grain	111.39
726610	Coonamble - Troy Junction ARTC/CRN Boundary	Single line		Grain	149.245
726810	Nevertire to Warren	Single line		Grain	20.24
735015	WEEMELAH to CAMURRA	Single line		Grain	83.46
735512	Burren Junction to Narrabri W	Single line		Grain	83.27
735513	Walgett to Burren Junction	Single line	Grain	87.52	
735610	MERRYWINEBONE - BURREN JCT	Single line	Grain	51.92	

Schedule 5 – Governance Schedule

1. Introduction

1.1 Definitions and Interpretation

In this Schedule:

- (a) all terms that have defined meanings in the Deed (including the Scope of Works) have the same meaning in this Schedule as they do in the Deed (including the Scope of Works);
- (b) a reference to a clause is a reference to a Clause in the General Conditions;
- (c) a reference to a Section is a reference to a Section in the Scope of Works; and
- (d) a reference to a paragraph is a reference to a paragraph in this

Schedule. In this Schedule, the following words have the following meanings:

Annual Contract Meeting means the annual forum which will focus on the matters set out at Sections 3.9.20 to 3.9.23 of the Scope of Works.

Monthly Contract Meeting means the monthly forum which will focus on the matters set out in at Section 3.9.11 to 3.9.15 of the Scope of Works.

Quarterly Contract Review Meeting means the quarterly forum which will focus on the matters set out at Sections 3.9.16 to 3.9.19 of the Scope of Works.

1.2 General Requirements

The Service Provider must:

- (a) provide effective governance for its own team to ensure the Services are delivered in accordance with the Deed;
- (b) ensure that the governance model used is compatible with and, where appropriate, integrated with the Principal's business model;
- (c) pursuant to the Deed, take sole responsibility and accountability for the performance of all Subcontractors it engages in connection with the conduct of the Services. Such Subcontractors are not expected to attend the governance forums described in this Schedule, however the Service Provider is fully accountable to address matters arising out of Subcontractor performance at any forums;
- (d) make available for any of the contract meetings any team members with the related discipline or responsibility as the Principal's Representative may require;
- (e) ensure that the Service Provider's attendees at each contract meeting have a sound knowledge of the Services and are authorised to make commitments on behalf of the Service Provider;
- (f) ensure that, where an attendee of a contract meeting cannot attend a meeting, the attendee appoints a replacement delegate who holds the same or similar position to:
 - (i) attend the contract meeting in their absence; and
 - (ii) otherwise discharge their responsibilities in accordance with this **Schedule 5**; and
- (g) accurately respond to queries and/or issues raised relating to the carrying out of the Services at the Monthly Contract Meeting, Quarterly Contract Review Meeting or Annual Contract Meeting, as applicable.

Nothing in this Schedule or any meeting, document or discussion arising out of, or in any way in connection with, this Schedule will limit or otherwise affect any obligation of the Service Provider.

The parties agree to act reasonably to agree in writing from time to time amendments to this Schedule 5 to improve efficiency in reporting requirements.

2. Governance Regime

2.1 Contract Forums and Reviews

- (a) Without prejudice to any other requirement under this Deed, the parties must use the Monthly Contract Meeting, Quarterly Contract Review Meeting and Annual Contract Meeting to monitor matters arising in respect of the Services.
- (b) In addition to the meetings set out in paragraph (a), the Service Provider acknowledges that it must attend ad-hoc meetings with the Principal and its nominees as required by the Principal's Representative, including specific root cause analysis reviews, operational meetings, status meetings, informal discussions and any other meetings required for the performance of the Services.
- (c) The Service Provider must also meet in a forum with other service providers or any Rail Transport Operator, should the Principal's Representative require.
- (d) The Service Provider agrees to, at the Principal's request, participate in and make its employees, personnel and contractors available to participate in, a 360° survey of all key stakeholders. The Principal may request that the Service Provider participate in a 360° survey once in each six-month period.
- (e) The parties agree to meet and discuss the results of the 360° survey at the Monthly Contract Meeting that follows the availability of the results of the 360° survey.

2.2 Scheduled Contract meetings:

Unless otherwise notified in writing by the Principal's Representative, the following scheduled contract meetings will take place:

(a) Monthly Contract Meeting

The Monthly Contract Meetings will focus on all issues set out in the Monthly Report, the Quarterly Report and any other relevant items provided by the Service Provider during the month prior to the meeting in accordance with the Scope of Work Deliverables Schedule. Matters that will be discussed may include, the ongoing delivery of the Services as required under the Deed, proposed Variations, KPI performance, deductions, and disputes and any other matter set out in the Monthly Report (the details of which are set out in the Scope of Work Deliverables Schedule).

The Monthly Contract Meeting will typically take place by the end of the third week of each month and, unless otherwise determined by the Principal's Representative and notified in writing, the attendees will be:

Principal Attendees	Service Provider Attendees
Principal's Representative	Service Provider's Representative
Senior Manager Contracts	Optimisation Manager
Contract Manager	Commercial & Finance Manager
Commercial Manager	PMO Manager

Senior Manager, Asset & Engineering	Health, Safety & Environment Manager
Director, Property & Asset Renewal	Asset & Engineering Manager
	Network Operations Manager
	Infrastructure Maintenance Manager

Other attendees may be required to attend upon request by the Principal's Representative. Such request will be in writing and be sent to the Service Provider (if applicable) no later than 5 Business Days prior to the meeting.

The Service Provider must ensure that its attendees at the Monthly Contract Meeting are prepared to address the following, as required:

- (i) the detailed report on the status of the Services;
- (ii) project and business management;
- (iii) performance measurement;
- (iv) asset management;
- (v) Engineering Services;
- (vi) integrated logistics support;
- (vii) network operations;
- (viii) rail infrastructure maintenance;
- (ix) Property Management Services;
- (x) environmental management and sustainability;
- (xi) transition management;
- (xii) progress of any audits including final reports and recommendations;
- (xiii) update of current works program;
- (xiv) information system security compliance;
- (xv) safety performance, including in relation to employees and Subcontractors;
- (xvi) Non-Compliances – corrective actions and Rectification Plans;
- (xvii) Asset disposal information and revenue from same;
- (xviii) breaches of probity or ethics;
- (xix) report on delivery of works plan;
- (xx) performance measurement trend information;
- (xxi) engineering infrastructure & maintenance defects & trends;
- (xxii) report on Risk Register;
- (xxiii) results or reports from any Incident investigations;
- (xxiv) community and stakeholder complaints;
- (xxv) review of any Final Cure Plan;
- (xxvi) status of any disputes;
- (xxvii) KPI performance;
- (xxviii) Support Services; and

(xxix) any other matter as required by the Principal's Representative.

All reports addressing the above items and the agenda for the meeting must be delivered by the Service Provider to the Principal's Representative prior to each Monthly Contract Meeting as set out in the Scope of Works Deliverables Schedule (unless otherwise agreed by the Principal's Representative).

The Principal's Representative may, at its absolute discretion, add or remove any item from the agenda and if it does so, the Principal's Representative will circulate an updated agenda no later than 5 Business Days prior to the Monthly Contract Meeting (unless otherwise agreed by the parties).

The Principal's Representative may call an ad-hoc Monthly Contract Meeting with 5 Business Days' notice (or on such notice as otherwise agreed), and the agenda will be delivered with the notice.

(b) Quarterly Contract Review Meeting

The Quarterly Contract Review Meeting will focus on the ongoing relationship between the Principal and the Service Provider, the alignment of the Service Provider and the Deed to the Principal's business strategies and objectives, performance management, the management of escalated issues and continuing alignment to the governance requirements.

The Quarterly Contract Review Meeting will involve discussions of any matter raised in the most recent Quarterly Report or Monthly Report (submitted in accordance with the Scope of Works Deliverables Schedule). The Quarterly Contract Review Meeting will typically take place within a month of the end of the relevant Quarter (on an exact date and time to be determined by the Principal's Representative in its absolute discretion). Unless otherwise determined by the Principal's Representative and notified in writing, the attendees at the Quarterly Contract Review Meeting will be:

Principal Attendees	Service Provider Attendees
Principal's Representative	Service Provider's Representative
Senior Manager Contracts	Optimisation Manager
Contract Manager	Commercial & Finance Manager
Commercial Manager	PMO Manager
Senior Manager, Asset & Engineering	Health, Safety & Environment Manager
Senior Manager, Health & Safety	Asset & Engineering Manager
	Network Operations Manager
	Infrastructure Maintenance Manager

Other attendees may be required to attend upon request by the Principal's Representative. Such request will be in writing and be sent to the Service Provider (if applicable) no later than 5 Business Days prior to the meeting.

The attendees at the Quarterly Contract Review Meeting may address the following matters:

- (i) analysis of KPI performance and trends (since the Services Commencement Date), including performance in respect of any proposed new KPIs, review of Rectification Plans prepared or involving work during the quarter and any proposed amendments to any plans to improve service quality;
- (ii) the quarterly rail safety report to include a summary of the Service Provider's SMS performance including detailed analysis of trends, causal factors and risk management activities;

- (iii) Asset additions and disposals; and
- (iv) any other matter as required by the Principal's Representative.

Reports addressing the above items and the agenda for the meeting must be delivered by the Service Provider to the Principal's Representative prior to each Quarterly Contract Review Meeting as set out in the Scope of Works Deliverables Schedule (unless otherwise agreed by the Principal's Representative).

The Principal's Representative may, at its absolute discretion, add or remove any item from the agenda and if it does so, the Principal's Representative will circulate an updated agenda no later than 5 Business Days prior to the Quarterly Contract Review Meeting (unless otherwise agreed by the parties).

(c) Annual Contract Meetings

The Annual Contract Meeting will focus on the ongoing relationship between the Principal and the Service Provider, the alignment of the Service Provider and the Deed to the Principal's business strategies and objectives, performance management, the management of escalated issues and continuing alignment to the governance requirements.

The Annual Contract Meeting will consider any matter raised in the Annual Contract Report (including the outstanding works identified in the Budget to Actual 3MWP Financial Report) and any other annual reports or audits submitted in accordance with the Scope of Works Deliverables Schedule.

The Annual Contract Meeting will be held within a month of the end of the relevant Contract Year. Unless otherwise determined by the Principal's Representative and notified in writing, the attendees will be:

Principal Attendees	Service Provider Attendees
Principal's Representative	Service Provider's Representative
Executive Director, Network & Assets	EGM Transport
Senior Manager Contracts	Optimisation Manager
Contract Manager	Commercial & Finance Manager
Commercial Manager	PMO Manager
Senior Manager, Asset & Engineering	Health, Safety & Environment Manager
Director, Asset Planning & Assurance	Asset & Engineering Manager

Other attendees may be required to attend upon request by the Principal's Representative. Such request will be in writing and be sent to the Service Provider (if applicable) no later than 5 Business Days prior to the meeting.

The attendees at the Annual Contract Meeting will address the following matters (as required):

- (i) all of the audits conducted throughout the Contract Year;
- (ii) Aboriginal employment and participation outcomes;
- (iii) regional employment;
- (iv) Intellectual Property being used in the carrying out of the Services or otherwise on, or in connection with, the CRN Assets, including any changes;
- (v) any performance trend information (including KPI outcomes);
- (vi) effectiveness of Asset Maintenance Services (including any changes to Asset Management Planning Documents);

- (vii) compliance with requirements of RNSL; and
- (viii) any other matter as required by the Principal's Representative.

Reports addressing the above items and the agenda for the meeting must be delivered by the Service Provider to the Principal's Representative prior to each Annual Contract Meeting as set out in the Scope of Works Deliverables Schedule (unless otherwise agreed by the Principal's Representative).

The Principal's Representative may, at its absolute discretion, add or remove any item from the agenda and if it does so, the Principal's Representative will circulate an updated agenda no later than 5 Business Days prior to the Annual Contract Meeting (unless otherwise agreed by the parties).

(d) Conduct of meetings

All meetings must be conducted in accordance with the following:

- (i) the Principal's Representative will chair each meeting;
- (ii) the Principal's Representative will be responsible for publishing the final agenda and scheduling the meeting;
- (iii) the Principal's Representative will record the minutes and action items from each meeting and distribute (which may be with the agenda for the next meeting);
- (iv) action items not resolved within the agreed timeframe will be escalated from the Monthly Contract Meeting to the Quarterly Contract Review Meeting;
- (v) each party will bear its own costs for attending meetings;
- (vi) the Principal's Representative may require the Service Provider to provide further information on matters discussed at any of the Monthly Contract Meeting, Quarterly Contract Review Meeting or Annual Contract Meeting. The Service Provider shall respond and provide such information in a timely manner; and
- (vii) the Principal's Representative may direct the Service Provider to procure the attendance of senior representatives of any of the Subcontractors or any of their respective Associates at any meeting.

(e) Role of meetings

The parties acknowledge and agree that the meetings:

- (i) are advisory only and decisions or recommendations made at the meetings are not binding on the parties;
- (ii) do not create any legal responsibilities, liability or right to require any of the parties to act or refrain from acting in any way; and
- (iii) the parties' involvement in the meetings does not affect their respective rights and obligations in accordance with this Deed.

Schedule 6 – Relevant Documents

(clause 5.7)

Schedule 6 comprises the documents and agreements listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of this Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Schedule 6 - Relevant Documents” (other than the Specific Relevant Documents).

Document	Version / Date
TfNSW's NSW Rail Access Undertaking	
Deed of Licence ACT Infrastructure originally entered into between Rail Infrastructure Corporation, the Australian Capital Territory and the Planning and Land Authority (for and on behalf of the Commonwealth of Australia)	15 January 2007
Deed of novation of Deed of Licence ACT Infrastructure from Transport for NSW to Rail Corporation New South Wales	Executed by Transport for NSW and Rail Corporation New South Wales on 29 June 2020 and by the Australian Capital Territory on 2 June 2020
Previous CRN Deed	16 December 2010
Extension of previous CRN Deed	11 December 2019
Ice Radio NTCS Contract between ARTC, Sydney Trains and Transport for NSW (and subsequently vested to Rail Corporation New South Wales, now TAHE)	8 May 2017
The ARTC Lease (as amended from time to time)	4 June 2004
Agreement between oOH! Media Regional Pty Ltd (formerly, Sports and Outdoor Media Pty Ltd) and Rail Infrastructure Corporation (and subsequently vested to Rail Corporation New South Wales, now TAHE), as amended.	20 November 2006

Extension to agreement between oOH! Media Regional Pty Ltd (formerly, Sports and Outdoor Media Pty Ltd) and TAHE, as amended	28 September 2020
Phoenix Agreement between Ansaldo STS Australia Pty Ltd and TAHE (as successor in title to the Country Rail Infrastructure Authority)	24 January 2012
TRIMS Vizirail Licence between ICG Transport System Pty Ltd and TAHE (as successor in title to the Country Rail Infrastructure Authority)	9 September 2011
Access Agreements	
Siding & Connection Agreements	
Loading Deeds	
Leases and Licences over CRN Assets, set out in the tenancy schedule (as updated from time to time) and updated property templates.	See tenancy schedule
Level Crossing licences	
Master Access Deeds for access to CRN Land between TAHE (or any of its predecessors in title) and third parties and updated template Master Access Deed.	
Heritage Operator Licences for the CRN between TAHE (or any of its predecessors in title) and heritage operators	

Schedule 7 – Expert Determination Agreement

This Agreement is made on [insert date]

Parties

- 1 Transport for NSW (ABN 18 804 239 602), of 231 Elizabeth Street, Sydney NSW 2000 (**TfNSW**).
- 2 Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353), of 470 Pitt Street, Haymarket NSW 2000 (**TAHE**).
- 3 UGL Regional Linx Pty Ltd (ACN 646 771 011) registered in Australia incorporated in Australia of Level 8, 40 Miller Street, North Sydney NSW 2060 (**Service Provider**).
- 4 [insert name of Expert as agreed between the parties or appointed pursuant to clause 28.5(b)] [(ABN [*])] [registered in [*]] [incorporated in [*]] of [*] (**Expert**).

Recitals

- A TfNSW and TAHE (jointly and severally the **Principal**) and the Service Provider (together the Parties and each a Party) are parties to a deed (the **Contract**) under which the Service Provider has agreed to manage and maintain the NSW Country Regional Network.
- B By written notice dated [to be inserted], [insert the Principal or the Service Provider as applicable] has required that the matter described in Annexure 1, being a matter that the Contract requires or permits to be referred to an Expert for determination, be determined by an Expert appointed under clause 28.5 of the Contract (the **Matter**).
- C Pursuant to clause 28 of the Contract, the Expert has been appointed to determine the Matter in accordance with the process set out in this Deed.

It is agreed as follows.

1 Appointment of Expert

- (a) The Parties appoint the Expert to determine the Matter in the manner and within the times set out in this Deed and the Expert accepts the appointment on the basis set out in this Deed.
- (b) The Parties agree that:
 - (i) the Expert will act as an expert and not as an arbitrator;
 - (ii) neither the determination of the Matter, nor the process required by this Deed is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;
 - (iii) the rules of evidence do not apply to the determination; and
 - (iv) the Expert must conduct the determination of the Matter in accordance with the Rules for Expert Determination Process set out in Annexure 2 to this Deed.
- (c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Parties immediately and, unless the Parties agree otherwise, terminate this Deed.

2 Confidentiality

- (a) All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any other person, except with the prior written consent of both Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.
- (b) The Parties agree that, despite **clause 2(a)** above, the Principal may disclose any information or material relevant to the dispute to:
 - (i) any financial, legal or technical advisers providing assistance in relation to the expert determination process; or
 - (ii) any New South Wales Government entity.

3 Costs and fees

- (a) As between the Parties and the Expert, the Principal and the Service Provider are jointly and severally liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure 3 to this Deed. The Parties agree to comply with any Direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.
- (b) The Parties agree as between themselves that:
 - (i) they will each pay one half of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Annexure 3 to this Deed; and
 - (ii) they will each bear their own costs of and incidental to the preparation of this Deed and their participation in the determination.

4 Exclusion of liability and indemnity

Except in the case of fraud, the Expert will not be liable to either Party for any act or omission by the Expert in the performance or purported performance of this Deed. The Principal and the Service Provider jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this Deed.

5 Cooperation of the Parties

Each Party agrees to take part in the determination in good faith and to comply with the reasonable requests and Directions of the Expert in relation to the conduct of the determination.

6 Governing Law

This Deed is governed by and is to be construed in accordance with the laws in force in New South Wales.

7 Jurisdiction

- (a) The Parties and the Expert irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales and the courts to which the appeals from those courts may be made.
- (b) The Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within **clause 7(a)**.

Executed as a Deed in [Insert Location] on [insert date]

Signed by Transport for NSW (ABN 18 804 239 602), by its Authorised Delegate:

In the presence of:

Signature of Authorised Delegate

Signature of Witness

Name of Authorised Delegate (print)

Name of Witness (print)

Signed by Transport Asset Holding Entity of New South Wales (ABN 59 325 778 353), by its Authorised Delegate:

In the presence of:

Signature of Authorised Delegate

Signature of Witness

Name of Authorised Delegate (print)

Name of Witness (print)

Signed by UGL Regional Linx Pty Ltd ACN 646 771 011 in accordance with s127 of the *Corporations Act 2001*

Signature of Director

Signature of Director/Company Secretary
(Please delete as applicable)

Name of Director (print)

Name of Director/Company Secretary (print)

Signed by **[Expert]**

in the presence of:

Expert Signature

Witness Signature

Name of Expert (print)

Name of Witness (Print)

Annexure 1

The Matter

[To be inserted when it comes time for expert determination]

Annexure 2

Rules for Expert Determination Process

1 Commencement

The expert determination process begins when the Expert accepts an appointment to determine the Matter in accordance with these Rules.

2 Written Submissions

- 2.1 Within 7 days after the date this process begins, Party A (i.e. the Party who gave notice under clause 28.5(a) of the Contract) must, in addition to any particulars provided by Party A in its notice under clause 28.5(a) of the Contract, give the other Party and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.
- 2.2 Within 7 days after the statement in rule 2.1 is served, the other Party must give Party A and the Expert a written response to Party A's submissions.
- 2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Party's response in rule 2.2 within the time allowed by the Expert.
- 2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.
- 2.5 The Expert must disclose to both Parties all information and documents received.
- 2.6 If a Party fails to make a written submission, the Expert may continue with the process.

3 Conference

- 3.1 The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the Parties agree otherwise, the conference will be held in either Newcastle or Sydney (at the discretion of the Principal).
- 3.2 At least 5 days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.
- 3.3 The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under rule 3.2, the Expert and the other Party may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the Expert determination process.
- 3.4 The Parties:
 - (a) may be accompanied at a conference by legal or other advisers; and
 - (b) will be bound by any procedural Directions as may be given by the Expert in relation to the conference both before and during the course of the conference.
- 3.5 The conference must be held in private.
- 3.6 If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties.

4 General

- 4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with the Contract.
- 4.2 Subject to rule 3.3, meetings and discussions with the Expert must only take place in the presence of both Parties.
- 4.3 The Expert must:
- (a) inform the Parties of:
 - (i) any relationship or interest with the Parties or their respective officers, employees, consultants or agents;
 - (ii) any interest the Expert has in the matters in dispute; and
 - (iii) any circumstance which might reasonably be considered to adversely affect the expert's capacity to act independently or impartially,immediately upon becoming aware of any such circumstances; and
 - (b) upon making any disclosure under this rule 4.3, unless and until the Parties agree otherwise, terminate the proceedings.

5 The Determination

- 5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 20 Business Days after the Expert's acceptance of appointment, the Expert must:
- (a) determine the Matter between the Parties; and
 - (b) notify the Parties of that determination.
- 5.2 The determination of the Expert must:
- (a) be in writing stating the Expert's determination and giving reasons;
 - (b) be made on the basis of the submissions (if any) of the parties, the conference (if any) and the Expert's own expertise; and
 - (c) meet the requirements of the Contract.
- 5.3 Subject to rule 5.4 and clause 28.5(f)(ii) of the Contract, to the extent permitted by law, the Expert's determination will be final and binding on the Parties.
- 5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

6 Costs

Security for costs must be deposited by both Parties at the commencement of the Expert determination process in accordance with any Direction of the Expert.

7 Modification

These rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

Appendix to Rules for Expert Determination Process - Code of Conduct for an Expert

- 1 The function of the Expert is to make a determination of the Matter in accordance with the Contract and the Expert Determination Agreement, including the Rules and this Code of Conduct.
- 2 The Expert will receive the written submissions and responses of the Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Matter.
- 3 The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.
- 4 The Expert must disclose to both Parties all information and documents received.
- 5 If a Party fails to make a written submission, the Expert may continue with the process.
- 6 Subject to rule 3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of both Parties.

Annexure 3

The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]

Schedule 8 – Carry-Over Works

Project Description
Bumberry Loop Extension – Design and Construction
Junee to Griffith Upgrade to 25 TAL - Construction
Temora To Calleen Upgrade to 25 TAL – Scoping, Design and Construction
Main West Bi-Directional Upgrade - Scoping, Design and Construction
Junee North Fork Design Detailed Design
Kerrs Creek Loop – Design
Main West Development Projects – Concept and Design
Coolamon Loop Extension – Scoping, Design and Construction
25TAL Upgrade for 5 corridors – Scoping and Design only
Wumbulgal Siding – Scoping and Design only
Tarago Loop Extension – Contaminated Spoil Disposal

Schedule 9 – Statutory Declaration

Statutory Declaration	Oaths Act (NSW) Ninth Schedule
I, ...	<i>insert full name of Declarant</i>
of	<i>insert address</i>
do solemnly and sincerely declare that:	<i>insert name of Service Provider, and ACN if applicable</i>
1. I am the representative of:	<i>insert position title of Declarant</i>
("Service Provider")	
in the Office Bearer capacity of:	<i>insert name of Deed</i>
2. The Service Provider has a contract with TfNSW and TAHE:	
("the Deed").	
3. I personally know the facts which I have set out in this declaration.	
4. All employees who have at any time been engaged by the Service Provider for work done under the Deed:	
(a) have been paid all remuneration and benefits to the date of this declaration payable to them by the Service Provider in respect of their employment on work under the Deed; and	
(b) have otherwise had accrued to their account all benefits to which they are entitled from the Service Provider as at the date of this declaration in respect of their employment on work under the Deed pursuant to any award, enterprise agreement, act or regulation,	<i>insert names and addresses of the unpaid employees, the amounts unpaid, and whether in respect of wages, allowances, holiday pay, long service leave and payments and superannuation entitlement etc.</i>
with the exception of the employees and respective amounts unpaid or not accrued for each employee listed below:	
Employee:	
Amount unpaid or not accrued:	
.....	
.....	
.....	
.....	
.....	
.....	

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Schedule 9 – Statutory Declaration

..... 9. Where a subcontractor to the Service Provider has provided a declaration as in 8 above, and it includes unpaid amounts or benefits either not received or not accrued, details of the subcontractor, details of the affected employees, suppliers and subcontractors of the subcontractor, and the respective amounts or benefits either unpaid or not accrued are as follows: Employee, subcontractor or supplier: Amount unpaid or not accrued: 10. In relation to the statutory declaration provided by each subcontractor to the Service Provider, I am not aware of anything to the contrary of what is contained therein, and on the basis of the contents of those statutory declarations, I believe that information to be true. 11. Attached to and forming part of this declaration, as Annexure B, is a 'Subcontractor's Statement' given by the Service Provider in its capacity as 'subcontractor' (as that term is defined in the Workers Compensation Act 1987 (NSW), Payroll Tax Act 2007 (NSW) and Industrial Relations Act 1996 (NSW) which is a written statement: (a) under section 175B of the Workers Compensation Act 1987 in the form and providing the detail required by that legislation; (b) under section 18(6) of schedule 2 of part 5 of the Payroll Tax Act 2007 in the form and providing the detail required by that legislation; and (c) under section 127 of the Industrial Relations Act 1996 in the form and providing the detail required by that legislation. 12. I personally know the truth of the matters which are contained in this declaration and the attached Subcontractor's Statement. 13. All statutory declarations and Subcontractor's Statements received by the Service Provider from subcontractors were:	declaration, and unpaid amounts due or otherwise due to each of them by the Service Provider in respect of this claim insert names of the subcontractors, the name and addresses of the unpaid employees, subcontractors and suppliers and amounts listed as unpaid or not accrued to them.

(a) given to the Service Provider in its capacity as 'principal contractor' as defined in the Workers Compensation Act 1987 (NSW), the Payroll Tax Act 2007 (NSW) and the Industrial Relations Act 1996 (NSW) ("Acts"); and (b) given by the subcontractors in their capacity as 'subcontractors' as defined in the Acts. 14. I am not aware of anything which would contradict the statements made in the statutory declarations or written statements provided to the Service Provider by its subcontractors, as referred to in this declaration.	
I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 (NSW). I am aware that I may be subject to punishment by law if I wilfully make a false statement in this declaration. Declared at on (place) (day) (month) (year) (Signature of Declarant) Before me: (Signature of person before whom the declaration is made) (Name of the person before whom the declaration is made) (Title* of the person before whom the declaration is made)	
* The declaration must be made before one of the following persons: - where the declaration is sworn within the State of New South Wales: (i) a justice of the peace of the State of New South Wales; (ii) a solicitor of the Supreme Court of New South Wales with a current practising certificate; or (iii) a notary public. - where the declaration is sworn in a place outside the State of New South Wales: (i) a notary public; or (ii) any person having authority to administer an oath in that place.	

*And as a witness, I certify the following matters concerning the person who made this statutory declaration (the **declarant**):*

1. *I saw the face of the declarant.*

[OR]

I did not see the face of the declarant because the declarant was wearing a face covering, but I am satisfied that the declarant had a special justification for not removing the covering.

2. *I have known the declarant for at least 12 months.*

[OR]

I have confirmed the declarant's identity using the following identification document:

[insert description of ID document]

.....
(Signature of witness)

ANNEXURE A**Supporting statement by head contractor regarding payment to subcontractors**

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

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

Head contractor: *[business name of head contractor]*

ABN: *[ABN]*

* 1. has entered into a contract with: *[business name of subcontractor]*

ABN: *[ABN]*

Contract number/identifier: *[contract number/identifier]*

OR

* 2. has entered into a contract with the subcontractors listed in the attachment to this statement.

* *[Delete whichever of the above does not apply]*

This statement applies for work between *[start date]* and *[end date]* inclusive (the construction work concerned), subject of the payment claim dated *[date]*.

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

Signature: Date:

Full name: Position/Title:

Attachment

Schedule of subcontractors paid all amounts due and payable				
Subcontractor	ABN	Contract number/ identifier	Date of works (period)	Date of payment claim (head contractor claim)

Schedule of subcontractors for which an amount is in dispute and has not been paid				
Subcontractor	ABN	Contract number/ identifier	Date of works (period)	Date of payment claim (head contractor claim)

ANNEXURE B**SUBCONTRACTOR'S STATEMENT****Note to the parties**

For the purpose of this Statement:

- - "the subcontractor" is the Service Provider; and
- - "the principal contractor" is the Principal.

REGARDING WORKERS COMPENSATION, PAYROLL TAX AND

REMUNERATION (Note 1-see back of form)

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

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

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

Subcontractor: ABN:

(Business name)

of

(Address of Subcontractor)

has entered into a contract with ABN:

(Business name of principal contractor)

(Note 2)

Contract number/identifier

(Note 3)

This Statement applies for work between/...../..... and/...../..... inclusive,

(Note 4)

subject of the payment claim dated/...../.....

(Note 5)

I, ... a Director or a person authorised by the

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

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

(Note 6)

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

(Note 7)

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

(Note 8)

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

(Note 9)

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

(Note 10)

(f) Signature Full name

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

NOTE: Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987 (NSW).

NOTES

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987* (NSW), Schedule 2 Part 5 *Payroll Tax Act 2007* (NSW) and section 127 of the *Industrial Relations Act 1996* (NSW). If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called the **subcontractor**) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees / workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.

3. Provide the unique contract number, title, or other information that identifies the contract.

4. In order to meet the requirements of section 127 of the *Industrial Relations Act 1996* (NSW), a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the *Industrial Relations Act 1996* (NSW) defines remuneration as 'remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.'

Section 127(11) of the *Industrial Relations Act 1996* (NSW) states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'

5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.

9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

- (a) the person is the subcontractor;
- (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
- (c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

For more information, visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

Schedule 11 – Principal Supplied Assets

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Vibratool - CANRON	Bathurst	29/01/2022	Nil
Chicago Pneumatic CP1820R32 Air Drill	Dubbo	29/01/2022	Nil
Front End Loader Volvo L120F	Dubbo	29/01/2022	Nil
Front End Loader Volvo L120F	Dubbo	29/01/2022	Nil
Front End Loader Volvo L120F	Dubbo	29/01/2022	Nil
Tractor Agricultural John Deere 6110 with loader kit and forks	West Wyalong	29/01/2022	Nil
Tractor Agricultural John Deere 6110 with loader kit and forks	West Wyalong	29/01/2022	Nil
Tractor Agricultural John Deere 6110 with loader kit and forks	Bathurst	29/01/2022	Nil
Tractor Agricultural John Deere 6110 with loader kit and forks	Tamworth	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Dubbo	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	West Wyalong	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Tamworth	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Narrabri	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Bathurst	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Bathurst	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Dubbo	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	West Wyalong	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Nyngan	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Dubbo	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Dubbo	29/01/2022	Nil
Excavator 7T Kobelco SK70SR-2 plus Harrybilt RGS	Dubbo	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Bathurst	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Dubbo	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Dubbo	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Bathurst	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Dubbo	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Bathurst	29/01/2022	Nil
Excavator Rail Trailer Key Source 7T7000 (7t SWL)	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Chem Free Smart Washer Model SW-28-1	Bathurst	29/01/2022	Nil
Whipper Snipper Stihl FS250	West Wyalong	29/01/2022	Nil
Whipper Snipper Stihl FS250	West Wyalong	29/01/2022	Nil
Stihl Whipper Snipper	West Wyalong	29/01/2022	Nil
AIR COMPRESSOR JBS15HPFB 240V/15A BELT 110L	Bathurst	29/01/2022	Nil
Bobcat T590 Skid Steer Loader incl Post Hole Borer, Bucket & Trencher Attachments	Bathurst	29/01/2022	Nil
Vermeer VX30-250 Trailer Mounted Vacuum Excavator	Bathurst	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Dubbo	29/01/2022	Nil
Fire Fighting Unit Honda GX160	Narrabri	29/01/2022	Nil
Water Pump FLEXTOL Honda GX160	West Wyalong	29/01/2022	Nil
Track Geometry Trolley Geismar Amber 1435mm	Bathurst	29/01/2022	Nil
Track Geometry Trolley Geismar Amber 1435mm	Dubbo	29/01/2022	Nil
Air Blower Stihl BG56	Dubbo	29/01/2022	Nil
Pressure Washer	Bathurst	29/01/2022	Nil
Air Blower Stihl BG86C	West Wyalong	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Dubbo	29/01/2022	Nil
Fire Fighting Unit Honda GX 160	Narrabri	29/01/2022	Nil
Fire Fighting Unit	Dubbo	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Fire Fighting Unit Honda (1000l)	Bathurst	29/01/2022	Nil
Fire Fighting Unit Honda (550l)	Tamworth	29/01/2022	Nil
Fire Fighting Unit Honda (1500l)	Dubbo	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Dubbo	29/01/2022	Nil
Air Compressor	Dubbo	29/01/2022	Nil
Air Compressor JBS P19	Tamworth	29/01/2022	Nil
Air Compressor Compress Protocol 2000	Bathurst	29/01/2022	Nil
Air Compressor Compress Protocol 2000	Bathurst	29/01/2022	Nil
Hydraulic Power Pack Simplex G6 Honda GXV160	West Wyalong	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Bathurst	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Tamworth	29/01/2022	Nil
Simplex G6 - Hydraulic Power Pack	Tamworth	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Pressure Washer	Nyngan	29/01/2022	Nil
Air Blower Stihl STVBG56	Bathurst	29/01/2022	Nil
Rapid Diesel Fuel Cell (1000l)	Bathurst	29/01/2022	Nil
Air Blower STIHL BG56-Z	Dubbo	29/01/2022	Nil
Excavator Rail Sweep	Dubbo	29/01/2022	Nil
Air Compressor Peerless 350L/Min Honda GX200	Bathurst	29/01/2022	Nil
Track Gauge - Super Elevation Board - 1435mm	Dubbo	29/01/2022	Nil
Air Blower Hitachi	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Hydraulic Rail Tensor Geismar TH 70 VLA	West Wyalong	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	West Wyalong	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Tamworth	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Bathurst	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Rail Tensors & Lifting Frame	Dubbo	29/01/2022	Nil
Rail Tensors & Lifting Frame	Dubbo	29/01/2022	Nil
Rail Tensors & Lifting Frame	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Nyngan	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Bathurst	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	West Wyalong	29/01/2022	Nil
TrakBlaze Mobile Train Weighing System MTW-R420 Dynamic	Bathurst	29/01/2022	Nil
Hydraulic Rail Tensors KT	Narrabri	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Narrabri	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Narrabri	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Hydraulic Rail Tensor Geismar TH 70 VLA	West Wyalong	29/01/2022	Nil
Inverter Generator 2200W Honda EU22ITU	Dubbo	29/01/2022	Nil
Milwaukee M18 CLT Line Trimmer	Bathurst	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA & Lifting Frame	Bathurst	29/01/2022	Nil
Whipper Snipper Tanaka TBC270S	Tamworth	29/01/2022	Nil
Workshop Sweeper Stihl KG 770	Bathurst	29/01/2022	Nil
Air Blower Hitachi	Tamworth	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Narrabri	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	West Wyalong	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Bathurst	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Narrabri	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Nyngan	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Bathurst	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	West Wyalong	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
LT700 Light Weight Aluminium Trolley Key Source	Tamworth	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Tamworth	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	Dubbo	29/01/2022	Nil
LT700 Light Weight Aluminium Trolley Key Source	West Wyalong	29/01/2022	Nil
Vibratory Rammer Wacker Neuson BS50-4As	Bathurst	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Bathurst	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Nyngan	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Narrabri	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Bathurst	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Tamworth	29/01/2022	Nil
Screw Spike with Magazine Feeder Melville	West Wyalong	29/01/2022	Nil
Air Blower Stihl BG86C	Dubbo	29/01/2022	Nil
Weld Shear with Power Pack Geismar	Nyngan	29/01/2022	Nil
Weld Shear with Power Pack Geismar	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Weld Shear (Geismar) ESN3-MI	Narrabri	29/01/2022	Nil
Weld Shear (Manual) Stanley	Bathurst	29/01/2022	Nil
Weld Shear	West Wyalong	29/01/2022	Nil
Weld Shear with Power Pack Geismar	Bathurst	29/01/2022	Nil
Weld Shear	Dubbo	29/01/2022	Nil
Weld Shear	Dubbo	29/01/2022	Nil
Weld Shear (Manual) Geismar	West Wyalong	29/01/2022	Nil
Weld Shear (Manual) Stanley	Bathurst	29/01/2022	Nil
Weld Shear (Manual) Stanley	Bathurst	29/01/2022	Nil
Weld Shear (Manual) Stanley	Bathurst	29/01/2022	Nil
Weld Shear Matweld 05000	Tamworth	29/01/2022	Nil
Weld shear (Manual) Melville	Dubbo	29/01/2022	Nil
Weld Shear (Manual) Geismar	Dubbo	29/01/2022	Nil
Weld Shear (Manual) Geismar	West Wyalong	29/01/2022	Nil
Weld Shear (Manual) Geismar ESN-AUW-H-S	Nyngan	29/01/2022	Nil
Weld Shear (Manual) Geismar - Aluminium	Dubbo	29/01/2022	Nil
Weld shear Stanley WS10-100	Dubbo	29/01/2022	Nil
Weld shear (Manual) Melville	Dubbo	29/01/2022	Nil
Weld Shear (Manual) Stanley WS10-100	Nyngan	29/01/2022	Nil
Weld Shear (Manual)	Dubbo	29/01/2022	Nil
Rail Drill	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rail Drill Geismar PRZ	West Wyalong	29/01/2022	Nil
Rail Drill PRZ	Narrabri	29/01/2022	Nil
Rail Drill Geismar PRZ	West Wyalong	29/01/2022	Nil
Rail Drill Geismar	Tamworth	29/01/2022	Nil
Rail Drill	Dubbo	29/01/2022	Nil
Rail Drill	Dubbo	29/01/2022	Nil
Rail Drill PRZ	Narrabri	29/01/2022	Nil
Rail Drill	Dubbo	29/01/2022	Nil
Bonding Drill Trakstar RB30	Bathurst	29/01/2022	Nil
Bonding Drill Trakstar RB30	Bathurst	29/01/2022	Nil
Rail Drill Kawasaki TH48	Narrabri	29/01/2022	Nil
Petrol Drill Tanaka TED270RS	Dubbo	29/01/2022	Nil
Petrol Drill Tanaka TED270RS	Bathurst	29/01/2022	Nil
Rail Drill Tanaka TED270RS	Tamworth	29/01/2022	Nil
Bond Drill Tanaka TED-270RS	West Wyalong	29/01/2022	Nil
Rail Drill Tanaka TED270RS	Tamworth	29/01/2022	Nil
Bond Drill	Bathurst	29/01/2022	Nil
Bond Drill	West Wyalong	29/01/2022	Nil
Bond Drill Tanaka TED262R	Bathurst	29/01/2022	Nil
Bond Drill Tanaka TED262R	Bathurst	29/01/2022	Nil
Bond Drill	Bathurst	29/01/2022	Nil
Bond Drill	Bathurst	29/01/2022	Nil
Rail Saw Stihl TS700	Bathurst	29/01/2022	Nil
Linishall Metal Belt Sander 2000/75/P1	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Linishall Industrial Bench Grinder BG6	Bathurst	29/01/2022	Nil
JBS Floor Drill DP-430F	Bathurst	29/01/2022	Nil
Brobo Waldown Bench Grinder 200HD	Bathurst	29/01/2022	Nil
Hydraulic Press	Bathurst	29/01/2022	Nil
Rail Saw	Bathurst	29/01/2022	Nil
Rail Saw Geismar MTZ	Dubbo	29/01/2022	Nil
Rail Saw Geismar MTZ	Dubbo	29/01/2022	Nil
Rail Saw Geismar MTZ400S	Narrabri	29/01/2022	Nil
Rail Saw Geismar MTZ400S	Narrabri	29/01/2022	Nil
Rail Saw	West Wyalong	29/01/2022	Nil
Rail Saw Geismar MTZ	West Wyalong	29/01/2022	Nil
Band Saw - Railband 950	Dubbo	29/01/2022	Nil
Band Saw - Railband 950	Dubbo	29/01/2022	Nil
Sleeper Borer Geismar PTXL	Bathurst	29/01/2022	Nil
Sleeper Borer Geismar	Bathurst	29/01/2022	Nil
Sleeper Borer Geismar PTXL	Dubbo	29/01/2022	Nil
Sleeper Borer Geismar	Dubbo	29/01/2022	Nil
Rail Drill Rotabroach Rhino 4	Bathurst	29/01/2022	Nil
Rail Drill Rotabroach RD07	Bathurst	29/01/2022	Nil
Rail Drill Rotabroach RD07	Narrabri	29/01/2022	Nil
Rail Drill Rotabroach RD07	Narrabri	29/01/2022	Nil
Rail Borer	Bathurst	29/01/2022	Nil
Rail Drill Rotabroach Rhino 4	West Wyalong	29/01/2022	Nil
Rail Borer Kawasaki	Nyngan	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rail Borer Kawasaki	Nyngan	29/01/2022	Nil
Bonding Drill Trakstar RB30	Bathurst	29/01/2022	Nil
Sleeper Borer Tanaka TED262R	Nyngan	29/01/2022	Nil
Petrol Drill Tanaka Pro Force	Dubbo	29/01/2022	Nil
Rail Drill Tanaka TED270RS	Tamworth	29/01/2022	Nil
Sleeper Borer	Dubbo	29/01/2022	Nil
Sleeper Borer	Dubbo	29/01/2022	Nil
Sleeper Borer Tanaka TED262R	Nyngan	29/01/2022	Nil
Wood Borer NPK NRD-22R Air Driven	Dubbo	29/01/2022	Nil
Wood Borer NPK NRD-22R Air Driven	Dubbo	29/01/2022	Nil
Wood Borer NPK NRD-22R Air Driven	Tamworth	29/01/2022	Nil
Wood Borer NPK NRD-22R Air Driven	Tamworth	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Wood Borer NPK NRD-32LRLW Air Driven	Tamworth	29/01/2022	Nil
Sleeper Borer	Bathurst	29/01/2022	Nil
Speed Borer Melville 7TRD 108	West Wyalong	29/01/2022	Nil
Sleeper Borer	Tamworth	29/01/2022	Nil
Rail Drill Geismar	Nyngan	29/01/2022	Nil
Chicago Pneumatic 1? CP0611 Impact Wrench	Dubbo	29/01/2022	Nil
Chain Saw Stihl	Bathurst	29/01/2022	Nil
Chain Saw Stihl	Dubbo	29/01/2022	Nil
Chain Saw MS362	Tamworth	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Chain SawStihl MS190	Narrabri	29/01/2022	Nil
Chain Saw Stihl MS362	Bathurst	29/01/2022	Nil
Chain Saw	Bathurst	29/01/2022	Nil
Chain Saw Stihl MS231	West Wyalong	29/01/2022	Nil
Chain Saw Stihl MS180	Tamworth	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Rail Saw Geismar MTZ	Bathurst	29/01/2022	Nil
Chain Saw Stihl MS362	Tamworth	29/01/2022	Nil
Chain Saw Stihl MS362	Tamworth	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Chain Saw Stihl MS362	West Wyalong	29/01/2022	Nil
Chain Saw Stihl MS362	West Wyalong	29/01/2022	Nil
Chain SawStihl MS362	Narrabri	29/01/2022	Nil
Chain Saw Stihl MS362	Bathurst	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Chain Saw Stihl	Nyngan	29/01/2022	Nil
Chain Saw Stihl MS362	West Wyalong	29/01/2022	Nil
Rail Saw Geismar MTZ	Bathurst	29/01/2022	Nil
Rail Saw Geismar MTZ	Dubbo	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Chain Saw	Dubbo	29/01/2022	Nil
Rail Grinder Geismar MP23	West Wyalong	29/01/2022	Nil
Rail Grinder Geismar MP23	West Wyalong	29/01/2022	Nil
Rail Grinder MP23	Narrabri	29/01/2022	Nil
Rail Grinder Geismar MP23	Nyngan	29/01/2022	Nil
Points Grinder Geismar MC3	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Points Grinder Geismar MC3	West Wyalong	29/01/2022	Nil
Points Grinder Geismar MC3	Tamworth	29/01/2022	Nil
Rail Grinder MP12	Dubbo	29/01/2022	Nil
Impact Wrench	Dubbo	29/01/2022	Nil
Impact Wrench	Bathurst	29/01/2022	Nil
Impact Wrench Geismar	Nyngan	29/01/2022	Nil
Impact Wrench Geismar MIW3 Stihl MS311	Narrabri	29/01/2022	Nil
Impact Wrench Geismar MIW3 Stihl MS311	Narrabri	29/01/2022	Nil
Impact Wrench	West Wyalong	29/01/2022	Nil
Huck Gun & Power Pack	Dubbo	29/01/2022	Nil
Huck Gun & Power Pack	Dubbo	29/01/2022	Nil
Huck Gun & Power Pack Ovesco Honda GXV160	Bathurst	29/01/2022	Nil
Huck Gun & Power Pack Powerig Model 913	Bathurst	29/01/2022	Nil
Impact Wrench Oleo Mac 962	West Wyalong	29/01/2022	Nil
Impact Wrench Airtech Master 35	Nyngan	29/01/2022	Nil
Impact Wrench Airtech Master 35	Nyngan	29/01/2022	Nil
Impact Wrench	Dubbo	29/01/2022	Nil
Impact Wrench Airtech Master 35	Nyngan	29/01/2022	Nil
Impact Wrench Oleo Mac	Bathurst	29/01/2022	Nil
Impact Wrench Airtec Master 35	West Wyalong	29/01/2022	Nil
Impact Wrench Oleo Mac	Dubbo	29/01/2022	Nil
Rail Saw Geismar MTZ	Bathurst	29/01/2022	Nil
Rail Saw Geismar MTZ	Dubbo	29/01/2022	Nil
Rail Saw	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Impact Wrench Airtech Master 35	Narrabri	29/01/2022	Nil
Impact Wrench OLEO-MAC	Narrabri	29/01/2022	Nil
Impact Wrench	Bathurst	29/01/2022	Nil
Impact Wrench - Kuken KW4500G Air Driven	Tamworth	29/01/2022	Nil
Impact Wrench	Dubbo	29/01/2022	Nil
Whipper Snipper Tanaka TBC270S	Nyngan	29/01/2022	Nil
Air Blower Hitachi	Nyngan	29/01/2022	Nil
Whipper Snipper Tanaka TBC270S	Bathurst	29/01/2022	Nil
Whipper Snipper Honda	Bathurst	29/01/2022	Nil
Rail Bender Geismar	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109S	Narrabri	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109S	Narrabri	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109S	Narrabri	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109S	Narrabri	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Bathurst	29/01/2022	Nil
Hydraulic Track Jack	Bathurst	29/01/2022	Nil
Hydraulic Track Jack	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Bathurst	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack	Bathurst	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Bathurst	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack	Tamworth	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Hydraulic Track Jack	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	West Wyalong	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Bathurst	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Tamworth	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Nyngan	29/01/2022	Nil
Hydraulic Track Jack	Tamworth	29/01/2022	Nil
Track Gauge - Super Elevation Boards - SOLA	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Tamworth	29/01/2022	Nil
Ride On Track Jack	Bathurst	29/01/2022	Nil
Ride On Track Jack	Dubbo	29/01/2022	Nil
Track Gauge - Super Elevation Boards - RCFF1435	Narrabri	29/01/2022	Nil
Track Gauge - Super Elevation Boards - RCFF1435	Dubbo	29/01/2022	Nil
40' Shipping Container; Grey Cosco	Dubbo	29/01/2022	Nil
40' Shipping Container; Red; Dubbo Track	Dubbo	29/01/2022	Nil
40' Shipping Container; Red	Dubbo	29/01/2022	Nil
Battery Charger Robel 10.20 / 30.20	Dubbo	29/01/2022	Nil
Battery Charger Robel 10.20 / 30.20	Tamworth	29/01/2022	Nil
Battery Charger Robel 10.20 / 30.20	Dubbo	29/01/2022	Nil
Battery Charger Robel 10.20 / 30.20	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Freight Mate Analogue Forklift Scale	Bathurst	29/01/2022	Nil
Hydraulic Track Jack Simplex TJ109	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Whipper Snipper Tanaka TBC270S	Tamworth	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Nyngan	29/01/2022	Nil
Fire Fighting Unit	Dubbo	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Dubbo	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Tamworth	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	West Wyalong	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	West Wyalong	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Bathurst	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Bathurst	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Tamworth	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Dubbo	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	West Wyalong	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Bathurst	29/01/2022	Nil
Fire Fighting Unit (Honda 400l)	Bathurst	29/01/2022	Nil
Fire Fighting Unit Honda (1000l)	Nyngan	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Track Geometry Trolley Geismar Amber 1435mm	Dubbo	29/01/2022	Nil
8x5 Box Trailer Dual Axle no canopy Holden Bearings	Dubbo	29/01/2022	Nil
8x5 Box Trailer Dual Axle no canopy-Holden Bearings	Bathurst	29/01/2022	Nil
Track Geometry Trolley Geismar Amber 1435mm	West Wyalong	29/01/2022	Nil
8x5 Box Trailer - 2016 Black Victorian (GVM 2000kg) Holden bearings	West Wyalong	29/01/2022	Nil
DND Bobcat Carrier Trailer	Bathurst	29/01/2022	Nil
Track Gauge - Super Elevation Boards - RCFF1435	Dubbo	29/01/2022	Nil
Track Gauge - Super Elevation Boards - RCFF1435	Dubbo	29/01/2022	Nil
Weed Sprayer Silvan (200l)	Tamworth	29/01/2022	Nil
Air Blower Tanaka Pro Force THB-2510N	Tamworth	29/01/2022	Nil
Whipper Snipper Tanaka TBC270S	Tamworth	29/01/2022	Nil
Track Gauge - Super Elevation Boards - RCFF1435	Dubbo	29/01/2022	Nil
Track Gauge - Super Elevation Boards - SOLA	Dubbo	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Dubbo	29/01/2022	Nil
5kVa Generator	Dubbo	29/01/2022	Nil
Generator 5kVa SINCRO	Tamworth	29/01/2022	Nil
Generator 5kVa Powerlite PH060 (located in asset#	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
M130278) Robbie Tremain			
5kVa Generator Honda GX340	Narrabri	29/01/2022	Nil
Generator 5kVa Powerlite PH060 (located in Asset# M130622)	Bathurst	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Dubbo	29/01/2022	Nil
5kVa Generator (Located in Vehicle Asset# M130285)	Bathurst	29/01/2022	Nil
Generator 3kVa Powerlite PH025	Bathurst	29/01/2022	Nil
3kVa Generator	Dubbo	29/01/2022	Nil
3kVa Generator	Bathurst	29/01/2022	Nil
3kVa Generator	West Wyalong	29/01/2022	Nil
3kVa Generator	West Wyalong	29/01/2022	Nil
5kVa Generator	Tamworth	29/01/2022	Nil
Welder/Generator Lincoln Electric 400AS-50 (LOGISTICS located at Triangle)	Dubbo	29/01/2022	Nil
Welder/Generator 5kVa (Honda)	Bathurst	29/01/2022	Nil
Generator EW200AC Colar Engine	Dubbo	29/01/2022	Nil
Generator Powerlite 5.6kw (located in A# M130274)	Dubbo	29/01/2022	Nil
Track Gauge - Super Elevation Boards - SOLA	Dubbo	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Bathurst	29/01/2022	Nil
Generator 5kVa Powerlite PH060 # In M130280	Bathurst	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
5kVa Generator	Dubbo	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Tamworth	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Bathurst	29/01/2022	Nil
Huck Gun	West Wyalong	29/01/2022	Nil
Rapid Diesel Fuel Cell (1000l)	Dubbo	29/01/2022	Nil
Ride-On Mower Troybuilt	Narrabri	29/01/2022	Nil
Lawn Mower Honda	Nyngan	29/01/2022	Nil
Generator 5kVa Powerlite PH060	Nyngan	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	West Wyalong	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	West Wyalong	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	West Wyalong	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Bathurst	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Dubbo	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Simplex 7760001	Nyngan	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Chicago Pneumatic 1" CP0611 Impact Wrench D28H	Dubbo	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Bathurst	29/01/2022	Nil
Air Compressor Peerless 350L/Min Honda GX200	Dubbo	29/01/2022	Nil
Gap Adjusters Enerco	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Gap Adjusters Enerco	West Wyalong	29/01/2022	Nil
Hydraulic Rail Tensor Geismar TH 70 VLA	Tamworth	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Bathurst	29/01/2022	Nil
Hydraulic Power Pack Powerteam	Bathurst	29/01/2022	Nil
Chain Saw Stihl MS291	Tamworth	29/01/2022	Nil
Chain Saw Stihl MS211c	Tamworth	29/01/2022	Nil
Screw Spike with Magazine Feeder Geismar TH1.2	West Wyalong	29/01/2022	Nil
Ride on Track Jack	Bathurst	29/01/2022	Nil
Vehicle Mounted Spray Rig (800l)	West Wyalong	29/01/2022	Nil
Vehicle Mounted Spray Rig Quick Spray 9TBE800	West Wyalong	29/01/2022	Nil
Rail Tensors ENERCO KT30	Narrabri	29/01/2022	Nil
Isuzu - FTS 800 - Fuel Service Truck (2250l diesel, 1250l water)	Dubbo	29/01/2022	Nil
Isuzu - FTS 800 - Fuel Service Truck (2250l diesel, 1250l water)	Dubbo	29/01/2022	Nil
Track Gauge - Super Elevation Boards - SOLA	Narrabri	29/01/2022	Nil
MiniProf Rail	Bathurst	29/01/2022	Nil
Tribometer	Bathurst	29/01/2022	Nil
Fire Fighting Unit Honda (400l)	Bathurst	29/01/2022	Nil
Hand Push Tribometer	Bathurst	29/01/2022	Nil
Grinder; Frog and Switch; Robel 13.61	Dubbo	29/01/2022	Nil
Excavator 5.5T Kobelco; SK55SRX-6 Harrybilt RGS	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
MiniProf Wheel	Bathurst	29/01/2022	Nil
Excavator 5.5T Kobelco; SK55SRX-6	Tamworth	29/01/2022	Nil
HINO 700 FY3248 8X8 Flatbed Truck with Beavertail and FASSI F245A-2-26	Dubbo	29/01/2022	Nil
Tamping Heads; Geismar Brad Tamper	Bathurst	29/01/2022	Nil
Grinder; Profile; Robel 13.48	Tamworth	29/01/2022	Nil
HINO 700 FY3248 8X8 Flatbed Truck with Beavertail and FASSI F245A-2-26 Crane	Tamworth	29/01/2022	Nil
Rotating Tilt Head	Dubbo	29/01/2022	Nil
Grinder; Profile; Robel 13.48	Bathurst	29/01/2022	Nil
Elevated Work Platform; Trailer Mounted	Tamworth	29/01/2022	Nil
Electro Magnet ESB-92	Dubbo	29/01/2022	Nil
Elevated Work Platform; Trailer Mounted	Bathurst	29/01/2022	Nil
Electro Magnet ESB-92	Dubbo	29/01/2022	Nil
Verse Tester	Dubbo	29/01/2022	Nil
Verse Tester	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Nyngan	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility - POOL VEHICLE	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Nyngan	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Tamworth	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Tamworth	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility - POOL VEHICLE	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Tamworth	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Tamworth	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	West Wyalong	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Narrabri	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Service Body Road Rail Utility	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Dubbo	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Narrabri	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Single Cab Trayback Road Rail Utility	Bathurst	29/01/2022	Nil
ARIES RGS Toyota Landcruiser - Dual Cab Trayback Road Rail Utility	Bathurst	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Simplex G6	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Enerpac PGHM5042E	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Enerpac PGHM5042E	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Enerpac PGHM5042E	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Enerpac PGHM5042E	Dubbo	29/01/2022	Nil
9 X 5 Box 2T GVM Trailer - Tandem Axle - No canopy	Dubbo	29/01/2022	Nil
12x6 2T GVM Box Trailer - Tandem Axle - No Canopy	Dubbo	29/01/2022	Nil
8x5 Box Trailer Quality Custom Dual Axle	Tamworth	29/01/2022	Nil
Box Trailer	Dubbo	29/01/2022	Nil
8x5 Box Trailer Dual Axle- Holden Bearings	Bathurst	29/01/2022	Nil
8x5 Box Trailer Dual Axle- Ford Bearings	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Box Trailer Holden Bearings	Bathurst	29/01/2022	Nil
AUTOSCAT Brake Testing Unit.	Bathurst	29/01/2022	Nil
Truck Mounted Crane FASSI F245A-2-26 (M119817 CD73DB)	Tamworth	29/01/2022	Nil
Truck Mounted Crane - M119814	Dubbo	29/01/2022	Nil
Air Compressor SPA Air XRV1760P	Bathurst	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Honda GXV160 Enerpac	Dubbo	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Dubbo	29/01/2022	Nil
Power Pack Honda GXV160 Enerpac	Narrabri	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Nyngan	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Narrabri	29/01/2022	Nil
Sleeper Borer Stihl BT130	Narrabri	29/01/2022	Nil
Sleeper Borer Stihl BT130	Narrabri	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Narrabri	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Narrabri	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rail Grinder Melville FP-157-CV	Tamworth	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Tamworth	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	West Wyalong	29/01/2022	Nil
Hydraulic Power Pack GXV160 Enerpac	Narrabri	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Hydraulic Power Pack	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Hydraulic Power Pack Honda GXV160 Enerpac	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Hydraulic Power Pack Enerpac PGHM5042E	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Tamworth	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Tamworth	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	Nyngan	29/01/2022	Nil
Rail Grinder Melville FP-157-CV	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	Narrabri	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Tamworth	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	Tamworth	29/01/2022	Nil
Sleeper Borer Stihl BT130	Bathurst	29/01/2022	Nil
Track Pack Melville FP-143-HR	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	West Wyalong	29/01/2022	Nil
Track Pack Melville FP-143-HR	West Wyalong	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	West Wyalong	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Track Pack Melville FP-143-HR	West Wyalong	29/01/2022	Nil
Sleeper Borer Stihl BT130	Nyngan	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Sleeper Borer Stihl BT130	Nyngan	29/01/2022	Nil
Track Pack Melville FP-143-HR	Tamworth	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Narrabri	29/01/2022	Nil
Track Pack Melville FP-143-HR	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Narrabri	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Nyngan	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Nyngan	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Tamper (Manual) Cobra PROe	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Dubbo	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Tamper (Manual) Cobra PROe	West Wyalong	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Tamper (Manual) Cobra PROe	West Wyalong	29/01/2022	Nil
Tamper (Manual) Cobra PROe	West Wyalong	29/01/2022	Nil
Tamper (Manual) Cobra PROe	West Wyalong	29/01/2022	Nil
Tamper (Manual) Cobra PROe	West Wyalong	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Tamworth	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Tamworth	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Tamper (Manual) Cobra PROe	Bathurst	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
7x5 Box Trailer Single Axle with enclosed canopy	Dubbo	29/01/2022	Nil
7x5 Box Trailer Single Axle Enclosed Canopy Ford Bearings	Bathurst	29/01/2022	Nil
8x5 Tandem Axle Box Trailer (Hunter Trailers) with canopy	Bathurst	29/01/2022	Nil
Geismar Filus X17 Ultrasonic Trolley	Bathurst	29/01/2022	Nil
Geismar Filus X17 Ultrasonic Trolley	Bathurst	29/01/2022	Nil
Geismar Filus X17 Ultrasonic Trolley	Bathurst	29/01/2022	Nil
Harrybilt Rail Threader	Dubbo	29/01/2022	Nil
Welder/Generator; VANTAGE (LINCOLN) 400CE	Bathurst	29/01/2022	Nil
Air Compressor Diesel Trailer Mounted Atlas Copco XAS 185 DD7	Dubbo	29/01/2022	Nil
Air Compressor Diesel Trailer Mounted Atlas Copco XAS 185 DD7	Tamworth	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Robel 34.02 Clipping Machine	Dubbo	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Tamworth	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	West Wyalong	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	West Wyalong	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	West Wyalong	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Narrabri	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Nyngan	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Dubbo	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Bathurst	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS	Bathurst	29/01/2022	Nil
MAN 15.290 4x4 Dual Cab Truck HMA Techniplan RGS (Vegetation)	Dubbo	29/01/2022	Nil
Rail Grinder YANMAR FP-157-CV	Dubbo	29/01/2022	Nil
Rail Grinder YANMAR FP-157-CV	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Melville 163 Screw Spike Machine with Rail Trolley & Power Pack	West Wyalong	29/01/2022	Nil
Whipper Snipper Hitachi CG24EKB	Bathurst	29/01/2022	Nil
Rail Drill Petrol ROTABROACH RDO74	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Rail Drill Petrol ROTABROACH RDO74	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Nyngan	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Tamworth	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rail Drill Petrol ROTABROACH RDO74	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Tamworth	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Nyngan	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Tamworth	29/01/2022	Nil
Rail Drill Petrol ROTABROACH RDO74	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Tamworth	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Bathurst	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rail Saw & Arm HUSQVARNA K1270 16	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	West Wyalong	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	West Wyalong	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Rail Drill Petrol ROTABROACH RDO74	Dubbo	29/01/2022	Nil
Rail Saw & Arm HUSQVARNA K1270 16	Bathurst	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	West Wyalong	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	West Wyalong	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Tamworth	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Bathurst	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Tamworth	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Battery Powered Rail Drilling Machine ROBEL 10.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Tamworth	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Tamworth	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Rechargable Impact Wrench ROBEL 30.20	Dubbo	29/01/2022	Nil
Battery Powered Rail Drilling Machine ROBEL 10.20	Bathurst	29/01/2022	Nil
Air Blower Stihl BG56	Tamworth	29/01/2022	Nil
Christie Engineering Post Driver CHPD78	Tamworth	29/01/2022	Nil
Tandem Axle Table Enclosed Trailer 10' x 6'4"	Dubbo	29/01/2022	Nil
TrakBlaze Wireless Truckmate	Bathurst	29/01/2022	Nil
Milwaukee Angle Grinder 7"	Tamworth	29/01/2022	Nil
Milwaukee Drill	Tamworth	29/01/2022	Nil
Milwaukee Die Grinder	Tamworth	29/01/2022	Nil
Milwaukee Impact Driver	Tamworth	29/01/2022	Nil
Milwaukee Circular Saw	Tamworth	29/01/2022	Nil
Milwaukee 3/4 Drive - Impact Wrench	Tamworth	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Milwaukee Sawzall Reciprocating Saw	Tamworth	29/01/2022	Nil
Milwaukee 3/4 Drive - Impact Wrench	Tamworth	29/01/2022	Nil
Milwaukee Sawzall Reciprocating Saw	Tamworth	29/01/2022	Nil
Milwaukee - 16" Chainsaw	Tamworth	29/01/2022	Nil
Milwaukee Rotary Hammer	Tamworth	29/01/2022	Nil
Milwaukee Angle Grinder 5"	Tamworth	29/01/2022	Nil
Milwaukee Planer	Tamworth	29/01/2022	Nil
Milwaukee Jig Saw	Tamworth	29/01/2022	Nil
Milwaukee Impact Driver	Tamworth	29/01/2022	Nil
Chicago Pneumatic 1? CP0611 Impact Wrench	Dubbo	29/01/2022	Nil
Hydraulic Track Jack	Dubbo	29/01/2022	Nil
Brushcutter Stihl FS240	Dubbo	29/01/2022	Nil
Brushcutter Stihl FS240	Dubbo	29/01/2022	Nil
Chainsaw Stihl MS391	Dubbo	29/01/2022	Nil
Chicago Pneumatic 1? CP0611 Impact Wrench	Dubbo	29/01/2022	Nil
Rail Drill Petrol ROTABROACH RDO74	Bathurst	29/01/2022	Nil
NPK Sleeper Borer RD-22R	Tamworth	29/01/2022	Nil
Chicago Pneumatic 1? CP0611 Impact Wrench	Tamworth	29/01/2022	Nil
Christie Engineering Post Driver CHPD78	Tamworth	29/01/2022	Nil
Hydraulic 4-Gauge Test Board 1000kPa	Bathurst	29/01/2022	Nil
Hydraulic 2-Gauge Test Board 1000kPa	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
10Nm - 200Nm Digital Torque Wrench 1/2' Drive - Sidchrome	Bathurst	29/01/2022	Nil
Digital Multimeter - Fluke 77IV	Bathurst	29/01/2022	Nil
140Nm - 680Nm Torque Wrench 1" Drive - Warren & Brown model 325500	Bathurst	29/01/2022	Nil
Digital Multimeter - Fluke 114	Bathurst	29/01/2022	Nil
40Nm - 200Nm Torque Wrench 1/2" Drive - Sidchrome 26915	Bathurst	29/01/2022	Nil
Track Gauge - Super Elevation Board - Geismar	Dubbo	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Hydraulic Gauge Digital Stauff	Bathurst	29/01/2022	Nil
Track Gauge - Super Elevation Board - Geismar	Dubbo	29/01/2022	Nil
Ultrasonic Flaw Detector - USM GO	Dubbo	29/01/2022	Nil
Stauff Hydraulic Master Gauge	Bathurst	29/01/2022	Nil
Whipper Snipper Stihl FS250	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Kings 60L Camping Fridge	Bathurst	29/01/2022	Nil
Chicago Pneumatic - CP0611-D28H Impact Wrench	Tamworth	29/01/2022	Nil
Chicago Pneumatic - CP1820-R22 Wood Borer	Tamworth	29/01/2022	Nil
Torque Wrench - 1/2' drive - Tengtool	Bathurst	29/01/2022	Nil
Torque Wrench - 1/4' drive - Gedore	Bathurst	29/01/2022	Nil
Pressure Testing Gauge (Hydraulic) - Stauff	Bathurst	29/01/2022	Nil
Lawn Mower Masport	West Wyalong	29/01/2022	Nil
Whipper Snipper Stihl FS240	West Wyalong	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Dubbo	29/01/2022	Nil
GE USM Go+ Portable Ultrasonic Flaw Detector and Accessories	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom IC-41PRO	Dubbo	29/01/2022	Nil
DCS 1T - Digital Crane Scale Hafco	Bathurst	29/01/2022	Nil
Lever Block 1T Tiger lifting PROLH/SS11	Bathurst	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
Handheld radio- Icom 1C-41PRO	Dubbo	29/01/2022	Nil
STIHL Whipper Snipper - FS130	Narrabri	29/01/2022	Nil
TANAKA Whipper Snipper - TBS-270S	Narrabri	29/01/2022	Nil
HITACHI Leaf Blower - RB24E	Narrabri	29/01/2022	Nil
SELECTA Weed Spryer(100ml) EP3000	Narrabri	29/01/2022	Nil
Band Saw - Kawasaki	Dubbo	29/01/2022	Nil
Band Saw - Kawasaki	Dubbo	29/01/2022	Nil
Whipper Snipper -STIHL FS-240 Z	Bathurst	29/01/2022	Nil
Milwaukee Blower	Tamworth	29/01/2022	Nil
Milwaukee Caulking Gun	Tamworth	29/01/2022	Nil
Milwaukee Magnetic Drill	Tamworth	29/01/2022	Nil
Milwaukee Bandsaw	Tamworth	29/01/2022	Nil
Stihl FS85 Whipper Snipper	Bathurst	29/01/2022	Nil
Stihl FS85R Whipper Snipper	Bathurst	29/01/2022	Nil
Leaf Blower Stihl BG56Z	Tamworth	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Tamworth	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Tamworth	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	West Wyalong	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Anchorsafe Locorail Fall-arrest A-frame Trolley	Bathurst	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Nyngan	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Dubbo	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Dubbo	29/01/2022	Nil
Anchorsafe Locorail Fall-arrest A-frame Trolley	Narrabri	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Back to Back Wheel Measurement Gauge	Bathurst	29/01/2022	Nil
Wheel Gauge 207-668	Bathurst	29/01/2022	Nil
Stihl MS362C - Pro-Saw Complete	Bathurst	29/01/2022	Nil
Stihl MS362C - Pro-Saw Complete	Bathurst	29/01/2022	Nil
Wheel gauges - National Engineering Group	Dubbo	29/01/2022	Nil
Wheel gauges - National Engineering Group	Dubbo	29/01/2022	Nil
Wheel gauges - National Engineering Group	Dubbo	29/01/2022	Nil
Wheel gauges - National Engineering Group	Bathurst	29/01/2022	Nil
Vessel 1" Drive Petrol Impact Wrench	Bathurst	29/01/2022	Nil
Stihl Blower - BG86	Dubbo	29/01/2022	Nil
TANAKA Whipper Snipper - TBS-270S	Nyngan	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12v/24v Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
MATSON 12V/24V Lithium Jump Starter	Bathurst	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Impact Wrench Vessel 1" Drive Petrol TANAKA GT3500	Dubbo	29/01/2022	Nil
Rail Grinder YANMAR FP-157-CV	Dubbo	29/01/2022	Nil
Weld Shear Stanley WS10	Dubbo	29/01/2022	Nil
CHRISTIE - Post Driver Honda GX35	Nyngan	29/01/2022	Nil
CHRISTIE - Post Driver Honda GX35	Dubbo	29/01/2022	Nil
CHRISTIE - Post Driver Honda GX35	Narrabri	29/01/2022	Nil
HP Designjet Z5200 PostScript	Mayfield West DRF	29/01/2022	Nil

Asset	Location at which it will be provided	Date by which it will be provided	Terms on which it will be provided
HP Officejet Color FlowMFP X585	Mayfield West DRF	29/01/2022	Nil
HP Color LaserJet CP5225	Narrabri	29/01/2022	Nil
HP Color LaserJet CP5225	Nyngan	29/01/2022	Nil
HP LaserJet P4515	Parramatta	29/01/2022	Nil
HP LaserJet M3027 MFP	Queanbeyan	29/01/2022	Nil
Sony Bravia 75' / Crestron	Parramatta Brunel	29/01/2022	Nil
Sony Bravia 55' / Polycom Trio 8800	Parramatta Errington	29/01/2022	Nil
LG 55' / Polycom Trio 8800	Parramatta Stephenson	29/01/2022	Nil
BENQ 65' / Polycom Trio 8800	Parramatta Bradfield	29/01/2022	Nil
Sony Bravia 55' / Logitech Rally	Mayfield Whitton	29/01/2022	Nil
Sony Bravia 75' / Crestron	Mayfield Chifley	29/01/2022	Nil
Sony Bravia 75' / Logitech Rally	Bathurst Panorama	29/01/2022	Nil
Samsung 75' / Logitech Rally	Bathurst Boardroom	29/01/2022	Nil
LG 55' / Polycom Trio 8800	Bathurst Windradyne	29/01/2022	Nil
Sony Bravia 55' / Polycom Trio 8800	Dubbo Ngangirri-bubay	29/01/2022	Nil
Phillips Q-Line Display 65' / Logitech Rally	Dubbo Wiradjuri	29/01/2022	Nil
Sony Bravia 55' / Logitech Rally	Tamworth Peel	29/01/2022	Nil
Sony Bravia 55' / Logitech Rally	West Wyalong Meeting Room	29/01/2022	Nil

Schedule 12 – Enhancement Activities Terms and Conditions

1. Definitions and Interpretation

1.1 Definitions

In this **Schedule 12** (in addition to any definition set out in **clause 1.1** of the General Conditions), unless the context otherwise indicates, the following definitions will apply:

Completion means the stage in the execution of the Enhancement Activities when:

- (a) the Modification Assets are, or a Portion is, complete in accordance with this Deed except for minor Non-Compliances:
 - (i) that do not prevent the Modification Assets or the Portion from being reasonably capable of being used for the Intended Purpose of the Modification Assets or the Portion;
 - (ii) that can be rectified without prejudicing the convenient intended use of the Modification Assets or the Portion; and
 - (iii) in respect of which the Service Provider has reasonable grounds for not promptly rectifying;
- (b) the Service Provider has:
 - (i) carried out and passed all tests that are required under this Deed to be carried out and passed before the Modification Assets or a Portion reaches Completion; and
 - (ii) obtained all Approvals that it is required under this Deed to obtain before Completion of the Modification Assets or a Portion;
 - (iii) rehabilitated any land in accordance with **clause 3.2(c)** of this **Schedule 12**;
 - (iv) done everything required under **clause 8** of this **Schedule 12** that it is required to do before Completion of the Modification Assets or a Portion; and
 - (v) not used.

Construction Plant means equipment, appliances, machinery and things used in the execution of the Enhancement Activities but not forming part of the Modification Assets.

Crown Building Work has the meaning given in section 6.1 of the *Environmental Planning and Assessment Act 1979* (NSW).

Date for Completion means, in respect of the Modification Assets or a Portion, the date, or the last day of the period of time, determined in accordance with **clause 16(f)(i)** of the General Conditions for the Modification Assets or that Portion, as adjusted under this Deed by an extension of time determined by the Principal's Representative or pursuant to any binding dispute resolution process.

Date of Completion means:

- (a) the date of Completion of the Modification Assets or a Portion, set out in a notice under **clause 8.2(d)(i)** of this **Schedule 12**; or
- (b) where another date is determined in any binding dispute resolution process as the date upon which Completion was achieved, that date.

Enterprise Agreement has the same meaning as in the *FW Act*.

Extra Land means the land referred to in **clause 3.2(a)** of this **Schedule 12**.

Other Contractor means any contractor, consultant, tradesperson or other person engaged by the Principal or others to do work in connection with a Portion, other than the Service Provider and its Subcontractors.

Portion means a part of the Enhancement Activities or Modification Assets, as described in the Modification Scope or as determined under **clause 8.5** of this **Schedule 12**.

Preliminary Design means any preliminary design set out, or referred to, in the Modification Scope.

Service Provider Program means the program prepared and provided by the Service Provider in accordance with **clause 7.2** of this **Schedule 12**, as developed and updated in accordance with **clause 7.2** of this **Schedule 12** from time to time.

Site means the lands and places made available to the Service Provider by the Principal for the purposes of carrying out the Enhancement Activities.

Site Conditions means any physical conditions encountered in the execution of the Enhancement Activities above, upon, under, or over the surface, of the Site or any Extra Land.

Subcontract means an agreement between the Service Provider and a Subcontractor.

Temporary Works means any temporary works required to be carried out or provided by the Service Provider for the purpose of the execution of the Enhancement Activities but not forming part of the Modification Assets.

WHS means work health and safety.

WHS Accreditation Scheme means the Work Health and Safety Accreditation Scheme in force pursuant to section 43 of the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth).

WHS Guidelines means the New South Wales Government Work Health and Safety Management Systems and Auditing Guidelines (5th edition), updated May 2014.

1.1 Interpretation

A reference in these **Enhancement Activities Terms and Conditions** to:

- (a) “this Deed” will be interpreted as a reference to the Operations and Maintenance Deed between the Principal and the Service Provider pursuant to which these **Enhancement Activities Terms and Conditions** came into effect, as well as these **Enhancement Activities Terms and Conditions**;
- (b) the “Modification Scope” will be interpreted as a reference to the Modification Scope to which the relevant Enhancement Activities relates;
- (c) “Modification Assets” will be interpreted as a reference to the Modification Assets created in the carrying out of the relevant Enhancement Activities; and

- (d) **Schedule 12** means **Schedule 12** as may be particularised and amended in accordance with this Deed, including any amendments proposed by the Principal's Representative under **clause 16(e)(ii)** of the **General Conditions** which are agreed to by the Service Provider.

2 Service Provider's obligations

2.1 General

The Service Provider:

- (a) must only carry out any Enhancement Activities in accordance with the General Conditions and subject to the Terms and Conditions of this **Schedule 12** and **Schedule 12A**;
- (b) warrants that:
 - (i) the Modification Assets will upon Completion; and
 - (ii) the Temporary Assets will, at all relevant times, be fit for their Intended Purposes; and
- (c) must, if applicable, comply with all requirements of and maintain accreditation under the WHS Accreditation Scheme.

2.2 Crown Building Work

The Service Provider must, in relation to any part of the Modification Assets that is Crown Building Work, certify (on behalf of the Principal) as required by section 6.28 of the *Environmental Planning and Assessment Act 1979* (NSW).

2.3 Unconditional Undertakings

- (a) The Service Provider must, within 5 Business Days after the Reference Date, provide to the Principal two unconditional and irrevocable undertakings, payable on demand, in favour of the Principal, each for [REDACTED] of the total value of security determined in accordance with **clause 16(f)(i)** of the General Conditions and which otherwise satisfy the requirements of **clause 3.8(b)** of the **General Conditions (Supplementary Security)**.
- (b) **Clauses 3.8 to 3.12 and 3.15** of the **General Conditions** will apply to Supplementary Security as if they were "Security" for the purposes of those clauses.
- (c) Subject to its rights to have recourse to the Supplementary Security, the Principal must:
 - (i) within 20 Business Days after the Date of Completion of the Modification Assets or the last Portion to reach Completion, release so much of the Supplementary Security as may be then held by the Principal, so that it then holds Supplementary Security amounting to [REDACTED] of the total value of Supplementary Security originally provided; and
 - (ii) within 20 Business Days after the date that is 12 months after the Date of Completion, release the balance of the Supplementary Security as may be then held by the Principal.

2.4**3 The Site and location of the Modification Assets****3.1 Temporary Works**

The Service Provider must carry out all Temporary Works required to execute the Enhancement Activities so that the Temporary Works are fit for their Intended Purposes.

3.2 Land in Addition to the Site

The Service Provider must:

- (a) procure for itself the occupation or use of or relevant rights over any land or buildings in addition to the Site, including any land owned by any Rail Transport Agency, which is necessary or which it may require for the purposes of carrying out the Enhancement Activities;
- (b) carry out all activities and procure all utilities necessary to make the land or buildings suitable for use by the Service Provider;
- (c) as a condition precedent to Completion of the Modification Assets or any Portion and to the extent relevant, rehabilitate any land of the kind referred to in paragraph (a) in accordance with the requirements of all relevant Authorities;
- (d) within a reasonable period after Completion of the Modification Assets or any Portion and to the extent relevant, rehabilitate any land of the kind referred to in paragraph (a) in accordance with the reasonable requirements of all other relevant persons; and
- (e) indemnify the Principal against any damage, expense, loss, cost or liability suffered or incurred by the Principal arising out of or in any way in connection with a claim by the owner or occupier of land of the kind referred to in paragraph (a) to the extent that such claim relates to a negligent act or omission by the Service Provider, provided that the Service Provider's liability to indemnify the Principal will be reduced proportionally to the extent that the event otherwise giving rise to the obligation to indemnify is caused by any act or omission of the Principal.

3.3 Site Conditions

Subject to **clause 3.3A** of this **Schedule 12** and without limiting the Service Provider's entitlement under **clause 7.6(a)** of this **Schedule 12**, the Service Provider:

- (a) agrees it is responsible for, and assumes the risk of any delay in achieving Completion it suffers or incurs arising out of or in any way in connection with; and
- (b) must investigate, design and construct the Modification Assets and Temporary Works in accordance with this Deed, and will not be relieved of its obligations under this Deed, irrespective of,
any of the following:
 - (c) the Site Conditions encountered in carrying out the Enhancement Activities;
 - (d) whatever may be the condition or characteristics (including all sub-surface conditions) of:

- (i) the Site or any Extra Land; or
 - (ii) any Asset on the Site or any Extra Land; and
- (e) any assumptions, projections, estimates, contingencies or otherwise that the Service Provider may have made in relation to the Site Conditions or the conditions or the characteristics of any of the matters referred to in **sub-paragraph (d)**.

3.3A Site Condition Entitlements

The Principal acknowledges and agrees that notwithstanding **clause 3.3** of this **Schedule 12**, the Service Provider is entitled to claim costs arising out of or in connection with:

- (a) the Site Conditions encountered in carrying out the Enhancement Activities; and
- (b) the condition or characteristics (including all sub-surface conditions) of:
 - (i) the Site or any Extra Land; or
 - (ii) any Asset on the Site or any Extra Land,

in accordance with **Schedule 2** and **Schedule 12A**.

3.4 Things of Value Found

All valuable minerals, fossils, coins, articles or objects of aboriginal or cultural heritage, or articles or object of value or antiquity, and other remains or things of geological, archaeological, anthropological or other special interest found on the Site are, and will as between the Service Provider and the Principal be and remain, the property of the Principal.

The Service Provider must:

- (a) as soon as is reasonably practicable notify the Principal's Representative if any such thing is found;
- (b) ensure that it is protected and not lost, removed, disturbed or damaged; and
- (c) comply with any directions of the Principal's Representative in relation to the thing.

Any works required to be performed by the Service Provider pursuant to **clause 3.4(c)** of this **Schedule 12** will entitle the Service Provider to claim its additional costs incurred in complying with the direction.

3.5 Works to be constructed within Site

The Service Provider must ensure that the Modification Assets are constructed within the relevant boundaries of the Site stipulated in the Modification Scope.

3.6 Service Provider in Control

To the extent that any construction project (as that term is defined in WHS Law) is carried out by, or on behalf of the Service Provider on, or in relation to the Enhancement Activities, then:

- (a) the Principal engages the Service Provider as principal contractor for the construction project and the Service Provider accepts that engagement; and
- (b) the Principal authorises the Service Provider to have management and control of the Enhancement Activities and other relevant workplaces and to discharge the duties of a principal contractor under any WHS Law.

4 Compliance

4.1 Quality of Work

The Service Provider must use the materials and standard of workmanship required by this Deed, and otherwise comply with this Deed in the execution of the Enhancement Activities. In the absence of any other requirement, the Service Provider must use suitable new materials and ensure that all workmanship is consistent with Good Industry Practice.

4.2 Modification Scope

The Service Provider must comply with the requirements of the Modification Scope.

5 Design and Design Documentation

5.1 Service Provider's Design Obligations

Subject to **clause 5.1A** of this **Schedule 12**, the Service Provider:

- (a) must prepare and complete the design of the Modification Assets and Temporary Works (including the Design Documentation), so that it is fit for its Intended Purpose and otherwise complies with the requirements of this Deed; and
- (b) warrants that:
 - (i) it has examined and carefully checked the Preliminary Design and that such Preliminary Design is suitable, appropriate and fit for its Intended Purpose and that:
 - (A) it remains responsible for ensuring that the Modification Assets and the Temporary Works will satisfy the requirements of this Deed despite the Preliminary Design;
 - (B) if the Modification Assets and the Temporary Works are designed and constructed in accordance with the Preliminary Design, the Modification Assets and the Temporary Works will satisfy the requirements of this Deed; and
 - (C) the Service Provider will carry out and complete the Enhancement Activities in accordance with the Preliminary Design; and
 - (ii) construction in accordance with the completed design of the Modification Assets and the Temporary Works will satisfy the requirements of the Modification Scope, the Preliminary Design and the other requirements of this Deed.

5.1A Costs of design

Notwithstanding **clause 5.1** of this **Schedule 12**, the Principal acknowledges and agrees that:

- (a) the Service Provider is entitled to claim costs arising out of or in connection with its compliance with **clause 5.1** of this **Schedule 12** in accordance with **Schedule 2** and **Schedule 12A**; and
- (b) for the avoidance of doubt, all review and re-design of the Preliminary Design are costs that the Service Provider is entitled to claim under **clause 5.1A(a)** of this **Schedule 12**.

5.2 Design Documentation

The Service Provider must:

- (a) submit all Design Documentation progressively to the Principal's Representative in accordance with the requirements of this Deed and the Modification Scope;
- (b) upon each submission of the Design Documentation to the Principal's Representative for review (including at the completion of the design of each design package), ensure that the Design Documentation is accompanied by the following documents:
 - (i) a register of records of design verification and reviews applicable to the design package and other compliance records required by this Deed (all records being duly completed and signed);
 - (ii) a register of any outstanding design non-conformities and unresolved issues;
 - (iii) a register of deficiency notices and evidence of their close out; and
 - (iv) a register of concessions granted for non-conforming Design Documentation;
- (c) submit all such Design Documentation at the times and in the number of copies set out in the Modification Scope (or, if not set out in the Modification Scope, as directed by the Principal's Representative); and
- (d) not commence any Enhancement Activities to which any Design Documentation applies unless:
 - (i) the Principal's Representative has notified the Service Provider under **clause 6.8(b)(iii) or 6.8(d)(i)** of the **General Conditions** that it has no (or has no further) comments to make; or
 - (ii) the relevant period of time in **clause 6.8(b)** of the **General Conditions** has expired and the Principal's Representative has not rejected the Design Documentation, made any comments on the Design Documentation or made a request referred to in **clause 6.8(b)(ii)** of the **General Conditions** in respect of the Design Documentation and the Design Documentation is not otherwise deemed to be rejected in accordance with **clause 6.8** of the **General Conditions**.

6 Construction

6.1 Construction

The Service Provider must construct the Modification Assets and the Temporary Works:

- (a) in accordance with:
 - (i) subject to **clause 6.1(b)** of this **Schedule 12**, the Modification Scope, the Preliminary Design and any Design Documentation that has been prepared by the Service Provider in accordance with the requirements of this Deed, submitted to the Principal's Representative under **clause 6.8** of the **General Conditions** and in respect of which:
 - (A) the Principal's Representative has issued the notice referred to in **clause 6.8(b)(iii) or 6.8(d)(i)** of the **General Conditions**; or
 - (B) the relevant period of time in **clause 6.8(b)** of the **General Conditions** of this Deed has expired and the Principal's Representative has not rejected it, made comments on it or made a request referred to in **clause 6.8(b)(ii)** of the **General Conditions** in respect of it and the Design Documentation

is not otherwise deemed to be rejected in accordance with **clause 6.8** of the **General Conditions**;

- (ii) any direction of the Principal's Representative given or purported to be given under a provision of this Deed; and
- (iii) the other requirements of this Deed; and
- (b) so that they are fit for their Intended Purposes.

6.2 All Work Included

The Service Provider:

- (a) must undertake and provide; and
- (b) will not be entitled to make, and the Principal will not be liable upon, any Claim except as otherwise provided for in this Deed, relating to the provision of,

all Construction Plant, Temporary Works, labour, materials and other work necessary to execute the Enhancement Activities, whether or not expressly mentioned in this Deed or anticipated by the Service Provider, and agrees that all such Construction Plant, Temporary Works, labour, materials and work forms part of the Enhancement Activities.

6.3 No Duty

The Service Provider acknowledges and agrees that:

- (a) the Principal does not have any design obligations in respect of the Enhancement Activities or the Design Documentation;
- (b) the Principal does not owe any duty to the Service Provider to review the Design Documentation for errors, omissions or compliance with the requirements of this Deed or to consult with the Service Provider or make any comments regarding any Design Documentation (within any time frames contemplated in this deed or otherwise); and
- (c) no review or rejection of, or consultation or comments by, or any approval (including any approval of any non-compliance or approval subject to conditions) by the Principal nor any failure by the Principal regarding any Design Documentation or any other Direction by the Principal's Representative in respect of any Design Documentation will lessen or otherwise affect:
 - (i) the Service Provider's warranties under **clause 5.1** of this **Schedule 12** or any other of the Service Provider's liabilities or responsibilities under this Deed or otherwise according to Law; or
 - (ii) the Principal's rights against the Service Provider, whether under this Deed or otherwise according to Law.

6.4 Construction Plant and Materials Removal

Except for the purpose of achieving Completion, the Service Provider must not remove from the Site or the Enhancement Activities any:

- (a) significant materials owned by the Principal or major items of Construction Plant owned by the Principal; or
- (b) materials owned by the Principal or Construction Plant owned by the Principal specified in any written notice issued by the Principal's Representative,

without the prior written approval of the Principal's Representative, which approval will not be unreasonably withheld.

7 Time and Progress

7.1 Rate of Progress

- (a) The Service Provider must:
 - (i) proceed with the Enhancement Activities with due expedition and without delay; and
 - (ii) achieve Completion of the Modification Assets and each Portion by the relevant Date for Completion.
- (b) Without limiting the Service Provider's rights under the Security of Payment Act (NSW) or the Security of Payment Act (ACT), the Service Provider must not suspend the progress of the whole or any part of Enhancement Activities.
- (c) Without limiting **clause 7.1(d), 7.1(e) or 7.4** of this **Schedule 12**, the Service Provider must give the Principal's Representative reasonable advance notice of any information, documents or directions required by the Service Provider.
- (d) The Principal and the Principal's Representative will not be obliged to furnish information, documents or directions earlier than the Principal or the Principal's Representative, as the case may be, should reasonably have anticipated at the Reference Date.
- (e) The Principal's Representative may, by written notice expressly stated to be pursuant to this **clause 7.1(e)** of this **Schedule 12**, direct in what order and at what time the various stages or parts of the Enhancement Activities must be carried out. If the Service Provider can reasonably comply with the direction, the Service Provider must do so. If the Service Provider cannot reasonably comply, the Service Provider must notify the Principal's Representative in writing, giving reasons. For the avoidance of doubt, no direction by the Principal's Representative will constitute a direction under this **clause 7.1(e)** of this **Schedule 12** unless the direction is in writing and expressly states that it is a direction under this **clause 7.1(e)** of this **Schedule 12**.

7.2 The Service Provider's Programming Obligations

- (a) The Service Provider must:
 - (i) prepare and provide a Service Provider Program including the details required by this Deed and any requirements of the Principal's Representative;
 - (ii) sequence and arrange the Enhancement Activities to meet each Date for Completion;
 - (iii) submit to the Principal's Representative for its review in accordance with **clause 6.8** of the **General Conditions** the Service Provider Program within 45 Business Days of the Reference Date;
 - (iv) submit to the Principal's Representative:
 - (A) for its review in accordance with **clause 6.8** of the **General Conditions** a copy of the initial Service Provider's working programs within 15 Business Days of the Reference Date; and

- (B) a copy of all subsequent revisions within 2 Business Days after their preparation;
- (v) when directed to do so by the Principal's Representative, prepare and submit to the Principal's Representative programs and schedules (including any specific details or level of detail requested by the Principal) for the Enhancement Activities:
 - (A) within 10 Business Days of receipt of such a direction; or
 - (B) in accordance with **clause 5.11** of the **General Conditions**, when directed under that clause;
- (vi) update, revise and submit to the Principal's Representative an updated Service Provider Program:
 - (A) to allow for delays, extensions of time granted by the Principal's Representative to any Date for Completion, the actual progress made by the Service Provider and any changes to the Enhancement Activities but excluding claims for extensions of time to any Date for Completion which have been submitted by the Service Provider to the extent that they have not been granted by the Principal's Representative; and
 - (B) on a monthly basis, or whenever directed to do so by the Principal's Representative, which direction may be given no more than twice in a month;
- (vii) prepare and provide for the Principal's Representative's information only versions of all Service Provider Programs prepared in accordance with **clause 7.2(a)(vi)** of this **Schedule 12** that also allow for those claims for an extension of time to any Date for Completion that have been made by the Service Provider in accordance with **clause 7.7** of this **Schedule 12** but to which the Principal's Representative has not yet responded in accordance with **clause 7.9** of this **Schedule 12**;
- (viii) not used; and
- (ix) comply with the current version of the Service Provider Program and any working programs that have been submitted to the Principal's Representative under **clause 6.8** of the **General Conditions** and in respect of which:
 - (A) the Principal's Representative has issued the notice referred to in **clause 6.8(b)(iii)** or **6.8(d)(i)** of the **General Conditions**; or
 - (B) the relevant period of time in **clause 6.8(b)** of the **General Conditions** has expired and the Principal's Representative has not rejected it, made comments on it or made a request referred to in **clause 6.8(b)(ii)** of the **General Conditions** in respect of it and is not otherwise deemed to be rejected in accordance with **clause 6.8** of the **General Conditions**.
- (b) All programs and schedules provided in accordance with this **clause 7.2** of this **Schedule 12** must be provided to the Principal's Representative in an unlocked native electronic format accompanied by all associated files so that they can be reproduced by the Principal's Representative using the software specified by the Principal's Representative.

7.3 Service Provider not Relieved

Without limiting **clause 6.10** of the General Conditions, no submission of, review of or comment upon, approval or rejection of, or any failure to review or comment upon, approve or reject, a program (including the Service Provider Program) prepared by the Service Provider, by the Principal's Representative in connection with the program, will:

- (a) evidence or constitute the granting of an extension of time to any Date for Completion or a direction by the Principal's Representative to compress, disrupt, prolong or vary any, or all, of the Enhancement Activities; or
- (b) affect the time for the performance of the Principal's or the Principal's Representative's obligations under this Deed.

7.4 Compression by Service Provider

If the Service Provider chooses to compress the Enhancement Activities or otherwise accelerate progress:

- (a) neither the Principal nor the Principal's Representative will be obliged to take any action to assist or enable the Service Provider to achieve Completion before any Date for Completion;
- (b) the time for carrying out the obligations of the Principal or the Principal's Representative will not be affected; and
- (c) the Service Provider does so at its own risk.

7.5 Risk and Notice of Delay

- (a) Except as expressly provided for in **clause 7.9** of this **Schedule 12**, the Service Provider accepts the risk of all delays in, and disruption to, the carrying out of the Enhancement Activities.
- (b) The Service Provider must within 10 Business Days of the earlier of when the Service Provider became aware, or when they reasonably should have become aware of any delay to the carrying out of the Enhancement Activities, give the Principal's Representative written notice of the delay, identifying the cause and, to the extent known, a reasonable estimate of the likely delay to any Date of Completion.

7.6 Entitlement to Claim Extension of Time

- (a) If the Service Provider is, or will be, delayed prior to the Date for Completion of the Modification Assets or a Portion, [REDACTED] in a manner that will delay it from achieving Completion of the Modification Assets or the Portion, the Service Provider may claim an extension of time to the relevant Date for Completion.
- (b) If the Service Provider is, or will be, delayed after the Date for Completion of the Modification Assets or a Portion, by reason of an act or omission of the Principal or the Principal's Representative (including any breach of this Deed or Modifications directed by the Principal's Representative under **clause 14.1(a)** of the **General Conditions**) in a manner which will delay it in achieving Completion of the Modification Assets or the

Portion, the Service Provider may claim an extension of time to the relevant Date for Completion.

7.7 Claim for Extension of Time

- (a) To claim an extension of time the Service Provider must:
 - (i) within 20 Business Days of the earlier of when the Service Provider became aware, or when they reasonably should have become aware of the occurrence causing the delay, submit a written claim to the Principal's Representative for an extension of time to the relevant Date for Completion, which:
 - (A) gives detailed particulars of:
 - (1) the delay and the occurrence causing the delay; and
 - (2) the activities that are critical to the maintenance of progress in the execution of the Enhancement Activities; and
 - (B) states the number of days extension of time claimed together with the basis of calculating that period, including evidence that the:
 - (1) conditions precedent to an extension of time in **clause 7.8** of this **Schedule 12** have been met; and
 - (2) occurrence will delay it in achieving Completion in the manner described in **clause 7.6** of this **Schedule 12**; and
 - (ii) if the effects of the delay continue beyond the period of 14 days after the commencement of the occurrence causing the delay and the Service Provider wishes to claim an extension of time in respect of the further delay, submit a further written claim to the Principal's Representative:
 - (A) every 14 days after the first written claim, or such other period as may be approved by the Principal's Representative in writing, until after the end of the effects of the delay; and
 - (B) containing the information required by **paragraph (a)**.
- (b) The Principal's Representative may, within 14 days of receiving the Service Provider's claim or further claim for an extension of time for Completion, by written notice to the Service Provider, request additional information in relation to the claim or further claim.
- (c) The Service Provider must, within 14 days of receiving such request, provide the Principal's Representative with the information requested.

7.8 Conditions Precedent to Extension of Time

- (a) It is a condition precedent to the Service Provider's entitlement to an extension of time to any relevant Date for Completion that:
 - (i) the Service Provider gives the notices and claims required by **clauses 7.5(b) and 7.7** of this **Schedule 12** as required by those clauses;
 - (ii) the Service Provider complies with any request for additional information under **clause 7.7** of this **Schedule 12** within the time required;
 - (iii) the cause of the delay is beyond the reasonable control of the Service Provider; and

- (iv) the Service Provider is actually, or will be, delayed in the manner described in **clause 7.6** of this **Schedule 12**.
- (b) If the Service Provider fails to comply with the conditions precedent in this **clause 7.8** of this **Schedule 12**:
 - (i) the Principal will not be liable upon any Claim by the Service Provider; and
 - (ii) the Service Provider will be absolutely barred from making any Claim against the Principal,arising out of or in any way in connection with the event giving rise to the delay and the delay involved.

7.9 Extension of Time

- (a) Subject to **clause 7.10** of this **Schedule 12**, if the conditions precedent in **clause 7.8** of this **Schedule 12** have been satisfied, the relevant Date for Completion will be extended by a reasonable period of time to account for the impact of the delay determined by the Principal's Representative, and notified to the Principal and the Service Provider within 28 days after the latest of the:
 - (i) Service Provider's written claim under **clause 7.7** of this **Schedule 12**; and
 - (ii) provision by the Service Provider of any additional information regarding the claim required under **clause 7.7** of this **Schedule 12**.
- (b) A failure of the Principal's Representative to grant a reasonable extension of time to any Date for Completion or to grant an extension of time to any Date for Completion within the relevant 28 day period will not cause an affected Date for Completion to be set at large, but nothing in this paragraph will prejudice any right of the Service Provider to damages.

7.10 Reduction in Extension of Time

The Principal's Representative will reduce any extension of time to the relevant Date for Completion it would otherwise have determined under **clause 7.9** of this **Schedule 12** to the extent that the Service Provider:

- (a) contributed to the delay; or
- (b) failed to take all reasonable steps necessary to avoid or minimise the consequences of the delay.

7.11 Unilateral Extensions

- (a) Whether or not the Service Provider has made, or is entitled to make, a claim for an extension of time to any relevant Date for Completion, or is entitled to be, or has been, granted an extension of time to any relevant Date for Completion, under **clause 7.9** of this **Schedule 12**, the Principal's Representative may, in its absolute discretion, for any reason and at any time, from time to time by written notice to the Service Provider and the Principal, unilaterally extend any Date for Completion by any period specified in a notice to the Service Provider and the Principal.
- (b) The Principal's Representative is not required to exercise its discretion under this **clause 7.11** of this **Schedule 12** for the benefit of the Service Provider.
- (c) The discretion to grant an extension of time under this **clause 7.11** of this **Schedule 12** may only be exercised by the Principal's Representative and the exercise or failure to

exercise that discretion is not a "direction" which can be the subject of a dispute or in any other way opened up, reviewed or exercised by any other person in any forum (including in any expert, arbitration or litigation proceedings).

7.12 Not used

7.13 Suspension

The Principal's Representative may direct the Service Provider to suspend and, after a suspension has been directed, to re-commence, the carrying out of all or a part of the Enhancement Activities.

8 Completion

8.1 Service Provider to Notify

- (a) The Service Provider must give the Principal's Representative written notice 21 days before it anticipates achieving Completion of the Modification Assets or a Portion.
- (b) The Service Provider must prepare a detailed procedure for the progressive inspection by the Principal's Representative of the Modification Assets or that Portion following the issue by the Service Provider of a notice under this **clause 8.1** of this **Schedule 12**.
- (c) This procedure must be submitted to the Principal's Representative and prior to the inspection under **clause 8.2(a)** of this **Schedule 12** must, if required by the Principal's Representative, be amended to ensure that the procedure provides the Principal's Representative with sufficient time to properly carry out this progressive inspection and the final inspection which the Principal's Representative is required to undertake under **clause 8.2** of this **Schedule 12** to determine whether Completion of the Modification Assets or a Portion (as the case may be) has occurred.

8.2 Inspection before Completion

- (a) If required by the Principal's Representative, the Principal's Representative and the Service Provider's Representative must, within 20 Business Days of receipt by the Principal's Representative of the notice referred to in **clause 8.1** of this **Schedule 12**, jointly inspect the Modification Assets or the Portion at a mutually convenient time.
- (b) Following the joint inspection under **clause 8.2(a)** of this **Schedule 12** (or, if the joint inspection is not required by the Principal's Representative, following receipt by the Principal's Representative of the notice referred to in **clause 8.1** of this **Schedule 12**), the Principal's Representative must issue a notice to the Principal and the Service Provider either:
 - (i) containing a list of the items that are apparent and it believes must be completed before Completion of the Modification Assets or the Portion is achieved; or
 - (ii) stating that it believes the Service Provider is so far from achieving Completion of the Modification Assets or the Portion that it is not practicable to issue a list as contemplated in **clause 8.2(b)(i)** of this **Schedule 12**.
- (c) When the Principal's Representative issues a notice under either **clause 8.2(b)(i)** or **8.2(b)(ii)** of this **Schedule 12**, the Service Provider must continue to proceed to bring the Modification Assets or the Portion to Completion and thereafter when the Service

Provider considers it has achieved Completion of the Modification Assets or the Portion, the Service Provider must notify the Principal's Representative in writing.

Thereafter, if required by the Principal's Representative, the Principal's Representative and the Service Provider's Representative must jointly inspect the Enhancement Activities at a mutually convenient time.

- (d) The Principal's Representative must within 20 Business Days of receipt of a notice under **clause 8.2(c)** of this **Schedule 12**, or of receipt of a notice under **clause 8.2(e)** of this **Schedule 12** (but in any event after any joint inspection under **clause 8.2(c)** of this **Schedule 12**), issue a notice to the Principal and the Service Provider:
- (i) if satisfied that Completion of the Modification Assets or the Portion has been achieved:
 - (A) stating the date on which the Principal's Representative determines Completion of the Modification Assets or the Portion was achieved; and
 - (B) containing a list of any minor Non-Compliances, of the type described in **paragraph (a)** of the definition of "Completion" in **clause 1.1** of this **Schedule 12**, that are apparent; or
 - (ii) if not satisfied that Completion of the Modification Assets or the Portion has been achieved:
 - (A) containing a list of the items that are apparent and it believes must be completed before Completion of the Modification Assets or the Portion is achieved; or
 - (B) stating that it believes the Service Provider is so far from achieving Completion of the Modification Assets or the Portion that it is not practicable to issue a list as contemplated by **clause 8.2(d)(ii)(A)** of this **Schedule 12**.
- (e) If the Principal's Representative issues a notice under either **clause 8.2(d)(ii)(A)** or **8.2(d)(ii)(B)** of this **Schedule 12**, the Service Provider must continue to proceed to bring the Modification Assets or the Portion to Completion and thereafter when it considers it has achieved Completion of the Modification Assets or the Portion, the Service Provider must notify the Principal's Representative by notice in writing, after which the second paragraph of **clause 8.2(c)**, **clause 8.2(d)** and this **clause 8.2(e)** of this **Schedule 12** will reapply.

8.3 Unilateral Issue of Notice of Completion

If at any time a notice required to be given by the Service Provider to the Principal's Representative under either of **clauses 8.2(c)** or **8.2(e)** of this **Schedule 12** is not given by the Service Provider yet the Principal's Representative is of the opinion that Completion of the Modification Assets or a Portion has been achieved, the Principal's Representative may issue a notice under **clause 8.2(d)(i)** of this **Schedule 12** for the Modification Assets or the Portion.

8.4 Hand Over upon Completion

- (a) The Service Provider acknowledges that the Principal will require a progressive handover of the Modification Assets and that this handover will take place by the Service Provider handing over each Portion once that Portion has reached Completion.

- (b) Within 30 days of Completion of the Modification Asset or a Portion, the Service Provider must provide the Principal with all information relevant to the use, occupation, operation and maintenance of the Modification Asset or Portion (as relevant).

8.5 Part of the Modification Assets or a Portion

If a part of the Modification Assets has reached Completion but another part of the Modification Assets has not reached Completion and the parties cannot agree upon the creation of new Portions, the Principal's Representative may determine that the respective parts will be Portions. The Principal may, after the Service Provider is given written notice by the Principal's Representative, occupy or use any part of the Modification Assets or a Portion although the whole of the Modification Assets or the Portion has not reached Completion.

If the Principal's Representative gives any such notice, this will not otherwise limit or affect the obligations of the parties under this Deed, including the obligation of the Service Provider to achieve Completion of the Modification Assets or the relevant Portion of which the area being occupied or used forms part, by the relevant Date for Completion.

The interpretations of the terms Date for Completion, Date of Completion and Completion, and **clauses 7 and 9** of this **Schedule 12**, will apply separately to each Portion and references therein to the Modification Assets and to the Enhancement Activities will mean so much of the Modification Assets and the Enhancement Activities as is comprised in the relevant Portion.

8.6 Liquidated Damages for Delay in Reaching Completion

- (a) If Completion of the Modification Assets or a Portion has not occurred by the Date for Completion for the Modification Assets or the Portion, the Service Provider must pay the Principal liquidated damages at the rates determined in accordance with **clause 16(f)(i)(B)(4)** of the **General Conditions** for every day after the Date for Completion up to and including:
 - (i) the Date of Completion; or
 - (ii) the date that this Deed is terminated,whichever is first.
- (b) The Service Provider acknowledges that it has freely agreed that the liquidated damages provided for by **clause 8.6(a)** of this **Schedule 12** represent proper, fair and reasonable amounts recoverable by the Principal for its loss arising from the failure of the Service Provider to achieve Completion of the Modification Assets or a Portion by the relevant Date for Completion.
- (c) If **clause 8.6(a)** of this **Schedule 12** is found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Principal from recovering liquidated damages, the Principal will be entitled to recover common law damages as a result of the Service Provider failing to achieve Completion by the Date for Completion, but the Service Provider's liability for such damages (whether per day or in aggregate) will not be any greater than the liability which the Service Provider would have had if **clause 8.6(a)** of this **Schedule 12** had not been void, invalid or otherwise inoperative.
- (d) The parties acknowledge and agree that:

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Schedule 12 Schedule 12A – Cost Pass Through Schedule

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Schedule 12 Schedule 12A – Cost Pass Through Schedule

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Schedule 14 – Renewal Requirement Auditor Deed

Date / /

Renewal Requirement Auditor Deed

Country Regional Network

Transport for NSW
and

Transport Asset Holding Entity of New South Wales
and

UGL Regional Linx Pty Ltd
and

[insert auditor's details]

Renewal Requirement Auditor Deed

Dated / /

Parties

Name	Transport for NSW
Address	<i>[insert address]</i>
Email	<i>[insert]</i>
Contact	<i>[insert]</i>
Short name	TfNSW

Name	Transport Asset Holding Entity of New South Wales
Address	<i>[insert address]</i>
Email	<i>[insert]</i>
Contact	<i>[insert]</i>
Short name	TAHE

Name	UGL Regional Linx Pty Ltd
Address	<i>[insert address]</i>
Email	<i>[insert]</i>
Contact	<i>[insert]</i>
Short name	Service Provider

Name	<i>[insert certifier's details]</i>
Address	<i>[insert address]</i>
Email	<i>[insert]</i>

Contact	[insert]
Short name	Renewal Requirement Auditor

Background

- A. The Principal and the Service Provider have entered into the CRN O&M Deed under which the Service Provider has agreed to perform the Services.
- B. The CRN O&M Deed Parties wish to appoint the Renewal Requirement Auditor to perform the Obligations specified in this Deed.
- C. By entering into this Deed, the Renewal Requirement Auditor confirms its acceptance of its appointment on the terms set out in this Deed and the assumption of the Obligations to the CRN O&M Deed Parties.
- D. The CRN O&M Deed Parties consent to the appointment of the Renewal Requirement Auditor in accordance with the terms of this Deed.

This Deed Witnesses

1. Definitions and Interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires, expressions defined in the CRN O&M Deed will have the corresponding meaning in this Deed and:

Claim includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of rent obligation.

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

Cost includes any cost, charge, expense, outgoing, payment or other expenditure of any nature (whether direct, indirect or consequential and whether accrued or paid).

CRN O&M Deed means the CRN O&M Deed between the CRN O&M Deed Parties dated on or about [insert].

CRN O&M Deed Parties means TfNSW, TAHE and the Service Provider and "CRN O&M Deed Party" means any one of them.

Deed means this deed and the Schedules.

Fee means the fee set out in Schedule 2.

Key Person means the person named as the key person in Schedule 2, or any other person subsequently appointed as the Key Person pursuant to clause 6.2.

Obligations means the obligations of the Renewal Requirement Auditor set out in Schedule 1.

Payment means:

- (a) the amount of any monetary consideration (other than a GST Amount payable under clause 12); and
- (b) the GST Exclusive Market Value of any non-monetary consideration,

paid or provided by a party for any Supply made under or in connection with this Deed and includes any amount payable by way of indemnity, reimbursement, compensation or damages.

Principal means TfNSW and TAHE, jointly and severally.

Relevant Documents means the CRN O&M Deed and any other documents necessary for the Renewal Requirement Auditor to carry out its obligations pursuant to this Deed.

1.2 Interpretation

In this Deed, unless the context otherwise requires:

- 1.2.1 headings are for convenience only and do not affect the interpretation of this Deed;
- 1.2.2 words importing the singular include the plural and vice versa;

- 1.2.3 words importing a gender include any gender;
- 1.2.4 an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any authority;
- 1.2.5 a reference to a clause, party or Schedule is a reference to (respectively) a clause of, a party to and a Schedule to this Deed;
- 1.2.6 "including" and similar expressions are not words of limitation;
- 1.2.7 a reference to statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- 1.2.8 no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Deed or any part of it;
- 1.2.9 a covenant or agreement on the part of two or more persons binds them jointly and severally;
- 1.2.10 a reference to an association or body which has ceased to exist includes the organisation established in the place of the association or body to serve substantially the same purposes;
- 1.2.11 a reference to an officer of an association or body which has ceased to exist includes the most senior officer of the organisation established in the place of the association or body to serve substantially the same purposes;
- 1.2.12 a reference to liquidation includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, scheme, compromise or arrangement with creditors, insolvency, bankruptcy, or similar procedure;
- 1.2.13 where in this Deed a period of time dating from a given day, act or event is specified or allowed for any purpose, the time must be reckoned exclusive of that day or of the date on which the act or event occurred but inclusive of the day on which that period expires;
- 1.2.14 any notice or other communication or moneys which is or are received on a day which is not a Business Day or after 4.30 pm on a Business Day are, for the purposes of this Deed, deemed to be received on the next occurring Business Day; and
- 1.2.15 where the day on or by which any thing is to be done is not a Business Day, such thing must be done on or by the immediately following Business Day.

1.3 Jurisdiction

This Deed will be governed by and interpreted according to the laws of the State of New South Wales and each party hereto submits irrevocably to the non-exclusive jurisdiction of the Courts of the State of New South Wales.

1.4 Act, matters or things

A reference to an act, matter or thing includes the whole or any part of that act, matter or thing and a reference to a group of acts, matters or things or persons includes each act, matter or thing or person in that group.

2. Appointment of Renewal Requirement Auditor

2.1 Terms of appointment

- 2.1.1 The CRN O&M Deed Parties hereby appoint the Renewal Requirement Auditor to perform the Obligations, and the Renewal Requirement Auditor agrees to perform the Obligations, on the terms of this Deed.
- 2.1.2 The Renewal Requirement Auditor's appointment commences on the date of this Deed and terminates on the earlier of:
 - (a) the date on which the Obligations have been completed in full; and
 - (b) the date on which this Deed is terminated under the terms of this Deed.
- 2.1.3 The Renewal Requirement Auditor warrants and acknowledges that:
 - (a) it has received a copy of each of the Relevant Documents;
 - (b) it has read and will be deemed to have informed itself fully of the requirements of:
 - (i) the Relevant Documents, including the CRN O&M Deed; and
 - (ii) all technical requirements, and other such documents and materials as may become relevant from time to time insofar as they relate to the Obligations so as to be in a position to perform the Obligations; and
 - (c) it has and will be deemed to have informed itself completely of the nature of the work necessary for the performance of the Obligations and as to the correctness and sufficiency of description of the Obligations and that the fee payable to it covers the cost of it complying with the Obligations and of all matters and things necessary or ancillary to the due and proper performance of the Obligations.
- 2.1.4 Subject to clause 2.1.5, the Renewal Requirement Auditor acknowledges and agrees that each of the CRN O&M Deed Parties is entitled to correspond with the Renewal Requirement Auditor in regard to the Obligations, including by providing documents and submissions in respect of any of the Obligations. The Renewal Requirement Auditor must give due consideration to all correspondence sent to it by an CRN O&M Deed Party.

2.1.5 Each CRN O&M Deed Party must:

- (a) not interfere with or attempt to improperly influence the Renewal Requirement Auditor in the performance of any of the Obligations; and
- (b) provide a copy of any correspondence, information, documents or particulars to the other CRN O&M Deed Parties at the same time it sends it to the Renewal Requirement Auditor.

2.2 Co-operation and Assistance

2.2.1 The CRN O&M Deed Parties must each co-operate with each other and the Renewal Requirement Auditor, and act in good faith and use their reasonable endeavours (without being obliged to pay money), to assist the Renewal Requirement Auditor to enable it to satisfy the Obligations.

2.2.2 The Renewal Requirement Auditor must:

- (a) fully co-operate with the CRN O&M Deed Parties;
- (b) co-ordinate the performance of the Obligations with the activities being performed by the CRN O&M Deed Parties under the CRN O&M Deed or in relation to the Services; and
- (c) not cause any unnecessary interference, disruption or delay to the Services or any of the other transactions contemplated by the CRN O&M Deed.

2.2.3 The Renewal Requirement Auditor may from time to time give a notice to an CRN O&M Deed Party requiring the provision of further information, documents or particulars. If such information, documents or particulars is necessary for the performance of the Obligations, the relevant CRN O&M Deed Party must, subject to clause 2.1.5, provide such information, documents or particulars to the Renewal Requirement Auditor at its own cost.

2.3 Provision of Information

Where an CRN O&M Deed Party is obliged under a Relevant Document to provide information to the Renewal Requirement Auditor to assist the Renewal Requirement Auditor in the performance of its Obligations, the CRN O&M Deed Party must, subject to clause 2.1.5, provide such information to the Renewal Requirement Auditor within the time limits imposed by such document.

2.4 Information provided to Renewal Requirement Auditor

2.4.1 The Renewal Requirement Auditor will be entitled to rely upon information provided to it by an CRN O&M Deed Party as being true and correct in all material respects, unless the trueness or correctness of the relevant information is a matter that the Renewal Requirement Auditor must determine for the proper performance of the Obligations in accordance with this Deed, such information is manifestly incorrect, is provided on a qualified basis or the relevant CRN O&M Deed Party subsequently informs the Renewal Requirement Auditor of any change to information provided to it. Before relying on any information provided by an CRN O&M Deed Party the Renewal

Requirement Auditor must give the other CRN O&M Deed Parties a reasonable opportunity to respond to, or otherwise provide submissions in respect of, that information.

2.4.2 The Renewal Requirement Auditor must provide to an CRN O&M Deed Party:

- (a) copies of any correspondence information or documents it receives from the other CRN O&M Deed Parties;
- (b) copies of any correspondence, information or documents at the same time it sends it to the other CRN O&M Deed Parties; and
- (c) a copy of any document or other information reasonably requested in writing by that CRN O&M Deed Party provided that:
 - (i) a copy of the request has been sent to the other CRN O&M Deed Parties; and
 - (ii) the Renewal Requirement Auditor complied with clauses 2.4.2(a) and (b) when sending the document or information to the relevant CRN O&M Deed Party.

2.5 Certification Final and Binding

The CRN O&M Deed Parties acknowledge and agree that any determination or certificate given by the Renewal Requirement Auditor pursuant to the CRN O&M Deed and this Deed will, in the absence of fraud, gross negligence or a manifest error, be final and binding on the CRN O&M Deed Parties under the CRN O&M Deed and this Deed.

2.6 Access

The CRN O&M Deed Parties must use their reasonable endeavours to provide the Renewal Requirement Auditor with access to the Relevant Assets, at its own risk, for the purposes of enabling it to carry out its Obligations under this Deed, after reasonable prior notice and subject to compliance by it with the reasonable safety requirements of the Principal and the Service Provider.

3. Remuneration

3.1 Payment to the Renewal Requirement Auditor

- 3.1.1 In consideration of the Renewal Requirement Auditor performing the Obligations under this Deed, the Service Provider will be liable to, and will, pay to the Renewal Requirement Auditor the Fee.
- 3.1.2 The Renewal Requirement Auditor must give the Service Provider claims for payment on account of the Fee:
 - (a) monthly on the last Business Day of the month;
 - (b) in the format the Service Provider reasonably requires; and

- (c) which include:
 - (i) evidence as reasonably required by the Service Provider of the Obligations completed in accordance with this Deed and the amount of the Fee claimed; and
 - (ii) a report setting out those matters in respect of the Obligations that the Service Provider reasonably require from time to time.
- 3.1.3 The Service Provider must, within 10 Business Days, assess the payment claim and issue the Renewal Requirement Auditor with a payment schedule, which sets out the Service Provider's determination as to:
 - (a) the value of Obligations completed in accordance with the Deed;
 - (b) the amount already paid to the Renewal Requirement Auditor; and
 - (c) the amount then payable by the Service Provider to the Renewal Requirement Auditor on account of the Fee under the Deed,together with any reasons for any difference in the amount set out as then payable from the amount in the Renewal Requirement Auditor's claim.
- 3.1.4 The Renewal Requirement Auditor must, following receipt of a payment schedule under clause 3.1.3, provide the Service Provider with a tax invoice for the sum assessed in the payment schedule as payable to the Renewal Requirement Auditor.
- 3.1.5 The issue of a payment schedule by the Service Provider does not constitute approval of any work nor will it be taken as an admission or evidence that the part of the Obligations covered by the payment schedule has been satisfactorily carried out in accordance with the Deed.
- 3.1.6 Subject to subclause 3.1.7, the Service Provider must within the latter of:
 - (a) 10 Business Days after receipt of correct tax invoices under clause 3.1.4; or
 - (b) 10 Business Days after the Renewal Requirement Auditor has effected the insurance required by clause 5. and provided evidence of that insurance to the CRN O&M Deed Parties,pay the Renewal Requirement Auditor the amount set out as payable in the tax invoices provided under clause 3.1.4.
- 3.1.7 Any payment made under subclause 3.1.6 is not:
 - (a) evidence of the value of work or that work has been satisfactorily carried out in accordance with the Deed;
 - (b) an admission of liability; or
 - (c) approval by the CRN O&M Deed Parties of the Renewal Requirement Auditor's performance or compliance with the Deed,but it is only to be taken as payment on account.

- 3.1.8 The Principal must reimburse the Service Provider for any fees paid under this provision in accordance with Schedule 13 of the CRN O&M Deed.

3.2 Payment by the Principal

If the Service Provider fails to pay to the Renewal Requirement Auditor any amount which it is required to pay under clause 3.1 within the time required by clause 3.1, the Principal may, but is not obliged to:

- 3.2.1 pay to the Renewal Requirement Auditor the unpaid amount; and
- 3.2.2 recover that amount as a debt due and payable from the Service Provider.

3.3 Variations

The CRN O&M Deed Parties may jointly direct a variation to the Renewal Requirement Auditor's Obligations. Any such direction will not vitiate the Deed, and must be in writing entitled "Variation Direction" and be signed by representatives of both the Principal and the Service Provider. Any such variation will be valued by agreement between the parties or failing agreement by the Principal using the rates set out in Schedule 2 or (to the extent the rates set out in Schedule 2 are not applicable) reasonable rates or prices.

3.4 Specialist Advice

- 3.4.1 The Renewal Requirement Auditor may, from time to time, with the CRN O&M Deed Parties prior written approval (which approval will not be unreasonably withheld, but may be given subject to reasonable conditions) engage specialist advisory service providers to enable it to perform any Obligation that the Renewal Requirement Auditor does not perform in the ordinary course of its business.
- 3.4.2 The Renewal Requirement Auditor must, before engaging a specialist advisory service provider:
- (a) notify the CRN O&M Deed Parties of the reasons for the proposed engagement; and
 - (b) provide in that notice the identity and relevant specialist experience, skill and ability of the proposed service provider.
- 3.4.3 The Renewal Requirement Auditor remains responsible for the performance of its Obligations in accordance with this Deed despite any engagement of a specialist advisory service provider under this clause 3.4 or otherwise.

4. Performance of Renewal Requirement Auditor's obligations

4.1 Standard of Performance

In performing the Obligations and its other duties under this Deed, the Renewal Requirement Auditor must (and must ensure that all of its representatives and personnel engaged in the performance of the Obligations):

- 4.1.1 act in accordance with the terms of this Deed;

- 4.1.2 act as an expert and not an arbitrator;
- 4.1.3 perform all of the Obligations in a timely manner and in accordance with the required times set out in the CRN O&M Deed, or where no time is specified, within a reasonable time;
- 4.1.4 arrive at a reasonable determination;
- 4.1.5 act in good faith, diligently, reasonably and with the degree of professional skill, care and diligence which may be reasonably expected of an expert professional provider of the Obligations experienced in the performance of the same or similar services;
- 4.1.6 act honestly, impartially and fairly;
- 4.1.7 comply with all laws; and
- 4.1.8 take into consideration the CRN O&M Deed and all documents, information and other written and oral material provided to the Renewal Requirement Auditor by any CRN O&M Deed Party.

4.2 No Conflict of Interest

- 4.2.1 The Renewal Requirement Auditor warrants and agrees that:
 - (a) at the date of this Deed it has no conflict of interest with respect to the carrying out of the Obligations and it reasonably believes that no conflict of interest is likely to arise during the performance of the Obligations;
 - (b) it owes duties to each of the CRN O&M Deed Parties in connection with the performance of the Obligations;
 - (c) the CRN O&M Deed Parties are each relying on its independence;
 - (d) it will not accept any role in relation to the Obligations, the Services or for any of the CRN O&M Deed Parties in relation to any other project other than that expressly set out in this Deed except with the prior written consent of the CRN O&M Deed Parties, which consent will not be unreasonably withheld; and
 - (e) it will comply with all agreed procedures that are satisfactory to the CRN O&M Deed Parties from time to time and which are implemented to prevent a conflict or risk of conflict arising in connection with the performance of the Obligations.
- 4.2.2 If during the term of this Deed a conflict of interest or risk of a conflict of interest referred to in clause 4.2.1 does arise:
 - (a) the Renewal Requirement Auditor must immediately notify the CRN O&M Deed Parties in writing, giving sufficient details of the nature of the perceived conflict of interest; and
 - (b) the parties must negotiate in good faith to agree on how the conflict or risk of conflict can be properly managed. If the parties are not able to agree on how the conflict or risk of conflict is to be managed within 5 Business Days, the

Renewal Requirement Auditor must take such action as is reasonably required by the CRN O&M Deed Parties to remove the conflict or risk of conflict.

4.3 Nature of Relationship

The Renewal Requirement Auditor is an independent contractor and not an employee or agent of any CRN O&M Deed Party.

4.4 Authority to Act

The Renewal Requirement Auditor:

- 4.4.1 is not and must not purport to be, a partner, joint venturer or agent of an CRN O&M Deed Party;
- 4.4.2 other than as expressly set out in this Deed, has no authority to give directions to an CRN O&M Deed Party or their officers, employees, contractors, consultants or agents; and
- 4.4.3 has no authority to waive or alter any terms of the CRN O&M Deed, or to discharge or release a party from any of its Obligations under the CRN O&M Deed.

4.5 Quality Assurance System

The Renewal Requirement Auditor must comply with any quality assurance system referred to in the Relevant Documents (but not so as to relieve it from any responsibilities it otherwise has in respect of the Obligations).

5. Insurance and Indemnity

5.1 Own Risk

The Renewal Requirement Auditor carries out its Obligations and duties under this Deed entirely at its own risk.

5.2 Effect and Maintain Insurances

From the date of this Deed, the Renewal Requirement Auditor must effect and maintain, at its own Cost, the following policies of insurance in such form as the CRN O&M Deed Parties reasonably require:

- 5.2.1 a professional indemnity policy [REDACTED];
- 5.2.2 a public liability policy [REDACTED];
- 5.2.3 such other insurance as may reasonably be required by an CRN O&M Deed Party.

5.3 Workers Compensation

The Renewal Requirement Auditor must maintain a workers' compensation policy in respect of all workers employed by it in relation to the Obligations with unlimited common law cover.

5.4 Cancellation

The insurance policies specified in clause 5.2 must provide that the policies may not be cancelled or avoided or allowed to lapse or altered without at least 30 days' prior notice to each CRN O&M Deed Party.

5.5 Notice of Matter Affecting Insurance

The Renewal Requirement Auditor must give notice to the CRN O&M Deed Parties immediately:

- 5.5.1 if an event occurs which may affect its insurance policies, or may result in any of its insurance policies lapsing or being cancelled; or
- 5.5.2 if any insurance policy is cancelled, avoided or lapses.

5.6 Copies of Policies

The Renewal Requirement Auditor must deliver to each of the CRN O&M Deed Parties:

- 5.6.1 on the date of this Deed and within a reasonable time of request by an CRN O&M Deed Party, copies of all insurance policies (except the professional indemnity insurance policy), and certificates of currency for all insurance policies (including the professional indemnity insurance policy), effected under this clause 5.; and
- 5.6.2 during the term of this Deed, receipts for the payment of premiums for all such policies before the due date for payment of the premiums and within a reasonable time of request by an CRN O&M Deed Party.

5.7 Periods of Insurance

The Renewal Requirement Auditor must keep:

- 5.7.1 the professional indemnity insurance policy referred to in clause 5.2.1 current for [REDACTED] of the Obligations or any earlier date on which this Deed is terminated;
- 5.7.2 the public liability and workers compensation insurance policies referred to in clauses 5.2.2 and 5.3 [REDACTED]; and
- 5.7.3 any other insurances referred to in clause 5.2.3 current for such period as may reasonably be required by the CRN O&M Deed Parties.

5.8 Indemnity

The Renewal Requirement Auditor must indemnify each CRN O&M Deed Party against any Claim that the CRN O&M Deed Party may suffer or incur arising out of or as a consequence of:

- 5.8.1 any breach by the Renewal Requirement Auditor of its obligations under this Deed; or
- 5.8.2 any loss of or damage to property, or personal injury or death or loss of or damage to any other property, arising out of or in consequence of any act or omission of the Renewal Requirement Auditor, its employees, agents or subcontractors,

but the Renewal Requirement Auditor's liability to indemnify an CRN O&M Deed Party will be reduced proportionally to the extent that any negligent act of that CRN O&M Deed Party or the employees, agents or subcontractors of that CRN O&M Deed Party contributes to the Claim.

6. Warranties of the Renewal Requirement Auditor

6.1 Representations and Warranties

The Renewal Requirement Auditor represents and warrants to each of the CRN O&M Deed Parties that:

- 6.1.1 it is a corporation as that expression is defined in the Corporations Law having limited liability, incorporated (or taken to be incorporated) or registered and validly existing under the Corporations Law;
- 6.1.2 it has the corporate power to own its assets and to carry on its business as it is now being conducted;
- 6.1.3 it has full power and authority to enter into this Deed and perform the Obligations;
- 6.1.4 it has taken all necessary action to authorise the execution, delivery and performance of this Deed in accordance with its terms;
- 6.1.5 the Obligations constitute legal, valid and binding obligations and, subject to any necessary stamping and registration, are enforceable in accordance with the terms of this Deed;
- 6.1.6 the execution, delivery and performance by it of this Deed do not and will not violate, breach, or result in a contravention of:
 - (a) any law, regulation or authorisation;
 - (b) its memorandum and articles of association or other constituent documents; or
 - (c) any encumbrance or document which is binding upon it or any of its assets;
- 6.1.7 it has the appropriate qualifications to undertake all of the certification and dispute resolution requirements forming part of the Obligations; and
- 6.1.8 it and all of its representatives and personnel engaged in the performance of the Obligations will be and remain adequately and appropriately experienced and properly

qualified to perform the Obligations with the required degree of professional skill, care and diligence.

The Renewal Requirement Auditor acknowledges that:

- 6.1.9 the CRN O&M Deed Parties are relying on the skill and expertise of the Renewal Requirement Auditor in the performance of the Obligations; and
- 6.1.10 the CRN O&M Deed Parties may suffer loss if the Renewal Requirement Auditor does not perform the Obligations in accordance with the terms of this Deed.

6.2 Undertaking

- 6.2.1 The Renewal Requirement Auditor must at all times provide sufficient competent, professional and qualified personnel to perform the Obligations.
- 6.2.2 The Renewal Requirement Auditor must ensure the Key Person is provided and is available to perform the Obligations.
- 6.2.3 The Renewal Requirement Auditor must not provide any person other than the Key Person for the purposes of carrying out the Obligations without the prior written consent of each of the CRN O&M Deed Parties.
- 6.2.4 If:
 - (a) a Key Person dies, becomes seriously ill, ceases to be employed by the Renewal Requirement Auditor or is otherwise no longer capable of carrying out the Obligations in the reasonable opinion of the CRN O&M Deed Parties; or
 - (b) at any time during the term of this Deed the CRN O&M Deed Parties jointly consider the conduct of the Key Person is prejudicial to either or both of their interests or the interests of the Services,

the Renewal Requirement Auditor must appoint an alternative Key Person approved by in writing by representatives of both the Principal and the Service Provider.

7. Suspension of obligations

- 7.1.1 The CRN O&M Deed Parties may, at any time by written notice to the Renewal Requirement Auditor to that effect, elect to suspend the performance of all or part of the Obligations. If the CRN O&M Deed Parties give a notice under this clause 7, the Renewal Requirement Auditor must not carry out the Obligations specified in the notice unless and until a further notice is given by the CRN O&M Deed parties asking it to carry out such Obligations.
- 7.1.2 The Renewal Requirement Auditor must continue to carry out any Obligations not suspended under this clause 7.
- 7.1.3 The Renewal Requirement Auditor is not entitled to make any Claim against any CRN O&M Deed Party in connection with any suspension under this clause 7.

8. Termination

8.1 Right to Terminate

The CRN O&M Deed Parties may, without giving advance notice, jointly terminate this Deed by giving notice in writing to the Renewal Requirement Auditor if:

- 8.1.1 an Insolvency Event occurs in relation to the Renewal Requirement Auditor, whether or not there has been a breach of this Deed by the Renewal Requirement Auditor;
- 8.1.2 the CRN O&M Deed is terminated (other than as set out below);
- 8.1.3 the Renewal Requirement Auditor commits a substantial breach of this Deed; or
- 8.1.4 the CRN O&M Deed Parties jointly elect at any time to terminate the appointment of the Renewal Requirement Auditor for any reason.

If the CRN O&M Deed is terminated as a consequence of a default by any of the CRN O&M Deed Parties, a non-defaulting party may unilaterally terminate this Deed by giving written notice to the Renewal Requirement Auditor to that effect.

8.2 Rights on Termination

- 8.2.1 Upon termination of the appointment of the Renewal Requirement Auditor under clause 8.1, the Renewal Requirement Auditor will be entitled to payment of all amounts due to it under clause 3. up to and including the date of termination.
- 8.2.2 The termination of this Deed will not affect any rights or liabilities of the parties which may have accrued prior to the termination.

8.3 Return of Records

On termination or completion of its appointment the Renewal Requirement Auditor must:

- 8.3.1 deliver to the CRN O&M Deed Parties or, at the direction of the CRN O&M Deed Parties, copies of all books, records, plans, specifications and other documents relating to the Obligations or the Services in the possession or control of the Renewal Requirement Auditor; and
- 8.3.2 use its reasonable endeavours to ensure the representative of the Renewal Requirement Auditor, its agents and sub-contractors deliver such material to the CRN O&M Deed Parties or, at the direction of the CRN O&M Deed Parties, to a replacement Renewal Requirement Auditor. For the avoidance of doubt the Renewal Requirement Auditor will not seek to exercise any lien against any of the documentation referred to in this clause 8.3.

The Renewal Requirement Auditor acknowledges that the CRN O&M Deed Parties, and any other auditor appointed by the CRN O&M Deed Parties, has the right to use such books, records, plans, specifications and other documents for the purposes of the Services and carrying out any activities in relation to the CRN O&M Deed.

8.4 Reasonable Assistance

If this Deed is terminated, the Renewal Requirement Auditor must provide all reasonable assistance requested by the CRN O&M Deed Parties, and any subsequent auditor appointed by the CRN O&M Deed Parties, to assist the CRN O&M Deed Parties in connection with the Services and the auditor in performing its obligations.

8.5 No Prejudice

Termination of this Deed will not affect any rights which any party may have in respect of any breach of this Deed before termination.

9. General provisions

9.1 Notices

Any notice or other communication including any request, demand, consent, determination or approval, to or by a party under this Deed:

- 9.1.1 must be in legible writing and in English addressed as shown at the commencement of this Deed or as specified to the sender by any party by notice;
- 9.1.2 where the sender is the Renewal Requirement Auditor, must be signed by the Key Person;
- 9.1.3 must be sent to the address of the relevant party set out in Schedule 2, or such other address notified by the relevant party from time to time; and
- 9.1.4 will be deemed to have been given and received:
 - (a) if delivered, on receipt;
 - (b) if posted, 3 Business Days after posting; or
 - (c) if by facsimile transmission, upon confirmation of correct transmission of the facsimile provided however:
 - (i) if the time of completion of transmission is after 4.00 pm, the document will be deemed to have been issued or given on the next Business Day; and
 - (ii) if the transmission is incomplete in any way or, though complete, illegible, and notice in writing to that effect is given by the recipient to the other party within one working day, service is deemed to have been ineffective.

9.2 Whole Agreement

This Deed and the rights and obligations of each party will be absolute and unconditional and will not be abrogated, prejudiced or affected by anything not contained in this Deed (subject to variation of this Deed agreed to by all the parties in writing) and which but for this clause 9.2 might operate to release or exonerate a party from its obligations in whole or in part.

9.3 Non-merger

None of the terms or conditions of this Deed nor any act matter or thing done under or by virtue of or in connection with this Deed will operate as a merger of any of the rights and remedies of the Parties under this Deed all of which will continue in full force and effect until the respective rights and obligations of the parties under this Deed have been fully performed and satisfied.

9.4 Moratorium

Unless application is mandatory by law, no statute, ordinance, proclamation, order, regulation or moratorium present or future will apply to this Deed so as to abrogate, extinguish, impair, diminish, fetter, delay or otherwise prejudicially affect any rights, powers, remedies or discretions given or accruing to any of the parties under this Deed.

9.5 Severability of Provisions

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Deed or affecting the validity or enforceability of such provision in any other jurisdiction.

9.6 Counterparts

This Deed may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

9.7 Costs

Except as otherwise provided under a Relevant Document, each party must bear its own legal fees and expenses in connection with the negotiation, execution and enforcement of this Deed.

9.8 No fetter

Nothing in this Deed operates to restrict or otherwise affect the unfettered discretion of the Principal to exercise any of its functions and powers under any law.

10. Assignment

10.1 Renewal Requirement Auditor

The Renewal Requirement Auditor may not:

- 10.1.1 dispose of, deal with or part with possession of any interest in this Deed or rights or benefits in connection with this Deed; or
- 10.1.2 create or allow to come to existence any encumbrance which affects the interests of the Renewal Requirement Auditor under this Deed.

10.2 CRN O&M Deed Parties

Each CRN O&M Deed Party may assign or novate its rights and obligations under this Deed to any party to which it assigns its rights under the CRN O&M Deed in accordance with its rights under the CRN O&M Deed. The parties must enter into any deed of assignment or novation reasonably required to document any such assignment or novation.

11. Confidentiality

- 11.1.1 The Renewal Requirement Auditor agrees and undertakes to keep and maintain confidential all the terms covenants and conditions of this Deed together with any information supplied by one party to another under this Deed and not to disclose those terms, covenants and conditions or any part of them or any information or part of that information to any person, company or organisation except as provided in this clause 11.
- 11.1.2 Nothing in this clause 11 will prohibit the Renewal Requirement Auditor from disclosing any term, covenant or condition of this Deed or other confidential information:
- (a) which it believes in good faith is required to be disclosed by law or by the ASX Listing Rules;
 - (b) which was already in the lawful possession of the recipient in written form;
 - (c) which is generally available to the public otherwise than by disclosure in breach of the terms of this clause 11; or
 - (d) to any specialist advisory service provider approved by the CRN O&M Deed Parties under clause 3.4, provided that the Renewal Requirement Auditor ensures that such provider keeps the information confidential.
- 11.1.3 The Renewal Requirement Auditor and the Service Provider acknowledge and agree that the Principal may disclose this Deed (and information concerning the terms of this Deed) under or in accordance with any Law, including *the Government Information (Public Access) Act 2009* (NSW).

12. GST

12.1 Definitions

Capitalised expressions which:

- 12.1.1 are used in this Deed and not defined in this clause 12; or
- 12.1.2 are used in the definitions of GST Amount and Payment in this clause 12 and are not defined in clause 1.1,

but which have a defined meaning in the GST Law have the meaning given to them under GST Law.

12.2 Payment of GST

The parties agree that:

- 12.2.1 all Payments have been set or determined without regard to the impact of GST;

12.2.2 if the whole or any part of a Payment is the consideration for a Taxable Supply for which the payee is liable to GST, the GST Amount in respect of the Payment must be paid to the payee as an additional amount, either concurrently with the Payment; and

12.2.3 the payee will provide to the payer a Tax Invoice.

12.3 Input tax credit

Despite any other provision of this Deed, if a Payment due under this Deed is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the Payment will exclude any part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.

Signing Page

Executed by the parties as a Deed

EXECUTED by Transport for NSW by)

[] in the presence of:)

)

)

.....)

Signature of witness)

)

.....)

Name of witness (block letters))

)

)

)

)

)

)

.....

Signature of []

EXECUTED by Transport Asset)
Holding Entity of New South Wales by)
[] in the presence of:)

)
)
)

.....)
Signature of witness)

)
)
)
.....)
Name of witness (block letters))

.....

Signature of []

Executed by **UGL Regional Linx Pty Ltd**)
ACN 646 771 011 in accordance with section)
127(1) of the *Corporations Act 2001* (Cth) by)
being signed by authorised persons for the)
company:)

.....
Director

.....
Director (or Company Secretary)

.....
Full name

.....
Full name

.....
Usual address

.....
Usual address

Executed by [Renewal Requirement)
Auditor] in accordance with section 127(1) of)
the *Corporations Act 2001* (Cth) by being)
signed by authorised persons for the)
company:)

.....
Director Director (or Company Secretary)

.....
Full name Full name

.....
Usual address Usual address

Schedule 1 Obligations

The Renewal Requirement Auditor must perform all of the functions, tasks and obligations of the "Renewal Requirement Auditor" as set out in the CRN O&M Deed, including the performance of the "Renewal Requirement Audit" and any other functions, tasks and obligations contained in Schedule 13 of the CRN O&M Deed.

Schedule 2 Details

Fee (clause 1.1)

[to be inserted – fee should be itemised for each separate obligation]

Variation Rates (clause 3.3)

[to be inserted]

Key Person (clause 1.1)

[to be inserted]

Addresses for Service (clause 9.1

Principal

[to be inserted]

Attention: *[to be inserted]*

Service Provider

[to be inserted]

Attention: *[to be inserted]*

Renewal Requirement Auditor

[to be inserted]

Attention: *[to be inserted]*

Schedule 15 – Scope of Works

Country Regional Network Scope of Works

Date

[•]

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1 Definitions and Interpretation

1.1 Definitions

Unless otherwise defined in this document, terms which are capitalised in this document have the meaning given to them in clause 1 of the General Conditions. The key definitions relevant to this Scope of Works are provided in the table below:

3 Year Maintenance Works Plan or 3MWP	A rolling 3 year maintenance works plan for carrying out the Asset Management Services in respect of the CRN Assets during the next 3 Contract Years, which as at the date of the Deed is that plan set out in Appendix C3.3 (as may be updated in accordance with the Deed, including in accordance with section 5.8).
10MSP Reference Costs	Those amounts for Contingency (as set out in rows 586 and 665), Network Operations costs (as set out in rows 669 to 698) and Central costs (as set out in rows 702 to 783) in the Financial Proforma tabs of "Scope of Works – real costs" submitted by the Service Provider (being the version current as the date of the Deed and included as Appendix M), Average Indexed in accordance with Schedule 3 – Indexation Schedule.
10 Year Maintenance Services Plan or 10MSP	A maintenance services program for carrying out the Asset Management Services in respect of the CRN Assets during the Term, which as at the date of the Deed is that plan set out in Appendix C3.2 (as may be updated in accordance with the Deed, including in accordance with section 5.7).
50 Year Asset Management Plan or 50AMP	A asset management plan for the 50 year life of the CRN Assets, which as at the date of the Deed is that plan set out in Appendix C3.1 (as may be updated in accordance with the Deed, including in accordance with section 5.6).
Aboriginal Heritage Item	means: - in respect of activities carried out in New South Wales, an Aboriginal place or object under the NPW Act; and - in respect of activities carried out in the Australian Capital Territory, an Aboriginal place or object under the ACT Heritage Act.
Aboriginal Participation Plan	An aboriginal participation plan in respect of the Services, which as at the date of the Deed is that plan set out in Appendix C16 (as may be updated in accordance with the Deed).

Ad Hoc Train Path	A Train Path which is not a SWTT Train Path that is made available to a rail operator on a specified day.
Ad Hoc Train Path Request	A request made by a rail operator for an Ad Hoc Train Path.
ARTC Network	The rail network operated, managed and maintained by ARTC on land and Assets the subject of the ARTC Lease, excluding any overbridges over that rail network.
Asset and Services Plan or ASP	An asset and services plan required to be prepared by the Service Provider in accordance with section 5.13 (as may be updated or replaced in accordance with the Deed).
Asset Condition Report	An annual asset condition report providing condition based trend information by asset class (eg Rail), location (eg Main West) or issue (eg Black Soil, track stability).
Asset Maintenance Services	The activities, services and works to be carried out by the Service Provider in accordance with section 6.
Asset Management	The systematic and coordinated activities and practices through which an organisation optimally manages its assets and their associated performance, risk and expenditures over their lifecycle.
Asset Management Planning Documents	Includes the: • 50 Year Asset Management Plan; • 10 Year Maintenance Services Plan; • 3 Year Maintenance Works Plan; and • other supporting documentation required to undertake the Asset Management Services.
Asset Management Services	All activities, services and works required to undertake Asset Management of the CRN Assets, including as described in section 5.
Asset Management System	Is the combination of the asset management information systems and capability required to deliver the Asset Management Services.
Assumed AWP	The list of work, services and activities set out in the plan in Appendix C19.
Biodiversity Management Plan	A biodiversity management plan required to be prepared by the Service Provider in accordance with

	section 13.7 (as may be updated in accordance with the Deed). This Plan may be included as part of the Environmental Management Plan.
CLM Act	<i>Contaminated Land Management Act 1997</i> (NSW).
Community Third Party Works	Third Party Works that: (a) provide or will provide, or are intended to provide, a community benefit or a benefit to an Authority; (b) are necessitated by, or otherwise required to deal with, an emergency; or (c) are to be carried out by, or on behalf of, an Authority, and are not of a nature described as either “Major”, “Significant” or “Rollingstock on Non-Operational Corridor projects” in the P011 Procedure .
Configuration Management System	The process for establishing and maintaining the CRN Assets performance, function, and physical attributes with requirements, design, and operational information throughout the life cycle.
Contamination and Pollution Register	The register that contains all known Contamination and Pollution sites required by section 14.2 (as may be updated in accordance with the Deed). This register may be included as part of the Environmental Management Plan.
Contamination Management Services	The activities, services and works to be carried out by the Service Provider in accordance with section 14.
Corridor	A discrete corridor section of the railway tracks (including track, rail junctions, level crossings, station buildings, platforms, signal boxes, tunnels, bridges and other associated structures) on the CRN.
CRN Non-Operational Scope of Works	The work, activities and services to be provided by the Service Provider in relation to the CRN Non-Operational Network in accordance with Appendix I.
CRN Property Assets	Those CRN Assets that relate to CRN Land and facilities, and which are not required for rail operations.
CRN Rail Infrastructure Assets	Those CRN Assets that relate to rail operations.

[illegible]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

Level Crossing Closure Services	The activities, services and works to be carried out in accordance with section 16.
Level Crossing Management Plan	A level crossing management plan for the management of new level crossings or a change in the purpose of a level crossing, which as at the date of the Deed is that plan set out in Appendix C12 (as may be updated in accordance with the Deed).
Major Incident	An incident that requires a coordinated approach but would not require the mobilisation of external emergency response agencies in accordance with the NSW State District Disaster Plans.
Major Periodic Maintenance or MPM	The maintenance activities that are cyclical in nature and with a cycle typically longer than 12 months.
Major Periodic Maintenance Change or MPM Change	A modification, amendment, alteration or change of any kind to Major Periodic Maintenance set out in a 3MWP.
Management of Stakeholder Relationships and Management of Communications Services	The activities, services and works to be carried out by the Service Provider in accordance with section 11.
Mobilisation Plan	A mobilisation plan that defines the requirements of the Service Provider during the Mobilisation Stage, which is that plan set out in Appendix C7.1. This may be included as part of the Workforce and Transition Plan.
Monthly Report	Each monthly report required to be prepared by the Service Provider in accordance with this Scope of Works.
NPW Act	<i>National Parks and Wildlife Act 1974 (NSW).</i>
Network Borders	The physical boundaries and limits of the CRN as specified in the document referenced "CRN Maps" referred to in Appendix G.
Network Operations Plan	A rail network operations management plan for carrying out the Network Operations Services, which as at the date of the Deed is that plan set out in Appendix C1 (as may be updated in accordance with the Deed, including in accordance with section 9.2).
Network Operations Services	The activities, services and works to be carried out by the Service Provider in accordance with section 9.

Non-Operational Lines Management Plan	A non-operational lines management plan for carrying out the CRN Non-Operational Scope of Works, which as at the date of the Deed is that plan set out in Appendix C10 (as may be updated in accordance with the Deed, including in accordance with section 9.2).
Operational Readiness Checklist	A checklist that: (a) defines (to the reasonable satisfaction of the Principal's Representative) the items needing to be confirmed or satisfied prior to the transition of all or any part of the Services (or activities and work of a similar nature to all or any part of the Services in respect of all or any part of the CRN Assets) from the Previous Service Provider to the Service Provider at, or around the Services Commencement Date; and (b) is otherwise in a form, and contains such items, as is required by the Principal's Representative (acting reasonably). This may be included as part of the Workforce and Transition Plan.
Organisation Structure	For each phase during the operation of this Deed (including any phase comprising all or part of the Mobilisation Stage, each Contract Year and the period in which Transition Out Activities are carried out), the relevant structure (with the relevant structure for each such phase determined in accordance with the Workforce and Transition Plan) of the Service Provider's workforce (comprising the employees of the Service Provider and any of its Related Bodies Corporate and key personnel of key subcontractors) for that phase included (or to be included) in the Workforce and Transition Plan, which as at the date of the Deed for each such phase is that structure shown in the relevant graphic set out in Appendix C7.2, in each case as may be updated in accordance with the Deed, including in accordance with section 3.2. For the purposes of this definition, a reference to: (a) a "key subcontractor" includes each of the entities listed in the document titled "List of Key Subcontractors" set out in Appendix C7.2, as well as any other entity engaged by the Service Provider to carry out any activities or work which

	are the same as, or substantially similar to, all or any part of the activities or work carried out, or to be carried out, by any of those entities; and (b) “key personnel” includes any person engaged by a key subcontractor to carry out any activities or work in connection with the CRN or the Services, excluding executive level management and staff engaged solely in administrative tasks.
Performance Measurement Services	The activities, services and works to be carried out by the Service Provider in accordance with section 4.
Pollution Incident Response Plan	A pollution incident response plan required to be prepared by the Service Provider in accordance with section 13.5 (as may be updated in accordance with the Deed). This may be included as part of the Environmental Management Plan.
Possessions Plan	A possessions plan that sets out the planned Track Possessions for a minimum rolling 12 month period, which as at the date of the Deed is that plan contained within the 3MWP set out in Appendix C3.3 (as may be updated in accordance with the Deed). This may be included as part of the 3MWP.
Procedure for Incident and Failure Notification	The TfNSW procedure for reporting incidents and failures as referred to in Appendix A.
Project and Business Management Services	The activities, services and works to be carried out by the Service Provider in accordance with section 3.
Property Management Services	The management of all TAHE owned, licenced or leased land and CRN Property Assets on CRN Land in accordance with Appendix J.
Property Management Services Plan	A property management services plan for carrying out the Property Management Services in respect of TAHE owned, licenced or leased land and CRN Property Assets, which as at the date of the Deed is that plan set out in Appendix C9 (as may be updated in accordance with the Deed).
Regional Employment Plan	A regional employment plan in respect of the Services, which as at the date of the Deed is that plan set out in Appendix C15 (as may be updated in accordance with the Deed, including in accordance with section 3.11).
Risk Register	The risk register used by the Service Provider under its Rail Safety Accreditation to manage risks on, or in respect of, the CRN.

Routine Maintenance or RM	The day to day routine activities, services and works required to ensure that the CRN Assets are fit for their Intended Purpose.
Safety Management Plan	A safety management plan which describes how the Service Provider will implement the Safety Management System, which as at the date of the Deed is that plan set out in Appendix C6 (as may be updated in accordance with this Deed).
Safety Management Services	The activities, services and works to be carried out by the Service Provider in accordance with section 12.
Safety Management System	The system to be developed by the Service Provider in accordance with Part 3 of Division 6 of the RSNL.
Scope of Works Deliverables	Each of the deliverables required by this Scope of Works (including the Scope of Works Deliverables Schedule) in a Contract Year (or, in some circumstances, at other times as directed by the Principal's Representative), as such deliverables may be updated in accordance with this Deed. All Scope of Works Deliverables are either Review Documents for the purposes of clause 6.8 of the General Conditions or Excluded Documents for the purposes of clause 6.9 of the General Conditions.
Scope of Works Deliverables Schedule	Appendix H.
Services and Operations Plan	Each plan that may be provided by or on behalf of the Principal to the Service Provider (whether yearly or otherwise) that broadly outlines the operational requirements of the CRN, including any proposed changes in those operational requirements.
Signal Passed at Danger (SPAD)	A safety related incident where a train exceeds its authority to proceed.
Standard Working Timetable (SWTT)	The timetable which documents the Train Paths that have been authorised for the CRN Operational Network.
Stakeholder Management Plan	A stakeholder management plan for carrying out the Management of Stakeholder Relationships and Management of Communications Services, which as at the date of the Deed is that plan set out in Appendix C2 (as may be updated in accordance with the Deed).

Structures Disposal Plan

A plan relating to the disposal of structures, which as at the date of the Deed is that plan set out in Appendix C14 (as may be updated in accordance with the Deed).

[illegible]

Technical Maintenance Plan

The plans required for the maintenance of CRN Assets in accordance with service contracts and legal requirements such as RSNL.

Temporary Speed Restriction

A temporary reduction in the maximum allowable track speed applied to a section of the CRN from that published in the TOC Manual.

Temporary Work	The work required on the CRN on a temporary basis to support the delivery of projects (for example access roads) or the Rail operations over a short period of time following an incident (that is, until permanent rectification work can be undertaken).
TfNSW Asset Handover Plan	The Asset handover plan subordinate to the TfNSW Asset Handover Requirements Policy that is required during the transition between service providers for Transport Cluster Assets.
TfNSW Asset Management Framework	The approach that is required by TfNSW to manage assets that are covered by maintenance contracts, as specified in Appendix B.
TfNSW Asset Management Standard	The Principal's 'Transport Service Provider Asset Management Plan Standard' available at: https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/transport-service-provider-asset-management-0
TfNSW Asset Management Reporting Standard	The TfNSW policy that defines the approach to be taken in preparing asset management documentation as referred to in Appendix A.
TfNSW Procedures	All procedures of TfNSW from time to time that apply to all or any part of the CRN Assets or the Services, including those set out in Appendix A.
TfNSW Reporting Standard	The TfNSW policy that defines the approach to be taken in preparing reporting documentation, available (as at the date of this Deed) at the following website: https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/transport-service-provider-asset-management
Third Party	An external entity that is not a party to the Deed.
Third Party Works	The access, activities, services and works to be carried out by Third Parties on, or in connection with, the CRN Assets, including those in respect of Third Party Constructed Enhancement Assets (whether before or after incorporation of those Third Party Constructed Enhancement Assets as part of the CRN Assets).
Third Party Works Management Plan	A Third Party Works management plan for carrying out the Third Party Works, which as at the date of the Deed is that plan set out in Appendix C8 (as may be updated in accordance with the Deed).

Third Party Works Reset Principles	The categorisations, processes and principles for Third Party Works on and from the Reset Date, set out in Appendix N.
Train Control	The planning, programming and control of train movements, management of the train control centres, train operations, scheduling, monitoring train movements and network performance and daily train plans.
Train Control Systems	The systems and equipment in respect of Train Control (including the control, management, continuity and safe working of train services and all operational matters incidental to that control.
Train Operating Condition Manual or TOC Manual	The manual that provides the reference and technical guidance for train operations and describes the network and operating conditions for trains and rolling stock, and lists all rolling stock authorised to operate on the CRN.
Train Path	Has the meaning given in the KPI Schedule.
Transition In Plan	A plan that: (a) defines (to the reasonable satisfaction of the Principal's Representative) the requirements of the Service Provider in respect of the transition of all or any part of the Services (or activities and work of a similar nature to all or any part of the Services in respect of all or any part of the CRN Assets) from the Previous Service Provider to the Service Provider at, or around the Services Commencement Date; and (b) is otherwise in a form, and contains such information, as is required by the Principal's Representative (acting reasonably). This may be included as part of the Workforce and Transition Plan.
Turnout Rationalisation Plan	A plan relating to the rationalisation of turnouts, which as at the date of the Deed is that plan set out in Appendix C13 (as may be updated in accordance with the Deed).
Welded Track Stability Analysis (WTSA)	The seasonal analysis conducted on continuously welded rail to ensure track stability during warm temperatures.

Whole of Network Divestment Plan	The whole of network divestment plan to be developed by the Service Provider in accordance with Appendix J to manage the divestment of CRN Property Assets (as may be updated in accordance with the Deed, including in accordance with Appendix J).
WHS Management Plan	A WHS management plan for the Services, which as at the date of the Deed is that plan set out in Appendix C17 (as may be updated in accordance with the Deed, including in accordance with section 12.3).
Workforce and Transition Plan	A workforce and transition plan that details workforce and transition issues and activities for the Mobilisation Stage and the Term, which as at the date of the Deed is that plan set out in Appendix C7 (as may be updated in accordance with the Deed).

Glossary

FCR	Fixing Country Rail
GIS	Geographic information system
IMS	Information management systems
MAD	Master Access Deed
LCIP	Level Crossing Improvement Program
ONRSR	Office of the National Rail Safety Regulator
QMS	Quality management system
RIM	Rail Infrastructure Manager
RISSB	Rail Industry Safety and Standards Board
RSO	Rolling Stock Operator
TAO	Technically Assured Organisation

1.2 Interpretation

- 1.2.1 For the avoidance of doubt (except to the extent otherwise expressly stated) and subject to clause 1.2.2):

- (a) the Service Provider must ensure that all provisions of this Scope of Works are satisfied;
- (b) without limiting the above, where this Scope of Works provides that a particular act or thing is to be done or must be done, is not to be done or must not be done, or otherwise specifies particular requirements, those acts or things must be done or must not be done (as applicable), and those requirements must be satisfied, by the Service Provider at the Service Provider's cost and risk (except to the extent otherwise provided in the Deed);
- (c) the words "includes" and "including" (and any variants of those words) shall be read as if followed by the words "without limitation";
- (d) any reference to "Deed" will be read as a reference to that term as set out in clause 1 of the General Conditions and, for the avoidance of doubt, includes this Scope of Work;
- (e) any reference to a "section" will be read as a reference to that section number of this Scope of Works;
- (f) any reference to a "clause" will be read as reference to that clause number in the General Conditions in the Deed;
- (g) any reference to a "Scope of Works Deliverable" is a reference to that document as updated from time to time in accordance with the Deed;
and
- (h) any reference to an "appendix" will be read as a reference to that appendix number of this Scope of Works.

[REDACTED]

[REDACTED]

[REDACTED].

2 General

2.1 Purpose

- 2.1.1 The purpose of this Scope of Works is to set out the Principal's requirements for the Service Provider to perform and carry out the Services under the Deed to manage, operate, maintain, repair and upgrade the CRN, including the CRN Assets and the CRN Property Assets.

2.2 Objectives

- 2.2.1 The Service Provider must perform and carry out all activities in this Scope of Works necessary to achieve the objectives outlined in clause 2.1 of the General Conditions.

2.3 Overview of the Services

- 2.3.1 The Services include:
- (a) the carrying out of any requirements set out or referred to in this section 2;
 - (b) Project and Business Management Services;
 - (c) Performance Measurement Services;
 - (d) Asset Management Services;
 - (e) Asset Maintenance Services;
 - (f) Emergency Works Services;
 - (g) Engineering Services;
 - (h) Network Operations Services;
 - (i) Support Services;
 - (j) Management of Stakeholder Relationships and Management of Communications Services;
 - (k) Safety Management Services;
 - (l) Environmental, heritage and sustainability management;
 - (m) Contamination Management Services;
 - (n) management of new level crossings and change in use of a level crossing, in accordance with section 15;
 - (o) Level Crossing Closure Services;
 - (p) management of Lessor Works, in accordance with section 17;
 - (q) management of Third Party Works, in accordance with section 18;
 - (r) mobilisation and transition management, in accordance with section 19;
 - (s) CRN Non-Operational Network Scope of Works;
 - (t) Property Management Services;
 - (u) property maintenance services;
 - (v) Welded Track Stability Analysis; and
 - (w) any other activities, services and works required by this Scope of Works.
- 2.3.2 The CRN has variable track classes and traffic volumes across the network including high volume heavy freight and passenger Corridors and also low volume seasonal grain lines. A summary of the key CRN Assets is included below:
- (a) passenger lines including passenger services and freight services;

- (b) freight lines;
- (c) grain lines, which carry primarily grain movements;
- (d) disused lines that have had services withdrawn and are not maintained as operational;
- (e) a significant portfolio of CRN Property Assets including associated leases and licenses;
- (f) rail bridges (underbridges);
- (g) road over rail bridges (overbridges) including overbridges subject to the ARTC Lease;
- (h) a significant heritage portfolio of both property and infrastructure assets; and
- (i) other miscellaneous assets.

2.3.3 The parties acknowledge and agree that:

- (a) as at the date of this Deed:
 - (i) the Level Crossing Closure Services;
 - (ii) the Turnout Rationalisation Services; and
 - (iii) the Structures Disposal Services,do not form part of the Services; and
- (b) the Level Crossing Closure Services, the Turnout Rationalisation Services and the Structures Disposal Services may be incorporated as part of the Services in accordance with a Modification (including the exercise of a relevant Option by the Principal's Representative in accordance with clause 14.2(a) of the General Conditions).

2.4 Network Background

2.4.1 As a state-wide network with over 25,000 discrete Assets, there are a range of ongoing issues on the CRN which must be addressed by the Service Provider in carrying out the Services. These include:

- (a) low tonnage/volume track – there is a diverse portfolio of track assets including areas with highly variable dry/wet conditions, reactive clay soils ('black soil'), non-engineered formations and shallow ballast depths. Some of these assets require a fit for purpose approach to maintenance given the low/seasonal traffic volumes experienced and projected into the future;
- (b) high tonnage/volume track – some of the CRN includes high tonnage track with frequent passenger services. These lines require a higher proportion of maintenance activity than low tonnage/volume track to ensure that issues such as rail wear on curves and rail defects such as rolling contact fatigue and dipped welds do not negatively impact on the rolling stock ride quality or life expectancy of the CRN Rail Infrastructure Assets;
- (c) lines with suspended work – several rail Corridors have had scheduled major maintenance work delayed due to low traffic volumes. Work on these lines needs to be managed so that any future requests for Train Paths can be met;
- (d) speed restrictions – a significant number of locations have either permanent or long term speed restrictions in place. Speed restrictions are primarily the result of sighting distances at level crossings which would involve significant

- enhancement funding to resolve. Temporary Speed Restrictions are also used on the CRN to manage risk as a result of works being undertaken and also due to poor track geometry or rail defects. These issues must be carefully managed so as not to unnecessarily impact on CRN operations;
- (e) turnouts – the CRN has a large number of turnouts that require a program designed in accordance with the relative condition and the level of use of each such CRN Asset. Turnout maintenance issues include condition of turnout bearers, limited refurbishments where justified and nominal turnout grinding;
 - (f) rail – rail wear on the Main West and Parkes lines require careful management of defect levels to maximise rail life;
 - (g) drainage – management of drainage associated with the track asset includes removal of vegetation and culvert cleaning. There is also some work required around the management of drainage at yard locations across the CRN;
 - (h) welded track stability analysis – the management of track stability in welded track is a critical task on the CRN. Tasks such as track resurfacing and adjustment is currently undertaken prior to summer to ensure that track stability is not compromised;
 - (i) geotechnical sites – a number of high risk geotechnical sites are present on the CRN and require ongoing monitoring and/or the prioritised programming of projects to either reduce or eliminate the risk;
 - (j) train operating conditions – TOC waivers are issued to temporarily allow a change in operating conditions on the CRN against the TOC Manual. Some of these waivers may be issued to allow an increase in speeds or axle loads to provide a benefit to CRN customers;
 - (k) Overbridges – the CRN Assets (including those Assets subject to the ARTC Lease) include a large number of overbridges (i.e. road surface over the railway) across both the CRN and the ARTC Network. These include steel, timber and jack arch bridges some of which are in excess of 100 years old. A significant program of work is required to replace the large number of timber bridges on the CRN. Many of these Assets have heritage value and do not have a recent load rating. In some cases, load restrictions and temporary supports are used to manage these Assets until necessary work is undertaken;
 - (l) underbridges (including culverts) – the CRN has a large number of rail underbridges (e.g. a waterway under the railway) including ballast top underbridges, timber underbridges, steel pipe and concrete culverts. In addition to an ongoing program of replacement works, common management issues are blocked culverts, corrosion in steel pipe culverts, and culvert headwall damage. There are some timber underbridges on the CRN Non-Operational Network that have heritage value and/or are the subject of community safety concerns;
 - (m) fencing – many CRN Corridors are not fenced and there is no active program to achieve this. Limited fencing works are undertaken on a prioritisation basis on sections of particular Corridors which are gazetted as fenced to manage the risk of pedestrian or animal collisions on running lines as well as vandalism or trespass across the network. The Service Provider must also manage requests by neighbouring properties for fencing works, including repair and installation;

- (n) signalling – the CRN includes both a positive Train Control System and also some Rail Vehicle Detection. Works to maintain and upgrade signalling infrastructure is required;
- (o) facilities – the CRN includes a large number of buildings and ancillary structures that range from out of service to new. A program is required to manage a large property portfolio across the state to manage contamination, structural integrity and heritage issues and over time to effectively reduce the risks presented by these Assets;
- (p) Contaminated land – the CRN includes a large number of legacy (pre-2004) Contaminated sites;
- (q) Property Management Services – Including the management of a number of properties including tenancy management and a large volume of licences (in excess of 2,000);
- (r) level crossings – the CRN includes a large number of level crossings which represent one of the highest risks to public safety. Ongoing assessment is required to manage these sites to ensure that sighting distances are maintained or improved, and also that road/vehicle use changes do not impact the safety of these locations (for example the introduction of oversize vehicles on roads at CRN level crossings with limited queuing distances). Level crossings may be closed to reduce risk wherever there is no operational need;
- (s) train control and support systems – the condition of the current train control and supporting communications system is considered satisfactory however ongoing management and maintenance is required;
- (t) CRN Non-Operational Network – the CRN includes a significant amount of Assets on non-operational Corridors including disused track Corridors, road surfaces at level crossings, heritage listed underbridges, underbridges with a public interface, redundant overbridges or geotechnical sites. Works on these lines are subject to the relevant Laws and Standards and Codes (such as management of noxious weeds or pests and bushfire risk management) or where there is a risk to public safety which can justify modification or removal of the Asset;
- (u) miscellaneous structures – the CRN Operational Network and the CRN Non-Operational Network includes a large number of structures including communications towers, dams and water columns. A program is required to monitor and maintain these structures;
- (v) redundant Assets portfolio – there are a large number of Assets on the CRN that are no longer needed for CRN operations including underbridges, overbridges, culverts, miscellaneous structures and facilities, many have identified heritage value. A program is required to manage these Assets ensuring public safety at all times while balancing cost and utility using approaches such as isolation fencing, maintenance or removal;
- (w) heritage Assets portfolio – the CRN includes a range of different CRN Assets or precincts that have heritage value and are identified on the Heritage and Conservation Register, Local Environmental Plan or the New South Wales State Heritage Register. Some CRN Assets that are on the Heritage and Conservation Register present a risk to the public and require isolation to

- prevent access. A program of works is required to identify which CRN Assets will be maintained as opposed to removal through a specific project;
- (x) vegetation – the CRN includes a large area of CRN Land across the state with requirement to comply with noxious weed and bushfire risk management obligations. This issue is critical to neighbouring properties and can result in significant complaints if not managed properly; and
 - (y) stakeholder management – the CRN as a state wide transport network includes a large and diverse range of customers, stakeholders and interfaces. These customers, stakeholders and interfaces require active and careful management to ensure that both the public and government remain confident that the CRN is being effectively managed.

3 Project and Business Management Services

3.1 General

- 3.1.1 The Project and Business Management Services includes:
- (a) all activities, services and works required by this section 3; and
 - (b) all activities, work and the supply of all materials necessary for the carrying out of the Project and Business Management Services, whether or not they are expressly mentioned in this section 3, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Project and Business Management Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

3.2 Service Provider's Organisation Structure and Workforce and Transition Plan

- 3.2.1 The Service Provider must ensure that it has sufficiently competent and capable resources available to manage the operations, maintenance, repair and upgrade of the CRN Assets in order to achieve the objectives outlined in clause 2.1 of the General Conditions. This includes sourcing all Dedicated Employees, along with developing training programs as is necessary to ensure that Dedicated Employees are capable of performing the work required.
- 3.2.2 The Service Provider:
- (a) must, at all times during the operation of the Deed (including the Mobilisation Stage, each Contract Year and the period in which the Transition Out Activities are carried out), establish and engage a workforce in accordance with the relevant Organisation Structure for the relevant phase of the operation of the Deed, including Key Personnel, to ensure the effective performance of the Services;
 - (b) warrants that the establishment and engagement of a workforce in accordance with the Organisation Structure will enable the Service Provider to carry out the Services in accordance with the Deed; and
 - (c) acknowledges and agrees that, if the Service Provider fails to establish and engage a workforce in accordance with the Organisation Structure, the Principal may (without limiting any other right of the Principal) recover from the Service Provider as a debt due an amount equal to the reduction in the Monthly

Services Fee that would have been determined by the Principal's Representative in accordance with the Variations Schedule if the Principal's Representative had directed a Modification changing the Organisation Structure to match the workforce actually established and engaged by the Service Provider.

- 3.2.3 The workforce must be capable of the transferring of all responsibilities from the Previous Service Provider to the Service Provider during the Mobilisation Stage (and the satisfaction of those responsibilities), consistent with the Workforce and Transition Plan.
- 3.2.4 Without limiting clause 6.2 of the General Conditions regarding the replacement of Key Personnel, any proposed changes to the Organisation Structure by the Service Provider prior to the expiry of the Term (except to the extent such changes are expressly contemplated as at the date of this Deed and set out in Appendix C7.2 or such changes are necessary as a result of any Modification, Adjustment Event or Qualifying Latent CRN Assets Condition) must be submitted to the Principal's Representative for approval as a Modification in accordance with either clause 14.3(a) or 15(c) of the General Conditions and, if approved, the Service Provider must submit an updated Workforce and Transition Plan. The Service Provider must also submit an updated Workforce and Transition Plan (including updated Organisation Structures) to the extent changes are necessary as a result of any Modification, Adjustment Event or Qualifying Latent CRN Assets Condition.
- 3.2.5 Without limiting clause 6.2 of the General Conditions regarding the replacement of Key Personnel, the Service Provider must not amend or change the Organisation Structure other than in accordance with section 3.2.4.
- 3.2.6 The Service Provider must not change Key Personnel, or their respective capacities, except in accordance with clause 6.2 of the General Conditions.

3.3 Service Provider Business Risk and Issues Management Activities

- 3.3.1 The Service Provider must implement a process to manage risks that could adversely affect CRN Assets or jeopardise compliance with the Deed. This includes the development and implementation of a risk management strategy which is to be maintained in the Risk Register.
- 3.3.2 The Risk Register must, identify, assess, control, monitor and review risks in each of the following categories, including:
 - (a) safety;
 - (b) operations;
 - (c) engineering;
 - (d) environmental; and
 - (e) business.
- 3.3.3 The Service Provider's risk management processes and Risk Register must be maintained at a level consistent with Good Industry Practice. Risk tolerability criteria

will be compatible with those described in TfNSW *Transport Enterprise Risk Management (TERM) Framework*.

- 3.3.4 The Service Provider must maintain the Risk Register that details all identified risks, their assessed levels, the progress of control actions, and role responsible for control of each risk.
- 3.3.5 On an annual basis, the Service Provider must conduct risk workshops to identify emerging risks. The Service Provider must, at least 20 Business Days before any such workshop, notify the Principal's Representative that a risk workshop is being conducted. The Service Provider must provide documentation, including a report of any key changes, relevant to this workshop to the Principal's Representative at least 5 Business Days prior to this workshop.
- 3.3.6 Without limiting section 19, the Principal may, at its sole and absolute discretion, and at no additional cost to the Principal, request a risk assessment for an emerging risk or issue.

3.4 Implementation of Business Management Systems

Information Management Systems

- 3.4.1 The Service Provider must establish and maintain all information management systems (**IMS**) to deliver the Services including:
 - (a) licensing and usage of standard software;
 - (b) data center infrastructure, including servers;
 - (c) data lines, internet access, virus protection, and web-blocking software (including any necessary firewalls);
 - (d) backup and disaster recovery equipment;
 - (e) desktops, laptops, tablets, printers, PDAs, plotters, photocopiers and mobile devices;
 - (f) video-conferencing equipment;
 - (g) fixed voice lines and satellite services; and
 - (h) any other project or corporate based IT equipment.
- 3.4.2 The Service Provider must ensure that the systems provided by it in accordance with section 3.4.1 enable it to operate, maintain, upgrade and repair CRN Assets as required under the Deed.
- 3.4.3 Without limiting clause 6.4(c) of the General Conditions, the Service Provider must ensure that the Principal has remote access to the IMS. The IMS developed by the Service Provider must allow for any upgrades in technology platforms for the duration of the Mobilisation Stage and the Term.
- 3.4.4 The IMS must have the capability to interface with and support:
 - (a) the Principal's asset management platform that includes all CRN Assets as it exists from time to time; and
 - (b) the Principal's geographical information system (**GIS**);

- (c) a property management system able to support the requirements specified in Appendix J; and
- (d) a document management system otherwise able to support all aspects of this Scope of Works.

3.4.5 The IMS shall have high availability and reliability, including the capacity to recover from a major fault in less than one hour.

Information Management Systems Security

3.4.6 The Service Provider must implement security measures for its IMS including:

- (a) access control, such that only authorised users have access to “commercial-in-confidence” and other sensitive data;
- (b) antivirus protection that automatically updates and protects systems from viruses, spyware and other malware;
- (c) anti-intrusion and detection systems to prevent access to systems from internal and external unauthorised users and to automatically alert system administrators when unauthorised access attempts are made; and
- (d) servers that provide services to external users, which must be installed in a non-military zone.

3.4.7 The Service Provider must keep its IMS security measures up to date and review them for adequacy on a monthly basis. The Service Provider must advise on its compliance with this requirement through regular status reporting in the Monthly Report and must ensure audits are undertaken of such compliance by an Independent Auditor at least annually. The Service Provider must make available the Independent Auditor’s report to the Principal’s Representative promptly following receipt.

3.4.8 Without limiting clause 6.7 of the General Conditions, the Service Provider must:

- (a) establish back-up arrangements that allow for the recovery of all IMS data;
- (b) ensure that all IMS data is backed up at least once every 24 hours;
- (c) establish uninterruptible power supplies for IMS critical data;
- (d) establish full redundancy for IMS critical data; and
- (e) implement systems that allow for continuous availability for train control in accordance with the Standard Working Timetable (SWTT) and Ad Hoc Train Path requests for the CRN Operational Network.

The Service Provider must also establish and maintain the capability required to interface with the Principal’s systems in order to share documents and data as required without compromising either the Principal’s or the Service Provider’s security.

Information Technology and Software Support

3.4.9 The Service Provider must provide the following IT and software support services:

- (a) maximise the availability of its IMS;
- (b) provide support and advice services to users;

- (c) manage the distribution, modification and repair of all hardware and software systems; and
- (d) manage the configuration of its IMS, including both hardware and software.

Business Continuity Planning

- 3.4.10 The Service Provider must develop, implement and ensure business continuity so as to ensure that all potential contract change events envisaged by the Deed (including any termination of the Deed) can be met without interruption to customers.

3.5 Scope of Works Deliverables

- 3.5.1 The Service Provider must develop, update, maintain and implement all Scope of Works Deliverables in accordance with the Scope of Works Deliverables Schedule.
- 3.5.2 Without limiting the above general requirements or the extent of the Scope of Works Deliverables, the four Scope of Works Deliverables referred to in Table 1 below must be submitted annually by the Service Provider, on the dates nominated in the Scope of Works Deliverables Schedule or on the dates otherwise nominated by the Principal's Representative.
- 3.5.3 These documents must be completed in accordance with the templates set out in Table 1 below.

Table 1: Scope of Works Deliverables

CM Ref	Scope of Works Deliverable title [reporting]	Reference/Template
	50 Year Asset Management Plan (50AMP)	TfNSW Asset Management Standard
	10 Year Maintenance Services Plan (10MSP)	TfNSW Asset Management Standard
	3 Year Maintenance Work Plan (3MWP)	TfNSW Asset Management Standard
	Annual Report	TfNSW Reporting Standard

- 3.5.4 The Service Provider must manage the Services under the Deed in accordance with the Scope of Works Deliverables.

- 3.5.5 The Service Provider warrants that any Scope of Works Deliverables which are as at the date of the Deed attached as an appendix to this Scope of Works complies in all respects with the requirements of this Scope of Works.
- 3.5.6 Clause 6.8 or 6.9 (as applicable) of the General Conditions will apply to the submission and review of any Scope of Works Deliverables.
- 3.5.7 For the avoidance of doubt, the Scope of Works Deliverables are Review Documents unless they constitute Excluded Documents.
- 3.5.8 The Service Provider must prepare, review, update and submit each Scope of Works Deliverable to the Principal's Representative by the timeframe specified in the Scope of Works Deliverables Schedule or an alternative timeframe as agreed between the Service Provider and the Principal's Representative.
- 3.5.9 The Services Provider must comply with each Scope of Works Deliverables in the performance of the Services.
- 3.5.10 The Service Provider must review and update each Scope of Works Deliverable and submit the updated Scope of Works Deliverables to the Principal's Representative:
- (a) where there is a Change in Law that may affect the content of the Scope of Works Deliverables, promptly upon that Change in Law taking effect; or
 - (b) as otherwise requested by the Principal's Representative.
- 3.5.11 Without limiting clauses 6.8, 6.9 or 6.10 of the General Conditions, the Principal's Representative is not required to approve the Scope of Works Deliverables, however the Service Provider must take into account any comments made by the Principal's Representative in respect of the Scope of Works Deliverables. The Service Provider must submit revised Scope of Work Deliverables within the time required by clause 6.8 or 6.9 (as applicable) of the General Conditions or otherwise within a shorter reasonable time where nominated by the Principal's Representative.
- 3.5.12 Without limiting the above general requirements or clauses 6.8, 6.9 and 6.10 of the General Conditions, the Service Provider is solely responsible for the accuracy of all Scope of Work Deliverables.
- 3.5.13 Without limiting the above general requirements or clauses 6.8 and 6.9 of the General Conditions, the Principal's Representative may reject any Scope of Work Deliverables for any omissions, errors or other Non-Compliances giving written reasons. In the event that the Principal rejects any Scope of Work Deliverables, the Service Provider must submit a revised version within the time required by clause 6.8 of 6.9 (as applicable) of the General Conditions or otherwise within a shorter reasonable time where nominated by the Principal's Representative.

3.6 Document Management and Control

- 3.6.1 The Service Provider must establish and maintain a document management system on contemporary information technology platforms.

- 3.6.2 The Service Provider must provide the Principal with online access to the document management system.

3.7 Financial Management

- 3.7.1 Nothing in this section 3.7 limits clause 6 of the General Conditions.
- 3.7.2 The Service Provider must implement a financial management information system necessary to plan, monitor, control and report on the financial status of the delivery of the Services.
- 3.7.3 The financial management information system must meet the open access requirements specified in clause 6.4 of the General Conditions.
- 3.7.4 Without limiting clause 6.4 of the General Conditions, the Principal must be granted access to the Service Provider's financial management information system for the purposes of conducting audits, and validating any audits the Service Provider undertakes or procures, including those done in accordance with clause 6.4 of the General Conditions or the Scope of Works.
- 3.7.5 The Service Provider must arrange for an audit by an Independent Auditor of its Financial Management, Statement and Procedures. Audits must be undertaken at least annually. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.

Regular and ad hoc Financial Reporting

- 3.7.6 The Service Provider must prepare Payment Claims in accordance with clause 17 of the General Conditions each month prior to the Termination Date to allow a single payment each month in accordance with the terms of the Deed.
- 3.7.7 Monthly reports should be prepared in accordance with the TfNSW Reporting Standard. Detailed information on the financial status of the Services are required to be included in this monthly report.
- 3.7.8 The Monthly Report shall include the following financial information for the current financial year (actuals and forecasts):
- (a) all revenue and breakdown;
 - (b) debtor status and aging details of debtors;
 - (c) Monthly Services Fee broken down into capital and recurrent expenditure components including any adjustments. Individual pricing components of the Monthly Services Fee must indicate whether they pertain to capital or recurrent expenditure;
 - (d) total capital works spending with the associated project and asset details;
 - (e) details of completed assets to enable the FAR to be properly maintained including:
 - (i) capitalisation details for any asset additions;
 - (ii) reconciliation of total capital expenditures and total assets completed and work-in-progress;

- (iii) if specific assets need to be replaced or disposed as a result of additions, the Service Provider must provide identification and details of assets that needs to be replaced or disposed of and update the FAR accordingly; and
 - (iv) project completion certificates and supporting evidence of completion such as photos of assets completed;
 - (f) summary of any pricing impacts as a result of Adjustment Events and/or Modifications;
 - (g) reconciliation of costs incurred (both capital works spending and recurrent expenditure spending) versus cash billed as part of the Monthly Services Fee (both capital works component and recurrent expenditure component) to determine any prepaid expenses or accrued expenses;
 - (h) diesel fuel rebate; and
 - (i) other requirements as may be specified by the Principal's Representative, from time to time.
- 3.7.9 The Service Provider must include all information which outlines all revenue-related account transfers that have occurred by the end of that month in the monthly reports submitted to the Principal's Representative.
- 3.7.10 The Service Provider must review and report on the useful life of assets in the FAR and the remaining useful life of assets at least annually on 31 March or as otherwise notified by the Principal's Representative.
- 3.7.11 The Service Provider must also provide *ad hoc* financial reporting as and when required by the Principal or the Principal's Representative. This may include information required for:
- (a) revaluation and impairment assessment of assets;
 - (b) insurance values;
 - (c) stock take;
 - (d) Ministerial requests;
 - (e) audit requests; and
 - (f) client assistance schedule.
- 3.7.12 The Service Provider must assist the Principal's Representative in the interpretation of any detailed financial reports.

Budgeting and Forecasting

- 3.7.13 As part of the Monthly Report, the Service Provider must prepare and maintain forecast estimates (for the current financial year) of the likely values of 'AAI', '3MWPA' and 'VP' (each determined in accordance with the Payment Schedule).
- 3.7.14 The Service Provider must prepare, and submit to the Principal's Representative with the first Payment Claim submitted after the end of each Contract Year, the Budget to Actual 3MWP Financial Report, which must be presented in the format specified in, and otherwise satisfy the requirements of, Appendix H.

- 3.7.15 Without limiting clause 6.4 of the General Conditions, the Service Provider must arrange for the Principal or the Principal's Representative to access the Service Provider's Records, and where required, those of its Parent Company, for audit purposes.

3.8 Manage Revenue Collection and Bank Guarantees

- 3.8.1 As part of the Project and Business Management Services (including in respect of section 18), the Service Provider must:
- (a) collect and receipt fees and all other payments received from Third Parties;
 - (b) prepare and issue invoices for fees, outgoings and other recoverable amounts where applicable;
 - (c) bank all monies received at the end of each week, reconcile receipts with fee allocations, provide a report to the Principal's Representative detailing the breakdown of money received and banked, and transfer these monies by way of EFT to the Principal's nominated bank account;
 - (d) provide aging of debtors and monitor overdue payments and non-payment by Third Parties, follow up and resolve outstanding payment with the Principal's Representative, and manage all other aspects of debt recovery for outstanding amounts due and payable by Third Parties (including payments in arrears, non-compliance and breach notices, and (if appropriate) engage debt recovery services);
 - (e) maintain and administer all bank guarantees, securities and bonds provided under Third Party agreements, and develop a register to track bonds, securities and guarantees should any changes to the Third Party agreement terms trigger a change in the respective amount due to be paid to a Third Party; and
 - (f) arrange for the return of guarantees, bonds and securities once the Third Party has fulfilled all relevant conditions precedent to the release of the relevant bond, guarantee or security in accordance with the terms of the relevant Third Party agreement (with such release subject to the approval by the Principal's Representative).

3.9 Service Provider Contract Management

- 3.9.1 The Service Provider must locate a proportion of Full Time Equivalent employees engaged in respect of the Services in TfNSW Regional and Outer Metropolitan Areas in accordance with the Regional Employment Plan and the KPI Schedule.

Corporate Support

- 3.9.2 The Service Provider's business management must include:
- (a) business development, sales and marketing;
 - (b) financial, legal and human resources;
 - (c) executive management and corporate services, including treasury, taxation and accounting audit services;

- (d) meetings with the Principal and Parent Company;
- (e) legal costs, including regulatory compliance and reporting;
- (f) all management and governance forums;
- (g) specialist advice on strategy and business planning;
- (h) management input into all aspects of this Scope of Work;
- (i) all industrial relations support, including any negotiations with respect to any applicable enterprise agreements; and
- (j) workers' compensation case management.

Contract Management

3.9.3 The Service Provider's management must include:

- (a) planning work;
- (b) procurement services including tender processes, to ensure that its Associates have the required competency, capacity, systems and processes to undertake the Services;
- (c) contracting of its Associates to undertake specified Services over specified time periods;
- (d) effective management and monitoring of its Associates to ensure compliance with quality, safety, environmental and other Laws;
- (e) payment of its Associates for services delivered;
- (f) resolution of any Claims or other disputes;
- (g) safety inductions and other familiarisation training related to work practices or other CRN Asset specific requirements;
- (h) implementation of corrective actions to address any deviations from its Associates specified performance requirements;
- (i) development and/or updating all drawings or other technical data to maintain the integrity of the Service Provider's configuration management system; and
- (j) inspection of the CRN Assets upon vacating to ensure completion of any CRN Asset clean-up or other remediation work.

3.9.4 The Service Provider must arrange for an audit by an Independent Auditor of its level of compliance with the requirements of the Deed and Scope of Works. Audits must be undertaken at least annually. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.

Service Provider Accreditations and Approvals

3.9.5 The Service Provider must achieve and maintain status as a Technically Assured Organisation (TAO) as required by clause 7.14 of the General Conditions and Accreditation under RSNL as required by 7.15 of the General Conditions.

Management of Subcontractors

3.9.6 The Service Provider must ensure that all Subcontractors:

- (a) implement and comply with the requirements of any relevant Accreditation, approval or authorisation applicable to the Services; and
 - (b) provide the Principal with such assistance as may be reasonably required by the Principal to enable the Principal to cooperate fully with a request from any Authority.
- 3.9.7 The Service Provider releases and discharges the Principal from all Claims, costs, expenses and losses which it may have against the Principal or otherwise suffer or incur arising out of, or in connection with, the requirement to obtain any Accreditation, ASA Authorisation or Approval required to undertake the Services.
- 3.9.8 The Service Provider must ensure that all of its Associates hold all necessary Accreditations, Approvals and licenses in order to undertake the Services for which they are contracted.

Incident Reporting

- 3.9.9 The Service Provider must perform all reporting activities so as to meet all the relevant incident reporting requirements of the Office of the National Rail Safety Regulator (**ONRSR**) for Category A notifiable occurrences and Category B notifiable occurrences (as those terms are defined under regulation 57 of the *Rail Safety National Law National Regulations 2012* (NSW)).
- 3.9.10 In addition to the requirement above, the Service Provider must also comply with the Procedure for Incident and Failure Notification referred to in the TfNSW Procedures and summarise any incidents or investigations in the next Monthly Report. This includes requirements to summarise any Incidents or investigations in the next Monthly Report.

Monthly Contract Meetings

- 3.9.11 The Service Provider must attend monthly contract meetings as required by the Principal's Representative.
- 3.9.12 The monthly contract meetings will use the most recent Quarterly Report or Monthly Report (submitted by the Service Provider at a date nominated by the Principal as set out in the Scope of Works Deliverables Schedule) as its agenda.
- 3.9.13 The Service Provider must provide all required reports 10 Business Days prior to the monthly contract meeting.
- 3.9.14 The Principal's Representative will notify the Service Provider (in its absolute discretion) of the location, timing, and required attendees at the monthly contract meetings.
- 3.9.15 The monthly contract meeting will (in the absolute discretion of the Principal's Representative) typically be held around the third week of each month to align with the delivery timeframe of the Monthly Report.

Quarterly Contract Review Meetings

- 3.9.16 The Service Provider must attend quarterly contract review meetings as required by the Principal's Representative.
- 3.9.17 The quarterly contract review meetings will use the most recent Quarterly Report or Monthly Report (submitted by the Service Provider at the date nominated by the Principal as set out in the Scope of Works Deliverables Schedule) as its agenda.
- 3.9.18 The Service Provider shall provide all required reports 10 Business Days prior to the quarterly contract review meeting.
- 3.9.19 The Principal's Representative will notify the Service Provider (in its absolute discretion) of the location, timing, and required attendees of the quarterly contract review meetings.

Annual Contract Meetings

- 3.9.20 The Service Provider must attend annual contract meetings as required by the Principal's Representative.
- 3.9.21 The annual contract meeting will use an agenda agreed by the Principal and the Service Provider, based on issues raised in the Monthly Reports, Quarterly and Annual Reports for that Contract Year, submitted at a date nominated by the Principal as set out in the Scope of Works Deliverables Schedule.
- 3.9.22 The Service Provider shall provide all required reports, including the agenda, 10 Business Days prior to the annual contract meeting.
- 3.9.23 The Principal's Representative will notify the Service Provider (in its absolute discretion) of the location, timing, and required attendees at the annual contract meetings.

Alignment with TfNSW Policies

- 3.9.24 The Service Provider must act in accordance with the relevant TfNSW Ethics and Procurement policies as they exist from time to time.
- 3.9.25 Without limiting section 3.9.24 above, the Service Provider must conduct its business management to include in particular merit based recruitment and procurement practices, for example, where sub-contractors or a related company to the Service Provider are engaged to provide part of the Services.
- 3.9.26 The Service Provider must advise the Principal of any potential situations where the Service Provider or the Principal may not comply with section 3.9.24 or 3.9.25.

3.10 Provision of Reciprocal Support to Enable Effective Deed Management by the Principal

- 3.10.1 The Service Provider must assist the Principal with management of the Deed through the establishment of a contract management framework and the implementation of contract management policies and procedures. This process shall include:
- (a) proactively engaging with the Principal to identify potential issues, including disputes, as early as possible;
 - (b) resolving any issues expeditiously and in a cooperative manner;
 - (c) responding positively and proactively to requests by the Principal for information and assistance;
 - (d) providing reports and additional information when requested; and
 - (e) managing Scope of Works Deliverables in a professional manner that allows the Principal to meet any of its obligations (whether under this Deed, at Law or otherwise).

3.11 Regional Employment Plan

- 3.11.1 The Service Provider must develop, update, and maintain a Regional Employment Plan.
- 3.11.2 The Service Provider must implement the agreed Regional Employment Plan to promote regional employment, and prepare and submit local industry participation progress advice as part of the Annual Report.
- 3.11.3 The Service Provider must not decrease the level of employment in TfNSW Regional and Outer Metropolitan Areas below that required in accordance with the KPI Schedule (KPI 14 – Regional Employment) without prior written approval from the Principal.
- 3.11.4 The Service Provider must arrange for an independent audit by an Independent Auditor of its regional employment outcomes. Audits must be undertaken at least annually. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.

3.12 Aboriginal Participation Plan

- 3.12.1 The Service Provider must develop, update, and maintain an Aboriginal Participation Plan.
- 3.12.1A The Service Provider must provide the Principal with an updated Aboriginal Participation Plan prior to the date that is 90 Business Days after the Reset Date.
- 3.12.2 The Aboriginal Participation Plan must comply with NSW policies on the employment of Aboriginal people including the NSW Aboriginal Participation in Construction (APIC) Policy 2018 and the NSW Aboriginal Procurement Policy (APP) 2018 to promote Aboriginal employment, and the Service Provider must prepare and submit Aboriginal participation progress advice as part of the Annual Report.
- 3.12.3 In respect of any Enhancement Activities, the Service Provider must:

- (a) comply with the Aboriginal Participation in Construction (APIC) policy, as amended and updated from time to time;
 - (b) enter the relevant requirements of the Aboriginal Participation Plan (and any amendments) in the APIC policy reporting portal available at <https://app.onegov.nsw.gov.au> (Aboriginal Participation Portal), or via such other website or method as may be notified by the Principal from time to time;
 - (c) report against those requirements in accordance with the APIC policy reporting requirements on a monthly basis:
 - (i) to the Principal; and
 - (ii) through the Aboriginal Participation Portal or via such other website or method as may be notified by the Principal from time to time;
 - (d) promptly after the Date of Completion:
 - (i) prepare a final Aboriginal Participation Report in accordance with the APIC policy reporting requirements and identifying if Aboriginal participation requirements were met in respect of the Enhancement Activities; and
 - (ii) provide the final Aboriginal Participation Report in respect of the Enhancement Activities to the Principal's Representative; and
 - (e) following approval by the Principal's Representative, submit the details of the final Aboriginal Participation Report through the Aboriginal Participation Portal or via such other website or method as may be notified by the Principal from time to time.
- 3.12.4 In respect of all components of the Services (other than any Enhancement Activities), the Service Provider must comply with the Aboriginal Procurement Policy.
- 3.12.5 The Service Provider must include advice on the status of employment of Aboriginal participation in the delivery of the Services in its Annual Report and otherwise provide this to the Principal's Representative upon request.
- 3.12.6 The Service Provider must not decrease the level of Aboriginal and Torres Strait Islander employment below that specified in the KPI Schedule without prior written approval from the Principal.
- 3.12.7 The Service Provider must engage an Independent Auditor to undertake an audit of compliance by the Service Provider with the Aboriginal Participation Plan at least yearly. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.

3.13 Quality Management

Quality Management System

- 3.13.1 The Service Provider must implement and maintain a quality management system (QMS) suitable to the requirements for maintaining Rail Safety Accreditation as a Rail Infrastructure Manager (RIM) and, to the extent required to carry out the Services in accordance with the Deed, as a Rolling Stock Operator (RSO) and also status as a TAO.

- 3.13.2 The Service Provider shall make accessible all QMS records and any other records relating to the quality of the work to the Principal's Representative when requested.

Quality Non-Conformances

- 3.13.3 The Principal's Representative may advise the Service Provider of apparent quality non-conformances.
- 3.13.4 Except in respect of quality non-conformances which constitute a Non-Compliance and are the subject of a Rectification Plan prepared in accordance with the KPI Schedule, the Service Provider must identify, review and analyse the cause of all quality non-conformances, and develop and implement a plan of corrective action to minimise the likelihood of recurrence. Details of such corrective action must be recorded in a quality non-conformance report or corrective action request, as appropriate. These reports must be summarized as part of the Monthly Report and made available in full to the Principal's Representative on request.
- 3.13.5 Without limiting clause 6.4 of the General Conditions, the Principal shall have the absolute right to audit reports or other documentation associated with quality non-conformances.

Assurance

- 3.13.6 The Service Provider must carry out audits on an annual basis, or as required by the Principal's Representative from time to time, as per the Scope of Works Deliverables Schedule.
- 3.13.7 The Service Provider shall engage a suitably qualified Independent Auditor to conduct all audits. The Independent Auditor shall not be an employee of the Service Provider or any related companies or the Parent Company.
- 3.13.8 The Service Provider must include advice in the Monthly Report on the progress of audits required by this section.
- 3.13.9 The audit advice should include the following information:
- (a) activity audited;
 - (b) auditor details;
 - (c) period audited;
 - (d) summary scope of audit;
 - (e) summary report including outcome and non-conformances;
 - (f) recommendations;
 - (g) audit disclosures and qualifications;
 - (h) deadlines and priorities to rectify non-conformances; and
 - (i) any audits that have been delayed, regardless of the reason.
- 3.13.10 The Service Provider shall manage all non-conformances as per the requirements defined in the QMS.
- 3.13.11 The minimum audit requirements are included in the Scope of Work Deliverables Schedule.

3.14 Industrial Relations

- 3.14.1 The Service Provider must manage the work, activities and services under the Deed in accordance with all Laws (including the NSW IR Guidelines).
- 3.14.2 The Service Provider must notify the Principal's Representative of any potential industrial relations issues as soon as possible.
- 3.14.3 The Service Provider must keep the Principal's Representative informed on the status of industrial relations within its own workforce as well as those of its Associates.

3.15 Workforce Development

- 3.15.1 Until the expiry of the Term, the Service Provider must ensure that a competent and capable workforce is available to carry out the Services.
- 3.15.2 The Service Provider must ensure, on an ongoing basis, that all employees, Dedicated Employees and its Associates have the competency, capability and capacity required to operate and maintain the CRN until the expiry of the Term.
- 3.15.3 The Service Provider must assess the competency and capacity of all employees, Dedicated Employees and its Associates at the Services Commencement Date, and continue to conduct review on a periodic basis.
- 3.15.4 Where gaps in competency, capacity and capability are identified, the Service Provider must provide training to employees, Dedicated Employees and its Associates to address these gaps.

3.16 Intellectual Property

- 3.16.1 The Service Provider must develop and maintain a database of all intellectual property (IP) used in performing the Services. The list shall identify the owner of the IP and separately identify IP which is:
 - (a) Service Provider's Background Intellectual Property;
 - (b) Principal's background Intellectual Property; and
 - (c) Principal's Intellectual Property (as a result of clause 21.3 of the General Conditions).
- 3.16.2 The Service Provider must maintain up-to-date IP information including details on how the IP material is used by the Service Provider, criticality, the expiry or review date (as applicable), the relevant business unit responsible for the management of the IP, and a dedicated contact point within the Service Provider.
- 3.16.3 The Service Provider must prepare and submit to the Principal's Representative an IP summary on an annual basis which is to be included in the Annual Report.

4 Performance Measurement Services

4.1 General

- 4.1.1 The Performance Measurement Services includes:
- (a) all activities, services and works required by this section 4; and
 - (b) all activities, work and the supply of all materials necessary for the carrying out of the Performance Measurement Services, whether or not they are expressly mentioned in this section 4, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Performance Measurement Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.
- 4.1.2 The Service Provider must report any occurrences of:
- (a) non-delivery of any component of the Performance Measurement Services; or
 - (b) Non-Compliances in respect of Performance Measurement Services, to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.

4.2 Establishment of Performance Measurement Systems

- 4.2.1 The Service Provider must establish and implement systems and procedures to measure performance (including KPI's) as required by the Deed.
- 4.2.2 The Service Provider must establish any other performance measurement systems that are necessary to ensure the effective delivery of the Services, including any employee and subcontractor performance management systems.

4.3 Performance Measurement and Analysis

- 4.3.1 The Service Provider must continuously measure its performance in the delivery of the Services, and must provide the performance measurement information required by the Deed and the Scope of Works Deliverables Schedule to the Principal when requested.
- 4.3.2 The Service Provider must analyse its performance outcomes so as to:
- (a) identify positive and negative performance, and the causes for each; and
 - (b) identify trends in such positive or negative performances.

- 4.3.3 Where negative performance or trend is identified, the Service Provider must develop and implement corrective actions, which should be included in the next-available Monthly Report, Quarterly Report or Annual Report.

4.4 Any positive or negative trend information should be identified in reporting provided to the Principal

- 4.4.1 Any performance trend information (including reporting the Service Provider's performance against KPIs) must be provided to the Principal's Representative in the Monthly Reports.
- 4.4.2 Informal and *ad hoc* reports must be made available to the Principal's Representative as necessary to provide visibility into emerging issues and the effectiveness of corrective actions, including where these may not be captured by existing KPIs.
- 4.4.3 The Service Provider must monitor and report any performance trend information in the following areas, including:
- (a) **rail track:** any broken or cracked rail, large rail flaw defect, more than 3 sleepers in a row (consecutive) not clipped, more than 3 in 4 sleepers not holding gauge, any misalignment (i.e. >0mm), any geometry or other type of defect that requires a speed restriction or track to be closed (this could be either from a train driver, recording car or through normal inspections);
 - (b) **structures** (bridges/earthworks): any potential or actual slips, rock falls, blocked or collapsed culverts, structural failures, or components falling off CRN Assets (such as bridges);
 - (c) **signalling and control systems:** any wrong side failures, Signal Passed at Danger (**SPAD**) occurrences due to faulty signalling infrastructure, any other failure that has caused (or has a potential to cause) a rolling stock collision or derailment, and level crossing failures or collisions;
 - (d) **electrical system:** any actual or potential electrocution to any worker engaged by the Service Provider or any Subcontractor carrying out any part of the Services on the rail track;
 - (e) **public safety:** any trespasses by members of the public to any part of the rail track where the Services are being carried out by the Service Provider, and uneven surfaces reported with the potential to cause slips, trips and falls; and
 - (f) **working on CRN Assets:** any actual or potential breaches of the WHS Law or any other Law relating to working on or near the rail Corridors.

5 Asset Management Services

5.1 General

5.1.1 The Asset Management Services includes:

- (a) all activities, services and works required by this section 5; and
- (b) all activities, work and the supply of all materials necessary for the carrying out of the Asset Management Services, whether or not they are expressly mentioned in this section 5, including those which arise out of, or in any way in connection with, any change in the CRN Assets and CRN Property Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Asset Management Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

5.1.2 The Service Provider must report any occurrences of:

- (a) non-delivery of any component of the Asset Management Services; or
- (b) Non-Compliances in respect of Asset Management Services, to the Principal's Representative and implement corrective actions, including in accordance with the other requirements of the Deed.

5.2 Asset Management Obligations

5.2.1 Subject to clause 5.1A of the General Conditions, the Service Provider must carry out the Services in accordance with:

- (a) the TfNSW Asset Management Framework;
 - (b) the 50AMP;
 - (c) the 10MSP;
 - (d) the 3MWP;
 - (e) the Scope of Works Deliverables; and
 - (f) all other requirements of the Deed.
- so that:
- (g) provided each CRN Operational Asset is operated and maintained after the end of the Term in accordance with the asset information system, each CRN Operational Asset is capable of remaining fit for its Intended Purpose throughout the design life of that CRN Operational Asset.

- 5.2.2 The Service Provider:
- (a) is only permitted to use; and
 - (b) must implement and comply with, each Asset Management Planning Document that constitutes:
 - (c) a Review Document and that has been submitted to the Principal's Representative for review in accordance with clause 6.8 of the General Conditions and in respect of which:
 - (i) the Principal's Representative has given the Service Provider the notice referred to in clause 6.8(b)(iii) or 6.8(d)(i) of the General Conditions; or
 - (ii) the relevant period of time in clause 6.8(b) of the General Conditions has expired and the Principal's Representative has not rejected it, made any comments on it or made a request referred to in clause 6.8(b)(ii) of the General Conditions in respect of it and the Review Document is not otherwise deemed to be rejected in accordance with clause 6.8 of the General Conditions; or
 - (d) that constitutes an Excluded Document and that has been submitted to the Principal's Representative in accordance with clause 6.9 of the General Conditions and in respect of which the Principal's Representative has given its approval.
- 5.2.3 The Service Provider must arrange for an audit by an Independent Auditor of its Asset Management Systems, capability and outcomes. Audits must be undertaken at least annually. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.
- 5.2.4 The Service Provider must prepare an Asset Condition Report, providing condition based trend information by asset class (eg Rail), location (eg Main West) or issue (eg Black Soil, track stability). The report must include information on Track Quality Index, time lost from speed restrictions and train operating conditions for the different rail lines. The report must be provided in the first Contract Year and then updated at least annually and submitted for review in accordance with clause 6.8 or 6.9 (as applicable) of the General Conditions. This report is used to inform the development of the Asset Management Planning Documents.
- 5.2.5 The Service Provider must prepare a summary of the Welded Track Stability Analysis that summarises the preparation and practices for management of track lateral stability prior to each annual hot weather period including the results of measurements taken across the CRN and any changes in the expected risk profile.

5.3 Asset Management System

- 5.3.1 The Service Provider must establish, develop and maintain an Asset Management System to operate, maintain, upgrade and repair the CRN Assets (including all CRN Property Assets) in a safe, reliable and sustainable manner in accordance with the Deed (including in accordance with any obligations it has under its Rail Safety Accreditation).

- 5.3.2 Without limiting the above general requirements, the Asset Management System sets out detailed processes and procedures relating to or in respect of:
- (a) implementing an integrated approach to the management of the CRN Assets including CRN Property Assets and infrastructure;
 - (b) forecasting expected future demands on CRN Assets and CRN Property Assets;
 - (c) the collection and management of data related to train operations, maintenance operations, inventory levels and Asset condition to enable effective, ongoing operation of the CRN Assets and CRN Property Assets;
 - (d) defects and condition information;
 - (e) the collection and management of all maintenance records;
 - (f) configuration management;
 - (g) data and trend analysis in relation to usage levels of the CRN Assets and CRN Property Assets, expected wear rates and future maintenance requirements;
 - (h) risk identification, treatment selection and monitoring;
 - (i) maintenance treatment selection and design;
 - (j) works as executed drawings; and
 - (k) the management of additional CRN Asset disposals and CRN Property Asset disposals.
- 5.3.3 The Service Provider:
- (a) must develop an asset management capability that aligns to, and is consistent with, ISO 55000:2014 series of asset management standards;
 - (b) must participate in asset management maturity assessments; and
 - (c) must, as part of the asset management capability, develop and maintain an asset information system that can be accessed remotely by the Principal in accordance with the requirements of section 3.4 and clause 6.4(c) of the General Conditions.
- 5.3.4 The Service Provider must create and maintain a capability (including within the asset information system) to interface with and support the Principal's Asset Management interface system as it exists from time to time.
- 5.3.5 The Service Provider must ensure its Asset Management System aligns with the TfNSW Asset Management Standard, particularly the codification requirements for assets as they exist from time to time.

5.4 Asset Management Planning Documents

- 5.4.1 The Service Provider must develop, update and maintain a set of Asset Management Planning Documents in connection with the provision of the Asset Management Services for the CRN.
- 5.4.2 The Asset Management Planning Documents must comply with the requirements set out or referred to in the TfNSW Asset Management Standard.
- 5.4.3 The Asset Management Planning Documents must describe the plan for Asset Management Services to be undertaken by the Service Provider in relation to the Asset Management of all CRN Assets and CRN Property Assets.

- 5.4.3A The Service Provider must provide the Principal with an updated 50AMP and 10MSP prior to the date that is 90 Business Days after the Reset Date.
- 5.4.4 To remove any doubt:
- (a) the content of the Asset Management Planning Documents do not in any way limit the Asset Maintenance Services or any other requirement of this Scope of Works or otherwise affect the Service Provider's obligations under this Scope of Works or the Deed; and
 - (b) the implementation of, or compliance with, the Asset Management Planning Documents form only part of the Asset Management Services.
- 5.4.5 The Service Provider must review, revise, update and maintain all Asset Management Planning Documents, including the:
- (a) 50AMP;
 - (b) 10MSP; and
 - (c) 3MWP,
- in accordance with any requirements of:
- (d) the TfNSW Asset Management Standard;
 - (e) the Services and Operations Plan provided by the Principal applicable to that Contract Year;
 - (f) the ISO 55000:2014 series of asset management standards;
 - (g) the Scope of Works Deliverables Schedule;
 - (h) clause 6.8 or 6.9 (as applicable) of the General Conditions; and
 - (i) any other comments made by the Principal's Representative during monthly, quarterly or annual meetings.
- 5.4.6 The Service Provider must:
- (a) update the Asset Management Planning Documents in accordance with:
 - (i) the TfNSW Asset Management Standard;
 - (ii) the Scope of Works Deliverables Schedule; and
 - (iii) clause 6.8 or 6.9 (as applicable) of the General Conditions;
 - (b) not alter or update any of the Asset Management Planning Documents in a manner which makes the Principal's role under the Deed more onerous or increases any liability or potential liability of the Principal in connection with the operation and maintenance of the CRN Assets and CRN Property Assets; and
 - (c) ensure that any updated Asset Management Planning Documents:
 - (i) impose standards, levels of service, scope and requirements that are equal to or better than those required by or imposed by this Scope of Works or the Deed; and
 - (ii) provide an equal or greater level of detail than the most recent applicable equivalent Asset Management Planning Documents.
- 5.4.7 Appendix E sets out a list of typical CRN maintenance activities codes that must be used within, where relevant, the Asset Management Planning Documents.
- 5.4.8 The Service Provider must carry out all Asset Management Services (including in connection with that work, services and activities set out or referred to in the Asset Management Planning Documents) in a way:

- (a) that complies with all Standards and Codes;
- (b) that complies with all TfNSW Procedures;
- (c) that complies with the requirements of the Deed; and
- (d) otherwise in accordance with Good Industry Practice.

5.5 Review of Asset Management Planning Documents

- 5.5.1 To remove any doubt, the Asset Management Planning Documents are considered to be Review Documents under the Deed, unless they constitute Excluded Documents.
- 5.5.2 Clause 6.8 or 6.9 (as applicable) of the General Conditions will apply to the Asset Management Planning Documents.

5.6 50 Year Asset Management Plan

- 5.6.1 Without limiting section 5.3.5, the Service Provider must develop, update and maintain a rolling 50 Year Asset Management Plan (50AMP) in accordance with the TfNSW Asset Management Standard, which will support the whole of life cycle maintenance programs for all CRN Assets and CRN Property Assets.
- 5.6.2 The 50AMP must allow the Principal to understand the long term cost of ownership of the CRN Assets and CRN Property Assets and enable robust, long-term strategic decision making to occur based on sound evidence based information.
- 5.6.3 The Service Provider must submit an updated 50AMP to the Principal's Representative:
 - (a) annually by the date specified for that relevant Contract Year in the Scope of Works Deliverables Schedule;
 - (b) to reflect any changes to the CRN Assets and CRN Property Assets; and
 - (c) at any other time requested by the Principal's Representative.

5.7 10 Year Maintenance Services Plan

- 5.7.1 Without limiting section 5.3.5, the Service Provider must develop, update and maintain a 10 Year Maintenance Services Plan (10MSP) that:
 - (a) aligns to, and is consistent with, the 50AMP;
 - (b) reflects the current condition of the CRN Assets and the CRN Property Assets (as at the date of preparation of the 10MSP); and
 - (c) aligns to, and is consistent with, the 3MWP, in accordance with the TfNSW Asset Management Standard.
- 5.7.2 The period of the 10MSP must be extended for the period of any extension of the Term notified by the Principal under clause 3.5(a) or 3.6(a) of the General Conditions.
- 5.7.3 The Service Provider must conduct a rigorous inspection and assurance regime to guarantee the condition, availability and performance of all CRN Assets and CRN Property Assets in a safety critical environment.

- 5.7.4 The Service Provider must submit an updated 10MSP to the Principal's Representative:
- (a) annually by the date specified for that relevant Contract Year in the Scope of Works Deliverables Schedule;
 - (b) when otherwise expressly required by this Deed, including under section 5.8.6; and
 - (c) at any other time requested by the Principal's Representative, provided that, despite any other provision of the Deed, the Service Provider may not remove any work, service or activity from a 10MSP except in accordance with a Modification approved by the Principal's Representative in accordance with clause 14.3(b) of the General Conditions or otherwise in accordance with the General Conditions.
- 5.7.5 The Service Provider must carry out all work, services and activities identified in the 10MSP in a way that:
- (a) also delivers the 50AMP;
 - (b) complies with all Standards and Codes;
 - (c) complies with all TfNSW Procedures;
 - (d) complies with the requirements of the Deed; and
 - (e) otherwise is in accordance with Good Industry Practice.
- 5.7.6 If any part of the Services is delayed, the Service Provider must update the 10MSP to reflect how the Service Provider will carry out additional work, services and activities in later years to ensure that all work, services and activities included in the 10MSP are delivered before the expiry of the Term.
- 5.7.7 The Service Provider must update the 10MSP to include any work, services or activities the subject of a Modification or as otherwise required having regard to any Adjustment Event or Qualifying Latent CRN Assets Condition and resubmit to the Principal's Representative in accordance with clause 6.9 of the General Conditions within 20 Business Days of the Modification or Adjustment Event arising or, in respect of a Qualifying Latent CRN Assets Condition, either the Renewal Requirement Auditor issuing the relevant notice under clause 2(e) of Schedule 13 or the decision being rendered in respect of the relevant final and binding dispute resolution process referred to in the definition of 'Qualifying Latent CRN Assets Condition' in Schedule 13 (as applicable).
- 5.7.8 Despite any update to the 10MSP, the Service Provider must ensure that each discrete item of work, services and activities nominated in the 10MSP current as at the date of this Deed and included in Appendix C3.2 is completed prior to the expiry of the Term, except to the extent:
- (a) any such item of work, services and activities is no longer required as a result of any Modification directed or approved by the Principal's Representative under clause 14.1(a) or clause 14.3(b) of the General Conditions; or
 - (b) otherwise agreed by the Principal's Representative (acting reasonably).

5.8 3 Year Maintenance Works Plan

5.8.1 Without limiting section 5.3.5, the Service Provider must develop, update and maintain a 3 Year Maintenance Works Plan (3MWP). The 3MWP must include the following information for each maintenance work project (including Routine Maintenance but excluding Emergency Works Services and emergency response activities referred to in section 6.2.2(d)), being each discrete item of work, services and activities nominated in the 3MWP:

- (a) scope of the maintenance works for each project (including details regarding each Planned Activity Unit or, from the Reset Date, Planned Activity), in accordance with the activities and units of measure defined in the Maintenance Activities List at Appendix E (as applicable);
- (b) the cost (including profit margin) to the Service Provider of carrying out that each project, determined as follows:

[REDACTED]

- (c) activity type, in accordance with the Maintenance Activities List at Appendix E (as applicable);
- (d) locations of each project, including the sector type (in accordance with the **CRN-S-P003 Procedure for Management of Track Codes**, as referred to in TfNSW Procedures), Corridor name, locations of track start and finish points (including track distance, kilometres (if relevant) and property street address (if relevant);
- (e) identifiers for each project (in accordance with the **PMBOK Guide – Sixth Edition’ (2017)**), CRN Asset and CRN Property Asset (from the Asset Management System) and the Contract Year;
- (f) any other reasonable details, information or categories required, or nominated, by the Principal’s Representative;
- (g) any projects required as a result of the conduct of Support Services (for example, work required in support of enhancement works undertaken by a party other than the Service Provider);
- (i) such projects as described in 5.8.1(g) should be shown with a scope of 1 and a cost of zero;

- (h) each Planned Activity which was contained in the previous Contract Year's 3MWP, not completed during that previous Contract Year and not deferred to a later Contract Year's 3MWP in accordance with clause 14.5 of the Deed;
- (ha) each Planned Activity which was contained in a previous Contract Year's 3MWP and deferred to the current 3MWP in accordance with clause 14.5 of the Deed;
- (i) any rectification, maintenance or remediation works notified by the Transition Out Auditor to the Principal and the Service Provider in accordance with clause 26.1(d) of the General Conditions; and
- (j) any projects or programs of work identified by the Principal (such as the list of property disposal projects).

Except for where otherwise expressly provided for in this Scope of Works or the Deed, the costs for each project included in any 3MWP are included only for the purposes of:

- (k) determining the 3 Year Maintenance Works Plan Adjustment (3MWPA) in accordance with the Payment Schedule; and
- (l) in respect of the unit costs included in the 3MWP current as at the date of this Deed only, determining Variation Impacts in accordance with the Variations Schedule,

and are not to be used for any other purpose.

5.8.1A In addition to the requirements of section 5.8.1, the 3MWP must:

- (a) include a full outline of the activities for the Contract Year that are "Low Priority Scheduled Maintenance"; and
- (b) specify the "Low Priority Deferral Cap"; and
- (c) expressly identify any costs for any Planned Activities, other projects or other costs that are "provisional" and to which sections [5.8.1B](#)~~5.8.1B~~ and 5.8.1C will apply,

and must provide with that 3MWP all evidence reasonably required by the Principal's Representative to assess whether the rates, prices and costs used to the Planned Activities, other projects and other costs included in the 3MWP are reasonable market rates, prices and costs.

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cost will be undertaken or incurred will be increased to cover the difference

[REDACTED]

[REDACTED]

5.8.2 The Service Provider:

- (a) must submit an updated 3MWP to the Principal's Representative:
 - (i) annually by the date specified for that relevant Contract Year in the Scope of Works Deliverables Schedule;
 - (ii) when otherwise expressly required by this Deed, including under section 5.8.8; and
 - (iii) at any other time requested by the Principal's Representative, including under section 5.8.10,and must include with that 3MWP all evidence reasonably required for the Principal's Representative to assess whether the rates, prices and costs used to the Planned Activities, other projects and other costs included in the 3MWP are reasonable market rates, prices and costs;
- (aa) subject to clause 6.9(j) of the General Conditions, warrants that all updated 3MWPs that it provides to the Principal's Representative comply with all requirements of the Deed and has been prepared to a level of detail, quality, assurance and robustness required in accordance with Good Industry Practice, the TfNSW Asset Management Framework (as applicable) and any other requirements of the Deed;
- (b) may otherwise submit proposed amendments to a 3MWP (including to provide for a substitution or delay of activities or a change in activities by sector and as contemplated by section 5.8.10) to the Principal's Representative for acceptance in accordance with clause 6.9 of the General Conditions; and
- (c) acknowledges and agrees that the Principal's Representative may only reject a 3MWP, updated 3MWP or any proposed change to a 3MWP where any one or more of the following applies:
 - (i) not used
 - (ii) not used;
 - (iii) not used;

- (iv) not used;
- (v) not used;
- (vi) not used;
- (vii) the Principal is not reasonably satisfied with the rates, prices and value included in the 3MWP, including where the rates, prices and costs used to calculate the cost of a Planned Activity, other project or other cost included in the 3MWP has not been calculated in accordance with section 5.8.1(b);
- (viii) the 3MWP has not been prepared to a level of detail, quality, assurance and robustness required in accordance with Good Industry Practice, the TfNSW Asset Management Framework and any other requirements of the Deed;
- (ix) the 3MWP includes a provisional cost for any Planned Activity, other project or other cost that the Principal elects not to accept, in its discretion,
- (x) without limiting, or being limited by, any other provision of this section 5.8.2(c), the Principal's Representative otherwise has reasonable grounds for rejecting the proposed 3MWP, updated 3MWP or change to the 3MWP,

in which case the Principal must provide written reasons to the Service Provider for the rejection.

5.8.3 Clause 6.9 of the General Conditions and sections 5.8.3A and 5.8.3B of this Scope of Works will apply to the submission and review of any 3MWP, updated 3MWP, MPM Change or any proposed change to a 3MWP.

5.8.3A For any 3MWP, updated 3MWP or proposed change to a 3MWP that is not an MPM Change:

- (a) the Principal will accept or reject any 3MWP, updated 3MWP or proposed change to a 3MWP within two calendar months of it receiving the 3MWP, updated 3MWP or proposed change to a 3MWP from the Service Provider; and
- (b) if the Principal does not accept or reject the relevant document within the required time period, or rejects the relevant document, the Service Provider may refer the matter to senior representatives of the Parties who will discuss the 3MWP, updated 3MWP or proposed change to a 3MWP in good faith.

5.8.3B For MPM Changes:

- (a) the Service Provider must provide with its MPM Change an explanation and justification of the MPM Change in a level of detail that is sufficient for the Principal's Representative to properly consider the MPM Change;
- (b) the Principal's Representative may, acting reasonably, request any clarifications of additional information that it reasonably requires in order to consider the MPM Change;
- (c) the Principal will accept or reject the MPM Change within 20 Business Days of the later of the date that it received the MPM Change from the Service Provider and the date that it receives any additional information that is required under section 5.8.3B(a) or that it requests from the Service Provider under section 5.8.3B(b);
- (d) the Principal's Representative may only reject an MPM Change where it has reasonable grounds to do so and provides the Service Provider with written reasons for the rejection; and
- (e) if the Principal does not accept or reject the MPM Change within the time period required under section 5.8.3B(c) or rejects the MPM Change, the Service Provider may refer the MPM Change to senior representatives of the Parties who will discuss the MPM Change in good faith.

5.8.3C The Service Provider warrants that the MPM Change and, if the MPM Change is accepted, the 3MWP will comply with all requirements of the Deed and has been prepared to a level of detail, quality, assurance and robustness required in accordance with Good Industry Practice, the TfNSW Asset Management Framework (as applicable) and any other requirements of the Deed.

5.8.3D The Service Provider acknowledges that the Principal's acceptance or rejection of an MPM Change will not limit or otherwise affect the liabilities, obligations and indemnities given by the Service Provider, or the rights and entitlements of the Principal, under, or in any way in connection with, this Deed including any Service Provider liability in connection with loss or damage if it fails to appropriately include and prioritise Planned Activities, other projects or other costs in accordance with the Deed and Good Industry Practice.

5.8.4 The Service Provider must submit any updated version of the 3MWP in the same 3MWP format that was provided to the Principal in previous Contract Years and which complies with the other requirements of this Deed, including this section 5.

5.8.5 The Service Provider must provide a summary of the works program in the current Contract Year in the Monthly Report in accordance with the TfNSW Asset Management Standard and TfNSW Reporting Standard.

5.8.6 In the event that the 3MWP is amended, altered or updated in accordance with this Deed, the Service Provider must provide the Principal's Representative with an

5.8.7 The Service Provider must ensure that the process in clause 6.9 of the General Conditions in respect of the 3MWP is completed (and the Principal's Representative's acceptance of the 3MWP is obtained) in advance of the expected start date of the Services included in the 3MWP.

5.8.8 The Service Provider must update the 3MWP to include any work, services or activities the subject of a Modification or as otherwise required having regard to any Adjustment Event or Qualifying Latent CRN Assets Condition and resubmit it to the Principal's Representative for acceptance in accordance with clause 6.9 of the General Conditions within 20 Business Days of the relevant Modification or Adjustment Event arising or, in respect of a Qualifying Latent CRN Assets Condition, either the Renewal Requirement Auditor issuing the relevant notice under clause 2(e) of Schedule 13 or the decision being rendered in respect of the relevant final and binding dispute resolution process referred to in the definition of 'Qualifying Latent CRN Assets Condition' in Schedule 13 (as applicable).

5.8.9 If any project on the 3MWP is not completed or delivered (or the Service Provider becomes aware that any such project is not likely to be completed or delivered) in accordance with the Deed (including this Scope of Works) within the relevant Contract Year, then the Service Provider must advise the Principal's Representative in the next Monthly Report and ensure compliance with section 5.8.1(h).

[illegible]

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- 5.8.11 Without limiting the Service Provider's rights under section 2.2(d) of the KPI Schedule, the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the Assumed AWP:
- (a) if the Service Provider does not propose a Modification as contemplated by section 5.8.10(b)(ii) within the period referred to in section 5.8.10(b)(ii); or
 - (b) other than as expressly set out in section 5.8.10(b)(ii).

5.9 Possessions Plan

- 5.9.1 The Service Provider must develop, update and maintain a Possessions Plan submitted as part of the 3MWP for the CRN for a minimum rolling 12 month period developed in conjunction with the Network Operations Plan and the Standard Working Timetable (SWTT).
- 5.9.2 The Possessions Plan must include:
- (a) the date of the Track Possession;
 - (b) the location of the Track Possession;
 - (c) any proposed consultation to be undertaken;
 - (d) total Track Possession hours;

- (e) the event, project or issue associated with the Track Possession; and
 - (f) details of any known or potential service impacts.
- 5.9.3 The Service Provider must ensure that the Possessions Plan is continually maintained and represents the planned Track Possessions for the next rolling 12 month period.
- 5.9.4 The Service Provider must not alter the total Track Possession hours set out in the Possessions Plan without the written approval of the Principal's Representative.

5.10 Property Management Services

- 5.10.1 If the Principal's Representative has exercised Option 1 in accordance with clause 14.2(a) of the General Conditions, the Asset Management Services and Asset Maintenance Services continue to be required in respect of the CRN Property Assets to which the Property Management Services applied.

5.11 Configuration Management

- 5.11.1 The Service Provider must provide all configuration management services for the CRN Assets, including:
 - (a) meeting all relevant ASA Requirements in relation to configuration management;
 - (b) compliance with TfNSW 'T MU AM 04003 GU Configuration Management Guide for AEOs' (version current as at 18 February 2019), as may be amended, superseded or replaced from time to time;
 - (c) establishment and maintenance of Configuration Management Systems and processes that are compliant with AS ISO 10007:2017 'Quality management - Guidelines for configuration management';
 - (d) maintenance of the Engineering Asset Register and the associated functional and physical data;
 - (e) maintenance of the Fixed Asset Register to support financial reporting requirements;
 - (f) maintenance of updated drawings for the CRN Assets;
 - (g) maintenance of all other technical data to ensure configuration of the CRN Assets is fully documented following any maintenance projects including Routine Maintenance, Major Periodic Maintenance or Third Party Constructed Enhancement Assets or other work forming part of the Services.
- 5.11.2 The Service Provider must provide all Plant and Equipment required to maintain and repair all CRN Assets and CRN Property Assets as necessary to deliver the Services.

5.12 Asset Registers

- 5.12.1 The Service Provider must develop, implement and maintain:
 - (a) an Engineering Asset Register (EAR); and
 - (b) a Fixed Asset Register (FAR).
- 5.12.2 The EAR must be utilised for operation, maintenance and management purposes, including to ensure that an appropriate system of Asset Management exists to

effectively manage the CRN Assets and CRN Property Assets and to ensure the effective implementation and monitoring of the 3MWP.

- 5.12.3 A FAR must also be maintained for financial and accounting purposes.
- 5.12.4 Both the EAR and FAR must include all CRN Assets and CRN Property Assets.
- 5.12.5 The EAR and FAR must contain information relevant to the type of CRN Asset and CRN Property Asset being described, including (as appropriate):
 - (a) functional data;
 - (b) physical data;
 - (c) derived data;
 - (d) maintenance data;
 - (e) cost data;
 - (f) accounting data;
 - (g) Asset Management data;
 - (h) asset disposal;
 - (i) useful life;
 - (j) remaining useful life; and
 - (k) asset risk data.
- 5.12.6 The Service Provider must continually monitor the accuracy of the EAR and FAR, and update the EAR and FAR as necessary to ensure the EAR and FAR accurately reflects the CRN Assets and CRN Property Assets and is otherwise correct and accurate at all times during the Term, including through an integrated system with a clear identification process, which must detail the physical location of the CRN Assets and CRN Property Assets and provide traceability and historical data management.
- 5.12.7 The EAR and FAR may (in the Principal's absolute discretion) be audited by the Principal, the Principal's Representative, the Principal's Associates or their respective nominees on an annual basis.
- 5.12.8 The Service Provider must integrate the EAR and FAR registers with any information management systems provided to it by the Principal, and must have a simple and reliable way of identifying works on specific sectors of rail track consistent with the Principal's rail coding requirements.
- 5.12.9 Data reliability must be maintained and audited by the Service Provider on an annual basis.
- 5.12.10 The Service Provider must reflect any future additional/replacement reporting requirements required by the introduction of the Transport Asset Holding Entity (TAHE) or equivalent change in ownership by the Principal.
- 5.12.11 The Service Provider must conduct annual and five yearly valuations of useful life and remaining useful life for all CRN Assets in accordance with the Scope of Works Deliverables Schedule.
- 5.12.12 The Service Provider must ensure the ongoing integration of the systems and data are achieved to allow for reporting and audits to be completed.

- 5.12.13 The Service Provider must provide to the Principal's Representative asset information data periodically in accordance with TfNSW T MU AM 02004 ST.

5.13 Asset and Services Plan

- 5.13.1 The Service Provider must comply with the requirements of this Deed and the TfNSW Service Provider Asset Management Plan Standard V2.0 Feb 2019, (Objective Reference: A7823321). From time to time the Principal's Representative may request this information to be presented in an alternate format for input into an Asset and Services Plan for the CRN, as required by the Principal's Representative.

6 Asset Maintenance Services

6.1 General

- 6.1.1 The Asset Maintenance Services includes:
- (a) all activities, services and works required by this section 6;
 - (b) the implementation of, and compliance with, all Asset Management Planning Documents; and
 - (c) all activities, work and the supply of all materials necessary for the carrying out of the Asset Management Services, whether or not they are expressly mentioned in this section 6, including those which arise out of, or in any way in connection with, any change in the CRN Assets and CRN Property Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Asset Maintenance Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and the CRN Property Assets and their near surrounds.
- 6.1.2 The Service Provider must carry out all maintenance of the CRN Operational Assets to ensure the CRN Assets (including infrastructure, buildings, land and systems) meet the performance requirements for the CRN required by the Deed (including this Scope of Works) in a safe, reliable and efficient manner.
- 6.1.3 The Asset Maintenance Services include:
- (a) all Routine Maintenance referred to in section 6.2; and
 - (b) all Major Periodic Maintenance referred to in section 6.3.
- 6.1.4 All Asset Maintenance Services must comply with all relevant Standards and Codes, Track Possessions and Track Access Arrangements, and must not disrupt, or interfere with, planned services, except in the event of an emergency. Nothing in this section 6.1.4 limits clause 7 of the General Conditions.
- 6.1.5 The Service Provider must provide all Plant and Equipment necessary to undertake the Asset Maintenance Services.
- 6.1.6 The Service Provider may, subject to it obtaining approval in writing from the Principal's Representative, use recycled materials in performing the Asset Maintenance Services.

- 6.1.7 The Service Provider must conduct an annual review of the effectiveness of its Asset Maintenance Services and provide a written report to the Principal's Representative. These annual reviews must include:
- (a) consideration of the appropriateness of the relevant Standards and Codes under which the maintenance work, activities and services is carried out and the development of proposals for improvements to these Standards and Codes; and
 - (b) risk identification, treatment selection and monitoring, including (where necessary) processes that identify the changing risk profiles associated with:
 - (i) changes to any maintenance backlog;
 - (ii) activities undertaken and outcomes achieved; and
 - (iii) any issues that have arisen or subsequent recommendations from these processes.
- 6.1.8 The Service Provider must present the key findings from its review carried out under section 6.1.7 to the Principal's Representative, and include these findings in its Annual Report.
- 6.1.9 The Service Provider must report any occurrences of:
- (a) non-delivery of any component of the Asset Maintenance Services; or
 - (b) Non-Compliances in respect of Asset Maintenance Services,
- to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.
- 6.1.10 The Service Provider must arrange for an audit by an Independent Auditor of its Asset Maintenance Services, with particular reference to Section 6.1.7 of the Scope of Works. Audits must be undertaken at least annually. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.

6.2 Routine Maintenance

- 6.2.1 Routine Maintenance (RM) refers to the day-to-day activities needed to ensure that CRN Rail Infrastructure Assets are safe and fit for their Intended Purpose. The Service Provider must carry out all RM for:
- (a) CRN Rail Infrastructure Assets, including in relation to all track, structures, signals, property and communications; and
 - (b) any overbridges spanning the ARTC Network.
- 6.2.2 The key RM activities include:
- (a) undertaking scheduled inspections, detailed surveillance, condition monitoring, servicing, testing and certification of infrastructure and operating systems;
 - (b) defect identification and undertaking of corrective maintenance, repairs or replacements to remedy defects and causes of incidents where infrastructure condition is identified as a cause of the incident;
 - (c) short-term response to defects or incidents;
 - (d) emergency response;

- (e) ultrasonic inspections;
 - (f) vegetation control;
 - (g) fire management including access roads maintenance;
 - (h) hazmat inspections;
 - (i) pest inspections and control;
 - (j) property maintenance (minor repairs to roofing, flooring, windows, drainage, electrical, plumbing, heritage compliance and painting);
 - (k) rail corridor maintenance;
 - (l) fencing maintenance;
 - (m) vermin control;
 - (n) level crossing inspections and monitoring;
 - (o) operation of the track recording vehicle(s); and
 - (p) all minor works required to maintain safety and service reliability.
- 6.2.3 The Service Provider must ensure that all water tanks and water pumps that are on the CRN Land and that are currently used to provide water services to the CRN Property Assets or used for rural fire fighting services, are maintained to a serviceable condition.
- 6.2.4 The Service Provider must ensure that all Plant and Equipment relating to CRN Assets, including CRN Property Assets is tagged and a service log book is kept on site at each relevant facility.
- 6.2.5 The Service Provider must ensure that all roads (including any roads used to access any properties) that are part of the CRN Assets are maintained in accordance with the Standards and Codes.
- 6.2.6 The level of RM activity is made up of a base level of inspection work and corrective work, which is a function of the condition of the relevant CRN Assets and CRN Property Assets and the level of MPM work, asset renewal works and above rail activity on the line. The scope of work expressly referenced in this Scope of Works is not exhaustive and the Service Provider is solely responsible for ensuring that the scope of work, work types and frequencies of all RM activity it undertakes is in accordance with the relevant Standards and Codes.
- 6.2.7 The Service Provider must ensure that sufficient capacity and capability is available for responding appropriately across the CRN to any circumstance that may arise, including any incidents or emergencies.
- 6.2.8 The Service Provider must ensure that all completed RM complies with all relevant Standards and Codes and all Technical Maintenance Plans.

6.3 Major Periodic Maintenance

- 6.3.1 The Service Provider must carry out all MPM for:
- (a) CRN Rail Infrastructure Assets and CRN Property Assets, including in relation to all track, structures, signals, buildings and communications; and
 - (b) any overbridges spanning the ARTC Network.
- 6.3.2 The key MPM activities include the following activities:

- (a) supply and installation of railway sleepers (steel, timber or composite materials);
- (b) supply and installation of concrete railway sleepers;
- (c) resurfacing and ballasting works associated with re-sleepering;
- (d) renewal of timber and wrought iron bridges;
- (e) repair of steel and timber underbridges;
- (f) refurbishment and replacement of road overbridges;
- (g) welding jointed rail to achieve continuous welded rail (**CWR**);
- (h) replacement of rail;
- (i) renewal of timber turnout bearers;
- (j) renewal of bridge transoms;
- (k) maintenance resurfacing;
- (l) resurfacing, renewal and maintenance of turnouts;
- (m) replacement of turnout crossings;
- (n) upgrades or closures of level crossings;
- (o) maintenance ballasting;
- (p) track reconditioning or sledding;
- (q) rail grinding;
- (r) dipped weld corrections;
- (s) fencing renewal;
- (t) vegetation control;
- (u) maintenance of drainage;
- (v) upgrade works to properties such as roof replacements, flooring and windows;
- (w) maintenance of cuttings and embankments;
- (x) renewal of signalling; and
- (y) any other activities listed in Appendix E or required by the Standards and Codes.

6.3.3 The Service Provider must ensure that all completed MPM complies with all relevant Standards and Codes.

7 Emergency Works Services

7.1 General

- 7.1.1 The Emergency Works Services includes:
- (a) all activities, services and works required by this section 7; and
 - (b) all activities, work and the supply of all materials necessary for the carrying out of the Emergency Works Services, whether or not they are expressly mentioned in this section 7, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Emergency Works Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.
- 7.1.2 The Service Provider must report any occurrences of:
- (a) non-delivery of any component of the Emergency Works Services; or
 - (b) Non-Compliances in respect of Emergency Works Services, to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.

Response to Incident Reports

- 7.1.3 Nothing in this section 7 limits clause 9.4 of the General Conditions or the Procedure for Incident and Failure Notification.
- 7.1.4 The Service Provider must respond to all Incidents and use all available resources and endeavors to provide an immediate first response to any Incident in the first instance:
- (a) the site of the Incident is made safe;
 - (b) there are no network-wide issues requiring immediate action; and
 - (c) rail operations are reinstated as soon as practical, and if necessary, on a temporary or limited bases.
- 7.1.5 Where immediate action is required to prevent a further Incident, or to stop the deterioration of an existing situation, the Service Provider must initiate the required action in conjunction with all relevant Authorities.

- 7.1.6 Following the immediate response, the Service Provider must take all necessary actions to ensure the preservation of evidence at the site of the Incident.
- 7.1.7 The Service Provider must then carry out and/or support investigation and follow-up action in accordance with:
 - (a) the Service Provider's Safety Management System requirements for the management of notifiable occurrences;
 - (b) the Pollution Incident Response Plan; and
 - (c) the requirements of the RSNL.
- 7.1.8 The Service Provider must provide initial notification of Incidents, reports on completion of investigation, and all other relevant information to the Principal's Representative as soon as reasonably practicable.
- 7.1.9 Without limiting the express entitlements of the Service Provider under the Deed in respect of Variations, the Monthly Recurring Expenditure Payment and the Monthly Capital Works Payment are deemed to include an allowance for all costs in relation to workforce and Plant and Equipment incurred by the Service Provider in responding to Incidents.

Repairs and Replacement

- 7.1.10 The Service Provider must complete all parts of the Services that could not be completed during the Routine Maintenance works period (and are not otherwise considered emergency works) during the planned repair and replacement works period.

Reporting of Unplanned Disruptions

- 7.1.11 The Service Provider must advise the Principal's Representative of any unplanned disruptions that have occurred, or any unplanned works that have been undertaken, on the CRN within eight hours of the unplanned disruptions or works occurring.
- 7.1.12 The Service Provider's reporting of the unplanned disruptions or works must comply with the requirements of the Procedure for Incident and Failure Notification.
- 7.1.13 The Service Provider must arrange for an independent audit by an Independent Auditor of its Emergency capability and outcomes such as unplanned disruptions. Audits must be undertaken at least annually. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.

8 Engineering Services

8.1 General

- 8.1.1 The Engineering Services includes:
- (a) all activities, services and works required by this section 8; and
 - (b) all activities, work and the supply of all materials necessary for the carrying out of the Engineering Services, whether or not they are expressly mentioned in this section 8, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Engineering Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.
- 8.1.2 The Engineering Services includes:
- (a) management of RM and MPM;
 - (b) management of Standards and Codes;
 - (c) management of all Manuals and technical Documentation;
 - (d) As built Drawings;
 - (e) management of Plant and Equipment; and
 - (f) management of all CRN Asset Configuration.
- 8.1.3 The Service Provider must provide all Engineering Services in accordance with all relevant Standards and Codes.
- 8.1.4 The Service Provider must ensure that only appropriately experienced, qualified and, where necessary, accredited personnel are engaged to provide Engineering Services.
- 8.1.5 The Service Provider must ensure that all Engineering Services undertaken are properly reviewed and audited by accredited organisations or personnel as required by all relevant Standards and Codes. Audits must be undertaken at least annually.
- 8.1.6 Engineering Services must include coordination and management of interfaces with other parties, as required.
- 8.1.7 The Service Provider must ensure that all Engineering Services undertaken proximate to, or impacting on, an interface are done to the satisfaction of the other party to the interface.

- 8.1.8 The Service Provider must ensure that all Engineering Services are delivered and optimised, giving consideration to the following requirements:
- (a) safety;
 - (b) design requirements;
 - (c) operations and maintenance requirements;
 - (d) durability requirements;
 - (e) cost;
 - (f) time to deliver;
 - (g) Regional Employment Plan;
 - (h) Aboriginal Participation Plan (including compliance with the Aboriginal Participation in Construction policy);
 - (i) sustainability;
 - (j) carbon emissions;
 - (k) Whole of Life Benefit;
 - (l) failure modes analysis;
 - (m) certification and validation requirements;
 - (n) decommissioning work;
 - (o) security;
 - (p) aesthetics; and
 - (q) any other requirements of the Deed.
- 8.1.9 The Service Provider must report any occurrences of:
- (a) non-delivery of any component of the Engineering Services; or
 - (b) Non-Compliances in respect of Engineering Services,
- to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.

8.2 Provision of Services to Support Asset Maintenance Services

- 8.2.1 The Service Provider must provide Engineering Services to support Asset Maintenance Services as described in the 50AMP, the 10MSP, and the 3MWP.
- 8.2.2 The Service Provider must proactively seek to continuously improve the efficiency and effectiveness of all Engineering Services required to support the delivery of Asset Maintenance Services, including:
- (a) safety, security and risk;
 - (b) design requirements;
 - (c) operations and maintenance;
 - (d) cost, value for money and Whole of Life Benefit;
 - (e) scheduling and delivery times;
 - (f) reliability;
 - (g) environmental impacts;
 - (h) trend analysis;
 - (i) certification and compliance;
 - (j) decommissioning;
 - (k) quality, aesthetics; and

- (l) any other requirements specified by the Principal that are relevant to this Scope of Work.

8.2.3 Engineering Services to support Asset Maintenance Services will include the following:

- (a) managing Safety Interface Agreements;
- (b) carrying out investigations, including geotechnical investigations;
- (c) arranging inspections and condition surveys;
- (d) drafting of inspection and survey reports;
- (e) designing, planning, estimating, and programming;
- (f) obtaining relevant Approvals;
- (g) developing and reviewing rail infrastructure maintenance processes and identifying potential safety improvements;
- (h) managing rights of way;
- (i) organising and scheduling Track Possessions, Track Access Arrangements and isolations;
- (j) managing Corridor inquiries and third party relationships;
- (k) managing external party work;
- (l) administering third party compliance with rules and procedures for the control of third party activities in the vicinity of the infrastructure;
- (m) reporting of key asset and operational information, particularly in relation to safety and reliability in an accurate, comprehensive and timely manner;
- (n) responding, investigating and reporting Incidents;
- (o) recording and managing defects;
- (p) liaising with the community and other stakeholders, where required;
- (q) arranging for any Temporary Works that are required to support RM work, for example accommodation, road works, utilities or other temporary site facilities or infrastructure;
- (r) project managing work, including possession planning and scheduling;
- (s) managing MPM and RM on site;
- (t) managing environmental safeguards, monitoring, mitigation, or other management (refer also section 13);
- (u) testing and commissioning, and independent verification, where required, of completed work;
- (v) updating drawings and other technical information to maintain integrity of configuration management system (refer also section 5.10.1);
- (w) remediating the site upon completion;
- (x) reporting regularly on maintenance activities and issues;
- (y) incorporating any other relevant project and business management services as detailed in section 3, where relevant;
- (z) conducting investigations;
- (aa) managing and/or undertaking design; and
- (bb) drafting inspection and survey reports.

Development and Review of Asset Maintenance Services and Identification of Potential Safety Improvements

- 8.2.4 The Service Provider must identify, develop, facilitate, implement and review (as applicable) the following as part of the conduct of Asset Maintenance Services activities:
- (a) process and safety improvements, and implementation of these process and safety improvements if such are cost effective;
 - (b) maintenance process and safety improvements proposed by the Principal's Representative, and prepare (as a minimum) technical, safety, operations, implementation, and reports for consideration by the Principal's Representative;
 - (c) technical bulletins (or similar) as required by the Principal's Representative, to ensure that all safety and process improvement issues are implemented effectively and consistently. The technical bulletins (or similar) shall be distributed to all relevant stakeholders and Subcontractors;
 - (d) meetings with the Principal's Representative on an annual basis to review the proposed safety and process improvements, and to ensure that maintenance activities are being delivered according to technological, engineering and safety best practices, as well as incorporating innovations developed during the Term; and
 - (e) all activities, works and services for Asset Maintenance Services and supporting Engineering Services to ensure that the Services are effectively and efficiently planned, scheduled and resourced.

Management of RM and MPM

- 8.2.5 The Service Provider must coordinate, plan and manage all RM and MPM and is deemed to have allowed for such work in the Monthly Recurring Expenditure Payment and the Monthly Capital Works Payment.
- 8.2.6 Where additional projects are added through the Variations Schedule these are to be added to the Services set out under this Scope of Work. The Service Provider must manage all Approvals, planning, programming, design, construction, certification and commissioning activities required to deliver Asset Maintenance Services subject to clause 7.2(b) of the Deed.
- 8.2.7 The Service Provider must ensure all RM and MPM activities are delivered in accordance with the Deed.
- 8.2.8 The Service Provider must ensure all necessary certifications and Approvals are obtained prior to MPM activities and commissioning activities commencing.
- 8.2.9 The Service Provider must manage all interfaces, stakeholders, configuration and engineering activities required to deliver all RM and MPM activities.
- 8.2.10 The Service Provider must manage and undertake all Temporary Work required to deliver the Services.

Testing, Commissioning, and Independent Verification of Completed Work

- 8.2.11 The Service Provider must manage all systems tests, including certification, validation, integration, and any other activity that may be required.
- 8.2.12 The Service Provider must record the results of all test activities.
- 8.2.13 The Service Provider must manage the commissioning of any infrastructure upon completion of MPM or Enhancement Activities as required, including any liaison and coordination with other operators, Authorities and regulators.
- 8.2.14 The Service Provider must ensure only suitably accredited and qualified organisations and individuals are engaged for verification and validation activities.
- 8.2.15 The Service Provider must ensure all relevant certificates are maintained in the Asset Management System and regularly updated as all relevant Laws, ASA Requirements, and Standards and Codes.
- 8.2.16 The Service Provider must ensure that all verification and validation processes required prior to commissioning and system operation are undertaken and documented. The Service Provider must ensure that these processes have been implemented for all RM, MPM and Enhancement Activities and signed off prior to the commissioning of any project.
- 8.2.17 The Service Provider must provide Engineering Services to ensure that all ASA Authorisation, verification and validation activities are completed as required to enable the Services to be carried out in accordance with the Deed.

8.3 Decommissioning of Surplus and/or Obsolete Assets and Equipment

- 8.3.1 The Service Provider must provide Engineering Services to support, plan, and execute decommissioning work and/or the disposal of assets, as may be required.
- 8.3.2 The Service Provider must ensure an efficient and cost effective recycling, repair and disposal strategy is implemented, in order to maximise the whole of life benefit to the Principal.
- 8.3.3 The Service Provider must ensure competitive tenders and rates are obtained for disposable material or assets that may be of commercial value to the Principal.
- 8.3.4 The Service Provider must provide detailed asset disposal management information (including any revenue data) in the Monthly Report.
- 8.3.5 The Service Provider shall provide information to the Principal's Representative prior to any asset disposal, including the physical location where the asset is located, the reason for the proposed disposal, and all other relevant Asset Management information that may be required by the Principal's Representative.

- 8.3.6 The Service Provider must record information about assets disposed, including details on the location of the disposed asset, quantities of the disposed asset, and other relevant information that may be required by the Principal.
- 8.3.7 The Service Provider must ensure that all regulatory approvals required for disposal or decommissioning work are obtained, and that all relevant WHS Law, Environmental Law and any other relevant local authority requirements in relation to disposal or decommissioning work are met.

8.4 Maintenance of Standards and Codes

- 8.4.1 The Service Provider:
- (a) must maintain and update the full set of Standards and Codes to ensure all legislative, safety, design, technology, operations, maintenance, sustainability and other relevant requirements are satisfied;
 - (b) must ensure that all Standards and Codes include TfNSW branding where applicable (and are not branded with the Service Provider's logo); and
 - (c) will remain fully responsible for such Standards and Codes in accordance with this Deed despite any TfNSW branding.
- 8.4.2 The Service Provider must maintain all Standards and Codes in its document management system to ensure they are accessible to all relevant stakeholders (including Subcontractors).
- 8.4.3 All Standards and Codes relevant to the CRN Assets (including any Technical Maintenance Plans, operating standards, and design and construction standards) will, as between the Principal and the Service Provider, be owned by the Principal.
- 8.4.4 The Service Provider will be responsible for the management and implementation of the Standards and Codes for the CRN Assets for the Term.
- 8.4.5 The Service Provider must carry out all activities, services and works required by this Scope of Work (including all work, activities and programs on the CRN Assets) in accordance with the applicable Standards and Codes.
- 8.4.6 Despite any other provision of the Deed, changes to Standards and Codes proposed by the Service Provider must be provided to the Principal's Representative for endorsement by the ASA (and the ASA must have provided such endorsement) before the relevant Standards and Codes are considered to have been changed. The Principal's Representative may (in its absolute discretion), in reviewing the proposed change from the Service Provider, seek clarification or any additional details on the proposed change from either the ASA or the Service Provider (or both).
- 8.4.7 The ASA will provide an initial response from the formal receipt of the proposed change by the Service Provider. The ASA and the Service Provider will agree on the timeframe to provide final endorsement.

Operation and Maintenance Manuals

- 8.4.8 The Service Provider must maintain operation and maintenance manuals to enable the safe, effective and efficient operation and maintenance of the CRN Assets. Where original manuals have not been provided and a need is identified, the Service Provider must prepare or otherwise provide the required operation and maintenance manuals.

As-Built Drawings

- 8.4.9 The Service Provider must maintain any as-built drawings for infrastructure elements comprising CRN Assets (in hard copy or electronic files (or both)) in accordance with relevant Standards and Codes.

Use of Other Media and Devices

- 8.4.10 The Service Provider must make provision for the storage, backing-up, and maintenance of any operation and maintenance manuals, other integrated logistics support documentation, maintenance records, and technical data that may be stored electronically and used in other media and devices.

Service Provider Management Plant and Equipment

- 8.4.11 The Service Provider must provide and maintain all Plant and Equipment, including specialised tools, test and support equipment, required to carry out the Services under this Scope of Works.
- 8.4.12 The Service Provider must maintain a register of all Plant and Equipment that require calibration. The Service Provider must provide the Principal's Representative with access to this register when reasonably requested by the Principal's Representative.
- 8.4.13 The Service Provider must ensure that the Plant and Equipment requiring calibration are calibrated by an organisation accredited by the National Association of Testing Authorities for the class of testing appropriate to the Plant and Equipment, and in accordance with the Plant and Equipment's specifications.
- 8.4.14 The Service Provider must maintain, repair, calibrate, modify, upgrade and replace the Plant and Equipment provided under section 8.4.11.
- 8.4.15 The Service Provider must inspect, test, tag and maintain records of such testing and tagging on all Plant and Equipment provided under section 8.4.11 at regular intervals, to ensure that such Plant and Equipment comply with all relevant Laws (including the WHS Law) and Standards and Codes and Standards and Codes.

8.5 Disposal of Non-Property CRN Assets

- 8.5.1 The Service Provider must implement a process for the disposal of assets such that it:
- (a) aligns with the Network Operations Plan;
 - (b) minimises risk to public safety;

- (c) realises the residual value of any item or material;
- (d) addresses any environmental, heritage, and stakeholder requirements; and
- (e) meets any relevant compliance obligations.

9 Network Operations Services

9.1 General

9.1.1 The Network Operations Services includes:

- (a) all activities, services and works required by this section 9; and
- (b) all activities, work and the supply of all materials necessary for the carrying out of the Network Operations Services, whether or not they are expressly mentioned in this section 9, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Network Operations Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

9.1.2 The Service Provider must report any occurrences of:

- (a) non-delivery of any component of the Network Operations Services; or
- (b) Non-Compliances in respect of Network Operations Services, to the Principal's Representative and implement corrective actions, including in accordance with the other requirements of the Deed.

9.2 Network Operations Plan

9.2.1 The Service Provider must develop, updated and maintain a Network Operations Plan, which describes how the Service Provider will meet the requirements specified in this section 9 to provide and manage access to the CRN.

9.2.2 The Network Operations Plan must address:

- (a) temporary and permanent speed restrictions (taking into account KPI 7 (Speed restrictions) set out in the KPI Schedule);
- (b) Track Condition Indexes (as defined in the KPI Schedule);
- (c) train delays; and
- (d) Incidents.

9.2.3 The Service Provider must update the Network Operations Plan if:

- (a) there are any significant operational changes to the CRN that may impact customers; including as a result of the Services and Operations Plan or any other advice from the Principal; and
 - (b) at any time the Principal's Representative makes a request for an update.
- 9.2.4 The Service Provider must provide an updated Network Operations Plan by the date that is 90 Business Days after the Reset Date.
- 9.2.5 The Service Provider must arrange for an audit by an Independent Auditor of its level of compliance with the Network Operations Plan including an assessment of outcomes for customers. Audits must be undertaken at least annually. The Service Provider must make available the Independent Auditor's report to the Principal's Representative promptly following receipt.

9.3 Network Access

Negotiation of Access Agreements with Rail Transport Operators

- 9.3.1 The Service Provider must seek approval for, manage, administer, and maintain Track Access Agreements to the extent permitted by, and in accordance with, the relevant Standards and Codes all relevant Laws (including the RSNL), any ASA Requirements and **CRN-O-P003 Procedure for Management of Customer Access Agreements**.

Administration

- 9.3.2 The Service Provider must manage access to CRN Assets by RTOs, including:
 - (a) ensuring compliance with all relevant ASA Authorisations, ASA Requirements and the RSNL;
 - (b) ensuring compliance with all Laws and Approvals;
 - (c) monitoring the compliance of RTOs with other terms and conditions of Track Access Agreements;
 - (d) seamlessly integrating access to CRN Assets with access to adjacent networks, as may be required from time to time; and
 - (e) ensuring Ad Hoc Train Path requests are approved within the relevant time period specified in the KPI Schedule.

9.4 Billing and Revenue

Billing

- 9.4.1 The Service Provider must undertake and manage the billing of RTOs for access to, and use of, CRN Assets in accordance with the terms set out in the respective RTO's Track Access Agreement. The Principal will provide access to the Service Provider to use the "4ABS" database during the Mobilisation Stage.

- 9.4.2 The Service Provider must maintain a network access billing system (such as 4ABS) for this purpose. The Service Provider may propose to the Principal's Representative an alternative network access billing system to 4ABS. Any such alternative network access billing system must include the following features:
- (a) a table of applicable rates based on measurable train parameters agreed to by the Principal and the RTOs;
 - (b) a system for assessing a train's conformance with the relevant Track Access Agreement;
 - (c) a system for recording the train path charged for on each occasion;
 - (d) a system for documenting billing and certification of payments; and
 - (e) a facility for measuring the payment performance of RTOs.
- 9.4.3 Without limiting clause 6.4 of the General Conditions, the Service Provider must provide the Principal with direct access to the network access billing system database and any other billing and payment management system used by the Service Provider to fulfil its obligations under this section 9.4.
- 9.4.4 Where the Principal's Representative has approved an alternative network access billing system to 4ABS proposed by the Service Provider, the Service Provider may use that alternative and must provide the Principal with a license to all intellectual property rights in the system, to allow the Principal to access and use the system following expiry of the Term (or earlier Termination Date).

Revenue

- 9.4.5 The Service Provider must provide monthly reports of access revenue to the Principal's Representative as part of the Monthly Report.
- 9.4.6 Monthly Reports must include details of late payments and any other issues of significance in relation to payments by RTOs for access to, and use of, CRN Assets.
- 9.4.7 Monthly Reports must also include details of activity undertaken to ensure that RTOs provide correct details of their access requirements (for example, details on each RTO's tonnage, and distance travelled during that month), and that they were billed accordingly and in accordance with the provisions of the relevant Track Access Arrangement.

9.5 Network Management and Train Control

Network Planning

- 9.5.1 In relation to the CRN Operational Network, the Service Provider must plan access to CRN Assets, including the planning of Train Paths for:
- (a) preparation of the SWTT;
 - (b) scheduling of all services to be carried out in accordance with the SWTT;
 - (c) spare Train Paths;
 - (d) ad hoc access, when required;

- (e) scheduling of Track Possessions; and
 - (f) issuing track occupancy authorities, as required.
- 9.5.2 In delivering the Network Operation Services, the Service Provider must comply with all applicable Standards and Codes and Laws.
- 9.5.3 The Service Provider must develop and maintain the SWTT. The Service Provider must provide any proposed changes to the SWTT changes to the CRN Operational Network to the Principal's Representative for approval in accordance with clause 6.9 of the General Conditions.
- 9.5.4 The Principal's Representative may approve or reject the Service Provider's proposed changes to the SWTT submitted under section 9.5.3 in writing. The Principal's Representative may have regard to any of the following considerations when reviewing the Service Provider's proposed changes to the SWTT:
 - (a) whether the proposed amendments meet the performance requirements;
 - (b) whether the proposed amendments comply with the Deed; and
 - (c) whether the proposed amendments to the SWTT are contrary to the public interest.
- 9.5.5 Where the Principal's Representative makes any comment to the SWTT submitted under section 9.5.3, the Service Provider must resubmit its amended SWTT to the Principal's Representative. The review process set out under sections 9.5.3, 9.5.4 and this section 9.5.5 will continue until the Principal's Representative has no more comments on the proposed SWTT.

CRN Operational Network Management

- 9.5.6 The Service Provider must manage the CRN Operational Network to ensure that they are conducted in accordance with Train Path planning specified in section 9.5.1 and 9.5.2.
- 9.5.7 CRN Operational Network management activities include:
 - (a) maintenance of network rules and procedures, including maintenance of the TOC Manual and supporting documentation;
 - (b) management of Train Paths in accordance with the relevant Track Access Agreements;
 - (c) authorisation and notification to RTOs, and reporting to the Principal's Representative of temporary deviations from the SWTT or daily timetables;
 - (d) managing interfaces between the CRN and other adjacent railway networks;
 - (e) development and maintenance of safety interface agreements in accordance with RSNL;
 - (f) identification of business development opportunities across the CRN to increase access revenue; and
 - (g) assisting the Principal with the development of strategic operational projects for the benefit of the CRN.

Network Rules and Procedures

- 9.5.8 The Service Provider must manage the CRN Operational Network in accordance with Part 4 of the *Rail Safety National Law Regulations 2012* (NSW) (**RSNL Regulations**).
- 9.5.9 The Service Provider, in consultation with RTOs and managers of adjacent railway networks, must engage in the introduction of the national safe working rules that are currently being developed by the Rail Industry Safety and Standards Board (**RISSB**) Australian National Rules Project. The Service Provider must submit an annual report to the Principal's Representative on the Service Provider's compliance with the requirements under section 9.5.8 and this section 9.5.9.

Management of Operator Performance

- 9.5.10 The Service Provider must effectively manage the compliance of RTOs with the terms and conditions of the relevant Track Access Agreements. The Service Provider must provide reports to the Principal's Representative on whether the RTOs have complied with their respective Track Access Agreements, and include the following details on the RTO's CRN Operational Network performance:
- (a) the RTO's punctuality, measured in accordance with the SWTT and timetables (published daily);
 - (b) serviceability of trains, in particular where defects have the potential to inflict undue wear or damage on elements of the CRN Assets;
 - (c) reliability of information provided by RTOs in relation to their access requirements (for example train weights);
 - (d) compliance with all relevant Standards and Codes; and
 - (e) other administrative requirements (for example, ensuring RTOs maintain required ASA Authorisations, confirming that RTOs have an up-to-date and relevant Safety Management System).
- 9.5.11 The Service Provider must provide a representative (or representatives) to attend combined performance meetings between the RTOs and the Principal's Representative, as required.

Communication and Consultation

- 9.5.12 The Service Provider must communicate and consult with the RTOs in relation to any planned service interruptions or changes to the CRN Operational Network (for example, any Track Possessions, speed restrictions, or other maintenance activities) to ensure the RTO's awareness of and, if possible, agreement with the Service Provider's planned activities.
- 9.5.13 The Service Provider must ensure that stakeholders on adjacent railway networks are notified of the Service Provider's planned activities, to ensure that disruptions are minimised and there is a high level of coordination between the Service Provider and the RTOs.

- 9.5.14 The Service Provider must consult with the RTOs in relation to any risk assessment that may be required in relation to RM, MPM or other CRN Operational Network changes under consideration by the Service Provider.
- 9.5.15 The Service Provider must advise the Principal's Representative of any delays which have occurred on the CRN Operational Network within eight hours of the delay or delays occurring.

Management of Train Control

- 9.5.16 Subject to clause 3.4A of the O&M Deed, the Service Provider must manage and administer all aspects of the Train Control Systems during the Term and ensure that the Train Control Systems are fit for their Intended Purpose.
- 9.5.17 The Train Control Systems must include:
- (a) telemetry systems to communicate with signal equipment;
 - (b) computer-based display and control panels for the real time monitoring of signal equipment status (including track);
 - (c) points and signal status;
 - (d) the recording and reporting of events and alarms;
 - (e) audio equipment facilities for communication with regional signallers;
 - (f) computer-based display and control panels to manage the selection and establishment of communication conversations with signallers, drivers, safe workers, maintainers and emergency personnel;
 - (g) recording facilities required to record conversations with signallers, drivers, safe workers, maintainers and emergency personnel; and
 - (h) monitoring equipment.
- 9.5.18 The Service Provider must effectively manage Train Control interfaces between the Principal, RTOs and operators of adjacent railway networks.
- 9.5.19 The Service Provider must comply with the Principal's network rules and procedures and the Principal's train operating conditions relating to the rail operations set out under this section 9.5.

Implementation of Train Control

- 9.5.20 Subject to clause 3.4A of the Deed, the Service Provider must ensure that the Train Control Systems provided to the Principal's Representative meet the safety, performance and other operational needs of the NSW Government, the Principal, and RTOs using the CRN, throughout the Term.
- 9.5.21 Subject to clause 3.4A of the Deed, the Service Provider must ensure that the Train Control Systems facilitate the movement of passenger and freight services on the CRN Operational Network in accordance with agreed and published timetables.

Management of Signalling Safety and Performance

- 9.5.22 The Service Provider must manage signalling safety and performance on the CRN Operational Network in accordance with network rules and procedures, Standards and Codes, and any applicable Laws (including under the RSNL and the RSNL Regulations). Specific tasks include:
- (a) capturing and recording signalling failures and irregularities;
 - (b) analysing signalling failures and irregularities;
 - (c) identifying trends;
 - (d) producing reports on trends; and
 - (e) initiating preventive and corrective actions, including on any MPM activities.

Management of Incidents and WHS Breaches

- 9.5.23 The Service Provider must establish, and maintain at all times, the capability to respond appropriately to Incidents and emergencies. The Service Provider's Incident management capabilities must include:
- (a) short-term response to Incidents;
 - (b) liaison with emergency services and other relevant local Authorities;
 - (c) communications with RTOs and other affected parties to ensure impacts of the Incident are contained;
 - (d) initiation of corrective maintenance, repairs, replacements or operational measures to remedy causes of Incidents;
 - (e) other short-term actions required to maintain network safety and service reliability;
 - (f) Incident investigation and follow-up; and
 - (g) initiation and reporting of corrective actions.
- 9.5.24 The Service Provider must also manage the commercial aspects of Incidents that relate to access and network management. In particular, the organisation of independent inspections and reporting by a suitably experienced Incident investigator to determine liability (for example, in the case of derailments, whether the Incident was caused by the infrastructure, the rolling stock, or a combination of both).
- 9.5.25 In relation to breaches of the WHS Law, key tasks must include:
- (a) investigation of breaches of the WHS Law;
 - (b) reporting of breaches of the WHS Law; and
 - (c) initiation of preventive and corrective actions, so that future breaches of the WHS Law are minimised.

Network Control Infrastructure and Systems

- 9.5.26 Subject to clause 3.4A of the Deed, the Service Provider must maintain a Network Control Centre in TfNSW Regional and Outer Metropolitan Areas in accordance with the Network Operations Plan.

- 9.5.27 Subject to clause 3.4A of the Deed, the Service Provider must maintain a backup Network Control Centre in the event that the Network Control Centre referred to in section 9.5.26 becomes non-operational for any reason. The Backup Network Control Centre must be located in TfNSW Regional and Outer Metropolitan Areas in accordance with the Network Operations Plan.
- 9.5.28 Subject to clause 3.4A of the Deed, if required by the Principal, the Service Provider will also take possession of and maintain:
- (a) the Principal's existing Train Running Information Management System; and
 - (b) all other associated systems, programs and infrastructure required for network control provided by the Principal to the Service Provider.
- 9.5.29 The Service Provider must submit any proposed changes to the utilisation of the Principal's Train Control infrastructure for approval by the Principal's Representative. Any proposed changes to the utilisation of this infrastructure must also be made in accordance with the Network Operations Plan.

10 Support Services

10.1 General

- 10.1.1 The Service Provider must provide all personnel, systems, resources, and Plant and Equipment when carrying out any of the Services. The Service Provider must provide the Support Services as part of the Services it is required to provide under the Deed.

The Support Services include:

- (a) all activities, services and works required by this section 10; and
- (b) all activities, work and the supply of all materials necessary for the performance of Support Services as set out in this section 10 (other than any exclusions set out in this Scope of Works or the Deed or matters in respect of which the Service Provider has a right to claim costs under this Deed), including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Support Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

- 10.1.2 Without limiting section 10.1.1, the Service Provider must provide all support services associated with:

- (a) project management and administration;
- (b) the preparation and update (as necessary to ensure they are current at all relevant times) of all management plans;
- (c) scoping, estimating and project scheduling;
- (d) managing interfaces with other parts of the Service Provider's business;
- (e) engaging and consulting with stakeholders and the wider community;
- (f) managing safety, quality, risks and the Environment;
- (g) reporting requirements (including ad hoc or scheduled reports required under the Deed);
- (h) obtaining all necessary Approvals; and
- (i) tendering for, procuring, and managing Subcontractors,

arising out of, or in any way in connection with, the Services, any Modifications or Adjustment Events.

10.2 Not used

10.3 Support for Variations

- 10.3.1 The Service Provider must provide all necessary support (personnel, systems, resources) for Variations (or proposed Variations). This includes preparing, costing and developing project plans, any Variation Impacts Statement or supporting documents and all necessary approvals and management of asset information.
- 10.3.2 Without limiting the Service Provider's obligations under the General Conditions, the Service Provider must provide the Principal with full open book access to all records, supporting information (including invoices where relevant), costings, accounts, calculations, schedules or any other relevant information (including salaries and wages information) in respect of any Variation, which the Principal reasonably needs to consider and verify the Variation.
- 10.3.3 Regardless of the funding source of a project resulting from any Variation, the Service Provider must provide all of the support as specified in sections 10.3.1 and 10.3.2.

10.4 Ad hoc reports or requests for information by the Principal

- 10.4.1 The Service Provider must provide reports and information in response to requests from the Principal as reasonably requested by the Principal prior to the expiry of the Term, including in respect of any:
- (a) responses to any requests for public disclosure of the Deed (or any matters concerning, or in any way in connection with, the Deed) submitted under the GIPA Act;
 - (b) TAHE requirements;
 - (c) electoral statements;
 - (d) capital and recurrent funding spent each year;
 - (e) maps or other GIS-based information;
 - (f) defects or other information related to CRN Assets;
 - (g) programming information in respect of the Services; and
 - (h) financial information.

10.5 Enhancement Work Programs (including low or no cost proposals)

- 10.5.1 The Service Provider must provide any necessary support to the pursuit by the Principal of current or future enhancement work programs, including in respect of:
- (a) the Level Crossing Improvement Program (**LCIP**);
 - (b) TfNSW's 'Fixing Country Rail' (**FCR**) program and the Main West Enhancement Program;
 - (c) the Inland Rail project;
 - (d) the Commonwealth Government's Bridges Renewal Programme, forming part of the Local and State Government Road Safety Package administered by the Department of Infrastructure, Transport, Cities and Regional Development;
 - (e) any Third Party Works;

- (f) any low or no cost proposals; and
- (g) any other program regardless of funding source or delivery vehicle.

10.5.2 A typical program of Enhancement Activities is listed in **Appendix G** as an Information Document. The Service Provider:

- (a) without limiting section 3.1.1(b), must ensure that it is ready, willing and able to carry out Enhancement Activities in line with that set out in the program of Enhancement Activities;; and
- (b) without limiting clause 5.8 of the General Conditions, acknowledges and agrees that the Principal does not warrant, guarantee or make any representation as to, the extent of Enhancement Activities (if any) that may be required to be carried out by the Service Provider.

10.6 Property Management Services (including disposals and acquisitions)

10.6.1 The Service Provider must provide any necessary support to Property Management Services, including:

- (a) leases;
- (b) licensing;
- (c) Third Party access requests;
- (d) acquisitions of property;
- (e) reviewing development applications;
- (f) town planning (including review of environmental factors); and
- (g) disposals of property or assets.

10.6.2 Without limiting section 10.6.1, the Service Provider must provide support with respect to:

- (a) managing of a large portfolio of properties that could be repurposed or disposed;
- (b) processing a large volume of requests or applications; and
- (c) managing a large number of applications and stakeholders across the CRN.

10.7 Service Level Changes

10.7.1 The Service Provider must provide any necessary Support Services in response to requests by or on behalf of the Principal for any change in service levels, including:

- (a) monitoring and recording service levels across the CRN;
- (b) seeking necessary Approvals; and
- (c) conducting stakeholders consultations.

10.8 Management of works by a party other than the Service Provider

10.8.1 The Service Provider must provide all necessary support for the delivery of any works or services carried out by a Third Party.

- 10.8.2 The Service Provider must ensure that all necessary Approvals, accreditations or other authorisations and planning occur in the event that a party other than the Service Provider is approved to do work on the CRN or other adjoining asset not on the CRN.

10.9 Management of Oversize Overmass Vehicle movements

- 10.9.1 The Service Provider must provide all necessary planning, advice and approvals to any road user associated with the movement of any oversize overmass vehicles across the network.
- 10.9.2 The Service Provider must ensure that any such movements do not cause damage to the CRN Assets, including by providing inspections, protection or escort services as required.
- 10.9.3 The Service Provider may recover costs associated with these Services from road users (and not the Principal) in accordance with HVNL.

11 Management of Stakeholder Relationships and Management of Communications Services

11.1 General

11.1.1 The Management of Stakeholder Relationships and Management of Communications Services includes:

- (a) all activities, services and works required by this section 11; and
- (b) all activities, work and the supply of all materials necessary for the carrying out of the Management of Stakeholder Relationships and Management of Communications Services, whether or not they are expressly mentioned in this section 11, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed as being necessary or desirable for the carrying out of the Management of Stakeholder Relationships and Management of Communications Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

11.1.2 The Service Provider must report any occurrences of:

- (a) non-delivery of any component of the Management of Stakeholder Relationships and Management of Communications Services; or
 - (b) Non-Compliances in respect of Management of Stakeholder Relationships and Management of Communications Services ,
- to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.

11.2 Stakeholder Relationships

11.2.1 The Service Provider must manage relationships with relevant stakeholders in accordance with the Stakeholder Management Plan (including by engaging key stakeholders such as the ONRSR, above-rail operators, adjacent rail network infrastructure managers, and any relevant unions).

11.2.2 The Service Provider must manage and coordinate community involvement, consultation and communications related to the Services, and must be proactive in informing the community when carrying out (or when it is anticipating on carrying out) part of the Services that have the potential to impact the local community.

- 11.2.3 The Service Provider must minimise any inconvenience to the community by providing timely and regular information about disruptions to traffic, public transport services and any other impacts.
- 11.2.4 The Service Provider must ensure that its employees, Subcontractors, and staff of Subcontractors are made aware of the Service Provider's community relations obligations.
- 11.2.5 The Service Provider must provide opportunities (where relevant and appropriate) for the local community to have input into various aspects of the maintenance, operation and development of the CRN, such as the development of detailed design elements (including landscaping detail) and construction impact management strategies.

11.3 Management of Communications

- 11.3.1 The Service Provider must manage communications, both internally and externally, with all relevant stakeholders.
- 11.3.2 The Service Provider must manage communications with stakeholders on key issues including:
 - (a) safety and risk management;
 - (b) access management;
 - (c) train planning and scheduling;
 - (d) Train Control and signalling;
 - (e) land and lease management;
 - (f) Safety Interface Agreements;
 - (g) internal industrial agreements entered into by the Principal or the Principal's Representative;
 - (h) potential impacts on training requirements;
 - (i) transition to a new form of contract;
 - (j) Environment and conservation;
 - (k) native title and cultural heritage;
 - (l) local transport impacts;
 - (m) social and urban development; and
 - (n) local neighbouring residential and business community impact.
- 11.3.3 The Service Provider must consult with stakeholders of the CRN through a variety of means, including by from informal conversations, formal risk assessments, design reviews, Track Access Agreements and entering into any required deeds of consent (or other forms of access deeds).
- 11.3.4 The Service Provider must, in consultation with the Principal's Representative, determine the most appropriate method and medium for communications, taking into account considerations such as:
 - (a) safety implications;
 - (b) levels of urgency;
 - (c) communication effectiveness;
 - (d) target audience; and
 - (e) community or political sensitivity.

- 11.3.5 For larger scale MPM or Enhancement Activities, the Service Provider must consider a range of approaches to public consultation, including:
- (a) public displays;
 - (b) site inspections by visitors; and
 - (c) other means of dissemination of information to the public, including through print and electronic media, site signage, and community forums.
- 11.3.6 The Service Provider must establish appropriate internal procedures for the handling of media enquiries and enquiries from elected representatives, which must be clearly documented and in accordance with **CRN-S-P002 Procedure for Media Management**.
- 11.3.7 All media enquiries and enquiries from elected representatives related to Services must be referred to the Principal's Representative, and must ensure that its employees and Subcontractors refer all such media enquiries and enquiries from elected representatives directly to the Principal's Representative together with sufficient factual briefing material to respond to the query.
- 11.3.8 The Service Provider must identify opportunities for media releases and events for enhancement works or where the performance of the network is improved, and facilitate these in cooperation with the Principal's Representative.

11.4 Material for Publication and Public Distribution

- 11.4.1 The Service Provider must liaise with the Principal's Representative during the development and distribution of public information and material.
- 11.4.2 All proposed material, including work notifications, consultation material, marketing and branding campaigns, must be submitted to the Principal's Representative in final draft format for review and approval at least ten (10) Business Days prior to distribution or publication.

11.5 Complaints Management

- 11.5.1 The Service Provider must develop, implement, operate and maintain a community contact management system as specified in the Stakeholder Management Plan for the purpose of recording and tracking all contact with stakeholders, which:
- (a) records the times of any interaction with stakeholders,
 - (b) includes details of all responses issued by the Service Provider; and
 - (c) includes details of the resolution of issues raised.
- 11.5.2 The Service Provider must ensure that it includes a report on all complaints logged in the Service Provider's community and stakeholder communication management system in its monthly report of stakeholder issues.

11.6 Reporting Requirements

- 11.6.1 The Service Provider must include advice on stakeholder issues, media opportunities and ongoing consultations in its Monthly Report to the Principal's Representative.
- 11.6.2 The Service Provider must also advise the Principal's Representative of any complaints or issues which have the potential to have an adverse effect upon communities, community members or stakeholders, within 24 hours of receipt of the complaint or awareness of the potential issue.

12 Safety Management Services

12.1 General

The Safety Management Services includes:

- (a) all activities, services and works required by this section 12; and
- (b) all activities, work and the supply of all materials necessary for the carrying out of the Safety Management Services, whether or not they are expressly mentioned in this section 12, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Safety Management Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

12.2 Safety Management System

- 12.2.1 The Service Provider must develop, maintain and operate a Safety Management System that is fully compliant with Division 6 of Part 3 of the RSNL.
- 12.2.2 The Service Provider must, as part of its Safety Management System, develop implement, update and maintain any necessary subordinate systems as well as a Safety Management Plan (as set out in Appendix C) which describes how the Service Provider will meet the safety requirements specified in this Scope of Works.
- 12.2.3 Without limiting the obligations of the Service Provider under the Deed, where there is a discrepancy between a requirement of the Deed and the requirements of the RSNL Accreditation in relation to rail safety, the requirements of the RSNL Accreditation take precedence and the Service Provider must comply with them.
- 12.2.4 The Service Provider must ensure that all necessary safety requirements are taken into account when carrying out the Services.
- 12.2.5 The Service Provider's Safety Management System must interface with the Principal's Safety Management System where necessary to ensure that both systems align and are consistent.
- 12.2.6 The Service Provider's Safety Management System must include a comprehensive set of standards, procedures and forms to enable safe, efficient and effective operation of the Safety Management System.

12.3 Workplace Health and Safety (WHS)

- 12.3.1 The Service Provider must:
- (a) incorporate all necessary WHS considerations into all aspects of the work arising out of, or in any way in connection with, any part of the Services;
 - (b) maintain a WHS management system that complies with the WHS Law, the Australian Government Building and construction WHS Accreditation Scheme (as established under the *Fair Work (Building Industry) Act 2012* (Cth) and continued in existence by the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth));
 - (c) develop, implement, update and maintain a WHS Management Plan (contained within the Safety Management System) for the Services and ensure compliance with the WHS Management Plan at all times; and
 - (d) provide a suitably qualified site safety representative who shall be responsible for issues relating to WHS throughout the Services.

12.4 Safety Risk Management

- 12.4.1 The Service Provider must implement systematic safety risk management techniques to determine hazards and associated risks that could adversely affect safety, including the development and implementation of risk management strategies to manage those risks and hazards.
- 12.4.2 The Service Provider must operate a risk management process that meets Good Industry Practice requirements, and which applies safety risk tolerability criteria that are consistent with those detailed in *TfNSW Transport Enterprise Risk Management Framework*.
- 12.4.3 The Service Provider must integrate safety risks into the overall business risk and issues management of the Service Provider's business. The Service Provider must record, monitor and control safety-related risks in a centralised risk register, which must be available for inspection by the Principal's Representative when reasonably requested.
- 12.4.4 The Service Provider must arrange for an independent audit by an Independent Auditor to verify that the Safety Management system complies with the requirements of RSNL and WHS Law including a review of any Major Incidents, emerging trends or others issues as nominated by the Principal. Audits must be undertaken at least annually. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.
- 12.4.5 The Service Provider must also arrange for a Quarterly Safety Analysis Report that includes a review of Incidents, emerging trends or other issues as nominated by the Principal.

12.5 Safety Interface Requirements

- 12.5.1 Without limiting clause 7.15 of the General Conditions, the Service Provider must enter into all Safety Interface Agreements set out in Attachment A to the General Conditions and those pursuant to the RSNL.
- 12.5.2 Safety interfaces may include:
- (a) physical interfaces relating to the boundaries of the CRN;
 - (b) operational interfaces, for example, where responsibility for signalling or train control changes from one entity to another;
 - (c) access interfaces, for example, between an above-rail operator and the Rail Infrastructure Manager; and
 - (d) administrative interfaces, for example, between the Rail Infrastructure Manager, and fire or other emergency services providers.
- 12.5.3 The Service Provider must:
- (a) identify all such interfaces;
 - (b) determine and agree upon the interface boundaries with the other party (or parties); and
 - (c) develop and sign Safety Interface Agreements with the other party (or parties), setting out the responsibilities of each of the parties and the boundaries at which the responsibilities transfer from one party to the other.
- 12.5.4 Safety Interface Agreements must be compliant with the RSNL, and must contain provisions for:
- (a) implementing and maintaining measures to manage risks to safety;
 - (b) the evaluation, testing and, where appropriate, revision, of those measures;
 - (c) the respective roles and responsibilities of each party to the Safety Interface Agreement in relation to those measures;
 - (d) procedures by which each party to the Safety Interface Agreement will monitor and determine whether the other party complies with its obligations under the Safety Interface Agreement;
 - (e) dispute resolution;
 - (f) emergency and incident management and follow-up;
 - (g) management of the interface, in particular communication and consultation; and
 - (h) a process for keeping the reviewing and revising the Safety Interface Agreement.

12.6 Access to CRN Assets by Subcontractors and Third Parties

- 12.6.1 In relation to access to CRN Assets by Subcontractors or Third Parties for the purpose of RM or other parts of the Services, the Service Provider must develop, maintain and administer:
- (a) a procedure whereby Subcontractors or Third Parties request access;
 - (b) a procedure by which access requests are reviewed, and, if appropriate, granted;

- (c) guidance material to enable Subcontractors or Third Parties to enter, work safely and notify departure CRN Assets; and
 - (d) a permit system and associated procedures for the monitoring and control of activities to ensure safety.
- 12.6.2 The Service Provider must ensure that Subcontractors and Third Parties comply with all Laws (including the WHS Law and the RSNL) in relation to work in the rail Corridor.
- 12.6.3 Note that this requirement is not to be confused with access to the CRN by RTOs for train operations.

13 Environmental Management and Sustainability Services

13.1 General

13.1.1 The Environmental Management and Sustainability Services includes:

- (a) all activities, services and works required by this section 13;
- (b) all activities, services and works relating to environment protection, sustainability, heritage and energy efficiency required under the Deed, including those required by clause 7.1 to 7.10, 7.12, 7.20, 10, 11 and 12 of the General Conditions;
- (c) all activities, services and works required for the Service Provider to comply with Environmental Laws; and
- (d) all activities, work and the supply of all materials necessary for the carrying out of the Environmental Management and Sustainability Services (including in accordance with all Environmental Laws), whether or not they are expressly mentioned in this section 13, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Environmental Management and Sustainability Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

13.1.2 The Service Provider must report any occurrences of:

- (a) non-delivery of any component of the Environmental Management and Sustainability Services; or
 - (b) Non-Compliances in respect of Environmental Management and Sustainability Services,
- to the Principal's Representative and implement corrective actions, including in accordance with the requirements of the Deed.

13.2 Environmental and Sustainability Management System

13.2.1 The Service Provider must submit to the Principal's Representative on or before the Services Commencement Date (and at other times upon request by the Principal's

Representative during the Term), evidence to the reasonable satisfaction of the Principal's Representative that the Service Provider has an environmental management system in place that:

- (a) is consistent with this Deed;
- (b) is consistent with ISO 14001;
- (c) is compliant with NSW Government Environmental Management Systems Guidelines, (Edition 3, August 2013);
- (d) has as an objective, compliance with applicable Environmental Laws, including the *Environment Protection Act 1997* (ACT) and the *Protection of the Environment Operations Act 1997* (NSW);
- (e) details the likely impact of the Services on the Environmental and measures to improve the environmental performance and management of the Services; and
- (f) complies with all relevant TfNSW policies including the *TfNSW Policy for Sustainable Procurement*.

13.2.2 The Service Provider must while carrying out the Services under this Deed adhere to the Environmental Management System.

13.3 Key Environmental Management Activities

13.3.1 The Service Provider must undertake environmental management activities commensurate with its stewardship role in relation to CRN Assets and in support of the Principal's objectives as provided in clause 2.1 of the General Conditions.

13.3.2 The Service Provider must carry out routine environmental management activities including:

- (a) vegetation control along the rail Corridors comprising the CRN;
- (b) fire hazard reduction (refer also section 13.13 below);
- (c) preparation of Review of Environmental Factors and other project documentation (including as required by clause 7.10 of the General Conditions); and
- (d) where requested by the Principal, report to the Principal's Representative on environmental risks and the Service Provider's management of these risks.

13.3.3 The Service Provider must comply with the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

13.3.4 The Service Provider must at all times ensure that all relevant licensing conditions are met and at least annually ensure compliance is audited by an independent environmental auditor. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.

13.4 Environmental Management Plan

13.4.1 Prior to the Services Commencement Date, the Service Provider must update and submit to the Principal's Representative the Environmental Management Plan.

13.4.2 The Environmental Management Plan must at least contain the following components:

- (a) a description of how the Service Provider intends to meet the requirements in this section 13;
 - (b) a description of the relevant requirements of the TfNSW suite of environmental guidelines;
 - (c) a list of all Approvals under Environmental Laws that are required for the performance of the Services;
 - (d) a list of all applicable Environmental Laws that Service Provider must comply with in performing the Services;
 - (e) a documented review process consistent with section 3.5.10;
 - (f) a process of continual improvement; and
 - (g) any other plans referred to in in the Environmental Management and Sustainability Services Section
- 13.4.3 The Environmental Management Plan may include the Fire Management Plan, the Pollution Incident Response Plan and the Biodiversity Management Plan.
- 13.4.4 The Environmental Management Plan must comply with the relevant requirements of Guideline for Preparation of Environmental Management Plans (NSW Department Infrastructure, Planning and Natural Resources, 2004) and the Environmental Guidelines for preparation of an Environment Management Plan (ACT Environment Protection Authority, 2013) (where applicable).

13.5 Response to Incidents

- 13.5.1 The Service Provider must prepare and submit to the Principal's Representative a Pollution Incident Response Plan.
- 13.5.2 The Pollution Incident Response Plan must at least contain the following components:
- (a) identification of and analysis of risks for potential incidents that may arise in the performance of the Services;
 - (b) a description of all notification requirements including those under the conditions of the Environmental Protection Licenses and the requirements of the *Protection of the Environment Operations Act 1997* (NSW) and the *Environment Protection Act 1997* (ACT);
 - (c) up to date contact directories, including the names and procedures for 24 hour contact with persons nominated by the Service Provider to respond to incidents;
 - (d) a documented review process consistent with section 3.5.10; and
 - (e) a process of continual improvement.
- 13.5.3 The Pollution Incident Response Plan must be consistent with:
- (a) the Environmental Protection Licence conditions and the requirements of the *Protection of the Environment Operations Act 1997* (NSW) and the *Environment Protection Act 1997* (ACT); and
 - (b) any relevant TfNSW or TAHE procedures that the Principal has provided to the Service Provider.

- 13.5.4 The Service Provider must promptly respond to environmental incidents (including Pollution incidents) so as not to delay the commencement, progress or completion of the Services.

13.6 Service Provider Restoration, Regeneration, and Planting

- 13.6.1 The Service Provider must ensure that all Relevant Land is reinstated to a condition:
- (a) at least equivalent to that existing before the Services Commencement Date;
 - (b) as required by Law including the conditions of any relevant Approval; and
 - (c) as required by any relevant Authority.
- 13.6.2 The obligation in section 13.6.1 applies progressively throughout the Term to any portion of the Relevant Land where Services were carried out but have been completed.
- 13.6.3 Where the Service Provider has completed performance of the Services on a portion of the Relevant Land, the Service Provider must ensure that all surplus construction materials, including residual or stockpiled excavated material, is loaded and disposed of or dispersed on the site in accordance with the requirements of the Service Provider's Environmental Management System and all relevant Laws and to the satisfaction of the Principal's Representative and any relevant Authorities.

13.7 Protection of biodiversity

- 13.7.1 The Service Provider must comply with all Laws relating to protection or management of biodiversity.
- 13.7.2 The Service Provider must consider riparian and riverine management requirements when relevant.
- 13.7.3 The Service Provider must prepare and submit to the Principal's Representative a Biodiversity Management Plan that demonstrates how it will comply with Laws relevant to the protection of biodiversity.

13.8 Discharge Water Quality

- 13.8.1 The Service Provider must ensure that Services that involve the discharge of water on or from land are carried out in accordance with the Environment Protection Licences.

13.9 Airborne Emissions

- 13.9.1 In performing the Services:

- (a) the Service Provider must ensure that any airborne emissions are managed in accordance with the requirements of the Environment Protection Licences; and
- (b) the Service Provider must minimise airborne dust, smoke, or other particles that could cause a hazard to others or have an impact on the environment.

13.10 Floods

- 13.10.1 The Service Provider must ensure that drainage works it performs as part of the Services are designed and carried out in a manner that does not increase the potential for flooding of any other property.

13.11 Noise and vibration

- 13.11.1 In performing the Services:
- (a) the Service Provider must manage noise and vibration in accordance with the requirements of the Environment Protection Licences including compliance with any noise limits, hours of work and other noise related conditions;
 - (b) the Service Provider must take all reasonable actions to reduce the emission of noise and/or vibration generated during the performance of the Services, whether directly or indirectly, e.g. through noise generated by vehicles entering and/or departing a work site; and
 - (c) the Service Provider must ensure that all vehicles with reverse alarms that are used by the Service Provider and its Subcontractors on the Relevant Land on a regular basis are fitted with a non-tonal alarm that provides a noise level appropriate to varying background noise levels where that vehicle is being used.

13.12 Provision of Energy and Emissions Information

- 13.12.1 The Service Provider must prepare reports in order to assist the Principal to meet its obligations under the NSW Government Resource Efficiency Policy 2014 and any subsequent policy that replaces this document.
- 13.12.2 During the Term the Service Provider must at its cost:
- (a) record and maintain all Energy and Emissions Information at or from the CRN Assets, that the Service Provider or the Principal may be required to maintain or provide to an Authority, including under any Clean Energy Legislation; and
 - (b) upon written request by the Principal's Representative to do so, provide such Energy and Emissions Information to the Principal or an Authority as is necessary in order to ensure that the Principal complies with its obligations at Law, within the timeframe specified in the written request.
- 13.12.3 The Service Provider acknowledges and agrees that the Principal may use the Service Provider's Energy and Emissions Information for any purpose.

13.13 Fire Management and Fire Hazard Reduction

- 13.13.1 The Service Provider must prepare and submit to the Principal's Representative a Fire Management Plan.
- 13.13.2 The Fire Management Plan must at least contain the following components:
- (a) a fire risk assessment of all CRN Assets and measures to protect the CRN Assets and the surrounding areas from fires;
 - (b) a list of the proposed fire response capability including people, plant and systems;
 - (c) a plan for the ongoing management of fire prevention, suppression, hazard reduction and management including incident control systems so that fires do not escape from the CRN Land;
 - (d) a documented review process consistent with section 3.5.10; and
 - (e) a process of continual improvement including training.
- 13.13.3 When determining the program of any works, the Service Provider must consider environmental conditions, seasonal weather and other relevant conditions that may affect the work risk rating.
- 13.13.4 The Service Provider must ensure that all work complies with recommendations and guidelines provided by the Fire and Rescue NSW (**FRNSW**) and the New South Wales Rural Fire Services (**NSWRFS**) and the Australian Capital Territory Fire and Rescue (**ACTRF**).
- 13.13.5 The Service Provider must manage all fires and ensure that they are reported to the relevant Authorities and the Principal in a timely manner.
- 13.13.6 The Service Provider must ensure all communication systems and protocols comply with recommendations and guidelines provided by FRNSW, NSWRFS, ACTFR and other emergency response authorities.
- 13.13.7 The Service Provider must ensure that all employees and subcontractors are adequately trained in fire prevention and response management.

14 Contamination Management Services

14.1 General

- 14.1.1 The Service Provider must commit all necessary resources and systems to investigate, assess, respond to, manage and monitor Contamination on and from the Relevant Land, including:
- (a) providing notifications (including under clause 13.4 of the General Conditions);
 - (b) performing all Initial Response Works in respect of Contamination in accordance with clause 13.5(a) of the General Conditions;
 - (c) to the extent the Contamination is Default Contamination, performing all Contamination Management Works; and
 - (d) to the extent that Contamination is Modification Contamination, performing all Contamination Management Works (noting that the Service Provider will be responsible for all costs below the threshold identified in the Variations Schedule);
 - (e) monitoring:
 - (i) all Identified Contamination as required by Law and to protect the Environment and the health and safety of people (including any existing programs of monitoring); and
 - (ii) Contamination other than Identified Contamination as required by Law and to protect the Environment and the health and safety of people (other than Contamination Management Works); and
 - (f) where necessary, engaging specialist environmental advisers, professionals and other personnel.

14.2 Contamination and Pollution Register

- 14.2.1 The Service Provider must prepare and maintain a Contamination and Pollution Register during the Term that records in respect of the Relevant Land:
- (a) each instance Contamination of which the Service Provider is or becomes aware from time to time (including Identified Contamination) that is reasonably expected to require Initial Response Works or Contamination Management Works; and
 - (b) any Pollution incident that occurs that is reasonably expected to cause any material environmental harm or require any work to manage, prevent, contain or mitigate the Pollution impacts.
- 14.2.2 The Contamination and Pollution Register must include the following details:
- (a) in respect of Contamination:
 - (i) the location, nature, content and extent of the Contamination;

- (ii) the details of any Initial Response Works or Contamination Management Works carried out in relation to each instance of Contamination and the results of those works;
 - (iii) the details of any notice or disclosure to and any correspondence with any Authority regarding the Contamination, including the issue of any Clean-up Notice in respect to the Contamination; and
 - (iv) the details of any notice or disclosure to and any correspondence with any owner or occupier of any property in the vicinity of the Contamination or Pollution regarding the Contamination; and
- (b) in respect of Pollution:
 - (i) the location, nature, content and extent of the Pollution;
 - (ii) the details of any works carried out manage, prevent, contain or mitigate the pollution impacts
 - (iii) the details of any notice or disclosure to and any correspondence with any Authority regarding the Pollution, including the issue of any Clean-up Notice in respect to the Pollution; and
 - (iv) the details of any notice or disclosure to and any correspondence with any owner or occupier of any property in the vicinity of the Pollution regarding the Pollution.

14.2.3 The Service Provider must prepare the Contamination and Pollution Register and submit it to the Principal's Representative in the first Quarterly Report.

14.2.4 The Service Provider must review and update the Contamination and Pollution Register on a quarterly basis and provide the updated Contamination and Pollution Register to the Principal's Representative.

14.2.5 The Service Provider must provide to the Principal any information held by or on behalf of the Service Provider relating to Contamination of or from the Relevant Land or any Pollution incident on or from the Relevant Land that the Principal may request from time to time.

Notifications to the EPA

14.2.6 Without limiting clause 7 or 10 of the General Conditions, if the Service Provider or any of its Associates Contaminate any land and Service Provider is required under any Environmental Law to notify an Authority (including under section 60(1) of the CLM Act), the Service Provider must:

- (a) give notice to the Authority in accordance with that Environmental Law; and
- (b) at the same time the Service Provider gives notice to the Authority, provide the Principal's Representative with a copy of that notice.

14.2.7 If the Service Provider encounters, disturbs, affects, causes or contributes to any Contamination in relation to Relevant Land that may give rise to an obligation for

TfNSW or TAHE to notify an Authority under any Environmental Law (including under section 60(2) of the CLM Act or section 23A of the *Environment Protection Act 1997* (ACT)), the Service Provider must:

- (a) immediately notify the Principal in writing that a notice may be required and identify the relevant Environmental Law;
- (b) if requested by the Principal, prepare (at its cost) and submit to the Principal's Representative a draft notice that addresses:
 - (i) all of the requirements of the relevant Environmental Law for such a notice; and
 - (ii) any other applicable requirements for such a notice,

within 24 hours of such a request;

- (c) if requested by the Principal, prepare any amendments to the draft notice and promptly submit a revised version to the Principal's Representative; and
- (d) if requested by the Principal, submit the notice to the Authority on behalf of the Principal, and provide a copy of the notice, as submitted, to the Principal's Representative.

15 Management of New Level Crossings and Change In Use of a Level Crossing

15.1 General

- 15.1.1 The Service Provider must manage any requests for the installation of new level crossings and/or a change in the status or use of an existing level crossing in accordance with **CRN-P-P002 Procedure for New Level Crossing/Change in Use of a Level Crossing**.
- 15.1.2 The Service Provider must evaluate and make recommendations on approval of changes to baseline configuration of level crossings, taking into account the relevant level crossing Codes and Standards.
- 15.1.3 The Service Provider must ensure that the safety risk, financial risk and all other relevant factors are fully assessed and resolved prior to seeking approval from the Principal's Representative to install, relocate, remove, or change the status or use of a level crossing.
- 15.1.4 The Service Provider must ensure that the integrity and safety of the operational rail network is not compromised along with the safety of all persons using level crossings.

15.2 Reporting

- 15.2.1 The Service Provider must report on implementation of the Level Crossing Management Plan provided as part of the Monthly Report.
- 15.2.2 The Service Provider must maintain and administer all documents to include changes relating to level crossings, including electronic storage in the property management system and GIS.
- 15.2.3 The Service Provider must provide the Principal with original hard copies of all executed hard copy agreements executed by the 3rd party which will be counter signed by the Principal.
- 15.2.4 The Service Provider must ensure all necessary Approvals (including any required licenses and documentation) are executed and in place prior to any installation or change of use of any level crossings.

15.3 Manage New Level Crossings & Change in Use

- 15.3.1 The Service Provider is to ensure compliance with the Principal's **CRN-P-P002 Procedure for New Level Crossing/Change in Use of a Level Crossing**.
- 15.3.2 The Service Provider and the Principal will agree upon a process for managing all level crossing requests with an emphasis on installations with greatest potential to impact on the safe operation of the rail network or, failing agreement within the time required by the Principal, the Principal's Representative may determine the relevant process that must be followed by the Service Provider.

- 15.3.3 The Service Provider is to arrange any configuration change management (as required) in respect of any installation or change in use of any level crossing.
- 15.3.4 The Service Provider must manage all aspects of the level crossing process including:
- (a) ensuring all required Approvals have been applied for and obtained (including those Approvals set out in the process referred to in section 15.3.2); and
 - (b) ensuring all certification required to be obtained under any Laws and Codes and Standards are obtained from the Principal following completion of the part of the Services, and details of such certifications are appropriately recorded.
- 15.3.5 Without limiting clause 19 of the General Conditions, the Service Provider must procure the required insurance policies, and provide evidence of such policies (including by providing copies of the certificates of currency) to the Principal in accordance with the terms of the Deed.

15.4 Renewal of Agreements

- 15.4.1 The Service Provider must:
- (a) renew agreements when they fall due and in accordance with **CRN-P-P009 Procedure for Leases and Licenses**;
 - (b) exercise options, variations and assignments in accordance with agreements, internal stakeholder clearance requirements, and following approval from the Principal; and
 - (c) obtain and instruct legal services (as required) following approval from the Principal.
- 15.4.2 The Service Provider must, following the removal of an installation:
- (a) provide recommendation to the Principal regarding removal options;
 - (b) provide information to the Principal on the opportunities and costs relating to those recommendations;
 - (c) recover statutory charges where applicable;
 - (d) reconcile and update the property management system, GIS, and Asset Management database;
 - (e) where required, assist the Principal to obtain quotes for legal services and instruct solicitors to prepare necessary documentation; and
 - (f) manage removal / expiry / termination to ensure compliance with the terms of the relevant agreement and in accordance with the procedure referred to in section 15.4.1(a).
- 15.4.3 The Service Provider must provide a monthly report to the Principal (in such a reporting format as agreed by the Principal in writing) setting out details on all existing, new and changing level crossing activities.

16 Level Crossing Closure Services

16.1 Closure of 50 Level Crossings

16.1.1 The requirement within this section is for the Service Provider to close 50 passive level crossings and includes:

- (a) all activities, services and works required by this section 16.1; and
- (b) all activities and work and supply of all materials and labour necessary for the carrying out of the closure of 50 level crossings, whether or not they are expressly mentioned in this section 16.1, including those which arise out of, or in any way in connection with, any change, or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the closure of 50 level crossings had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed; and
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries.

16.2 Management of Level Crossings Closures

16.2.1 The Service Provider must perform the Level Crossing Closure Services in accordance with **CRN-P-P010 Procedure for Closure of Level Crossing and Overbridges** and all relevant Laws. For the avoidance of doubt, this includes the relevant provisions of the RSNL, the *Transport Administration Act 1988* (NSW) (**TAA**), and the *Public Works and Procurement Act 1912* (NSW).

16.2.2 The Service Provider must ensure that all works to close level crossings and bridges undertaken as part of the Level Crossing Closure Services are planned and executed in a safe manner.

16.2.3 The Minister's consent is required prior to closure of level crossings and bridges pursuant to the TAA.

16.2.4 The Service Provider must report on the implementation of the Level Crossing Closure Plan as part of its Monthly Report.

16.2.5 In performing the Level Crossing Closure Services the Service Provider is to ensure the safety of the CRN Operational Network is not compromised.

16.3 Level Crossing Closure Plan

16.3.1 The Service Provider must develop, implement, update and maintain a Level Crossing Closure Plan in accordance with the **CRN-P-P010 Procedure for Closure**

of **Level Crossings and Overbridges** referred to in the TfNSW Procedures which describes how the Service Provider will meet the requirements specified in this section 16 to carry out the Level Crossing Closure Services.

- 16.3.2 The Service Provider must submit an updated Level Crossing Closure Plan to the Principal's Representative:
- (a) annually by the date specified for that relevant Contract Year in the Scope of Works Deliverables Schedule; and
 - (b) at any other time requested by the Principal's Representative.

16.4 Level Crossing Closure Process

- 16.4.1 The Service Provider must manage the closure of all level crossings in accordance with the **CRN-P-P010 Procedure for Closure of Level Crossings and Overbridges** as referred to in TfNSW Procedures.
- 16.4.2 The Service Provider must agree to a process with the Principal's Representative (or, failing agreement, the Principal's Representative will determine a process which the Service Provider must comply with) to manage all level crossing closure requests with an emphasis on those closures with the greatest potential to minimise risk to the safe operation of the CRN Operational Network while ensuring that a suitable alternative practical means of access exists. In considering which level crossing should be closed, the Service Provider must:
- (a) ensure that access to individual parcels of land will not be restricted as a result of the level crossing closure. If the land has been subdivided (consolidated) post the construction of the relevant rail line there may not be a requirement on the Principal to continue to provide access;
 - (b) confirm whether the level crossing is an accommodation crossing or a licensed crossing in accordance with **CRN-P-P010 Procedure for Closure of Level Crossings and Overbridges** and whether there are any other rights in relation to the level crossing;
 - (c) identify the cost and scope of works required with respect to the proposed closure; and
 - (d) confirm the adjoining landowner details.
- 16.4.3 Prior to the closure of each level crossing, the Service Provider is to provide the Principal's Representative for approval a comprehensive brief outlining the proposed level crossing closure. The approval brief must contain the following information:
- (a) location of the level crossing including the rail line and railway kilometers;
 - (b) asset management database or asset identification number;
 - (c) the reason the Service Provider is proposing the level crossing closure;
 - (d) confirming whether the level crossing is an accommodation crossing or a licensed crossing in accordance with **CRN-P-P010 Procedure for Closure of Level Crossings and Overbridges** as referred to in TfNSW Procedures and whether there are any other rights in relation to the level crossing plan which clearly identifies the adjoining landowner details and land titles (if a private crossing);
 - (e) adjoining landowner details (if private crossing);

- (f) adjoining land title details;
- (g) alternative legal access to land serviced by the level crossing closure;
- (h) certificates of title (to confirm the current landowner/s);
- (i) a copy of the working plan;
- (j) a copy and/or status of any relevant agreement/s with the current or former landowner/s (e.g. level crossing or bridge agreement or interface agreement etc.);
- (k) any relevant correspondence exchanged between the current landowner (if applicable);
- (l) any potential issues which may arise as a result of the level crossing closure that may expose the Principal to the risk of legal action being taken by current and adjoining landowners;
- (m) details of any conditions of consent (in relation to the development application) if the land was subdivided post the construction of the rail line;
- (n) all options for closure documented and analysed;
- (o) recommended course of action based on factual information and options analysis, including whether the removal of the crossing would constitute an Adjustment Event under the General Conditions;
- (p) whether a deed of agreement and release is proposed to be entered into, and if so, the proposed terms and compensation to be paid (if any); and
- (q) any other relevant information.

16.4.4 The Service Provider is to arrange any configuration change management (as required).

16.4.5 The Principal's Representative will deal with all enquiries from Authorities and other interested parties as they relate to the Level Crossing Closure Services.

16.4.6 The Service Provider must manage any road closures required to carry out the Level Crossing Closure Services and coordinate any activities with the relevant road authority.

16.4.7 Once the Ministers approve the formal closure of a level crossing the Service Provider must carry out the works to remove the level crossing.

16.5 Reporting

16.5.1 The Service Provider must report on the implementation of the Level Crossing Closure Plan as part of the Monthly Report.

16.5.2 The Service Provider must maintain and administer all property related documents and records, in the property management system, as well as all level crossing closure related documents.

16.5.3 The Service Provider must ensure that all registers, including GIS and the Asset Management System, have been updated to reflect to closure of a level crossing.

16.5.4 The Service Provider is to ensure that all necessary Approvals (including all necessary licenses and documentation) are executed and in place prior to the closure of a level crossing.

- 16.5.5 The Service Provider must prepare all required documentation relating to level crossing closures to support a submission to the Minister for Transport and Infrastructure as required under the TAA.

17 Management of Lessor Works

17.1 General

- 17.1.1 The Service Provider must manage access to the ARTC Network in accordance with the **CRN-P-P012 Procedure for Lessor Works (TfNSW, ARTC and the SP)**. Minor amendments to this procedure may be required to satisfy any ARTC requirements that are beyond the Principal's control.
- 17.1.2 The Principal owns land and assets on both the CRN and the ARTC Network. The ARTC Network is leased to ARTC from the Principal for a term of sixty years. ARTC has effective management and control of the ARTC Network, including land and assets owned by the Principal, but excluding any CRN Assets.
- 17.1.3 Some of the CRN Assets (including, for example, public road overbridges) are located on the ARTC Network. In accordance with the requirements of the Deed, the Service Provider will be required to access the ARTC Network to maintain, upgrade and replace CRN Assets.

17.2 Operating Environment

- 17.2.1 The Service Provider must ensure that, in managing the Lessor Works:
 - (a) the integrity and safety of the operational rail network is not compromised; and
 - (b) the terms and conditions of the ARTC Lease are complied with.

17.3 Access

- 17.3.1 The Service Provider must manage all aspects of the Lessor Works process, including:
 - (a) ensuring access is available to the ARTC Network to carry out required works forming part of the Services;
 - (b) arranging for any required configuration change management;
 - (c) managing all proposed Lessor Works appropriately and in accordance with applicable Standards and Codes, policies and procedures, and the requirements of the ARTC Lease;
 - (d) ensuring that all required Approvals (including those required to be obtained from the Principal and the ARTC) have been obtained;
 - (e) ensuring all certification required to be obtained under any Laws and Standards and Codes are obtained from the Principal following completion of the part of the Services, and details of such certifications are appropriately recorded; and
 - (f) ensuring that photographs and any required reports are taken and obtained (as appropriate), evidencing the condition of the site upon which the Lessor Works are carried out on prior to the Service Provider carrying out those Lessor Works.

18 Management of Third Party Works

18.1 General

18.1.1 Third Parties (including any utility service providers, rail freight operators, relevant road authorities, local and municipal councils, and the general public) may require access across, under or over the CRN Land and CRN Assets during the Term. The Service Provider must manage Third Party Work and requests from Third Parties for access to the Rail Corridor in accordance with this section 18, and the **CRN-P-P011 Procedure for Third Party Works Access & Activity ("P011 Procedure")**.

18.1.1A The Principal will, following the Reset Date, prepare an updated version of the P011 Procedure that:

- (a) incorporates the Third Party Works Reset Principles;
- (b) includes any amendments that are necessary to align with this section 18; and
- (c) includes updates for current practice,

(the "**Updated P011 Procedure**") and issue that Updated P011 Procedure to the Service Provider. The parties will agree the Updated P011 Procedure, both parties acting reasonably and in conformance with Third Party Works Reset Principles and this section 18.

18.1.1B The Principal and the Service Provider acknowledge and agree that:

- (a) from the Reset Date until the date that the Principal and the Service Provider agree the Updated P011 Procedure, the existing P011 Procedure that was in place at the Reset Date will continue to apply subject to any changes set out in the Third Party Works Reset Principles; and
- (b) from the date that the Principal and the Service Provider agree the Updated P011 Procedure, the Updated P011 Procedure will apply in place of the P011 Procedure and all references to the P011 Procedure in this Scope of Works will be read so as to refer to the Updated P011 Procedure.

18.1.1C The Service Provider must develop, implement, update and provide the Principal with a Third Party Works Management Plan that aligns with the Updated P011 Procedure for the Principal's approval within 3 months of the date that the Principal issues the Updated P011 Procedure to the Service Provider.

18.1.2 The Service Provider must ensure that there is a licence agreement, Master Access Deed (**MADs**) or other agreement entered into between the Principal and the relevant Third Party in respect of all Third Party Works prior to the commencement of any Third Party Works.

18.2 Third Party Works Management Plan

18.2.1 The Services Provider must develop, implement, update and maintain a Third Party Works Management Plan to manage Third Party Works.

- 18.2.2 The Third Party Works Management Plan must outline how the Service Provider will manage Third Party Works in accordance with this section 18 and P011 Procedure and must include the following:
- (a) details as to how the Service Provider will appropriately manage and minimise risk and costs to the Principal in relation to Third Party Works;
 - (b) an implementation plan to renew or otherwise enter into new agreements for those Third Party agreements that have expired (or are expiring during the Term), or are being held over (other than those under which the Third Party has discharged all its obligations) based on an assessment of the risk and value to the Principal in doing so; and
 - (c) any other recommendations for the management of Third Parties and Third Party Works to the Principal's Representative that are necessary to minimise the Principal's exposure to risk as a result of Third Party Works.
- 18.2.3 The Principal must not unreasonably withhold consent to updates to the Third Party Works Management Plan to the extent those updates are consistent with this section 18 and the P011 Procedure.
- 18.2.4 The Service Provider must report on the implementation of the Third Party Works Management Plan as part of its Monthly Reports, including all instances of direct refusal of access by the Service Provider and noting in appropriate detail the reasons for that detail.
- 18.2.5 The Service Provider must provide to the Principal the Third Party Works Management Plan in accordance with clause 18.1.1C.

18.3 Managing Third Party Access to the CRN Assets

- 18.3.1 The Service Provider must undertake the following functions in managing Third Party access to the CRN Assets:
- (a) ensuring the integrity and safety of the operational rail network;
 - (b) maintaining and administering all documents relating to the Third Party Works (including any such documents retained in electronic storage in the property management system and GIS);
 - (c) providing the Principal with originals and, where an agreement has been signed in hard copy, hard copies of executed agreements entered into with Third Parties;
 - (d) maintaining and administering a Third Party Works register, containing particulars of all new and existing installations held by the Principal and to be provided to the Principal annually, on each anniversary of the Services Commencement Date, at the expiration of the Term and as otherwise requested by the Principal;
 - (e) providing a system to receive, action and monitor requests from Third Party Works applications;
 - (f) use reasonable endeavours to resolve (and, if required escalate) any issues brought about by the Third Party Works, including after-hours service as may be required by any Third Party, and interacting with the Principal (and seeking

- the assistance of the Principal's Representative, if required) to respond to issues associated with such Third Party Works;
- (g) monitoring and tracking issues to completion of the Third Party Works, including following up with applicants;
 - (h) recording details of issues, resolutions and applicant satisfaction;
 - (i) providing access for Third Parties to rail infrastructure and CRN Land to meet essential rail; and operational requirements as required by the Principal, consistent with the processes set out in this section 18, the P011 Procedure and the Third Party Works Management Plan; and
 - (j) agreeing with the Principal's Representative on a schedule for inspections and audits of Third Party Works, with an emphasis on the Third Party Works with the greatest potential to impact the safe operation of the rail network.

18.4 Manage Third Party Works

18.4.1 The Service Provider must undertake the following functions in managing the Third Party Works:

- (a) managing all requests from Third Parties for access to the CRN Assets, in accordance with this section 18, the P011 Procedure;
- (b) review of design documents provided to it by the relevant Third Parties as part of the Third Party Works for compliance with all relevant Codes and Standards, to ensure the safety and integrity of the CRN Operational Network (and where relevant, the CRN Non-Operational Network) and is not compromised;
- (c) ensuring that all proposed Third Party Works are managed appropriately, and in accordance with the P011 Procedure;
- (d) obtaining necessary confirmations (and copies) for any Approvals that the Third Party is required to procure under the Third Party agreement, that all required Approvals (including any such Approvals that are to be procured from any Authority, including from TfNSW) have been obtained by the Third Party and are in place before allowing the Third Party Works;
- (e) where applicable, use reasonable endeavours to ensure that all certification required to be obtained by the Third Party following the completion of the Third Party Works is obtained and a copy of such certification is received; where considered reasonably necessary by the Service Provider or the Principal, ensuring that the Third Party provides the Service Provider with a dilapidation report which details the CRN Assets Condition prior to the Third Party carrying out the Third Party Works, and ensuring that the Third Party provides an updated dilapidation report after completion of the Third Party Works.

18.4.2 Without limiting section 18.1.2 or section 18.4.1, the Service Provider must:

- (a) upon becoming aware of any proposed Third Party Works involving the creation of Third Party Constructed Enhancement Assets, consider the proposed Third Party Works and determine whether it would be more appropriate (whether based on cost, safety or other considerations) for the Service Provider to carry out those works as part of the Services rather than the Third Party and, if the

Service Provider determines that it would be more appropriate for the Service Provider to carry out those works, submit a Variation Impacts Statement under clause 14.3(a) of the General Conditions proposing that the proposed Third Party Works instead be carried out by the Service Provider as a Modification, which Variation Impacts Statement must detail the reasons why the Service Provider has determined that it would be more appropriate for the Service Provider to carry out those works;

- (b) manage all existing licence agreements and MADs for Third Party Works, and ensure that approvals and certifications for the Third Party Works are in provided as required by the P011Procedure;
- (c) review fees and apply increases in accordance with the terms of the Third Party agreement;
- (d) provide evidence of the insurances required to be procured by the Third Parties under their respective Third Party agreements, including by providing any current certificates of currency in respect of such policies;
- (e) where applicable, prepare and issue invoices for fees, outgoings and other recoverable amounts, and submit reports to the Principal's Representative detailing the amount to be invoiced to the Third Party;
- (f) collect and receipt fees and all other payments received from Third Parties;
- (g) bank all monies received at the end of each month, reconcile receipts with fee allocations, provide a report to the Principal's Representative detailing the breakdown of money received and banked, and transfer these monies by way of EFT to the Principal's nominated bank account;
- (h) monitor overdue payments and non-payment by Third Parties, follow up and use reasonable endeavours to resolve and collect outstanding payment, and manage all other aspects of debt recovery for outstanding amounts due and payable by Third Parties, in accordance with the Procedure for Revenue Collection;
- (i) maintain and administer all bank guarantees, securities and bonds provided under Third Party agreements, and develop a register to track bonds, securities and guarantees should any changes to the Third Party agreement terms trigger a change in the respective amount due to be paid to a Third Party;
- (j) arrange for the return of guarantees, bonds and securities once the Third Party has fulfilled all relevant conditions precedent to the release of the relevant bond, guarantee or security in accordance with the terms of the relevant Third Party agreement (with such release subject to the approval by the Principal's Representative);
- (k) provide advice annually on the appropriateness of all Third Party charges for the Third Party Works; and

- (l) allow the Third Party to work under the Service Provider's Rail Safety Accreditation; and
- (m) to the extent any fees are payable by a Third Party directly to the Service Provider in accordance with this section 18, P011 Procedure and the Third Party Works Management Plan, invoice, recover and apply those fees in accordance with the Service Provider's requirements.

18.4.3 The Service Provider must use reasonable endeavours to determine whether there have been any non-compliances by the Third Party with respect to the relevant provisions under the terms of any licence agreement or MAD. The Service Provider must notify the Principal of any non-compliances by the Third Party of which the Service Provider becomes aware with respect to the relevant provisions under any Laws (including the WHS Law, Environmental Law, and the RSNL), any ASA Requirements, and the terms of any licence agreement or MAD. Where the Service Provider becomes aware that the Third Party has not complied with any such Laws, ASA Requirements or the terms of any licence agreement or MAD, the Service Provider must:

- (a) discuss the non-compliance with the Third Party;
- (b) determine whether the non-compliance can be remedied by the Third Party;
- (c) provide a recommendation to the Principal's Representative in respect of the non-compliance and the Third Party's proposed remediation strategy (if any);
- (d) provide notice to the Third Party to rectify the non-compliance; and
- (e) if required, arrange any configuration change management.

18.5 Third Party Agreements, Licences and MADs

18.5.1 The Service Provider must, in managing Third Party Works to the CRN Assets:

- (a) facilitate and support the negotiation of the proposed terms and conditions of Third Party agreements to be entered into by the Principal based on precedents prepared by the Principal and provide the Principal's Representative with project specific requirements to be incorporated into the terms and conditions;
- (b) renew existing Third Party agreements when they are due for renewal in accordance with the implementation plan described in section 18.2.2;
- (c) review fees to market and provide evidence of benchmarking to substantiate the proposed fees;
- (d) resolve variations required by Third Parties to existing agreements, in accordance with internal stakeholder clearance requirements and following approval from the Principal;
- (e) if required, obtain any legal services that it requires for itself; and

- (f) review Third Party agreements, licences and MADs that are due to expire, and elect to renew or terminate such agreements, licences and MADs in accordance with the implementation plan described in section 18.2.2.

18.5.2 The Service Provider must obtain the Principal's Representative's approval on the final terms of the Third Party agreements and pro-forma deed polls that are required under the P011 Procedure. Where the Principal's Representative has approved these final terms, the Service Provider must arrange for the preparation of all plans, schedules and appendices to the relevant Third Party agreement and arrange the execution of the Third Party agreement by the Third Party, and provide the Third Party agreement to the Principal for execution.

18.5.3 Where a Third Party proposes or is required to remove and/or make good the Third Party Works under their existing agreement(s) or makes a new application to do so for prior Third Party Works, the Service Provider must review the works proposed by the Third Party and provide details of the proposed works to the Principal for approval, including:

- (a) any comments or recommendations;
- (b) invoice and recover any applicable fees and charges;
- (c) reconcile and update the property management systems and GIS; and
- (d) receive relevant approvals and certifications for the relevant removal, expiry / termination, and notify the Principal of any non-compliances of which the Service Provider becomes aware, and use reasonable endeavors to manage such non-compliances.

18.5.4 The Service Provider must provide the following reports to the Principal (in such format agreed by the Principal in writing acting reasonably):

- (a) weekly reports setting out all applications for Third Party access and Third Party Works received during the corresponding weekly reporting period; and
- (b) quarterly and monthly reports setting out all matters required for those reports in this section 18, the P011 Procedure and the Third Party Works Management Plan, and such reports must include, at a minimum, the details outlined in the Third Party Access reporting obligations at Appendix H of the Scope of Works.

19 Transition Management

19.1 General

Without limiting any provisions under the General Conditions, that component of the Services relating to the Mobilisation Activities and the Transition Out Activities includes:

- (a) all activities, services and works required by this section 19; and
- (b) all activities, work and the supply of all materials necessary for the carrying out of such activities, services and works required by this section 19, the Mobilisation Activities and the Transition Out Activities, whether or not they are expressly mentioned in this section 19, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of such activities, services and works required by this section 19, the Mobilisation Activities and the Transition Out Activities had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

19.1.1 This section 19 does not limit any provisions under the General Conditions.

19.1.2 The Service Provider must prepare and implement a Mobilisation Plan and Transition Out Plan that includes, as a minimum, the following two key phases:

- (a) the Mobilisation Stage, where the Service Provider will carry out the Mobilisation Activities in accordance with this Deed; and
- (b) the Transition Out period, where the Service Provider will carry out the Transition Out Activities in accordance with this Deed.

19.1.3 The Service Provider must undertake all activities in this section in accordance with the Workforce and Transition Plan including the Organisation Structure/s. The Workforce and Transition Plan must include:

- (a) Organisation Structures for each relevant phase of the Deed (including the Mobilisation Stage, the Term (including Transition Out) and in the event any Option is exercised);
- (b) a description of the key parts of the business as required to meet the relevant sections of this Scope Of Work; and
- (c) detailed sections on how the Mobilisation Activities and Transition Out Activities will be performed by the Service Provider.

19.2 Mobilisation Plan

- 19.2.1 The Service Provider must develop, implement, update and maintain the Mobilisation Plan, which addresses the Mobilisation Activities required to be undertaken during the Mobilisation Stage, including by achieving each Mobilisation Milestone by the relevant Mobilisation Milestone Date.
- 19.2.2 The Mobilisation Plan must include the following:
- (a) the processes the Service Provider will implement to ensure that safety is maintained at levels current at the date of the Deed for all aspects of railway operations and maintenance activities that comprises the Services;
 - (b) the processes the Service Provider will implement to ensure that it achieves and maintains Rail Safety Accreditation for the CRN;
 - (c) formation of a mobilisation management team;
 - (d) key stages in the mobilisation, including the Mobilisation Milestone Dates (including in relation to the Proposed Mobilisation Date);
 - (e) key milestones such as conducting risk workshops, achieving Accreditation and executing any Safety Interface Agreements; and
 - (f) any other requirements of this Deed.

19.2A Transition In Plan and Operational Readiness Checklist

- 19.2.3 The Service Provider must develop and submit to the Principal's Representative for its approval in accordance with clause 6.9 of the General Conditions a Transition In Plan and an Operational Readiness Checklist.
- 19.2.4 The Service Provider must implement and complete:
- (a) all requirements of the Transition In Plan that has been submitted to the Principal's Representative in accordance with clause 6.9 of the General Conditions and in respect of which the Principal's Representative has given its approval; and
 - (b) all items and requirements of the Operational Readiness Checklist that has been submitted to the Principal's Representative in accordance with clause 6.9 of the General Conditions and in respect of which the Principal's Representative has given its approval.

19.3 Mobilisation management team

- 19.3.1 The Service Provider must provide an organisation chart as part of the Mobilisation Plan, setting out the Service Provider's proposed team structure for the management of the Mobilisation Activities.
- 19.3.2 The Service Provider must ensure that it completes (and ensures that its employees and Subcontractors complete and receive) all necessary training, including training in relevant information systems and any other systems or processes nominated in the Mobilisation Plan.

- 19.3.3 The Mobilisation Plan must include a scheduled program indicating the Mobilisation Milestones and Mobilisation Milestone Dates.
- 19.3.4 The Mobilisation Plan scheduled program must be represented graphically, and may include:
- (a) a one-page, high-level graphical representation of the overall program; and
 - (b) a detailed program in a recognised project scheduling software package indicating individual mobilisation tasks and persons responsible for ensuring that these mobilisation tasks are completed.

19.4 Key tasks during Mobilisation Stage

- 19.4.1 Without limiting the definition of 'Conditions Precedent (Services Commencement)' under the General Conditions, the Service Provider must attain all necessary safety and other accreditation(s) (including the Rail Safety Accreditation) and compliance with other relevant Laws, and Standards and Codes during the Mobilisation Stage (and within such other time period as notified to the Service Provider by the Principal's Representative).
- 19.4.2 During the Mobilisation Stage, the Service Provider must:
- (a) prepare documentation that demonstrates the Service Provider's compliance with the TfNSW Asset Handover Plan;
 - (b) conduct two risk management studies for the full scope of the mobilisation;
 - (c) effectively manage relationships with all relevant stakeholders;
 - (d) develop all necessary agreements with stakeholders identified by the Principal's Representative and notified to the Service Provider, including the persons specified below, or the persons providing the services across the CRN specified below:
 - (i) safety, including Safety Interface Agreements;
 - (ii) the workforce and Dedicated Employees that are currently engaged by the Previous Service Provider that may be carried over by the Service Provider;
 - (iii) any suppliers of Plant and Equipment;
 - (iv) any subcontractors (whether engaged by the Previous Service Provider, or to be engaged by the Service Provider);
 - (v) Systems and intellectual property;
 - (vi) operations;
 - (vii) rail infrastructure maintenance; and
 - (viii) CRN Property Assets (including arranging for any required access to CRN Assets over land the subject of the ARTC Lease);
 - (e) develop and deliver all necessary training programs required to its employees, Dedicated Employees and any Subcontractors, to ensure that the competency and capacity of the Service Provider's employees, Dedicated Employees and Subcontractors are adequate to undertake the Services detailed in this Scope of Works;

- (f) where possible, test mobilisation arrangements prior to the actual introduction of such mobilisation arrangements;
- (g) work with the Previous Service Provider to manage transition issues that may arise prior to or at the Services Commencement Date including any active investigations or audits; and
- (h) provide a weekly mobilisation issues log to the Principal, setting out details of any mobilisation issues.

19.5 Risk Study

19.5.1 During the Mobilisation Stage, the Service Provider must conduct two formal risk studies, which must include:

- (a) a workshop attended by personnel from both the Principal and the Service Provider;
- (b) workshop facilitation by an independent expert proficient in risk identification and mitigation processes; and
- (c) generation of a report outlining the risk study findings and strategies to manage and minimise the risk and hazards.

19.5.2 The Service Provider must record, monitor and control any risks identified during the risk study process in the risk register.

19.5.3 Following the Mobilisation Stage, the Service Provider must conduct a post-implementation review to confirm that the mobilisation is complete and that any outstanding risks, issues, and control actions are addressed.

19.6 Handover Package

19.6.1 The Service Provider must, as soon as practicable (and in any event, within six months) after the Services Commencement Date, prepare and maintain a handover package based on:

- (a) applicable Standards and Codes;
- (b) applicable TfNSW Procedures;
- (c) documents set out or referred to in Appendix G;
- (d) Information Documents; and
- (e) all Scope of Works Deliverables either included in Appendix C or otherwise delivered prior to the expiry of the Term,

each as updated and amended (as applicable) throughout the Term, to ensure continuity of the Services can be maintained in the event that the Principal (or an Interim Service Provider or Successor Service Provider) is required to step in and take over responsibility for carrying out the Services.

19.6.2 The Service Provider must ensure that the Principal and any Interim Service Provider or Successor Service Provider has access to all licences, intellectual property, copyrights, specialised tools, long lead items and any other relevant Assets or elements that may be required as part of the handover package.

19.7 Transition Out Plan

- 19.7.1 The Service Provider must develop, implement, update and maintain the Transition Out Plan to provide for the seamless transition to the Successor Service Provider that addresses all possible scenarios contemplated by the General Conditions in which the Service Provider's engagement may be terminated (including the expiration of the Term and any earlier termination of the Deed).
- 19.7.2 The Transition Out Plan must address, at a high level:
- (a) the Transition Out Activities to be undertaken by the Service Provider prior to the Termination Date and during the period of transition of responsibility for the Services from the Service Provider to the Successor Service Provider; and
 - (b) the processes to be undertaken by the Service Provider, to ensure that safety will be maintained at levels current at the date of the Deed for all aspects of railway operations and maintenance activities that comprise the Services, and will address the same processes and tasks as those applicable to the Mobilisation Plan.
- 19.7.3 The Service Provider's Transition Out Plan must include details of the:
- (a) Transition Out Activities, including the Service Provider's processes and management of these activities;
 - (b) documents, processes, spare parts stock required to manage the Transition Out Activities;
 - (c) availability of the Service Provider to ensure a smooth and efficient transition;
 - (d) Service Provider's organisation chart during the Transition Out Activities;
 - (e) Service Provider's handover package and operational readiness of the CRN Assets;
 - (f) stakeholder engagement, documentation, training, information and asset transfer processes;
 - (g) key people (including any Key Personnel, Dedicated Employees, Subcontractors and employees of any such Subcontractors) and succession planning for the Services and the CRN; and
 - (h) impact on the other plans prepared and submitted by the Service Provider under the Deed.
- 19.7.4 The Transition Out Plan will be managed by the Service Provider in such a manner so that the Service Provider may update the Transition Out Plan promptly and at any time during the Term following a request by the Principal.
- 19.7.5 The Service Provider must ensure that the Transition Out Plan is updated frequently, in order to meet all operational readiness requirements.

20 Heritage Management

20.1 General

20.1.1 The Service Provider shall comply with Laws related to heritage, including the following:

- (a) the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
- (b) the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth);
- (c) the *Protection of Movable Cultural Heritage Act 1986* (Cth);
- (d) the *Native Title Act 1993* (Cth);
- (e) the NSW Heritage Act;
- (f) the ACT Heritage Act;
- (g) the *National Parks and Wildlife Act 1974* (NSW); and
- (h) the *Aboriginal Land Rights Act 1983* (NSW).

20.1.2 The Service Provider must ensure that it stays abreast of, and in compliance with, Changes in Law.

20.1.3 The Service Provider must perform all activities, services and works relating to heritage, including those required by clause 11.3 of the General Conditions regarding Listing Notices.

20.2 Management of Property and Infrastructure Related Heritage Issues

Heritage and Conservation Register

20.2.1 The Service Provider must establish and keep a Heritage and Conservation Register on behalf of the Principal detailing all CRN Assets that are items within the meaning of section 170(4) of the NSW Heritage Act.

20.2.2 The Service Provider must:

- (a) provide a copy of the Heritage and Conservation Register to the Principal within 60 Business Days of the Services Commencement Date;
- (b) review and, if necessary, amend the Heritage and Conservation Register at least once per calendar year to ensure it meets the requirements of section 170 and 170A of the NSW Heritage Act;
- (c) provide a copy of the Heritage and Conservation Register to the Principal each time it is amended; and
- (d) if requested by the Principal, provide a copy of the Heritage and Conservation Register to the NSW Heritage Council.

20.2.3 The Service Provider must not:

- (a) remove any item from the Heritage and Conservation Register;
- (b) purport to transfer ownership of an item on the Heritage and Conservation Register; or
- (c) demolish any place, building or work entered in the Heritage and Conservation Register,

without the Principal's prior written consent.

Heritage Services

- 20.2.4 The Service Provider is to maintain and administer, including electronic storage in the GIS, Asset Management Database all Heritage related documents in accordance with the Principal's recording process. The Service Provider is to align and apply management of the Principal's Heritage Assets consistent with the following: Principal's Heritage Asset Management Strategy and the Burra Charter <http://australia.icomos.org/wp-content/uploads/The-Burra-Charter-2013-Adopted-31.10.2013.pdf>.
- 20.2.5 The Service Provider is to provide a facility to receive action and monitor all activities relating to the preservation, maintenance and removal of heritage assets.
- 20.2.6 The Service Provider is to resolve, or escalate issues to the Principal if required, in order to resolve heritage issues.
- 20.2.7 The Service Provider is to monitor and track issues to completion including following up with the relevant Authority and rail asset teams as required.
- 20.2.8 The Service Provider is to record details of issues, resolutions and OEH determinations from any relevant Authority.
- 20.2.9 The Service Provider will conduct regular inspections of all heritage assets in accordance with the schedule for inspections to determine whether there is any non-compliance with the relevant Laws (including Environmental Laws) in order to ascertain if there are any maintenance or preservation works required.
- 20.2.10 The Service Provider will ensure that all maintenance and preservation works are managed appropriately and in accordance with **CRN-P-P006 Procedure for Heritage** and all Laws.
- 20.2.11 The Service Provider will, in consultation with the Principal, deal with all enquiries from Authorities and other interested parties as they relate the Principal's heritage assets.
- 20.2.12 Where there is a breach of, or Non-Compliance in respect of, any relevant legal requirement or Environmental Law relating to heritage, the Service Provider must consult with the Principal and, if requested by the Principal:
- (a) except to the extent the Service Provider is required to provide a Failure Report and a Rectification Plan in accordance with the KPI Schedule, clearly identify the breach or Non-Compliance and prepare a draft action plan to address the issue;
 - (b) ascertain whether the breach or Non-Compliance can be remedied;
 - (c) provide a recommendation to the Principal in respect of the breach or Non-Compliance;
 - (d) do all works necessary to remedy the breach or Non-Compliance in accordance with:
 - (i) any direction under clause 5.5 of the General Conditions;

- (ii) to the extent subparagraph (d)(i) does not apply, the relevant Rectification Plan prepared in accordance with the KPI Schedule; or
- (iii) to the extent subparagraphs (d)(i) and (d)(ii) do not apply, instructions from the Principal; and
- (e) provide notification to the relevant Authorities where applicable and after consultation with the Principal.

20.2.13 The Service Provider is to draft responses to Ministerial directions (as required) and forward to the Principal for approval and release.

20.2.14 The Service Provider is to manage all heritage requirements, which includes, but is not limited to:

- (a) ensuring compliance with all requirements and guidelines established by Heritage Authorities and must demonstrate sensitivity to local stakeholder groups when dealing with heritage issues;
- (b) ensuring heritage listed assets are managed in accordance with **CRN-P-P006 Procedure for Heritage**;
- (c) management, on the Principal's behalf, all applications for financial incentives that may be applicable, and must notify the Principal of funding details if applications are granted; and
- (d) management of the funds and works that may be applicable under NSW and Commonwealth heritage incentive schemes that are made available from time to time.

20.2.15 The Service Provider is to ensure that maintenance works of heritage assets address:

- (a) structural issues that have timber or reactive clays;
- (b) suitability and use of new materials;
- (c) stone selection, cleaning and repair;
- (d) timber repairs and impact of termites;
- (e) historic flooring, including commonly used heritage material such as fabric and timber; and
- (f) roofing repairs and replacements.

20.2.16 The Service Provider is to ensure all its Associates, processes and materials are suitable for heritage asset work.

20.2.17 The Service Provider is to manage all development processes that may be required to manage heritage works. Approval must be gained from the relevant Heritage Authority when making changes to a heritage place listed on the relevant Heritage Register or covered by an interim heritage order.

20.2.18 The Service Provider is to ensure heritage material recycling, usage, and disposal activities are managed according to the Principal's requirements and the requirements of any relevant Heritage Authority and take into account stakeholder wishes where relevant and where feasible.

20.2.19 The Service Provider is to consult with the Principal in relation to any potentially contentious heritage issues prior to action. The Service Provider must provide a monthly report to the Principal, in an agreed format, which outlines all the heritage

activities performed over the previous month which is to be included in the Monthly Report.

20.2.20 Prior approval must be sought from the Principal prior to the engagement of a heritage consultant by the Service Provider.

20.2.21 Upon request by the Principal, the Service Provider must arrange for an independent audit by an Independent Auditor of the CRN Assets, or part of the CRN Assets (as determined by the Principal), to assess the level of compliance with applicable heritage Laws, which may include a review of the Heritage and Conservation Register. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.

20.3 Areas of Archaeological Significance

20.3.1 The Service Provider must report any archaeological relics found during the performance of Services to the relevant Authority. The Principal's Representative must be notified as soon as possible.

20.3.2 The Service Provider must manage the Services to ensure that archaeological findings are protected, and must engage suitable and qualified consultants to report on the findings and liaise with the relevant Authorities.

20.3.3 The Service Provider must obtain all necessary Approvals before excavating any land on the CRN where an archaeological relic may be affected.

20.4 Aboriginal Heritage Management

20.4.1 Prior to performing any ground disturbing works or other works that may impact an Aboriginal Heritage Item, the Service Provider must conduct an Aboriginal cultural heritage assessment of the area in accordance with:

- (a) all applicable laws relating to Aboriginal heritage;
- (b) where operating in NSW, the Due Diligence Code of Practice ; and
- (c) the Heritage Management Plan.

20.4.2 If while performing the assessment, or at any other time when performing the Services, the Service Provider encounters an item that may be an Aboriginal Heritage Item it must:

- (a) leave the item in the position that it was encountered and take all necessary actions to protect the item until further assessment can be made (including where necessary fencing off the area around the item and ensuring that no employees or Subcontractors enter or interfere with the fenced area);
- (b) immediately notify:
 - (i) the Principal's Representative; and

- (ii) the New South Wales Department of Planning, Industry and Environment or the Australian Capital Territory Environment, Planning and Sustainable Development Directorate (as applicable);
that the item has been encountered;
 - (c) comply with any direction given by the New South Wales Department of Planning, Industry and Environment or the Australian Capital Territory Environment, Planning and Sustainable Development Directorate (as applicable) in respect of the item;
 - (d) comply with all notification obligations under the NPW Act or the ACT Heritage Act (as applicable); and
 - (e) where required, apply for an Aboriginal Heritage Impact Permit.
- 20.4.3 The Service Provider must ensure that suitably qualified and experienced staff are engaged to carry out any site assessment, work to identify Aboriginal Items, monitoring work or community consultation and coordination in relation to Aboriginal heritage issues.
- 20.4.4 The Service Provider must maintain fences around an Aboriginal Heritage Item where this is required by an Aboriginal Heritage Impact Permit.
- 20.4.5 Aboriginal Heritage Items will not become the property of the Service Provider.
- 20.4.6 Where required to comply with the conditions of an Aboriginal Heritage Impact Permit, the Service Provider must permit and allow, and ensure that its Subcontractors permit and allow, relevant persons to watch or examine any excavation work on a site.

20.5 Heritage Management Plan

- 20.5.1 The Service Provider must prepare and submit to the Principal's Representative a Heritage Management Plan.
- 20.5.2 The Heritage Management Plan must at least contain the following components:
 - (a) details of systems, processes and people required to manage issues of cultural and heritage significance,
 - (b) a documented review process; and
 - (c) a process of continual improvement.

21 Asset Disposal

21.1 The Service Provider:

21.1.1 must (if directed by the Principal's Representative from time to time during the Term) dispose of all or any of the items listed in **Appendix L** for the Principal in accordance with the following procedure and any other NSW Government policies, procedures, guidelines and directions:

- (a) the Service Provider must issue a proposal in relation to the sale of the relevant assets (**Asset Disposal Proposal**) to the Principal's Representative for its review and approval, which proposal must identify:
 - (i) the proposed method of sale, which may include the Service Provider either itself conducting or procuring a third party to conduct a public auction for the sale of those items (as agent for the Principal); and
 - (ii) any processes and restrictions that will apply in relation to the sale;
- (b) the Principal's Representative may require the Service Provider to amend the Asset Disposal Proposal, including to incorporate requirements that the Service Provider:
 - (i) not sell any item for a price, or on other terms and conditions, which are not approved by the Principal's Representative in writing; or
 - (ii) comply with policies and procedures notified by the Principal's Representative in writing;
- (c) once the Asset Disposal Proposal is approved by the Principal's Representative, the Service Provider must:
 - (i) comply with the approved Asset Disposal Proposal;
 - (ii) without limiting section 21.1.1(c)(i), use its best endeavours to sell the relevant items using that method of sale and take all reasonable steps to ensure that the proceeds of sale are maximised;
 - (iii) not sell any item for a price, or on other terms and conditions, which are not approved by the Principal's Representative in writing; and
 - (iv) comply with policies and procedures notified by the Principal's Representative in writing; and
- (d) the Service Provider will be entitled to retain that part of the proceeds of sale that are necessary to cover the reasonable and necessary costs incurred by the Service Provider in disposing of the items in accordance with the approved method of sale and the remainder will become a debt due and promptly payable by the Service Provider to the Principal; and

21.1.2 the Service Provider will not be entitled to make, and the Principal will not be liable for, any Claim arising out of, or in any way in connection with, the Service Provider's obligations under this section 21, except as expressly provided by section 21.1.1(d).

Appendix A - TfNSW Procedures

Appendix A comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of the Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Scope of Works – Appendix A”.

TfNSW Procedures:

Procedure No.	Procedure Name
CRN-C-P001	Procedure for Third Party Network Proposals
CRN-C-P002	Procedure for Access Charge Approval
CRN-C-P003	Third Party Access Agreements
CRN-C-P007	Procedure for Revenue Collection
CRN-E-P004	Procedure for Changes to Engineering Standards
CRN-E-P006	Procedure for Notification of Incidents & Investigations
CRN-O-P002	Procedure for Changes to Operations Standards
CRN-O-P003	Procedure for Management of Customer Access Agreements
CRN-P-P002	Procedure for New Level Crossing/ Change in Use of a Level Crossing
CRN-P-P003	Procedure for Town Planning and Development Applications
CRN-P-P005	Procedure for Land Contamination
CRN-P-P006	Procedure for Heritage
CRN-P-P008	Procedure for Divestment of CRN Property
CRN-P-P009	Procedure for Leases and Licences
CRN-P-P010	Procedure for Closure of Level Crossings and Overbridges
CRN-P-P011	Procedure for Third Party Works Access & Activity
CRN-P-P012	Procedure for Lessor Works (TfNSW, ARTC & the SP)
CRN-P-P013	Procedure for Acquisition of Land
CRN-S-P001	Procedure for Incident and Failure Notification
CRN-S-P002	Procedure for Media Management
CRN-S-P003	Procedure for Management of Track Codes

TfNSW Policies:

Policy No.	Policy Name
	TfNSW Asset Framework Overview
	TfNSW Asset Management Reporting Standard
	TfNSW Asset Management Plan Standard
	TfNSW Asset Handover Standard
	TfNSW Enterprise Risk Management Policy
	TfNSW Procurement Policy Framework
	TfNSW Technical Maintenance Plans
	TfNSW Transportal GIS Management
	TfNSW Transportal GIS User Acceptance Testing
	TfNSW Management of Asset Information

Appendix B - Standards and Codes

Appendix B comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of the Deed via the hard drive labelled "Hard Drive - CRN Operations and Maintenance Deed" in the subfolder on that hard drive labelled "Scope of Works – Appendix B".

TITLE	Ref No	Version	Issue Date
Signalling Construction Specifications			
Traction Return, Track Insulation and Bonding	CRN SC 002	1.1	1/08/2015
Signalling Power Systems	CRN SC 003	1.3	9/11/2017
Lightening and Surge Protection Requirements	CRN SC 004	1.1	1/07/2016
Signalling Electronic Systems Verification	CRN SC 005	1.1	1/07/2016
Signalling Documentation and Drawings	CRN SC 006	1.1	1/07/2016
Inspection and Testing - Roles, Responsibilities and Authorities	CRN SC 007	1.1	1/07/2016
Inspection and Testing - Plans, Programs, Documentation and Packages	CRN SC 008	1.1	13/09/2016
Inspection and Testing Signalling - Inspection and Testing Principles	CRN SC 009	1.1	9/05/2016
Inspection and Testing Signalling - Inspection and Testing Procedures	CRN SC 010	1.1	9/05/2016
Inspection and Testing Signalling - Typical Inspections & Tests for Signalling Apparatus	CRN SC 011	1.1	9/05/2016
Inspection and Testing of New and Altered Signalling Works – Standard Forms	CRN SC 012	1.1	24/10/2016
Inspection and Testing - Interface Requirements and Procedures for Alterations	CRN SC 013	1.1	13/09/2016
Type Approval Requirements for Signalling Systems and Equipment	CRN SC 014	2.0	7/03/2016
Specification – Installation of Trackside Equipment	CRN SC 015	2.0	4/06/2015
Signalling Operator Interface	CRN SC 016	1.1	10/11/2016
Computer Based Interlocking Requirements	CRN SC 017	1.1	13/09/2016
Level Crossing Equipment	CRN SC 018	1.2	15/09/2017

Installation of Equipment Racks and Termination of Cables and Wiring	CRN SC 020	1.1	13/09/2016
Cable Routes and Associated Civil Works	CRN SC 021	2.4	19/12/2017
Small Buildings and Location Cases	CRN SC 022	1.3	1/06/2018
Design of Microlok II Interlockings	CRN SC 023	2.1	1/03/2015
Signalling Equipment Temperature Control Guidelines	CRN SC 025	1.0	8/02/2016
Design of Frauscher FAdC Axle Counters	CRN SC 026	1.4	9/11/2017
Signalling Design, Installation and Construction Guidelines	CRN SC 027	1.3	9/11/2017
Signal Power Supply Adjustment Guidelines	CRN SC 028	1.0	1/07/2016
Signal Design Principles			
Introduction	CRN SD 000	1.1	1/04/2016
Signals	CRN SD 001	2.0	1/05/2018
Headway	CRN SD 002	1.1	1/04/2016
Braking Distance	CRN SD 003	1.1	9/05/2016
Overlaps	CRN SD 004	1.2	1/10/2018
Speed Restrictions	CRN SD 005	1.1	1/04/2016
Noticeboards	CRN SD 006	2.0	1/06/2018
Single Line Sections	CRN SD 007	1.1	1/04/2016
Bi-Directional Signalling	CRN SD 008	1.1	1/04/2016
Time Releases	CRN SD 009	1.1	1/04/2016
Locking Arrangements	CRN SD 010	1.1	1/04/2016
Approach Locking	CRN SD 011	1.1	1/04/2016
Route Holding	CRN SD 012	1.1	1/04/2016

Points	CRN SD 014	1.1	1/04/2016
Controls and Indications	CRN SD 016	1.1	1/04/2016
Track Circuits	CRN SD 017	1.3	1/09/2018
Level Crossings	CRN SD 018	2.2	1/08/2020
Train Order Working	CRN SD 019	2.4	1/05/2018
Warning Lights	CRN SD 020	1.1	1/04/2016
Placing Signals at Stop to Protect a Worksite	CRN SD 021	1.1	1/04/2016
Measurement of Distances on Signalling Plans	CRN SD 022	1.1	1/04/2016
Placement of Yard Limit Boards	CRN SD 023	1.2	11/12/2015
Arrangements of Infrastructure at Signalling to Train Order and Token Area Boundaries	CRN SD 024	1.1	1/04/2016
Rolling Stock Signalling Interface Requirements	CRN SD 026	1.2	1/04/2016
Signalling Control Systems	CRN SD 027	1.0	7/03/2016
Grade Level Crossing Predictors	CRN SD 031	3.0	1/08/2020
Glossary of Signalling Terms	CRN SD 032	1.3	9/11/2017
CRN Level Crossing Strategy	CRN SD 033	1.0	21/07/2017
Signalling Asset Management	CRN SD 034	1.4	9/11/2017
Signalling Setup & Set to Work			
DC Track circuits – Set-up, Test and Certification	CRN SI 001	1.1	1/07/2016
Jeumont-Schneider Impulse Track Circuits – Set-Up, Test and Certification	CRN SI 003	1.1	11/12/2015
AC Single Rail Track Circuits Set-up, Test and Certification	CRN SI 004	1.1	11/12/2015
Signal Safeworking (MANUAL J)			
Manual J – Cover Page and Index	CRN SP 000	1.7	9/02/2017

Introduction to Signalling Maintenance Procedures	CRN SP 001	1.2	9/02/2017
Bridging or False Feeding of Signalling Circuits	CRN SP 002	1.3	1/10/2018
Accidents or Derailments – Action to be Taken	CRN SP 003	1.2	9/02/2017
Failures	CRN SP 004	1.4	1/10/2018
Damage to Signalling Equipment Including Cables	CRN SP 005	1.3	1/05/2019
Release of Track Locking or Indication Locking	CRN SP 006	1.3	1/05/2019
Apparatus Seldom Used	CRN SP 007	2.4	1/07/2019
Booking out and Disconnection of Signalling Equipment	CRN SP 008	1.2	13/03/2017
Testing and Certifying Equipment During Maintenance	CRN SP 010	1.2	13/03/2017
Like for Like Renewals	CRN SP 011	1.2	13/03/2017
Repair and Replacement of Signalling Wires	CRN SP 012	1.2	13/03/2017
Field Paralleling of Signalling Contacts	CRN SP 013	1.2	13/03/2017
Control of Signal Plans and Circuit Books	CRN SP 014	1.2	13/03/2017
Maintenance Responsibilities, Frequencies, Recording	CRN SP 017	1.2	13/03/2017
Minor Signalling Works on Maintenance Areas Involving Installing, Removing or Altering Signalling Equipment	CRN SP 021	1.1	1/08/2015
Testing of Interlockings	CRN SP 022	1.1	1/07/2015
Insulation Inspection and Testing	CRN SP 023	1.1	1/07/2015
Vital Signalling Relays	CRN SP 024	1.1	1/04/2015
Track Circuits	CRN SP 025	1.2	1/07/2015
Rerailing – Precautions to be Taken	CRN SP 026	1.1	1/07/2015
Traction Return (1500V DC)	CRN SP 027	1.1	4/06/2015
Facing Point Lock and Detector Testing - Mechanical	CRN SP 029	1.1	1/08/2015

Facing Point Lock and Detection Testing on Power Operated Points	CRN SP 030	1.1	1/08/2015
Maintenance of Signal Sighting and Signals	CRN SP 031	1.1	4/06/2015
Custody, Storage, Despatch and Use of Staffs and Keys	CRN SP 034	2.1	9/02/2017
Level Crossings	CRN SP 036	1.2	4/06/2015
Microtrax Coded Track Circuits	CRN SP 037	1.1	1/07/2015
Microlok Computer Based Interlocking	CRN SP 038	1.1	1/04/2015
Use of Radios Near Electronic Systems	CRN SP 040	1.1	1/04/2015
Pole Route	CRN SP 041	1.1	1/04/2015
Safety Issues for Signalling Personnel	CRN SP 042	1.1	1/07/2015
Irregularity Inspection and Testing	CRN SP 043	2.3	9/11/2020
Maintenance Management and Supervision Responsibilities	CRN SP 044	1.1	1/07/2015
Surveillance Inspections	CRN SP 045	1.1	4/06/2015
Calibration of Tools and Instruments for Signalling Applications	CRN SP 047	1.1	1/12/2014
Signalling Locations and Equipment, Locks and Keys	CRN SP 048	1.1	1/04/2015
Signal Engineering Waivers	CRN SP 049	1.3	9/02/2017
Axle Counters including Reset Procedures	CRN SP 051	1.1	4/06/2015
Grade Crossing Predictor	CRN SP 052	1.1	1/07/2015
Signalling Maintenance Manuals			
Trackside Monitoring Equipment	CRN SM 001	1.2	1/02/2019
Cerberus Level Crossing Monitor Equipment	CRN SM 002	1.1	13/09/2016
Mechanical Points and Ground Frames	CRN SM 004	1.2	1/02/2019
Claw Lock Mechanism Description and Operation	CRN SM 005	1.2	1/02/2019

Claw Lock Mechanism Safety and Functional tests Routine Maintenance	CRN SM 006	1.1	8/02/2016
Claw Lock Mechanism Overhaul	CRN SM 007	1.1	8/02/2016
Claw Lock Mechanism Installation on Turnouts	CRN SM 008	1.1	8/02/2016
Installation of Switch Rollers	CRN SM 010	2.0	8/02/2016
Jeumont Schneider (HVI) Track Circuits	CRN SM 011	1.1	9/05/2016
Road Level Crossing Protection Equipment	CRN SM 013	2.0	19/12/2013
Pedestrian Level Crossing Protection Equipment	CRN SM 014	1.1	9/05/2016
Cerberus Level Crossing Drawings and Circuit Diagrams	CRN SM 015	1.1	1/07/2016
Singalling Equipment Specifications			
Standard Requirements for Signalling Electronic Systems - Non Vital	CRN SE 001	1.1	9/05/2016
Environmental Conditions	CRN SE 002	1.2	1/02/2019
Signs, Notice Plates and Instruction Plates	CRN SE 003	1.2	1/06/2017
Labelling of Equipment	CRN SE 004	1.2	1/02/2019
Electrical & Electronic Components (Ratings & Construction Requirements)	CRN SE 005	1.2	1/02/2018
Connectors for Signalling Interface	CRN SE 006	1.2	1/02/2019
Vital Indication Opto - isolator	CRN SE 007	1.2	1/02/2019
Level Crossing Monitor Requirements	CRN SE 008	1.2	1/02/2019
High Voltage Impulse Track Circuits	CRN SE 009	1.2	1/02/2019
Power Supply Units for signalling Equipment – General Requirements	CRN SE 011	1.1	1/06/2016
Single Phase Air Cooled, Isolating Transformer for Signalling Applications	CRN SE 012	1.1	1/06/2016
Emergency Changeover Contactor Panel	CRN SE 013	1.1	1/06/2016
Mains Failure Plant	CRN SE 015	1.0	1/07/2015

DC Unfiltered Power Supply Units for Signalling Equipment	CRN SE 016	1.1	1/06/2016
DC Filtered Power Supply Units for Signalling Equipment	CRN SE 017	1.1	1/06/2016
DC Track Circuit Feed Sets	CRN SE 018	1.1	1/06/2016
DC Regulated and Filtered Power Supply Units for Signalling Equipment	CRN SE 019	1.1	1/06/2016
Battery Chargers for Signalling Equipment	CRN SE 020	1.1	1/06/2016
Fuses for Railway Signalling Applications	CRN SE 021	1.1	1/06/2016
Solderless Terminals and Cable Lugs for Signalling Applications	CRN SE 022	1.1	1/06/2016
Lightning and Surge Protection - Varistor/Arrestor Panel (VAP)	CRN SE 024	1.1	1/06/2016
Lightning and Surge Protection - Power Inductors	CRN SE 026	1.1	1/06/2016
Supply and Installation of Cable Jointing Material for the Jointing and Repair of PVC Signal and Power Cable	CRN SE 029	1.1	1/06/2016
Solderless Terminals Screw and Spring Clamp Terminal Blocks	CRN SE 033	1.1	1/06/2016
Non Vital Relays for Signalling Applications	CRN SE 034	1.2	9/11/2017
Cables for Railway Signalling Applications	CRN SE 035	2.5	1/05/2017
Light - Signal	CRN SE 036	1.1	9/05/2016
Point Mechanisms	CRN SE 037	1.1	1/06/2016
Level Crossing Equipment	CRN SE 038	1.2	15/09/2017
Track Circuit Types, Characteristics and Applications	CRN SE 039	1.1	1/06/2016
Relays Plug-in - Vital	CRN SE 041	1.1	13/09/2016
Centre Tapped Electrolysis Bond Chokes (30 A per Rail)	CRN SE 048	1.1	1/06/2016
Low Voltage Isolating Transformer	CRN SE 051	1.1	1/06/2016
Signalling Training And Competency			
Reassessment of Signalling Infrastructure Workers	CRN ST 001	1.2	9/02/2017

Assessment of Signalling Infrastructure Workers – Licence to Practice	CRN ST 002	2.4	9/02/2017
Signal Personnel – Authorisation Status and Licensing Board	CRN ST 003	3.14	18/10/2020
Log Book Procedures	CRN ST 004	1.2	9/02/2017
Non CRN personnel to Carry out Signalling Works	CRN ST 005	1.1	9/02/2017
Signalling Safe Working Breaches	CRN ST 006	1.2	9/02/2017
Carry out an Inspection in a Live Signalling Location Competency Standard	CRN ST 100	1.1	9/02/2017
Carry out an Inspection in a Live Signal Location Assessment Procedure	CRN ST 101	1.1	9/02/2017
Work Safely in a Live Signal Locations Competency Standard	CRN ST 110	1.1	9/02/2017
Work Safely in a Live Signal Location Assessment Procedure	CRN ST 111	1.1	9/02/2017
Signalling Train Control			
Train Order System Configuration Control Procedures	CRN SO 001	1.1	10/11/2016
Train Control and Signalling Telemetry Systems - Design Management Procedure	CRN SO 002	1.1	10/11/2016
Signalling Engineering Management			
CRN Signalling Engineering Management	CRN SQ 001	1.1	1/07/2016

Rolling Stock Management			
Minimum Operating Requirements for Locomotives	RS 001	2.1	16/07/2019
Locomotive Certification Request Form	RF 001	2.2	16/07/2019
Minimum Operating Requirements for Freight Vehicles	RS 002	2.1	12/02/2019
Freight Vehicle Certification Request Form	RF 002	2.2	16/07/2019
Minimum Operating Requirements for Locomotive Hauled Passenger Vehicles	RS 003	2.1	16/07/2019
Locomotive Hauled Passenger Vehicle Certification Request Form	RF 003	2.2	16/07/2019

Minimum Operating Requirements for Multiple Unit Trains	RS 004	2.1	16/07/2019
Multiple Unit Train Certification Request Form	RF 004	2.2	16/07/2019
Minimum Operating Requirements for Rail-bound Infrastructure Maintenance Vehicles	RS 005	2.1	16/07/2019
Rail-Bound Infrastructure Maintenance Vehicle Certification Request Form	RF 005	2.1	16/07/2019
Minimum Operating Requirements for Road-Rail Infrastructure Maintenance Vehicles	RS 006	2.1	16/07/2019
Road-Rail Vehicle Certification Request Form	RF 006	2.1	16/07/2019
Trolley, Trailer and Portable Plant Certification Request Form	RF 007	2.1	16/07/2019
Minimum Operating Requirements for Infrastructure Maintenance Trolleys, Trailers and Portable Plan	RS 007	1.0	12/08/2020
General Interface Requirements for Rolling Stock	RS 008	2.1	12/02/2019
Vehicle Acceptance Test and Inspection Requirements	RS 010	2.1	12/02/2019
Rolling Stock Wheel Defect Limits	RS 011	2.1	July 2020
Rail Vehicle Weighing Requirements	RS 012	2.0	4/10/2016
Driver Safety System Requirements for Rolling Stock	RS 013	2.1	10/7/2020
Automatic Equipment Identification	RS 014	1.1	14/05/2016
Road-Rail Vehicle, Trolley and Trailer Certification and Recertification	RS 016	1.7	4/6/2020
Communication System Requirements	RS 018	2.1	1/12/2020
Certification Requirements for Rail Vehicles	RS 019	1.0	12/08/2020
Section 0 - TOC Manual Format and Glossary	TOC 00	3.0	8/11/2018
Section 1 - Route Information	TOC 01	3.2	7/01/2020
Section 2 - Locomotive Operations	TOC 02	4.0	1/05/2020
Section 3 - Train Operations	TOC 03	2.0	7/07/2016
Section 4 - Train Marshalling	TOC 04	2.1	18/12/2020
Section 5 - Loading Restrictions	TOC 05	4.0	20/04/2020
Section 6 - Train Inspection	TOC 06	2.0	26/10/2016
Section 7 - Train Numbering	TOC 07	4.0	17/12/2020
Section 8 - Disabled Trains and Defective Vehicles	TOC 08	3.0	2/09/2020
Section 9 - Infrastructure Maintenance Vehicle Operations	TOC 09	2.0	9/11/2016
Section 10 - Locomotive & Rolling Stock Data	TOC 10	4.2	27/8/2020
Section 11 - Infrastructure Maintenance Vehicle Data	TOC 11	3.2	21/5/2020

Section 12 - Road-Rail and Trolley-Trailer Vehicle Data	TOC 12	3.9	27/10/2020
Northern Section Pages	TOC 13	4.1	4/11/2020
Northern Track Diagrams	TOC 14	3.7	4/11/2020
Southern Section Pages	TOC 15	4.2	13/11/2020
Southern Track Diagrams	TOC 16	3.2	19/6/2020
Western Section Pages	TOC 17	4.1	8/11/2020
Western Track Diagrams	TOC 18	3.6	9/04/2020
Rolling Stock-Plant Configuration Change Proposal Form	CRN-FRM-ENG-028	5.0	25/09/2019
Rail Vehicle Certification Review Form	CRN-FRM-ENG-029	3.0	25/09/2019
TOC Waiver Generic Risk Assessment CRN RM 002	CRN-FRM-ENG-030	3.0	25/09/2019
Rolling Stock-Plant Certification Process CRN RM 004	CRN-PRO-ENG-001	5.0	25/09/2019
Rolling Stock-Plant Configuration Change Process CRN RM 005	CRN-PRO-ENG-002	5.0	25/09/2019
TOC Waiver Process CRN RM 003	CRN-PRO-ENG-003	3.0	25/09/2019
Rolling Stock-Plant Incident Vehicle Inspection Process CRN-RM-006	CRN-PRO-ENG-004	3.0	25/09/2019

Civil Specifications			
Measuring Gauges	CRN CP 201	1.1	13/05/2016
Track Tools	CRN CP 202	1.1	13/05/2016
Track Design	CRN CP 203	1.1	13/05/2016
Product Approval	CRN CP 204	1.1	13/05/2016
Field Testing	CRN CP 205	1.1	13/05/2016
Track Construction	CRN CP 206	1.1	13/05/2016

Survey	CRN CP 211	1.2	14/9/2020
Contract Survey	CRN CP 212	1.3	14/09/2020
Trackside Signs	CRN CP 213	1.4	13/09/2020
Insulated Joints	CRN CP 221	1.1	13/05/2016
Rail Flaw Detection	CRN CP 222	1.1	13/05/2016
Timber Sleepers and Bearers	CRN CP 231	1.2	17/04/2019
Concrete Sleepers	CRN CP 232	1.2	17/04/2019
Steel Sleepers	CRN CP 233	1.3	17/04/2019
Concrete Turnout Bearers	CRN CP 234	1.2	17/04/2019
Steel Turnout Bearers	CRN CP 235	1.2	17/04/2019
Resilient Fastenings for Concrete Sleepers	CRN CP 236	1.1	13/05/2016
Resilient Baseplates	CRN CP 237	1.1	13/05/2016
Ballast	CRN CP 241	1.4	20/06/2019
Turnouts	CRN CP 251	1.1	13/05/2016
Structures Construction	CRN CP 301	1.1	13/05/2016
Timber Transoms	CRN CP 311	1.1	13/05/2016
Buried Corrugated Metal Structures	CRN CP 312	1.1	13/05/2016
Earthworks Materials	CRN CP 411	1.2	20/05/2020
Boundary Fences	CRN CP 511	1.1	13/05/2016
Worksite Demarcation Fences	CRN CP 512	1.1	13/05/2016

Civil Manuals			
Civil Technical Competencies and Engineering Authority	CRN CM 001	1.6	14/09/2020

Engineering Waivers	CRN CM 002	1.4	9/03/2020
Defect Management Guidelines	CRN CM 003	1.2	11/1/2021
Track Capability Assessment	CRN CM 004	1.0	21/12/2017
Track Structure Assessment	CRN CM 005	1.0	20/05/2020
Facilities Defect Management Guidelines	CRN CM 006	1.0	11/01/2021
Civil Service Schedules	CRN CM 101	1.4	22/09/2017
Facilities Service Schedules	CRN CM 102	1.0	12/12/2018
Maintenance Plan - First Generation Wrought Iron Girder Underbridges	CRN CM 111	1.3	21/12/2016
Maintenance Plan - 'Hybrid' Girders for Railway Overbridges	CRN CM 112	1.1	18/07/2016
Track Fundamentals	CRN CM 202	1.1	18/07/2016
Track Inspection	CRN CM 203	1.7	25/02/2020
Track Geometry & Stability	CRN CM 211	1.5	28/02/2019
Survey	CRN CM 212	1.4	14/09/2020
Derailment Investigation – Track and Rolling Stock	CRN CM 213	1.2	13/02/2017
Transit Space	CRN CM 215	1.1	18/07/2016
Rail Installation and Repair	CRN CM 221	1.5	13/09/2019
Rail Welding	CRN CM 222	1.2	18/07/2016
Rail Adjustment	CRN CM 223	1.3	18/07/2016
Rail Defects And Testing	CRN CM 224	1.2	18/07/2016
Rail Grinding	CRN CM 225	1.2	13/09/2019
Rail Defects Handbook	CRN CM 226	1.1	18/07/2016

Rail Surface Defects	CRN CM 227	1.1	18/07/2016
Sleepers and Fastenings	CRN CM 231	1.2	18/07/2016
Ballast	CRN CM 241	1.3	20/06/2019
Turnouts	CRN CM 251	1.1	18/07/2016
Structures General	CRN CM 301	1.2	21/12/2017
Structures Examination	CRN CM 302	1.5	31/01/2019
Structures Repair Manual	CRN CM 303	2.0	18/07/2016
Underwater Examination	CRN CM 304	1.1	18/07/2016
Structures Assessment	CRN CM 305	1.2	24/04/2017
Underbridges – Load Rating	CRN CM 306	1.0	14/06/2016
Bridge Assessment Procedure for Heavy Vehicles	CRN CM 307	1.2	13/08/2020
Bridges – Load Ratings	CRN CM 308	1.0	21/12/2016
Transoms	CRN CM 311	1.1	18/07/2016
Corrugated Steel Pipes (CSP) Installation and Maintenance	CRN CM 312	1.1	18/07/2016
Buffer Stops	CRN CM 331	1.1	18/07/2016
Geotechnical Risk Assessment and Hazard Management Guidelines	CRN CM 401	1.2	9/03/2020
Geotechnical Problem Management Procedure	CRN CM 402	1.2	9/03/2020
Track Reconditioning Guidelines	CRN CM 403	1.2	20/05/2020
Recognising Geotechnical Problems	CRN CM 404	1.2	9/03/2020
Earthworks	CRN CM 411	1.2	20/05/2020
Track Drainage	CRN CM 421	1.2	9/03/2020

Bushfire and Vegetation Management	CRN CM 501	1.1	18/07/2016
Boundary Fences	CRN CM 511	1.1	18/07/2016
Level Crossings	CRN CM 521	1.3	13/09/2019
Service Crossings	CRN CM 541	1.1	18/07/2016

Civil Standards			
Civil System	CRN CS 001	1.3	31/01/2020
Civil Technical Maintenance Plan	CRN CS 100	1.9	13/09/2019
Facilities Technical Maintenance Plan	CRN CS 101	1.0	12/12/2018
Track System	CRN CS 200	1.7	20/05/2020
Track Geometry and Stability	CRN CS 210	1.5	11/01/2021
Transit Space	CRN CS 215	1.4	11/01/2021
Rail and Rail Joints	CRN CS 220	1.7	13/09/2019
Sleepers and Track Support	CRN CS 230	1.5	17/04/2019
Ballast	CRN CS 240	1.5	13/09/2019
Turnouts and Special Trackwork	CRN CS 250	1.3	31/10/2018
Structures System	CRN CS 300	1.1	14/06/2016
Underbridges	CRN CS 310	1.3	29/09/2017
Overbridges and Footbridges	CRN CS 320	1.2	21/12/2016
Miscellaneous Structures	CRN CS 330	1.1	14/06/2016

Formation and Earthworks	CRN CS 410	1.2	20/05/2020
Track Drainage	CRN CS 420	1.2	9/03/2020
Boundary Fences	CRN CS 510	1.1	14/06/2016
Level Crossings	CRN CS 520	1.3	January 2021
Service Installations in the Rail Corridor	CRN CS 540	1.1	14/06/2016

Civil General			
Engineering Standards System Manual	CRN GM 001	1.3	13/08/2020
Engineering Standards Development Manual	CRN GM 002	1.5	13/08/2020
Scope of Coverage of Engineering Standards	CRN GM 003	1.2	13/08/2020
Writing Requirements and Guidelines for Engineering Standards	CRN GM 004	1.3	13/08/2020
Engineering Waivers	CRN GM 006	1.2	13/08/2020

Electrical Standards			
Co-ordination of Communication and Power Systems – Earth Potential Rise	CRN EE 001	1.1	13/09/2016
Electrical Installation Inspection	CRN EI 001	1.1	13/09/2016
Electrical Low Voltage Distribution and Installations Earthing References and Definitions	CRN EL 001	1.1	13/09/2016
Low Voltage Installations Earthing	CRN EL 002	1.1	13/09/2016
Low Voltage Distribution Earthing and Distribution Substation Earthing	CRN EL 003	1.1	13/09/2016
Isolation of Low Voltage Equipment	CRN EL 004	1.1	13/09/2016
Demarcation of JHR CRN Low Voltage Distribution	CRN EL 005	1.1	13/09/2016
Power Supply Electric Power Systems Safety Aspects	CRN ES 001	1.1	13/09/2016

Transmission Line Easement Conditions	CRN 001	ET	1.1	13/09/2016
Requirements for Electric Aerials Crossing CRN Infrastructure	CRN 002	ET	1.1	13/09/2016

Appendix D – Pre-approved template agreements

Appendix D comprises the documents listed below, which the Service Provider acknowledges and agrees were provided to the Service Provider by the Principal on or about the date of the Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Scope of Works – Appendix D”.

TAHE CRN Basic Property Lease
TAHE CRN Basic Property Licence
TAHE CRN Property Licence for Basic Infrastructure Works
TAHE CRN Property Licence for Existing Infrastructure
TAHE CRN Property Licence for Infrastructure Works with Existing Infrastructure
TAHE CRN Property Licence for Infrastructure Works
TAHE CRN Property Licence for Minor Activities
TAHE CRN Property Licence for Permitted Loading
TAHE CRN Property Licence for Resurfacing Works (Non-Operational Corridor)
TAHE CRN Property Licence for Underground Infrastructure Works with Underground Existing Infrastructure
TAHE CRN Property Licence for Underground Infrastructure Works
TAHE CRN Property Licence for Grazing
TAHE CRN Vendor Special Conditions 2019 Edition
ARTC CRN Property Licence for Infrastructure Works over ARTC Network
Private Level Crossing Licence over Operational CRN
S29 Deed Precedent (acquisition from TAHE)
Section 30 or 29 Deed Precedent (acquisition by TAHE)
CRN Master Access Deed

Appendix E - List of typical CRN Maintenance Activities

Definitions of current CRN maintenance activities by Transport Equip code and funding type referenced in the Asset Management Planning Documents.

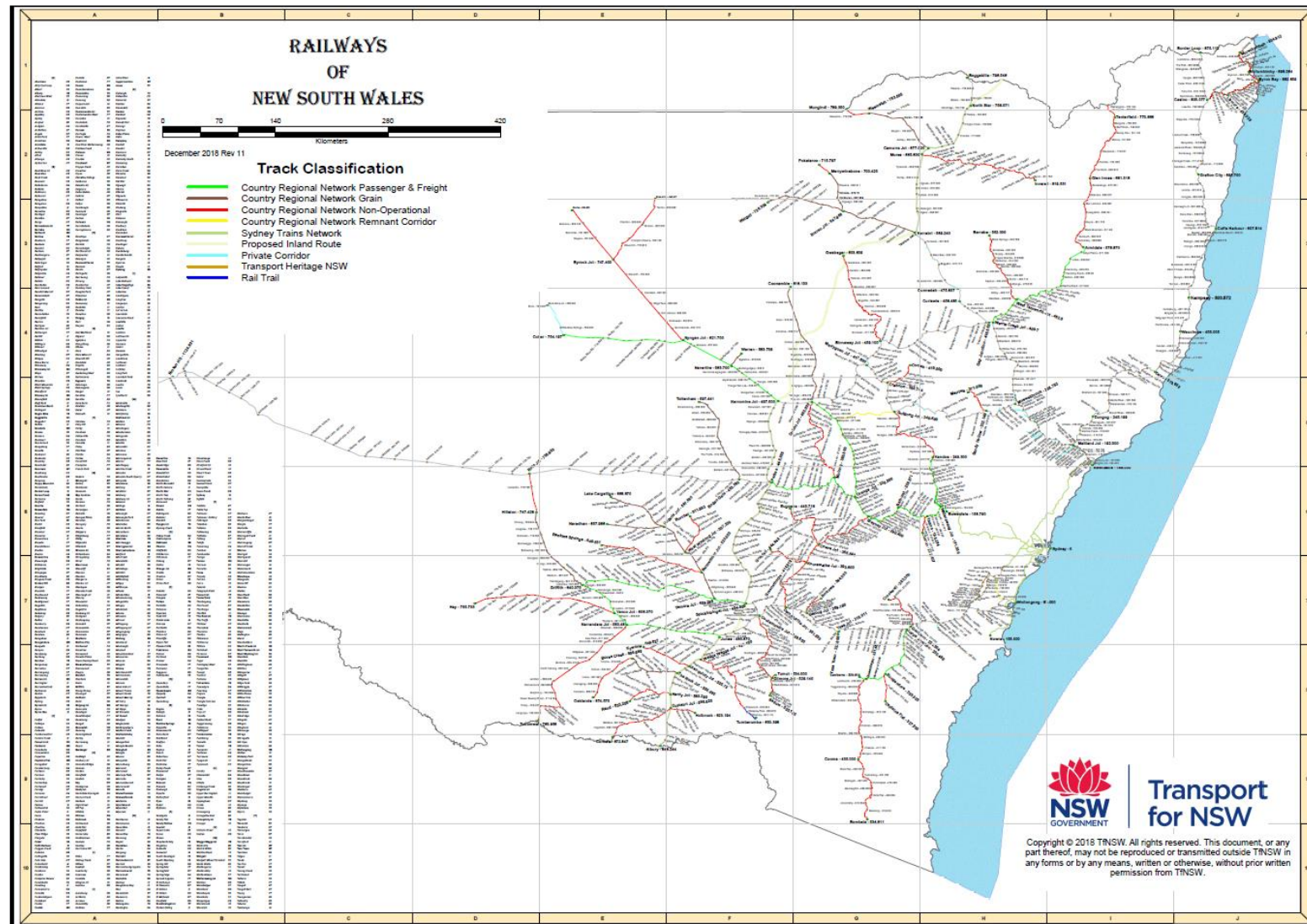
Equip Project	Equip Project Description	EQUIP Project Type	Description
P.0002710	Fencing Renewal	Capital	Certain declared CRN boundaries require a fence to be maintained as a statutory obligation. Otherwise fencing is utilised in certain locations to mitigate rail safety risk or public safety risk.
P.0002715	Other Capital Maintenance	Capital	Other minor (including one off) Capital Maintenance projects required to support the network such as access roads that do not warrant a dedicated program of works.
P.0002709	Rerailing	Capital	Rail life is determined by wear (rail head reducing to condemning dimensions) or the rate of rail defects, and replacements are made to mitigate the risks associated with broken rails. Consideration has to be given to increase the capacity of some lines (for example Class 5 lines).
P.0002708	Replace Rail Joints with Welded Rail	Capital	The replacement of rail joints with Continuously Welded Rail has been gradually undertaken where possible on the CRN over many years. If welded rail is correctly monitored and adjusted it has lower life cycle costs and improved reliability and safety than jointed track. CWR also offers improved fuel economy for rolling stock operators.
P.0002714	Concrete Resleepering Program	Capital	Concrete sleepers are utilised on the CRN primarily on tight radius curves as they offer improved stability compared to Steel Sleepers. This activity is usually undertaken with re-railing or track re-conditioning to improve delivery efficiency.
P.0002707	Turnout Renewal	Capital	The replacement of life expired turnouts on the CRN taking account of the level of traffic. Component replacement (such as bearers or ballast) is undertaken where Renewal is not justified.
P.0002693	Resurfacing Associated with Resleepering	Capital	Resurfacing of track following re-sleepering to return the track to the operational alignment.
P.0002694	Ballasting Associated with Resleepering	Capital	The addition of ballast to the track to ensure the track meets operational standards.
P.0002702	Timber Resleepering Program	Capital	The replacement of timber sleepers used under mechanical joints.
P.0002705	Culvert renewals	Capital	The replacement of life expired culverts that provide drainage/flow points across the track (typically CSP replacements with concrete box culvert sections). Maintenance of culverts is undertaken under Culvert Repair and Routine Maintenance.

P.0002691	Cuttings & Embankments	Capital	The replacement of cutting and embankment faces where maintenance of the existing infrastructure is no longer feasible.
P.0019733	Track Reconditioning	Capital	Undertaken where ballast is significantly fouled and/or the track formation has failed, the full track structure is removed and is restored from the ground up.
P.0002692	Design Civil/Signals	Capital	The design work associated with Civil or Signals upgrade projects.
P.0002704	Underbridge designs	Capital	The design work associated with Rail Underbridge Replacement Projects.
P.0002706	Culvert designs	Capital	The design work associated with Culvert Replacement Projects.
P.0002699	Steel Sleeper Procurement	Capital	The Procurement of Steel Sleepers which are used to replace life expired timber sleepers. This was a major work stream on the CRN in previous years but has now been largely completed.
P.0002700	Steel Sleeper Delivery and Layout	Capital	The Delivery and Layout of Steel Sleepers which are used to replace life expired timber sleepers. This was a major work stream on the CRN in previous years but has now been largely completed.
P.0002701	Steel Sleeper Insertion	Capital	The Installation and site clean up following the installation of Steel Sleepers which are used to replace life expired timber sleepers. This was a major work stream on the CRN in previous years but has now been largely completed.
P.0002703	Underbridge renewals	Capital	The replacement of life expired rail under bridges. Refurbishment of bridge components is undertaken where replacement is not justified.
P.0002711	Level crossings-Civil	Capital	The replacement of life expired rail under bridges. Refurbishment of level crossing components is undertaken where replacement is not justified.
P.0002713	Signalling Renewal	Capital	The replacement of obsolete track signalling equipment.
P.0002712	Level crossings-Signals	Capital	The upgrade or replacement of level crossing equipment with either active or passive protection infrastructure.
P.0002729	Vegetation Control	Recurrent	Control of Vegetation Growth to meet statutory requirements such as bushfire hazards and noxious weeds. Also includes maintaining sighting distances at level crossings. Includes both on track and non track sites.
P.0002717	Minor Projects (Recurrent Maintenance)	Recurrent	Minor maintenance projects that do not fit within the definitions of other programs.
P.0002728	Rail Grinding	Recurrent	This activity is undertaken to remove rail surface defects and improve the rail profile to extend rail life. This activity is undertaken where justified by traffic levels to extend rail life.

P.0002726	Turnout Retimbering	Recurrent	This activity is undertaken to replace turnout bearers where replacement of the turnout is not yet warranted.
P.0002723	Maintenance Resurfacing	Recurrent	Cyclic resurfacing (tamping) is undertaken to maintain track alignment and geometry. Track disturbance is otherwise minimised to reduce the degradation of ballast and damage to components.
P.0002720	Resurfacing Associated with WTSA	Recurrent	Some Resurfacing (tamping) is undertaken as part of the Welded Track Stability Analysis undertaken each year prior to the onset of hot weather. This activity is combined with track adjustment to ensure that track buckling does not occur.
P.0002727	Turnout Resurfacing	Recurrent	Specific Resurfacing (tamping) is undertaken at turnouts to maintain geometry and alignment with nearby track.
P.0002724	Maintenance Ballasting	Recurrent	This activity is undertaken on a cyclic basis to replace maintain ballast levels that degrade over time.
P.0002721	Overbridge renewals	Recurrent	The replacement of life expired road over bridges (ie the road surface bridge over the rail line). These are primarily a road asset that interfaces closely with rail operations and have historically been treated as a recurrent expenditure program.
P.0002721	Overbridge Enabling Works	Recurrent	The works required prior to completing an overbridge renewal such moving services (water, sewer, telecommunications or electricity) or relocating or modifying road assets.
P.0002734	Culvert repairs	Recurrent	The refurbishment of culverts that provide drainage/flow points across the track (such as the upgrade of components rather than complete renewal). Minor maintenance of culverts such as cleaning is also undertaken under Routine Maintenance.
P.0002722	Overbridge repairs	Recurrent	The repair of road over bridges (i.e. the road surface bridge over the rail line). These are primarily a road asset that interfaces closely with rail operations and have historically been treated as a recurrent expenditure program.
P.0019734	Cuttings & Embankments	Recurrent	The repair of cutting and embankment faces where replacement of the existing infrastructure cannot be justified.
P.0002731	Cess & Top Drain Maintenance	Recurrent	Repair of track drainage infrastructure to protect the track formation from water egress flooding.
P.0002725	Overbridge Design	Recurrent	The Design work associated with Over Bridge Renewals.
P.0002732	Investigations/Feasibility Studies	Recurrent	Investigative or pre-design projects required as part of the ongoing work program.
P.0002735	Underbridge repairs	Recurrent	The repair of rail under bridge components is undertaken where replacement is not justified.

P.0002718	Property Maintenance - MPM	Recurrent	Projects to repair CRN Property Assets not associated directly with track infrastructure. For example this must include as a minimum roof, window, flooring replacements. Also provision for electrical, plumbing, drainage and landscaping works.
P.0002719	Property Maintenance - RM	Recurrent	Minor maintenance activity undertaken on CRN Property Assets not associated with track infrastructure.
P.0002558	Routine Maintenance	Recurrent	Ongoing inspections and minor maintenance activity undertaken as part of the day to day operations of the track assets.
TBA	Level Crossing Closures	Recurrent	Closure of Level Crossing on non-operational lines no longer needed on the CRN. This includes removal of associated infrastructure usually signage and some of the road surface.
TBA	Turnout Rationalisation	Recurrent	Removal of turnouts following an assessment confirming that the operational impact on CRN customers is minimal.
TBA	Structures Disposal	Recurrent	Removal of redundant structures on the CRN that present the greatest risk in terms of public safety and also ongoing maintenance cost.
TBA	Property – Roofing, flooring and window repairs	Recurrent	General property maintenance associated with building interiors and exteriors including minor repairs to (for example) roofing, windows and flooring. Also includes minor repairs to facilities such as kitchens and bathrooms.
TBA	Property – Drainage, plumbing, electrical and painting	Recurrent	General property maintenance associated with building exteriors and interiors including drainage, plumbing, electrical and paintings works.
TBA	Property – Landscaping	Recurrent	General Property maintenance associated with external landscaping such as paving, asphalt repairs, concreting and retaining structures
TBA	Heritage Assessment	Recurrent	Minor maintenance works and inspection associated with the heritage status of buildings.
TBA	Property Divestment	Recurrent	Sale of properties as identified by the Principal including all approvals and real estate management services.

Appendix F – Map of Railways of New South Wales including the CRN as at 6 December 2019



Railway track boundaries of Operational Corridors on the Country Regional Network

Location	Interface to	Defined Point
Werris Creek	ARTC	At 411.201 km on the Armidale Branch Line adjacent to 1552 signal.
Dubbo (Troy Junction)	ARTC	At 466.231 km on the Coonamble Branch Line adjacent to TJ23 signal.
Dubbo	ARTC	At 460.890 km adjacent DOI signal at Dubbo on the Orange Line.
Narromine	ARTC	At 497.809 km at Narromine on the Main West Line.
Parkes	ARTC	At 446.950 km on the Orange to Broken Hill Main Line adjacent to GJ127 signal.
Parkes	ARTC	At 627.491 km (via Stockinbingal) on the Forbes to Parkes line adjacent to GJ120 signal.
Bogan Gate	ARTC	At 486.050 km on the Tottenham Branch Line.
Stockinbingal	ARTC	At 454.906 km adjacent SL20 signal on the Temora Branch Line.
The Rock	ARTC	At 551.075 km adjacent No.12 signal on the Boree Creek Branch Line.
Junee	ARTC	South Fork at 486.021 km at Junee North (via Branch line). North Fork at 484.730 km (via Main Line)
Joppa Junction	ARTC	At 232.025 km adjacent G6 signal on the Queanbeyan Branch Line.
Bowenfels	TAHE	At 158.800 km on the Wallerawan side of the last OHWS No. SL158+768A's
Narrabri Junction (Walgett Line)	ARTC	At 564.799 km on the South Fork and 565.361 km on the North Fork.
Camurra	ARTC	679.040 km on the Branch Line.

Appendix G – Information Documents

Appendix G comprises the list titled “Document index” which the Service Provider acknowledges and agrees was provided to the Service Provider by the Principal on or about the date of the Deed via the hard drive labelled “Hard Drive - CRN Operations and Maintenance Deed” in the subfolder on that hard drive labelled “Scope of Works – Appendix G”.

Appendix I – CRN Non-Operational Network Scope of Works

1. General

1.1 The CRN Non-Operational Network Scope of Works includes:

- (a) all activities, services and works required by this Appendix I; and
- (b) all activities and work and supply of all materials necessary for the carrying out of such activities, services and works required by this Appendix I, whether or not they are expressly mentioned in this Appendix I, including those which arise out of, or in any way in connection with, any change in the CRN Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of such activities, services and works required by this Appendix I had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Assets and their near surrounds.

1.2 The CRN Non-Operational Network contains approximately 3,300km of unused I36 network lines, which cannot be demobilised without an Act of Parliament permitting the Principal (or any other party) to do so. Reinstatement of rail services on these network lines is unlikely, and any such reinstatement would require a significant amount of investment and reconstruction of the track assets and infrastructure.

2. Services

2.1 The Service Provider must develop and implement a plan for the management of all of the CRN Non-Operational Network, including the:

- (a) management of fire hazards;
- (b) management of noxious weeds, other vegetation, and animal controls;
- (c) ongoing maintenance or disposal of Assets where required, to ensure and maintain public safety;
- (d) maintenance of fencing;
- (e) carrying out safety-related inspections and works in relation to Assets; and
- (f) carrying out any other works required to ensure that the CRN Non-Operational Network does not create any undue or unfavourable impacts on the local community or any stakeholders.

-
- 2.2 The Service Provider must maintain the rail Corridors comprising the CRN Non-Operational Network to ensure compliance with all relevant Laws, preservation of the Environment, and maintenance of public safety.
 - 2.3 The Service Provider must manage responses to proposals from Third Parties to repurpose CRN Non-Operational Network lines (for example, Rail Trails). The Service Provider must manage these proposals as part of the Scope of Works. However, any actual repurposing must be managed in accordance with the Stakeholder Management Plan.
 - 2.4 The Service Provider must manage any interfaces created as a result of the removal of the CRN Non-Operational Network lines.
 - 2.5 If a Modification is directed or approved by the Principal's Representative in accordance with the General Conditions changing the status of any part of the CRN from CRN Operational Network to CRN Non-Operational Network, that Modification will require the Service Provider to carry out the services referred to in this Appendix I in respect of that part of the CRN.

Appendix J - Property Management Services

1. General

1.1 The Property Management Services includes:

- (a) all activities, services and works required by this Appendix J; and
- (b) all activities and work and supply of all materials necessary for the carrying out of the Property Management Services, whether or not they are expressly mentioned in this Appendix J, including those which arise out of, or in any way in connection with, any change in the CRN Assets or CRN Property Assets after the date of the Deed or which otherwise should reasonably have been anticipated or inferred by a reasonably competent and experienced service provider at the date of the Deed as being necessary or desirable for the carrying out of the Property Management Services had such service provider inspected:
 - (i) all information made available by or on behalf of the Principal to the Service Provider or any Related Body Corporate of the Service Provider for the purpose of tendering, or otherwise in connection with the Deed, including the Information Documents;
 - (ii) all documents forming part of the Deed;
 - (iii) all information relevant to risk allocation under the Deed which is reasonably obtainable by the making of reasonable enquiries; and
 - (iv) the CRN Property Assets and their near surrounds.

1.1.2 The Service Provider must either hold a NSW Real Estate and Stock and Station Licence or obtain and maintain an exemption from the requirement to hold a Real Estate and/or Stock and Station Licence in NSW.

1.2 In carrying out the Property Management Services, the Service Provider must ensure that the integrity and safety of the CRN Operational Network is not compromised.

1.3 The Service Provider must arrange for an independent audit by an Independent Auditor to verify that Property Services has been undertaken in accordance with the Property Management Services Plan. Audits must be undertaken at least annually. The Service Provider must make available the auditor's report to the Principal's Representative promptly following receipt.

1.4 The Service Provider must provide all resources and obtain all necessary clearances and approvals from both internal and external stakeholders with respect to the management of:

- (a) leasing and licencing;
- (b) third party access requests;
- (c) acquisition of land;
- (d) disposal of land;
- (e) town planning and development applications;
- (f) level crossing / bridge closures; and
- (g) any other property related services,

prior to seeking approval from the Principal to enter into any form of agreement with respect to any property related activity. This includes any other service provider engaged by the Principal, other divisions within TfNSW and other government agencies.

2. Property Management Services Plan

2.1 The Service Provider must develop implement, update and maintain the Property Management Services Plan for the provision of Property Management Services. The Property Management Services Plan must include:

- (a) opportunities to maximise the commercial value to the Principal of the CRN Property Assets;
- (b) opportunities to minimise the risk and costs to the Principal of the CRN Property Assets;
- (c) details of an implementation plan to address expired lease agreements and lease agreements in hold over and enter into new lease agreements. The Service Provider must seek the approval of the Principal's Representative prior to entering into any new lease agreements; and
- (d) recommendations on how the Service Provider proposes to optimise the performance of, and minimise the risk associated with, CRN Property Assets.

2.2 The Service Provider must report on the implementation of the Property Management Services Plan as part of the Monthly Report.

3. Property Register

3.1 During the Mobilisation Stage, the Service Provider must develop a property register.

3.2 The property register must include, the following information:

- (a) a unique and meaningful identifier for each of the CRN Property Assets;
- (b) the titleholder and form of ownership for each of the CRN Property Assets;
- (c) heritage details for all CRN Property Assets that are listed on the Heritage and Conservation Register or are identified as items of local heritage significance in the relevant Local Environmental Plan (LEP);
- (d) a statement of the location and boundaries of all CRN Property Assets;
- (e) a qualitative assessment of the condition of all CRN Property Assets;
- (f) photographs of all CRN Property Assets;
- (g) information on current tenant(s) or other occupiers or users of CRN Property Assets;
- (h) tenancy agreement details for all CRN Property Assets (if relevant);
- (i) if applicable, the status of lease payments;
- (j) the details of any other relevant land lease arrangements for CRN Property Assets; and

- (k) any other property-related information that will assist in establishing the current extent and condition of CRN Property Assets.

4. Management of Tenancies and Other Property-Related Business

- 4.1 The Service Provider must manage all CRN Property Assets leases and licences in accordance with the **CRN-P-P009 Procedure for Leases and Licenses** as referred to in TfNSW Procedures.

5. Management of Tenancies

5.1 General

- 5.1.1 As part of the Property Management Services, the Service Provider must manage all tenancies on behalf of the Principal. The management of tenancies includes:

- (a) providing a system to receive, action and monitor requests from tenants;
- (b) resolving and/or escalating issues to the Principal's Representative as required, including afterhours service as necessary and interacting with the Principal's Representative as needed to resolve facilities management issues;
- (c) monitoring and tracking issues to completion including following up with tenants as required;
- (d) recording the details of each issue, resolutions and tenant satisfaction as required; and
- (e) providing the Principal's Representative access to CRN Assets and CRN Property Assets by liaising with tenants in order to carry out the Scope of Works and ensure all occupations allow for safe rail operations.

5.2 Tenancy Inspections

- 5.2.1 The Service Provider must manage all tenancy inspections for CRN Property Assets. In managing tenancy inspections the Service Provider must:

- (a) agree with the Principal's Representative a schedule for inspections of all leased CRN Property Assets. High priority leased CRN Property Assets are to be inspected no less than annually. Low priority leased CRN Property Assets are to be inspected at least once in every three years, or other period at the Principal's Representative's discretion, where:
 - (i) a high priority CRN Property Asset is a CRN Property Asset which generates revenue of greater than ██████ per annum or is listed on the Heritage and Conservation Register or relevant LEP as an item of local significance or to comply with WHS Law;
 - (ii) a low priority CRN Property Asset is a CRN Property Asset which generates less than ██████ in revenue in per annum;
- (b) conduct regular reviews of all CRN Property Asset leases to determine whether there are any non-compliances with applicable Laws or lease terms. In instances where there are non-compliances, the Service Provider must:

- (i) discuss works required to rectify the non-compliance with the tenant;
 - (ii) ascertain whether the relevant non-compliance can be remedied;
 - (iii) provide a recommendation to the Principal's Representative in respect of the non-compliance; and
 - (iv) provide a notice of rectification and breach to the relevant tenants if required;
- (c) deal with all lessee and other interested parties' enquiries or issues as they relate to the Principal and the tenants use and occupation of CRN Property Assets; and
- (d) ensure that all proposed tenancy works are managed appropriately and in accordance with the **CRN-P-P009 Procedure for Leases and Licenses** as set out further in TfNSW Procedures.

5.3 Manage Tenants

5.3.1 The Service Provider must manage all aspects of the incoming tenant process. In managing the incoming tenant process the Service Provider must:

- (a) ensure all required Law and Approvals required by the Principal are in place, including those relating to fit out;
- (b) obtain all statutory certificates from the relevant Authority following fit out works and record them in the Service Provider's property register;
- (c) if there are existing fixtures and fittings, an inventory is attached to the lease, the lease notes what needs to be removed on vacating the CRN Property Asset, and what make good is required;
- (d) ensure a dilapidation report is provided which details any dilapidation in the state of the CRN Property Asset or its fixtures or fittings prior to entry; and
- (e) prepare a report on the current condition of the CRN Property Asset prior to occupancy. This report must include photographs which show the existing condition of the CRN Property Asset and should form part of the relevant lease or licence agreement for the relevant CRN Property Asset;

5.3.2 manage all existing lease and/or licence agreements for all CRN Property Assets to ensure that all occupations are in accordance with the terms of the agreement and the **CRN-P-P009 Procedure for Leases and Licenses** as referred to in TfNSW Procedures;

5.3.3 review rents and apply increases in accordance with the terms of the relevant agreement; prepare valuation instructions and engage a valuer to ascertain market rents in accordance with the **CRN-P-P009 Procedure for Leases and Licenses** as referred to in TfNSW Procedures. The Service Provider must obtain the approval of the Principal's Representative prior to engaging a valuer;

5.3.4 obtain, and provide to the Principal's Representative, a certificate of currency confirming that all insurance policies are current and in accordance with the relevant agreement;

- 5.3.5 provide advice, on an annual basis, to the Principal's Representative on the appropriateness of all statutory charges and whether any actions need to be taken in relation to these statutory charges;
- 5.3.6 arrange payment of accounts with respect to all services to the CRN Property Assets (e.g. electricity, water, gas etc.) and ensure that tenants are invoiced for any monies that are able to be recovered under an agreement;
- 5.3.7 renew agreements when they fall due and in accordance with the **CRN-P-P009 Procedure for Leases and Licenses** as referred to in TfNSW Procedures;
- 5.3.8 review rents to market and provide evidence to substantiate the proposed rental increase or decrease;
- 5.3.9 exercise options, variations and assignments in accordance with lease agreements and internal stakeholder clearances in relation to operational, engineering and safety requirements in accordance with the relevant procedure and consultation with relevant stakeholder clearance requirements with the prior approval of the Principal's Representative;
- 5.3.10 obtain and instruct legal services as required following approval from the Principal in accordance with the procedure; and
- 5.3.11 benchmark lease agreements against equivalent properties in the applicable local area to ensure that satisfactory market rates are being achieved for CRN Property Assets.
- 5.3.12 The Service Provider must:
 - (a) provide the Principal's Representative with reports on the performance of CRN Property Assets as against the benchmarks to the Principal's Representative within 10 Business Days of the commencement of each Contract Year for review in accordance with clause 6.8 or 6.9 (as applicable) of the General Conditions; and
 - (b) inform the Principal's Representative of any breaches of tenancy agreements which trigger an immediate right to terminate.

5.4 Tenancy Review & Negotiation

- 5.4.1 The Service Provider must review and negotiate all leases and licenses as and when required. This includes managing all lease concessions and abatements, reviewing and negotiating leases due to expire and early lease surrender.
- 5.4.2 The Service Provider must manage all aspects of lease concession and abatements including:
 - (a) arranging discussions with tenant;
 - (b) obtaining a formal application from the tenant (where applicable);
 - (c) providing a recommendation to the Principal's Representative; and
 - (d) notifying the tenant of the outcome.

5.4.3 The Service Provider must review tenancies due to expire and renew or terminate in accordance with the **CRN-P-P009 Procedure for Leases and Licenses** as referred to in TfNSW Procedures.

5.4.4 The Service Provider must manage all aspects of early lease surrender including:

- (a) liaising with the Principal's Representative, the tenant and any proposed sub-tenant;
- (b) provide a recommendation to the Principal's Representative regarding early lease surrender options and the opportunities and costs from early lease surrender;
- (c) discontinue all relevant services immediately after the tenant has vacated the CRN Property Asset;
- (d) recover statutory charges where applicable;
- (e) reconcile the property management system and update to reflect the lease (or sub-lease) surrender;
- (f) process sub-lease documentation for approval by the Principal's Representative; and
- (g) where required, assist the Principal's Representative to obtain a quote for legal services and instruct solicitors to prepare assignment documentation.

5.5 Management of Vacant CRN Property Assets

5.5.1 The Service Provider must manage and market vacant CRN Property Assets. In performing these services the Service Provider must:

- (a) identify and apply for suitable grant schemes to supplement funding to support the delivery of adaptive reuse of vacant CRN Property Assets;
- (b) provide advice in identifying alternative uses for vacant CRN Property Assets;
- (c) develop leasing plans to support business outcomes;
- (d) market all CRN Property Assets in such a way as to ensure that the Principal's return on investment is maximised considering the Principal's objectives in clause 2.1 of the General Conditions;
- (e) identify new ways that vacant CRN Property Assets can be utilised as to add the most value to the Principal;
- (f) prepare all necessary marketing material and run marketing campaigns as required to obtain suitable tenants in consideration of current market conditions, rental rates for the area, and vacancy rates relevant to the CRN Property Asset;
- (g) enter into new agreements in accordance with the **CRN-P-P009 Procedure for Leases and Licenses**;
- (h) populate the Principal's standard template lease agreement;

- (i) negotiate the proposed terms and conditions of the lease with the proponent and provide the Principal's Representative with any recommendations for proposed amendments;
- (j) seek final approval from the Principal's Representative of the final terms and manage execution of the documentation. Arrange preparation of all plans and schedules to be attached to the relevant agreement;
- (k) arrange registration of documentation in a timely manner;
- (l) administer all lease / licence agreements entered into for vacant CRN Property Assets comply with all relevant Laws and notify the Principal's Representative in writing of any breach and ensure that any such breach is managed in accordance with **CRN-P-P009 Procedure for Leases and Licenses** as set out further in TfNSW Procedures and any relevant Laws; and
- (m) manage tenancy and land disaster recovery works in response to bushfires floods and other natural disasters.

5.6 Property Valuations & Survey

5.6.1 The Service Provider must undertake all necessary activities in managing the vacant CRN Property Assets, including:

- (a) review and comment on the valuations of vacant CRN Property Assets carried out by the NSW Valuer General;
- (b) where appropriate, provide to the Principal's Representative a recommendation as to whether the NSW Valuer General's valuation should be appealed;
- (c) with the prior approval of the Principal's Representative, prepare valuation instructions to engage a valuer to value the relevant vacant CRN Property Asset;
- (d) once the Principal's Representative has approved the engagement of a valuer, manage all aspect of the valuer's appointment and performance;
- (e) for insurance purposes, provide a suitable replacement cost estimates and valuations on freehold properties to the Principal's Representative; and
- (f) if a surveyor is required, with the prior approval of the Principal's representative, prepare survey instructions and engage a surveyor.

6. Management of Property Acquisitions

6.1 General

From time to time, the Principal may require additional land which does not currently form part of the CRN to support transport projects. The Principal's power to acquire land is pursuant to the *Transport Administration Act 1988* (NSW) (**TAA**) and is subject to the acquisition being done in accordance with the *Land Acquisition (Just Terms) Compensation Act 1991* (NSW) (**Just Terms Act**). The Principal's preference is to acquire land by negotiation, however, in some instances, where agreement cannot be reached, land may need to be compulsorily acquired pursuant to the Just Terms Act. Unless the Just Terms Act requires otherwise, the Service

Provider must manage the acquisition process in accordance with **CRN-P-P013 Procedure for Acquisition of Land** as referred to in TfNSW Procedures.

6.2 Manage Acquisitions

6.2.1 Additional land may be required by:

- (a) the Principal; or
- (b) the Service Provider.

6.2.2 If the Service Provider determines that additional land is required, the Service Provider must prepare, and submit to the Principal's Representative for approval, a brief which outlines the details of the project and why an acquisition of additional land is required. The brief must include the following information:

- (a) details of the land owner;
- (b) a plan of the land required and overlay of the proposed infrastructure; and
- (c) details of any encumbrances, easements, services, improvements or any other issue that may have a material impact on the proposed acquisition.

6.2.3 If the Principal's Representative approves the acquisition of additional land, or gives notice to the Service Provider that additional land is being acquired, the acquisition of additional land, the Service Provider must undertake the following aspects of the acquisition process, including:

- (a) arranging for a survey of the land to be carried out and providing a plan of subdivision suitable for lodgement with the relevant Authority;
- (b) arranging for a valuation of the land in accordance with the Just Terms Act any other relevant factors that may impact the value of the land;
- (c) preparing and submitting to the Principal's Representative for approval a brief which contains the Service Provider's recommendations on the proposed acquisition and any other issues or concerns that may impact on the proposed acquisition;
- (d) preparing survey instructions and upon approval from the Principal's Representative engage a surveyor;
- (e) seeking approval from the Principal's Representative in relation to the engagement of any other professional services;
- (f) preparing valuation instructions and upon approval from the Principal's Representative engage a valuer; and
- (g) progress acquisition of land in accordance with **CRN-P-P013 Procedure for Acquisition of Land** as referred to in TfNSW Procedures.

7. Management of Surplus Property & Divestment

7.1 General

The Service Provider will be required to manage some aspects of the divestment process for CRN Property Assets in accordance with **CRN-P-P008 Procedure for Divestment of CRN Property** as referred to in TfNSW Procedures.

7.2 Whole of Network Divestment Plan

- 7.2.1 In addition to the requirements in **CRN-P-P008 Procedure for Divestment of CRN Property**, the Service Provider must, within six (6) months of the Services Commencement Date, develop, prepare, implement and maintain a Whole of Network Divestment Plan. The Whole of Network Divestment Plan must align with the Principal's existing divestment listing.
- 7.2.2 The Service Provider must update the Whole of Network Divestment Plan on an annual basis and provide the updated plan to the Principal's Representative within 10 Business Days of the commencement of each Contract Year for review in accordance with clause 6.8 or 6.9 (as applicable) of the General Conditions.
- 7.2.3 The Whole of Network Divestment Plan must identify CRN Property Assets that are surplus to the Principal's operational requirements and whether those CRN Property Assets are suitable for repurposing (for example, as affordable housing or community facilities).. The identification of surplus CRN Property Assets must be in accordance with **CRN-P-P008 Procedure for Divestment of CRN Property** as referred to in TfNSW Procedures.
- 7.2.4 The Service Provider must facilitate ten (10) CRN Property Asset divestments annually in accordance with the Whole of Network Divestment Plan.
- 7.2.5 The Service Provider must identify relevant property, heritage or community related NSW grant funding schemes that may be a suitable for CRN Property Asset renewal, infrastructure installation or planning studies on the CRN. The Service Provider must nominate, and submit to the Principal's Representative for approval, up to 3 CRN Property Assets per year which may be suitable for a grant. Once these have been approved by the Principal's Representative, the Service Provider must complete the full application required by the relevant grant scheme.
- 7.2.6 All CRN Property Asset divestments must be in accordance with the Principal's and NSW Government policies and guidelines in relation to disposal of real property assets.
- 7.2.7 The Service Provider must advise the Principal's Representative on the most cost-effective means of disposing CRN Property Assets, taking into consideration the current market and economic environment, to ensure the Principal obtains the best value for money outcome from any CRN Property Asset divestment.

7.3 Managing Divestment

The Service Provider must manage any the divestment of CRN Property Assets on behalf of the Principal. In doing so, the Service Provider must:

- 7.3.1 undertake a desktop review to consider whether any CRN Property Assets have a sufficient market value to justify divestment and whether there are other reasons precluding the sale of CRN Property Assets such as cultural, community or heritage considerations. The Service Provider must prepare a list of proposed CRN Property Asset disposals. The list

shall include the reasons for each proposed CRN Property Asset divestment, the expected costs and the forecast benefits.

7.3.2 The Service Provider must, with prior approval from the Principal's Representative, undertake the following;

- (a) investigations relating to the relevant CRN Property Asset as outlined in **CRN-P-P008 Procedure for Divestment of CRN Property** as referred to in TfNSW Procedures;
- (b) following these investigations the Service Provider must submit a brief to the Principal's Representative seeking approval to further progress the divestment of the relevant CRN Property Asset;
- (c) prepare survey instructions and engage the surveyor;
- (d) prepare valuation instructions and engage the valuer;
- (e) engage any other professional services as required e.g. environmental; and
- (f) provide details of works required to be undertaken to the CRN Property Asset prior to divestment e.g. vegetation clearing, make good of buildings.

7.3.3 If the divestment of a particular CRN Property Asset is approved by the Principal's Representative, the Service Provider must:

- (a) arrange a survey of the CRN Property Asset for the purpose of a plan of subdivision suitable for lodgement with the relevant Authority;
- (b) arrange a valuation of the CRN Property Asset taking into consideration any special factors that may impact the market value of the CRN Property Asset;
- (c) seek professional advice in relation to any other issues, such as environmental or heritage concerns;
- (d) arrange fencing, disconnection or relocation of any services and any other works or actions necessary to progress the divestment of CRN Property Assets;
- (e) provide all information as requested by the Principal's legal advisors to enable the preparations of the documentation to prepare the relevant documentation to give effect to the divestment. For the avoidance of doubt, the Service Provider is not required to prepare the relevant documents and manage the legal aspects of the divestment;
- (f) for the avoidance of doubt, the Service Provider is not required to arrange the marketing program, engage agents where required and undertake all other actions to progress the sale to completion.

7.3.4 Update all records including the property management system / GIS concerning the divestment of CRN Property Assets.

7.3.5 Update and provide all required information and data to the Principal's Representative as required to keep records and information systems current.

8. Property Records Data Management

- 8.1 This section 8 outlines the Principal's requirements with respect to records and data management in relation to the acquisition or divestment of CRN Property Assets.
- 8.2 The Service Provider must ensure that the property information management systems comply with the NSW Government's Digital Information Security Policy, which can be found at <https://oemmnndcbldboiebfnladdacbfmadadm/>
<https://www.digital.nsw.gov.au/sites/default/files/NSW%20Standard%20for%20Data%20Quality%20Reporting%20v1.2%20FINAL.pdf>
- 8.3 Land transfer records and data updates, with respect to CRN Property Assets, may be due to the following:
- (a) CRN Property Assets acquired to support rail operations;
 - (b) CRN Property Assets divested as it is non-strategic and surplus;
 - (c) variations to interface boundaries;
 - (d) rectifications / corrections to title and or property boundaries; and
 - (e) amendments / corrections / modifications to the core lot layer.
- 8.4 The Service Provider must provide the Principal's Representative with all original hard copies of all executed and registered property related records to included leases, licences, land transfer forms and easement documents.
- 8.5 The Service Provider must maintain an agreements schedule which includes all agreements under management in accordance with the Principal's requirements (nominated from time to time) and to allow for accurate forward revenue forecasting.
- 8.6 The Service Provider must store all incoming and outgoing correspondence with all parties relevant to the management of CRN Property Assets, including historical information, in the property management system, in electronic format to ensure that there are no breaches of any applicable Laws and to ensure a full history on a particular CRN Property Asset is available.
- 8.7 The Service Provider must review, revise, update and maintain a GIS and the Principal's register of property agreements ensuring the data is updated within thirty (30 days) of a change.
- 8.8 The Service Provider must maintain all of the following information for each CRN Property Asset:
- (a) status (e.g. In progress, cancelled or finalised);
 - (b) changes to the ownership of the ARTC Network, CRN, ARTC inland rail network and other networks;
 - (c) the Principal's unique identifier;
 - (d) ARTC's reference;
 - (e) Service Provider's reference;
 - (f) title reference (Lot and DP or other title details);

- (g) Fixed Asset Register number;
- (h) landowners details (if not the Principal);
- (i) date land identified;
- (j) date of Service Provider Approval Brief;
- (k) date of Deputy Secretary, Department of Infrastructure, Transport Cities and Regional Development approval;
- (l) date of Minister / Governor Approval (Compulsory Acquisitions);
- (m) Gazettal notice number and Gazettal date;
- (n) date of exchange;
- (o) anticipated Settlement date;
- (p) actual Date of Settlement;
- (q) land clearly delineated;
- (r) date of valuation and valuation amount;
- (s) actual sale / purchase price;
- (t) date of contamination report and environmental clearance;
- (u) date of ARTC CEO approval;
- (v) date of PNSW approval;
- (w) date of Deed of Surrender or Deed of Additional Land (Deed of Variation) to ARTC Lease;
- (x) date of Notification to GIPA;
- (y) purpose e.g. inland rail; and
- (z) The following documents should be attached to the GIS layer as relevant:
 - (i) acquisition plan;
 - (ii) plan of sub-division
 - (iii) copies of all reports e.g. valuation, environmental assessment;
 - (iv) executed Contract for Sale;
 - (v) executed Section 29 or 30 Deed;
 - (vi) proposed Acquisition Notice (**PAN**);
 - (vii) Registrar-General notification of the proposed acquisition notice (or its withdrawal or amendment); and
 - (viii) Valuer General's Determination.

- 8.9 The Service Provider is to arrange all necessary identification of CRN Property Assets for transfer including:
- (a) clearly identify land and arrange survey of land and plan of subdivision suitable for lodgement with LRS and registration if required
 - (b) consult with the Principal / ARTC / NSW Trains and other interested parties as to progressing the land transfer
 - (c) prepare cost estimate for relocation of any services / fencing etc that may be required
 - (d) submit a brief to the Principal's Representative with recommendations as to any other issues or concerns that may impact transfer of CRN Property Assets.

9. Planning and Development Applications

- 9.1 The Service Provider must manage town planning issues in accordance with **CRN-P-P003 Procedure for Town Planning and Development Applications** as referred to in TfNSW Procedures. The Service Provider must ensure all proposed developments that adjoin the Corridor and/or planning proposal do not have any negative impacts on the operations of the CRN Operational Network or the ongoing integrity or safety of the CRN.
- 9.2 The Service Provider must ensure that all Property Management Services, including any property upgrades, complies with all relevant Laws including all applicable NSW Government, ACT Government and local government planning, licensing or Approval process obligations. The Service Provider must ensure that all Property Management Services comply with all CRN Property Assets development application conditions of consent.
- 9.3 The Service Provider must ensure that all development approvals and any other planning or licence conditions are satisfied during the Term and report any major non-compliance to the Principal's Representative.

10. Property Upgrades

- 10.1 Where upgrades, alternations or renovations to buildings are to be undertaken, the Service Provider must ensure that the design of all new, renovated or altered buildings, warehouses and other properties comply with Building Code of Australia (BCA) requirements, as well as all applicable Laws, WHS Laws and Environmental Laws.

External Requirements

- 10.2 Each new building must be purpose-designed, conforming to a consistent architectural and functional theme, which is appropriate for the location.
- 10.3 If the new, renovated or otherwise altered building is to be developed near an existing heritage property, the Service Provider must ensure that all relevant heritage considerations are addressed. Standard pre-fabricated units must not be used for buildings other than substations.
- 10.4 In undertaking the above property upgrades, the Service Provider must ensure that:
- (a) designs minimise, so far as is reasonably practicable, ongoing maintenance requirements;
 - (b) designs take into consideration site characteristics, including maximum wind and thermal loads;

- (c) designs prevent or otherwise minimise the potential damage from vandalism acts;
- (d) materials chosen for external walls minimise, so far as is reasonably practicable, ongoing maintenance requirements, with linings and insulation to office and amenities areas incorporated to minimise heat transfer. The Service Provider must ensure that the colour of external walls is consistent with visual amenity requirements of the relevant development consent;
- (e) windows and doors are prefinished and of a commercial grade, with appropriate, robust fittings consistent with the asset design life. The Service Provider must ensure that all glazing to doors and windows is laminated;
- (f) internal walls to office and amenity areas are insulated and lined on both sides;
- (g) roofs include insulated metal deck or other suitable eaves where necessary to prevent direct sunlight shining onto office and amenities external windows. The Service Provider must ensure that roofs to storage, workshop and maintenance areas have at least ten percent of the area fitted with translucent material to provide natural light;
- (h) floors and concrete slabs on the ground conform to AS2870 Residential slabs and footings - Construction and be at least 0.25m above forecast 1-in-100 year rainfalls;
- (i) roof drainage is connected to storm water systems to enable discharge into either settling dams or existing drainage infrastructure; and
- (j) external lighting is provided above all external doors.

Internal Requirements

- 10.5 The Service Provider must ensure that egress requirements are in accordance with all relevant Standards and Codes.
- 10.6 The Service Provider must ensure that space is allocated for a distribution or switch board arrangements where required.

11. Advertising

- 11.1 The Service Provider must manage all advertising contracts, expenses and revenue.
- 11.2 The Service Provider must submit new public advertising contracts to the Principal's Representative for approval prior to executing an advertising contract.
- 11.3 The Service Provider shall submit public advertising content and design for the Principal's Representatives for consideration and approval in accordance with clause 6.9 of the General Conditions.
- 11.4 The Service Provider shall report all advertising revenue as a separate item in the weekly and Monthly Report.
- 11.5 The Service Provider shall negotiate advertising fees within the industry standards price benchmarks.
- 11.6 The Service Provider shall ensure that all advertising complies with relevant Laws.

12. Stakeholder Management System Requirements

12.1 With respect to stakeholder management of CRN Property Assets (including tenancies and other property related business), the Service Provider must implement a process and system to:

- (a) ensure that all stakeholder proposals are managed appropriately and in a timely manner;
- (b) receive, action and monitor stakeholder application requests. Applications can relate to enquiries for leases / licenses, third party access, acquisition of land, general complaints. Any interface with the public in relation to property matters must be tracked and records retained with details of all communications noted (verbal and written) until the enquiry is closed;
- (c) resolve and/or escalate stakeholder issues as required, including consulting with the Principal's Representative as needed to resolve issues;
- (d) in consultation with the Principal's Representative, deal with all enquiries from Authorities and other interested parties as they relate to CRN Property Assets;
- (e) monitor/track issues to completion including following up with stakeholder requests as required;
- (f) record details of issues, resolutions and outcomes as required;
- (g) process requests to meet essential CRN rail operational requirements as required by the Principal;
- (h) respond to all applicants and other interested bodies' enquiries/issues as they relate to CRN Property Assets;
- (i) manage any disputes with third parties to achieve a satisfactory conclusion; and
- (j) in so far as the relate to Property Management Services, draft submissions and responses to Ministerial directions (as required) and forward to the Principal's Representative for approval and release.

13. Manage Revenue Collection and Bank Guarantees

As part of managing the tenancies of CRN Property Assets, the Service Provider must:

- 13.1 collect and receipt fees and all other payments;
- 13.2 prepare and issue invoices for fees, outgoings and other recoverable amounts where applicable;
- 13.3 bank all money received and at the end of each month reconcile receipts with fee allocations. Provide a report to the Principal's Representative detailing the breakdown of money received and banked and such money is to be transferred to the Principal's nominated bank account by EFT;
- 13.4 monitor overdue and non-payment of fees and follow up and resolve all overdue and non-payments in consultation with the Principal's Representative as required;;
- 13.5 manage all aspects of debt recovery for outstanding amounts payable including arrears, non-compliance and breach notices, and engagement of debt recovery services;
- 13.6 arrange for the payment of accounts with respect to all services to the CRN Property Assets (e.g. electricity, water, gas etc.) and ensure that tenants are invoiced for any monies that are able to be recovered under a tenancy agreement; and

- 13.7 maintain and administer all bank guarantees, securities and bonds where required under the relevant tenancy agreements. This includes maintaining a register to track bank guarantees, securities and bonds should any changes to the tenancy agreement terms trigger a change in the respective amount due to be paid to a tenant.. The Service Provider will also arrange for the return of bank guarantees, securities and bonds once the tenant has fulfilled all relevant conditions precedent to the release of the relevant bank guarantees, securities and bonds in accordance with the terms of the relevant tenancy agreement. Any release of an amount to a tenant is subject to the approval of the Principal's Representative.

Appendix K – Overbridge Maintenance Services

1. Residual obligations

- 1.1 Where either Option 3A or Option 3C is exercised by the Principal's Representative in accordance with this Deed, the Service Provider must (without limiting or otherwise affecting any other obligation of the Service Provider under this Deed or otherwise at Law) still manage the remaining CRN overbridge assets in accordance with this Deed.
- 1.2 Where Option 3B is exercised by the Principal's Representative in accordance with this Deed, the Service Provider must (without limiting or otherwise affecting any other obligation of the Service Provider under this Deed or otherwise at Law) still comply with all requirements of this Schedule 15 (Scope of Works) excluding the following:
- (a) Schedule 15 Section 5 – Asset Management Services; and
 - (b) Schedule 15 Section 6 – Asset Maintenance Services.

2. Access to the Country Regional Network

- 2.1 For the avoidance of doubt, where Option 3A, Option 3B or Option 3C is exercised by the Principal's Representative in accordance with this Deed, the Service Provider must coordinate any works by a Third Party in accordance with the requirements of Section 18 (Management of Third Party Works) of this Schedule 15.

3. Rail Road Interface Agreement

- 3.1 General
- (a) Part 3, Division 6 of the Rail Safety National Law obliges public road managers to identify, assess and manage, so far as is reasonably practicable, risks to safety that may arise from railway operations carried out on or in relation to rail infrastructure wholly or partly because of the existence of any rail or road crossing that is part of a road.
 - (b) The Service Provider must, in accordance with section 111 of the Rail Safety National Law, maintain a register of interface agreements to which the Service Provider is a party and any arrangements determined by the Regulator under section 110 of the Rail Safety National Law.

4. Register of Overbridges

Note: the columns 'Option 3A', 'Option 3B' and 'Option 3C' refer to whether the relevant overbridge falls within the ambit of the relevant Option and whether Asset Management Services and Asset Maintenance Services associated with the relevant overbridge will be removed from the Services if the relevant Option is exercised in accordance with this Deed.

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBC03165C	Pacific Highway Overbridge Port Waratah	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC03165E	Scholey Street Overbridge Port Waratah	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBC03166A	Industrial Drive Overbridge Port Waratah	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC07170A	Pacific Highway Overbridge Kooragang Island	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC07176A	Unnamed Road (Near Cormorant Rd) Overbridge Kooragang Island	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBC07178A	Teal Street Overbridge Kooragang Island	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC33241A	Golden Highway Overbridge Mount Thorley	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC36263A	Old New England Highway Overbridge Newdell Colliery	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBC37277A	Unnamed Road (Near Thomas Mitchell Drive) Overbridge Muswellbrook	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00165A	Railway Terrace Overbridge Waratah	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00167A	Maud Street Overbridge Sandgate	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00170A	Sandgate Road Overbridge Sandgate	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00177A	New England Highway Overbridge Tarro	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00178A	Woodberry Road Overbridge Tarro	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00179A	Lawson Avenue Overbridge Beresfield	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00182B	Railway Avenue (New) Overbridge Thornton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00188A	High Street Overbridge East Maitland	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00188B	George Street Overbridge East Maitland	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00191A	High Street Overbridge Maitland	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00192A	Church Street Overbridge Maitland	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00193C	Junction Street Overbridge Maitland	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00210A	Nelson Street Overbridge Greta	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00215A	Bridge Street Overbridge Branxton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00220A	Pothana Lane Overbridge Belford	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN00239A	Johns Street Overbridge Singleton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00283A	Muscle Creek Road Overbridge St Heliers	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00288A	Bell Street Overbridge Muswellbrook	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00290A	New England Highway Overbridge Muswellbrook	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00300A	Perth Street Overbridge Aberdeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00300B	Graeme Street Overbridge Aberdeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00304A	Old New England Highway Overbridge Togar	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00336A	New England Highway Overbridge Murulla	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00353A	Pages River Road Overbridge Murrurundi	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN00361A	Old New England Highway Overbridge Ardglen	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00381A	Kamilaroi Highway Overbridge Braefield	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN00451A	Oxley Highway Overbridge West Tamworth	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBN00489B	Limabri Valley Drive Overbridge Kootingal	Country Regional Network	Local	CRN - Operational		Yes	
OBN00496B	Limabri Valley Drive Overbridge Woolbrook	Country Regional Network	Local	CRN - Operational		Yes	
OBN00511A	Oxley Highway Overbridge Woolbrook	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBN00524A	Walcha Road Overbridge Walcha Road	Country Regional Network	Local	CRN - Operational		Yes	
OBN00555A	King Street Overbridge Uralla	Country Regional Network	Local	CRN - Operational		Yes	
OBN00577A	Dangar Street Overbridge Armidale	Country Regional Network	Local	CRN - Operational		Yes	
OBN00592A	Boorolong Road Overbridge Dumaresq	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00625A	New England Hwy Overbridge Guyra	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBN00664A	New England Highway Overbridge Glencoe	Country Regional Network	State	CRN - Non-operational	Yes	Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN00664B	New England Highway Overbridge Glencoe	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBN00676A	Winters Road Overbridge Glen Innes	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00681B	Lang Street Overbridge Glen Innes	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00705A	Rangers Valley Road Overbridge Dundee	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00715A	New England Highway Overbridge Deepwater	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBN00743A	Mt Spirabo Road Overbridge Bolivia	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00759A	Off New England Highway Overbridge Tenterfield	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00773A	Douglas Street Overbridge Tenterfield	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN00774A	Molesworth Street Overbridge Tenterfield	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN40302A	Unnamed Road Overbridge Bengalla Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN40435A	Ulan Road Overbridge Ulan	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51194B	Telarah Street Overbridge Telarah	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51195A	New England Highway Overbridge Telarah	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51201A	Rosebrook Road Overbridge Oakhampton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51206A	Eelah Road Overbridge Mindaribba	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51216A	Martins Creek Road Overbridge Martins Creek	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51218A	Martins Creek Road Overbridge Martins Creek	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51220B	Dungog Road (Horns Crossing Road) Overbridge Martins Creek	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51227A	Hilldale Road Overbridge Hilldale	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51238A	Clarencetown Road Overbridge Wirragulla	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN51244A	Mary Street Overbridge Dungog	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51248A	Fosterton Road Overbridge Dungog	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51249A	Monkerai Road Overbridge Monkerai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51263A	Nevilles Road Overbridge Stroud Road	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51265A	Reisdale Road Overbridge Stroud Road	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51266A	Bucketts Way Overbridge Stroud Road	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51286B	Bucketts Way Overbridge Craven	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51308A	Bucketts Way Overbridge Gloucester	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51317A	Bundook Road Overbridge Bullic	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51334A	Callaghans Creek Road Overbridge Bundook	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51348B	Kimbriki Road Overbridge Kimbriki	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51355A	Fowlers Road Overbridge Kimbriki	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51356A	Karaak Flat Road Overbridge Kimbriki	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51364A	Boundary Road Overbridge Wingham	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51366A	Farquhar Street Overbridge Wingham	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51376A	Wingham Road Overbridge Taree	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51380A	Cowper Street Overbridge Taree	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51380B	Old Pacific Highway Overbridge Taree	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51384A	Brimben Road Overbridge Kundle Kundle	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51396A	East Lansdowne Road Overbridge Melinga	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51404A	Bangalow Road Overbridge Coopernook	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51408A	Old Pacific Highway Overbridge Coopernook	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51418A	Johns River Road Overbridge Middle Brother	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN51420A	Unnamed Road Overbridge Middle Brother	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51427B	Pacific Highway(Southbound) Overbridge Kendall	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51431A	Lakeside Road Overbridge Kendall	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51435B	Hérons Creek Road Overbridge Kendall	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51445A	Bago Road Overbridge Kerewong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51452A	Weismantles Street Overbridge Wauchope	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51453A	Guy Street Overbridge Wauchope	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51457A	Rocks Ferry Road (Redbank Road) Overbridge Wauchope	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51462A	Rowsells Road Overbridge Pembroke	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51462B	Pembroke Village Road Overbridge Pembroke	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51466A	Reids Road Overbridge Telegraph Point	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51469A	Cutlers Road Overbridge Telegraph Point	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51472B	Old Butter Factory Road Overbridge Telegraph Point	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51474A	Wilmaria Road Overbridge Telegraph Point	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51482A	Mingaletta Road Overbridge Kundabung	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51501A	Pacific Highway Overbridge Kempsey	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51501B	Middleton Street Overbridge Kempsey	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51502A	Bloomfield Street Overbridge Kempsey	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51509A	Everingham's Lane Overbridge Kempsey	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51511A	Spooner's Avenue Overbridge Kempsey	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51515A	Cumming's Lane Overbridge Tamban	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51516A	Jocks Road Overbridge Tamban	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51524A	Spankers Flat Road Overbridge Tamban	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51528A	Cooks Lane Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN51530B	Range Road Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51535A	Pacific Highway Overbridge Eungai	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51539A	Browns Crossing Road Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51540A	Browns Crossing Road Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51541A	Browns Crossing Road Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51543A	Cockburn's Lane (Upper Warrell Ck Road) Overbridge Eungai	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51546B	Pacific Highway Overbridge Macksville	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51549A	Upper Warell Ck Road Overbridge Macksville	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51552A	Taylor's Arm Road (Wallace Street) Overbridge Macksville	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51555A	Rodeo Drive Overbridge Macksville	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51557A	Ironbark Road Overbridge Macksville	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51560A	Newee Creek Road Overbridge Nambucca Heads	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51562A	Old Coast Road (Bowraville Road) Overbridge Nambucca Heads	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51564A	Pacific Highway Overbridge Nambucca Heads	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51570B	Valla Beach Road Overbridge Nambucca Heads	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51578B	Hungry Head Beach Road Overbridge Raleigh	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51580A	Pilot Street Overbridge Raleigh	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51581A	Newry Street (Fitzroy Street) Overbridge Raleigh	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51590A	Unknown Road Overbridge Raleigh	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51595B	East Bonville Road Overbridge Bonville	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51598A	Lyons Road Overbridge Sawtell	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51601A	1st Avenue (Sawtell Road) Overbridge Sawtell	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51607A	Camperdown Street	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
	Overbridge Coffs Harbour						
OBN51609A	Hogbin Drive Overbridge Coffs Harbour	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51620A	Mt Browne Road Overbridge Landrigans	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51622A	Upper Orara Road Overbridge Landrigans	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51626A	Hartley's Road Overbridge Coramba	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51636B	East Bank Road Overbridge Nana Glen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51639A	Grafton Street Overbridge Nana Glen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51668A	Parker Road Overbridge Kungala	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51689A	Foleys Road Overbridge Grafton City	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51692A	Lilypool Road Overbridge Grafton City	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51747A	Summerland Way Overbridge Lawrence Road	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51804A	Simpson's Lane Overbridge Casino	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51832A	Summerland Way Overbridge Kyogle	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN51835A	Collins Creek Road Overbridge Kyogle	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN51841A	Summerland Way Overbridge Kyogle North	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN60193A	Elizabeth Street Overbridge Telarah	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN62814B	Naughton's Gap Road Overbridge Naughtons Gap	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62828A	Private Road (Off Leicester Road) Overbridge Tuncester	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62843A	Woodlawn Road Overbridge Lismore Yard	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62846A	Grace Road Overbridge Lismore Yard	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62847A	Bangalow Rd Overbridge Bexhill	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62861A	Booyong Rd Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBN62866A	Friday Hut Rd Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62869A	Granuaile Street Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62873A	Unnamed Road Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62874A	Bangalow Road Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62875A	Saint Helena Road Overbridge Bangalow	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62878A	Old Bangalow Road Overbridge Byron Bay	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62895A	McAuley's Lane Overbridge Byron Bay	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62910A	Wooyung Road Overbridge Hull Hill	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62915A	Tweed Valley Way Overbridge Burringbar	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBN62929A	Unnamed Road Overbridge Murwillumbah	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62932A	Unnamed Road Overbridge Murwillumbah	Country Regional Network	Local	CRN - Non-operational		Yes	
OBN62932B	Tweed Valley Way Overbridge Murwillumbah	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBN73475A	Oxley Highway (Abbott Street) Overbridge Gunnedah	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN73514A	Grantham Road Overbridge Boggabri	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBN73562A	Kamilaroi Highway Overbridge Narrabri Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN73572A	Newell Highway Overbridge Narrabri North Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBN73619A	Newell Highway Overbridge Bellata	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00065A	Station Street Overbridge Menangle	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00080A	Picton Road Overbridge Maldon Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00084A	Mathews Lane Overbridge Picton	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBS00085A	Prince Street Overbridge Picton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00088A	Connellan Crescent Overbridge Picton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00091B	Bridge Street Overbridge Tahmoor	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00094A	Thirlmere Way Overbridge Tahmoor	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00096A	Bargo River Road Overbridge Tahmoor	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00096B	Remembrance Drive Overbridge Tahmoor	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00101A	Wellers Road Overbridge Bargo	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00103A	Avon Dam Road Overbridge Bargo	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00105A	Southern Road Overbridge Bargo	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00109A	Remembrance Drive Overbridge Bargo	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00111A	Remembrance Drive Overbridge Yerrinbool	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00126A	Aylmerton Road Overbridge Aylmerton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00129A	Renwick Drive Overbridge Mittagong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00129B	Ferguson Crescent No.1 Overbridge Mittagong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00130A	Ferguson Crescent No.2 Overbridge Mittagong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00131A	Range Road Overbridge Mittagong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00133A	Bowral Road Overbridge Mittagong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00136A	Wingecarribee Street Overbridge Bowral	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00152A	Farm Access (Burnham's Rd) Overbridge Exeter	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00158A	Ringwood Road Overbridge Exeter	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00160A	Erith Street No.1 Overbridge Bundanoon	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00162A	Erith Street No.2 Overbridge Bundanoon	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00164A	Quarry Street Overbridge Bundanoon	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBS00172A	Kareela Road Overbridge Penrose	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00185A	Mulwaree Drive Overbridge Tallong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00192C	George Street Overbridge Marulan	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00197A	Unnamed Road Overbridge Carrick	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00212A	Towrang Road Overbridge Towrang	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00222A	Old Hume Highway (Lagoon Street) Overbridge North Goulburn	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00222B	Old Hume Highway (Lagoon Street) Overbridge North Goulburn	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00223A	Philip Street Overbridge North Goulburn	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00225A	Mundy Street - Braidwood Road Overbridge Goulburn	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00232A	Hume Highway South Overbridge Joppa Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00232B	Hume Highway North Overbridge Joppa Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00233A	Old South Road Overbridge Joppa Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00239A	Parksbourne Road Overbridge Joppa Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00258A	Old Hume Highway Overbridge Fish River	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00259A	Old Hume Highway Overbridge Fish River	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00265A	Old Hume Highway Overbridge Fish River	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00272A	Gunning Road Overbridge Fish River	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00278A	Dalton Road Overbridge Gunning	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00291A	Oolong Road Overbridge Jerrawa	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00294A	Coolalie Road Overbridge Jerrawa	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00313A	Cooks Hill Road Overbridge Yass Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00318A	Wargeila Road Overbridge Yass Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBS00325A	Lachlan Valley Way Overbridge Yass Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00329A	Montem Street Overbridge Goondah	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00347A	Cootamundra Road Overbridge Binalong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00351A	Cootamundra Road Overbridge Binalong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00363A	Bobbara Road Overbridge Galong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00365A	Bouyea Road - Crescent Street Overbridge Galong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00371A	Linden Road Overbridge Galong	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00378A	Linden Road Overbridge Cunnigar	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00391A	Harden Wombat Road Overbridge Demondrille	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00394A	Unnamed Road Overbridge Demondrille	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00396A	Colorada Road Overbridge Demondrille	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00403A	Glenroy Lane Overbridge Wallendbeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00407A	Olympic Highway Overbridge Wallendbeen	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00407B	George Street Overbridge Wallendbeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00408A	Burley Griffin Way Overbridge Wallendbeen	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00414A	Morrison's Hill Road Overbridge Wallendbeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00417A	North Jindalee Road Overbridge Wallendbeen	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00419A	West Jindalee Road Overbridge Cootamundra	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00427A	Olympic Highway Overbridge Cootamundra	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00435A	Dirnasser Road Overbridge Cootamundra	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00445B	Frampton Road Overbridge Frampton	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00486A	Olympic Highway Overbridge Junee	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS00521A	Edmondson Street Overbridge Wagga Wagga Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS00523A	Pearson Street Overbridge Wagga Wagga Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBS00635A	Olympic Highway Overbridge Ettamogah	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS32124B	Old Hume Highway Overbridge Mittagong Junction	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS32124C	Swan Street (Railway Terrace) Overbridge Mittagong Junction	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS34091A	Bardess Crescent Overbridge Unanderra	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS34121B	Mount Murray Tourist Road Overbridge Mount Murray	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS34122A	Illawarra Highway Overbridge Mount Murray	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBS34149A	Argyle Street Overbridge Moss Vale	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBS36226A	Old Hume Highway Overbridge Goulburn	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBS50231A	Farm Access Overbridge Joppa Junction	Country Regional Network	Local	CRN - Operational		Yes	
OBS50321A	McEwan Avenue Overbridge Queanbeyan	Country Regional Network	Local	CRN - Operational		Yes	
OBS50322A	Uriarra Road Overbridge Queanbeyan Junction	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50323A	Canberra Avenue Overbridge Queanbeyan Junction	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50327A	Lanyon Road Overbridge Harman	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50363A	Kelly Road Overbridge Michelago	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50366A	Unnamed Road Overbridge Michelago	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50432A	Thurrung Street Overbridge Cooma	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50435A	Monaro Highway Overbridge Cooma	Country Regional Network	State	CRN - Non-operational	Yes	Yes	
OBS50476A	Old Bombala Road Overbridge Nimmitabel	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS50492A	Unnamed Road Overbridge Nimmitabel	Country Regional Network	Local	CRN - Non-operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBS54322B	Railway St Overbridge Queanbeyan	Country Regional Network	Local	CRN - Operational		Yes	
OBS54326A	Newcastle Street Overbridge Fyshwick	Country Regional Network	Local	CRN - Operational		Yes	
OBS54327A	Ipswich Street Overbridge Canberra	Country Regional Network	Local	CRN - Operational		Yes	
OBS54327B	Monaro Highway Southbound Overbridge Canberra	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBS54327C	Monaro Highway Northbound Overbridge Canberra	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBS60292A	Orange Road Overbridge Blayney	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60313A	Private Access Road Overbridge Carcoar	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60440A	Zouch Street Overbridge Young	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60440B	Lovell Street Overbridge Young	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60447B	Kingsvale Road Overbridge Young	Country Regional Network	Local	CRN - Operational		Yes	
OBS60453A	Bonnington Road Overbridge Kingsvale	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60461A	Private Road off Kingsvale Road Overbridge Kingsvale	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS60467A	Harden Wombat Road Overbridge Kingsvale	Country Regional Network	Local	CRN - Non-operational		Yes	
OBS80584B	Adams Street Overbridge Narrandera	Country Regional Network	Local	CRN - Operational		Yes	
OBS85612A	Oak Street Overbridge Leeton	Country Regional Network	Local	CRN - Operational		Yes	
OBW00159A	Great Western Highway Overbridge Bowenfels	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00159B	Great Western Highway Overbridge Bowenfels	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00161A	Golf Course Road Overbridge Marrangaroo	Country Regional Network	Local	CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBW00164A	Great Western Highway Overbridge Marrangaroo	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00177A	Great Western Highway Overbridge Rydal	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00177B	Great Western Highway Overbridge Rydal	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00185A	Unnamed Road Overbridge Sodwalls	Country Regional Network	Local	CRN - Operational		Yes	
OBW00186A	Rydal Sodwalls Tarana Road Overbridge Sodwalls	Country Regional Network	Local	CRN - Operational		Yes	
OBW00187A	Sodwalls Road Overbridge Sodwalls	Country Regional Network	Local	CRN - Operational		Yes	
OBW00196A	Dirt Road off Tarana Road Overbridge Tarana	Country Regional Network	Local	CRN - Operational		Yes	
OBW00199A	Tarana Road Overbridge Tarana	Country Regional Network	Local	CRN - Operational		Yes	
OBW00201A	Private Road Overbridge Tarana	Country Regional Network	Local	CRN - Operational		Yes	
OBW00204A	Tarana Road Overbridge Gemalla	Country Regional Network	Local	CRN - Operational		Yes	
OBW00210A	Kinghorn Falls Road - Tarana Road Overbridge Locksley	Country Regional Network	Local	CRN - Operational		Yes	
OBW00214A	Tarana Road Overbridge Locksley	Country Regional Network	Local	CRN - Operational		Yes	
OBW00215A	Private Road Overbridge Locksley	Country Regional Network	Local	CRN - Operational		Yes	
OBW00217A	Private Road Overbridge Wambool	Country Regional Network	Local	CRN - Operational		Yes	
OBW00218A	O'Connell - Wambool Road Overbridge Wambool	Country Regional Network	Local	CRN - Operational		Yes	
OBW00219A	Tarana Road Overbridge Wambool	Country Regional Network	Local	CRN - Operational		Yes	
OBW00222A	Private Road Overbridge Brewongle	Country Regional Network	Local	CRN - Operational		Yes	
OBW00223A	Tarana Road Overbridge Brewongle	Country Regional Network	Local	CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBW00232A	Private Road Off Eugene Street Overbridge Raglan	Country Regional Network	Local	CRN - Operational		Yes	
OBW00236A	Littlebourne Street Overbridge Kelso	Country Regional Network	Local	CRN - Operational		Yes	
OBW00240A	Rocket Street Overbridge Bathurst	Country Regional Network	Local	CRN - Operational		Yes	
OBW00256A	Private Road off Wimbledon Road Overbridge Tumulla	Country Regional Network	Local	CRN - Operational		Yes	
OBW00259A	Private Road off Wimbledon Road Overbridge Wimbledon	Country Regional Network	Local	CRN - Operational		Yes	
OBW00273B	Blayney Street Overbridge Newbridge	Country Regional Network	Local	CRN - Operational		Yes	
OBW00275A	Private Road Off Village Newbridge Road Overbridge Newbridge	Country Regional Network	Local	CRN - Operational		Yes	
OBW00280A	Private Road off Athol Village Road Overbridge Newbridge	Country Regional Network	Local	CRN - Operational		Yes	
OBW00282A	Athol Village Road Overbridge Murrobo	Country Regional Network	Local	CRN - Operational		Yes	
OBW00287A	Blayney - Athol Road Overbridge Murrobo	Country Regional Network	Local	CRN - Operational		Yes	
OBW00302A	Millthorpe Road Overbridge Millthorpe	Country Regional Network	Local	CRN - Operational		Yes	
OBW00321A	Franklin Road Overbridge Orange	Country Regional Network	Local	CRN - Operational		Yes	
OBW00325A	Northern Distributor Road Overbridge Orange	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW00328A	Unknown Road Overbridge Clergate	Country Regional Network	Local	CRN - Operational		Yes	
OBW00347A	Unknown Road Overbridge Mullion Creek	Country Regional Network	Local	CRN - Operational		Yes	
OBW00366A	Euchareena Road Overbridge Euchareena	Country Regional Network	Local	CRN - Operational		Yes	
OBW00413A	Mudgee Road Overbridge Wellington	Country Regional Network	Local	CRN - Operational		Yes	
OBW20324A	Piesley Street Overbridge Orange	Country Regional Network	Local	CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBW20324B	Anson Street Overbridge Orange	Country Regional Network	Local	CRN - Operational		Yes	
OBW20325A	Cecil Road Overbridge Orange	Country Regional Network	Local	CRN - Operational		Yes	
OBW20326A	Pinnacle (Racecourse) Road Overbridge Orange	Country Regional Network	Local	CRN - Operational		Yes	
OBW20329A	Woods Lane Overbridge Nashdale	Country Regional Network	Local	CRN - Operational		Yes	
OBW20332A	Nashdale Lane Overbridge Nashdale	Country Regional Network	Local	CRN - Operational		Yes	
OBW20335A	Off Borenore Lane Overbridge Borenore	Country Regional Network	Local	CRN - Operational		Yes	
OBW20343A	Off Borenore Lane Overbridge Borenore	Country Regional Network	Local	CRN - Operational		Yes	
OBW20345A	Unnamed Road Overbridge Gamboola	Country Regional Network	Local	CRN - Operational		Yes	
OBW20361A	Mitchell Highway Overbridge Molong	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW20407A	Escort Way Overbridge Bumbery	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW20516A	Escort Way Overbridge Ootha	ARTC Leased Network	State	Non CRN - Operational	Yes	Yes	Yes
OBW20546A	McDonnell Street Overbridge Condobolin	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBW30374A	Larras lee road Overbridge Larras Lee	Country Regional Network	Local	CRN - Non-operational		Yes	
OBW32597A	Tottenham Road Overbridge Tottenham	Country Regional Network	Local	CRN - Operational		Yes	
OBW34599A	Wyndham Avenue Overbridge Forbes	ARTC Leased Network	Local	Non CRN - Operational		Yes	
OBW44686A	Barrier Highway Overbridge Hermidale	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW50207A	Castlereagh Highway Overbridge Capertee	Country Regional Network	State	CRN - Operational	Yes	Yes	
OBW50217A	Excelsior Road Overbridge Excelsior	Country Regional Network	Local	CRN - Operational		Yes	
OBW50244A	Cooper Drive Overbridge Charbon Colliery	Country Regional Network	Local	CRN - Operational		Yes	

Asset	Description	Rail Network	Road Authority	Status	Option 3A	Option 3B	Option 3C
OBW50246A	Charbon Road Overbridge Charbon	Country Regional Network	Local	CRN - Operational		Yes	
OBW50249A	Henbury Avenue Overbridge Kandos	Country Regional Network	Local	CRN - Operational		Yes	
OBW50277A	Unknown Road Overbridge Lue	Country Regional Network	Local	CRN - Non-operational		Yes	
OBW50308A	Church Street Overbridge Mudgee	Country Regional Network	Local	CRN - Non-operational		Yes	
OBW50518A	Coonabarabran Road Overbridge Coonabarabran	Country Regional Network	Local	CRN - Non-operational		Yes	

Appendix L – List of Potential Disposal Assets

This Appendix L is deemed to include each of the items set out in Schedule 11 of this Deed, but only to the extent that those items have been made available by the Principal to the Service Provider under clause 2.8 of the General Conditions.

Appendix N – Third Party Work Reset Principles

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOC Projects	Category 7: Community
Summary	- New Category. - No change to Excluded Support Services. - P011 to be updated with new process. - SP may grant access through Minor Project Direct Approvals without Principal approval for qualifying works (see Defn. and Scope). - Third Party must sign pro-forma deed poll covering: (i) indemnity in favour of Principal and SP; and (ii) additional undertakings, in form pre-approved by Principal. - Copy of deed poll to be provided to Principal prior to access. - SP to provide monthly update on all applications granted.	- New Category. - No change to Excluded Support Services. - P011 to be updated with new process. Category 2A: SP may grant third party access or access to undertake maintenance (including like for like replacement) permitted and governed under an existing agreement (e.g. existing MAD, licence or lease). Category 2B: SP: - may, with Principal approval, object to access; or - otherwise may respond directly with any comments, conditions or requirements for access, under a Land Activity Access Notice (LAAN), provided that the SP complies with all applicable timeframes under applicable law. - For Category 2A, SP grants access by issuing consent letter (template and any material amendments to be pre-approved by the Principal). - SP to provide monthly update on all applications	- Existing Category (however no longer includes applications covered by Category 1 and Category 2) - No change to Excluded Support Services. - Existing process in P011 Protocol with clarifications arising out of this table and the updated Scope of Works Section 18.	- Existing Category. - Excluded Support Services will be claimable where the works qualify under the definition of "Excluded Support Services" in this Scope of Works, including that the Third Party Works must have capital works value in excess of \$1 million (excl GST). - Where the Excluded Support Services definition is satisfied, the claim will capture all activities, services and works to be provided in respect of the Project, including (as relevant) those before, in respect of and after provision of an AIP Brief. NB: Change to definition of Excluded Support Services to reflect the above has been made as part of Reset Deed. No further changes to be made post Reset - Existing process in P011 Protocol with clarifications arising out of this table and the updated Scope of Works Section 18, and adding project examples to definition as below.	- Existing Category. - Existing process in P011 Protocol with clarifications arising out of this table and the updated Scope of Works Section 18. - Excluded Support Services will be claimable where the works qualify under the definition of "Excluded Support Services" in this Scope of Works, including that the Third Party Works must have capital works value in excess of \$1 million (excl GST). - Where the Excluded Support Services definition is satisfied the claim will capture all activities, services and works to be provided in respect of the Project, including (as relevant) those before, in respect of and after provision of an AIP brief. NB: Change to definition of Excluded Support Services to reflect the above has been made as part of Reset Deed. No further changes to	- Existing Category - Existing process in P011 protocol with clarifications arising out of this table and the updated Scope of Works Section 18. - Excluded Support Services will be claimable where the works qualify under the definition of "Excluded Support Services" in this Scope of Works, including that the Third Party Works must have capital works value in excess of \$1 million (excl GST). RNOC where Third Party is the Rail Infrastructure Manager for construction, operation and maintenance of the Third Party Works are not Excluded Support Services. - Where the Excluded Support Services definition is satisfied, the claim will capture all activities,	- Existing Category - Relevant procedure from Category 1, 2 or 3 will apply. - Change to definition of Community Third Party Works in SoW to exclude Major and Significant Projects. NB: Change to definition of Community Third Party Works to reflect the above has been made as part of Reset Deed. No further changes to be made post Reset.

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOG Projects	Category 7: Community
		granted and LAANs received/responded to.			be made post Reset.	services and works to be provided in respect of the Project, including (as relevant) those before, in respect of and after provision of an AIP Brief. • NB: Change to definition of Excluded Support Services to reflect the above has been made as part of Reset Deed. No further changes to be made post Reset.	
Definition and scope	Third Party Works applications for: - access and non-intrusive works for Minor Projects (excluding matters in the example lists for Categories 2 and 3) including those in the example list below; and - any other minor works agreed to fall within this Category 1 by the Principal and SP. Example list: - Land survey - Dilapidation survey - Visual and/or low impact inspections/asset	Category 2A: for access/maintenance (including like for like replacement) permitted under existing agreement (other than for construction of new infrastructure). Category 2B: access under a LAAN.	Third Party Works applications for: - Minor activities (excluding applications falling within Categories 1 and 2 but including those in the Example list below); and - any other minor works agreed to by the Principal. Following a Third Party application, SP is responsible for preparing an Approval Brief for Principal approval. The Approval Brief includes identifying project specific requirements. SP to liaise with third party during all negotiations. Example list: - underbores (e.g. installation of pipelines, electrical infrastructure and services etc.)	Major Project means: - any project that is a Major Project under the existing P011 Procedure for Third Party Works; or - any project for: - New overbridges and foot bridges (as defined in the CRN Standard for Overbridges and Footbridges CRN CS 320); - Replacement or major alterations to existing overbridges and foot bridges (as defined in the CRN Standard for Overbridges and Footbridges CRN CS 320);	Significant Projects definition as per existing P011 Protocol.	As above.	Change to definition of Community Third Party Works to exclude Major and Significant Projects. Change has been made as part of Reset Deed NB: Change to definition of Community Third Party Works to reflect the above has been made as part of Reset Deed. No further changes to be made post Reset.

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOG Projects	Category 7: Community
	- cleaning (i.e., culverts) - Drone survey - Vegetation control - Line marking - Minor test pits (non-op corridors) hand tools only - Minor geotechnical investigations (non-op corridors) hand tools only - Access to the CRN for works adjacent to the CRN (provided the DA has been approved with LoC) - Temporary vehicle access - General access to CRN Assets - Travelling stock routes (not new) - Controlled burns (RFS) - Non-destructive service searches - XRF (X-ray fluorescent) surveys		- Level Crossing road resurfacing and widening - New Level crossings (non-op lines) - Shared pathways - Permitted Loading (main line and siding) - Monitoring wells - Minor drainage works - Stormwater drainage into the corridor - Upgrades of existing pipes - Power poles, conductors and crossarms - Sign installation - Flood Levee maintenance - Contamination inspections/remediation - Material storage (within TAHE land) - Existing private siding connections - Works on structures (eg water towers, buildings, stations etc), excluding track infrastructure or structures significantly interfacing with track infrastructure. - Photography/Filming - Refuelling - Roadworks - Constructing new infrastructure more than 15 metres from the outer most rail (or outside of a fence line) - Grazing / Goats within the corridor	- New level crossings (operative lines) - Level crossing upgrades on operational lines (excluding road resurfacing and line markings and signage installation); - New overhead loading facilities; - New siding connections; - New private siding connections; or - Rail infrastructure works (including underbridges) undertaken by third party under SPs accreditation (operational lines only) excluding minor rail infrastructure works (eg installation of signage).			

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOG Projects	Category 7: Community
			- Events (e.g. community events, educational events, activities and festivals). - Fencing (non-op corridors) - Wagon Storage (long term) - Blasting deed - Telecommunication towers – including installation of new equipment and upgrades				
Form of agreement(s)	Third party to sign deed poll (which includes indemnity in favour of Principal and SP), on pro-forma terms approved by the Principal. The Service Provider may include in or attach to the deed poll details of the party, permitted works and specific technical requirements, provided they are not inconsistent with the pro-forma deed poll terms and the permitted scope of Category 1 activities and an example of such has been preapproved by the Principal acting reasonably.	Category 2A: Pursuant to existing MAD or agreement. Letter of consent issued by SP (template letter and any material amendments to be pre-approved by Principal). Category 2B: in accordance with statute. Letter of response issued by SP.	Third party to sign licence or third party agreement with Principal. A licence/third party agreement between the Principal and Third Party pursuant to the Principal's precedent legal agreements to be facilitated by the SP through provision of: (if required by the Third Party) an AIP Brief; and (in every case) an Approval Brief for Principal approval. In its Approval Brief, UGLRL will specify any project specific requirements to be incorporated into the legal agreement. New or amended MADs, rather than consents pursuant to them, would be Minor Project agreements signed by the Principal (with SP support and facilitation), unless the works to be undertaken under the MAD fall within the definition of a Major Project. Construction of new infrastructure under a MAD is still by way of consent under a MAD, however, will fall within this category of Minor Works (unless it is Major).	Third party to sign licence or third party agreement with Principal. The following may be required for each Major Project: - a licence/third party agreement between the Principal and Third Party pursuant to the Principal's precedent legal agreements, to be facilitated by the SP through provision of AIP and Approval Briefs; and - resolution of any required Modification for Excluded Support Services. In its AIP and Approval Briefs, UGLRL will specify any project specific requirements to be incorporated into the legal agreement.	See existing P011 Protocol for Third Party Works. The following may be required for each Significant Project: - legal agreement(s) between the Principal and Third Party, to be resolved directly between the Principal and Third Party; - resolved Modifications(s) between the Principal and the SP in respect of any Excluded Support Services being provided by the SP to the Principal in respect of the Significant Project.	See existing P011 Protocol for Third Party Works. Legal agreement to be entered into between Principal and Third Party.	Legal agreement between Principal and Third Party (unless works fall into Category 1 or 2).

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOC Projects	Category 7: Community
Approval role of SP	SP will be responsible for reviewing each application and directly granting approval. The SP will assume responsibility and liability for the Third Party's actions as an invitee under the O&M Deed. Each agreement will have indemnity provisions for the benefit of both the Principal and the SP, on terms approved by the Principal. - If the SP is of the reasonable view that the application should not be approved: where appropriate, the SP will advise the Third Party to update its application to address the SP's concerns; and - if the Third Party is unable to address the SP's concerns, the application will be treated as a Minor Project Principal Approval, and the SP is to provide the Principal with an Approval Brief recommending (with reasons) that the application not be approved. - If the Principal does not accept the SP's reasonings the matter is to be escalated to the relevant agreed stakeholder within the SP and Principal for resolution. SP to provide Principal with monthly report detailing the	SP will be responsible for reviewing each application and (unless it is of the reasonable view the application should not be approved/objected to) directly: (Category 2A) granting consent, on terms of MAD/existing agreement; and (Category 2B) responding to the LAAN. If the SP is of the reasonable view that the application should not be approved/objected to: - where appropriate, the SP will advise/respond to the Third Party to update its application to address the SP's concerns; - if the Third Party is unable to address the SP's concerns, the application will be treated as a Minor Project Principal Approval, and the SP is to provide the Principal with an Approval Brief recommending (with reasons) that the application not be approved/objected to. For a LAAN, the SP and Principal will expedite preparation and review of the Approval Brief to enable a response within the statutory response period; and - if the Principal does not accept the SP's reasonings the matter is to be escalated to the relevant	A licence/third party agreement between the Principal and Third Party pursuant to the Principal's legal agreements to be facilitated by the SP in accordance with the Existing P011 Protocol, including by providing an Approval Brief for Principal approval. In its Approval Brief, UGLRL will specify any project specific requirements to be incorporated into the legal agreement. The SP is responsible for populating the licence (to the extent of following the drafting notes and standard terms of the pro forma), for identifying project specific requirements (drafted by the Principal) and liaising with the Third Party until the licence is executed. Principal will review any proposed amendments to the licence template in consultation with the SP when relevant (i.e. operational, safety etc. amendments). If the SP is of the reasonable view that the application should not be approved: - where appropriate, the SP will advise the Third Party to update its application to address the SP's concerns; - if the Third Party is unable to address the SP's concerns, the SP's Approval Brief will recommend the application not be approved; and - if the Principal proposes to approve and grant the application, the matter will be escalated for resolution between the Principal and SP.	A licence/third party agreement between the Principal and Third Party pursuant to the Principal's precedent legal agreements, to be facilitated by the SP in accordance with the Existing P011 Protocol (subject to refinements to be agreed in the New P011 Protocol), including by providing an AIP and then an Approval Brief. In its Approval Brief, UGLRL will specify any project specific requirements to be incorporated into the legal agreement. The SP is responsible for populating the licence (to the extent of following the drafting notes and standard terms of the pro forma), for identifying project specific requirements (drafted by the Principal) and liaising with the Third Party until the licence is executed. Principal will review any proposed amendments to the licence template in consultation with the SP when relevant (i.e. operational, safety etc. amendments). If the SP is of the reasonable view that the application should not be granted: where appropriate, the SP will advise the Third Party to update its application to address the SP's concerns;	SP will observe the Significant Project works process in the Existing P011 Protocol – the SP will receive the application, categorise it as Significant, and then pass it onto the Principal for review and progression by the Principal. To the extent the Principal requires the SP to provide further Services to the Principal, such Services will be Excluded Support Services funded by way of Modification. If the Principal progresses the project, legal agreements will be agreed to/resolved directly between the Principal and Third Party (as applicable). To the extent Modifications are required under the O&M Deed (for the provision of Excluded Support Services to the Principal), these will be resolved directly between the Principal and SP. To the extent that the SP is of the reasonable view that the application should not be granted, the matter will be escalated for resolution between the Principal and SP.	SP will observe the existing RNOC Project works process (subject to refinements) including by providing an AIP and then an Approval Brief. If the SP is of the reasonable view that the application should not be approved: - where appropriate, the SP will advise the Third Party to update its application to address the SP's concerns; - if the Third Party is unable to address the SP's concerns, the SP's AIP Brief will recommend the application not be approved; and - if the Principal proposes to approve and grant the application, the matter will be escalated for resolution between the Principal and SP.	Legal agreement between Principal and Third Party (unless works fall into Category 1 or 2).

	Category 1: Minor Project Direct Approvals	Category 2: Minor Project Direct Consents	Category 3: Minor Project Principal Approvals	Category 4 Major Projects	Category 5: Significant Projects	Category 6: RNOG Projects	Category 7: Community
	Minor Project Direct Approvals applications.	agreed stakeholder within the SP and Principal. SP to provide Principal with monthly report detailing the Minor Project Direct Consent applications.		• if the Third Party is unable to address the SP's concerns, the SP's Approval Brief will recommend the application not be approved; and • if the Principal proposes to approve and grant the application, the matter will be escalated for resolution between the Principal and SP.			

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Schedule 17 – Approvals Matrix

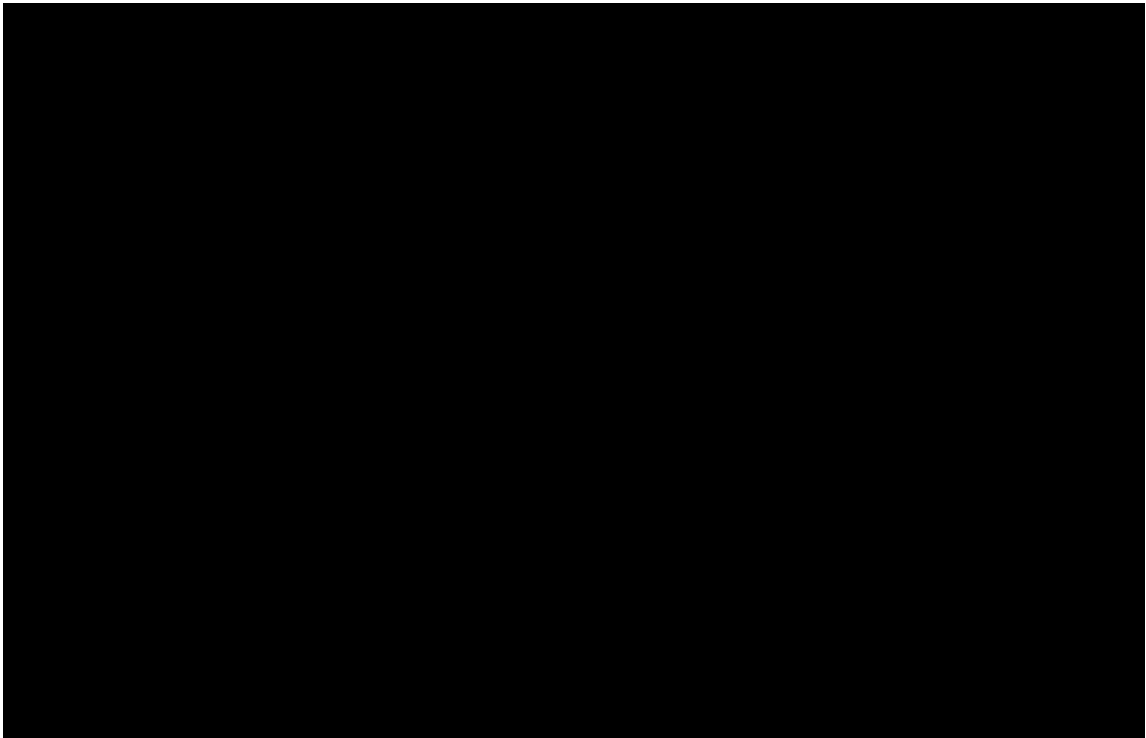
The table set out in this **Schedule 17** sets out the allocation of responsibility for Major Approvals that may be required in connection with the CRN Assets and the Services during the Term.

The Service Provider and Principal acknowledge and agree that the Approvals set out in this Schedule is not an exhaustive allocation of all Approvals that might arise in connection with the Services, which are otherwise dealt with in the Deed.

The parties may vary this table by written agreement, including to designate any Excluded Approvals.

Schedule 18 – Principal-Provided Network Control System – Transitional Arrangements

Further to **clause 3.4B** of the General Conditions, the parties agree to the below transitional arrangements in relation to the Principal-Provided Network Control System from the Reset Date until 30 June 2025:



Schedule 19 – Dilapidation Management Plan

1	Asset description
(a)	Purpose of this Dilapidation Management Plan (to include reason for the DMP submission and detail on the DMP proposed)
(b)	Short description of the asset or asset class*
(c)	Location, boundary, scope, exclusions and ownership of assets
(d)	Current Condition/Condition survey
(i)	most recent structural assessments and date
(ii)	any other relevant reporting and dates
(e)	Physical environment Brief description of physical location
(f)	Site access arrangements
2	Asset strategy
(a)	Asset management strategy
(b)	Cost benefit of adopting the DMP
(c)	Strategy assumptions, constraints, dependencies and pre-requisites
3	Policy, Regulatory Requirements
(a)	Heritage
(i)	Statutory application: If the asset is heritage listed, Service Provider to: (A) advise whether the asset been prioritised under the RRHS or would be considered by the HARF; (B) consider RRHS/HARF requirements and Line Conservation Management Plan (LCMP) requirements; (C) advise what management regime is specified in RRHS, Line Heritage Mgt Plan; and (D) confirm compliance with minimum standards or what is required to meet minimum standards.
(b)	Public safety and WHS – address safety risks
(c)	EP&A Act – address planning requirements and approvals (incl environmental) and environmental licence risks
(d)	Relevant standards/specification or approvals required

4 Risk Management	
(a)	Asset management system/framework for the relevant assets prepared in accordance with Transport's Enterprise Risk Management framework
(b)	Current Risk rating and Residual risk ratings with mitigation/treatment contained within DMP applied
(c)	Asset Risk Management plan
(i)	How effectiveness of controls will be monitored, measured and evaluated
(ii)	Response to environmental and climate change (including resilience to natural disasters)
(iii)	Security and prevention of damage/graffiti
(iv)	Community Safety and Access
(v)	Inspection plan
5 Impact	
(a)	Description of impact of DMP on operations, for example on the public, the road network, the rail network
(b)	Community consultation plan on proposed DMP (if required)
6 Plan Implementation and Review	
(a)	Proposed date of implementation of DMP
(b)	Period of the plan and any suggested review date
(c)	DMP inspection and monitoring plan to include detail on: (i) Any changes to agreed TMP inspection schedule that would be put in place on acceptance of DMP (ii) Detail of review triggers (eg significant change in condition, damage to asset, change in environment such as change in neighbouring land use)
(d)	Detail of all activities / work anticipated needing to be completed prior to the DMP being implemented, with proposed target dates
7 Appendices:	
(a)	Roles and Responsibilities Service Provider to advise any specific responsibilities for Principal and Service Provider.
(b)	Archival recording

* Examples of Non-Operational Structures which may be suitable for treatment in asset classes or aggregations (which have not yet been agreed between the parties) set out below:

- Heritage precincts e.g. Bathurst Heritage Precinct
- Non-operational structures on operational lines per yard - e.g. Wee Waa yard non-operational weighbridge, crane, goods platform, passenger platform etc

* Examples of Non-Operational Structures which are not suitable for treatment in asset classes or aggregations (which have not yet been agreed between the parties) set out below:

- Assets with a heritage listing (S/170, SHR, LEP)
- Non-operational overbridges over operational lines
- Non-heritage underbridges with significant public interfaces