

~~Deed of Novation made at Sydney on the Agreement Date~~

Parties Transport for NSW (ABN 18 804 239 602) of 18 Lee Street, Chippendale NSW 2008 ("Retiring Party")

Huawei Technologies (Australia) Pty Limited (ABN 49 103 793 380) of Tower A, Level 5, 799 Pacific Highway, Chatswood, NSW 2067 ("Huawei")

UGL Engineering Pty Limited (ABN 96 096 365 972) of Level 5, 40 Miller Street, North Sydney NSW 2060 ("UGL")

(UGL and Huawei together "Continuing Parties")

Sydney Trains (ABN 38 284 779 682) of Level 20, 477 Pitt Street, Sydney, NSW 2000 ("Substitute Party")

Recitals

- A. The Retiring Party and the Continuing Party are parties to the Contract.
- B. The Retiring Party and the Substitute Party have asked the Continuing Parties to agree to the novation of the Contract on the terms and conditions of this deed.
- C. The Continuing Parties has agreed to the novation of the Contract on the terms and conditions of this deed.

This deed provides

1. Definitions and interpretation

1.1 Definitions

Defined terms in the Contract have the same meanings in this deed, unless the contrary intention appears.

In this deed:

"**Agreement Date**" means:

- (a) if counterparts of the deed are not used, the date upon which all parties have signed the deed; or
- (b) if counterparts of the deed are signed, the date upon which the final counterpart is exchanged.

"**Claim**" means any claim, notice, demand, action, proceeding, litigation, investigation or judgment whether based in contract, tort, statute or otherwise.

"**Contract**" means the Collateral Warranty Deed between the Retiring Party and the Continuing Parties dated 13 January 2010.

"**Effective Date**" means 1 July 2017.

"**Liability**" means all liabilities, losses, Claims, damages, outgoings, costs and expenses of whatever description.

"**New Contract**" means the new agreement between the Continuing Party and the Substitute Party which is on the same terms as the Contract and which is referred to in clause 2.1(a).

1.2 Interpretation

In this deed:

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

and unless the context indicates a contrary intention:

- (d) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (e) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (f) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (g) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (h) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (i) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (j) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (k) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (l) "includes" in any form is not a word of limitation; and
- (m) a reference to "\$" or "dollar" is to Australian currency.

2. Novation

2.1 Novation

From the Effective Date:

- (a) the parties novate the Contract so that the Substitute Party and the Continuing Parties are parties to a new agreement on the same terms as the Contract; and
- (b) any reference in the New Contract to the Retiring Party shall, unless the context indicates a contrary intention, be read as a reference to the Substitute Party.

2.2 Assumptions of rights and obligations

- (a) From the Effective Date the Substitute Party:
- (i) will be bound by and shall comply with the terms of the Contract as amended by this deed, and shall enjoy the rights and benefits conferred on the Retiring Party under the terms of the Contract; and

(ii) will assume the obligations and Liability of the Retiring Party under the terms of the Contract,

in all respects as if the Substitute Party had originally been named in the Contract as a party instead of the Retiring Party.

(b) From the Effective Date the Continuing Parties will comply with the terms of the Contract on the basis that the Substitute Party had originally been named in the Contract as a party instead of the Retiring Party.

2.3 Release by Continuing Parties

From the Effective Date:

- (a) the Continuing Parties releases the Retiring Party from:
- (i) any obligation or Liability under or in respect of the Contract; and
 - (ii) any Claim it has against the Retiring Party under or in respect of the Contract; and
- (b) this release does not affect any rights the Continuing Parties may have against the Substitute Party as a result of the assumption by the Substitute Party under the terms of this deed of the obligations and Liability of the Retiring Party under the terms of the Contract.

2.4 Release by Retiring Party

From the Effective Date the Retiring Party releases the Continuing Parties from:

- (a) any obligation or Liability under or in respect of the Contract; and
- (b) any Claim it has, or but for this clause would have had against the Continuing Parties under or in respect of the Contract,

except that nothing in this clause affects the obligations of the Continuing Parties to the Substitute Party under the Contract and the New Contract.

3. Overriding effect

The parties agree that the execution and operation of this deed will for all purposes be regarded as due and complete compliance with the terms of the Contract relating to any requirement for consent to assignment of the Contract so far as any such provisions would apply with respect to the novation of the Contract to the Substitute Party.

4. Representations and warranties

4.1 Authority

Each party represents and warrants to each other party that it has full power and authority to enter into and perform its obligations under this deed.

4.2 Authorisations

Each party represents and warrants to each other party that it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms.

4.3 Binding obligations

Each party represents and warrants to each other party that this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

5. Costs

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this deed.

6. General

6.1 Governing Law

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

6.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 6.2(a).

6.3 Amendments

This deed may only be varied by a document signed by or on behalf of each party.

6.4 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 any other breach of that term or of a breach of any other term of this deed.

6.5 Counterparts

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

6.6 Severance

If at any time a 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.

6.7 Further acts and documents

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

6.8 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior consent of each other party.

Executed as a deed.

Executed on behalf of Huawei Technologies (Australia) Pty Limited (ABN 49 103 793 380) by its attorneys

Name of [Redacted]
Under power of attorney
Registration Number / Book Number
(Powers of attorney created in Victoria do not have a number. Insert the date of the power of attorney instead.)

in the presence of:

Signature of [Redacted]
Name of witness [Redacted]

[Redacted]

Signature of attorney
By executing this document the attorney states that the attorney has received no notice of revocation of the power of attorney

20 Feb. 2018
Date

Name of attorney (print)
Under power of attorney
Registration Number / Book Number
(Powers of attorney created in Victoria do not have a number. Insert the date of the power of attorney instead.)

Name of [Redacted]
Signature of [Redacted]

[Redacted]

Signature of attorney
By executing this document the attorney states that the attorney has received no notice of revocation of the power of attorney

20 Feb. 2018
Date

Executed by UGL Engineering Pty Limited ABN 96 096 365 972 in accordance with

[Redacted]

[Redacted]

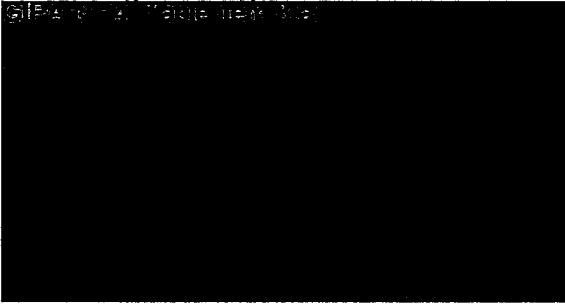


Full name of director

7 March 2018

Date

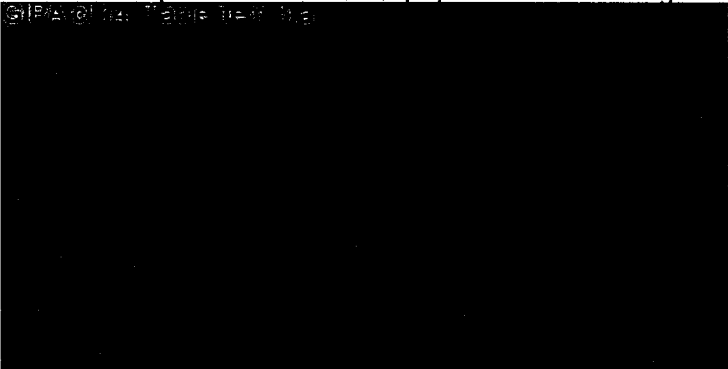
EXECUTED for and on behalf of Transport for NSW (ABN 18 804 239 602) by its authorised delegate in the presence of:



17-4-18

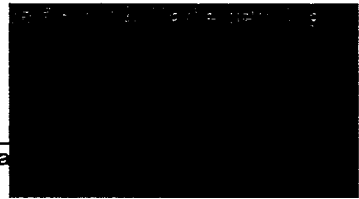
Date

EXECUTED for and on behalf of Sydney Trains (ABN 38 284 779 682) by its authorised delegate in



10 April 2018

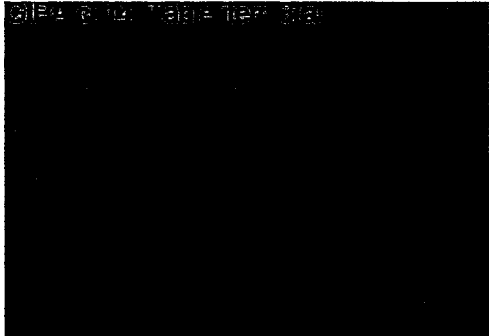
Date



Full name of company

7 March 2018

Date



10 April 2018

Date

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