

Deed of Variation No.1 –  
Metro Quarter  
Development Project  
Delivery Agreement

**Waterloo Integrated Station Development**

Dated 30 April 2021

Sydney Metro ABN 12 354 063 515 ("Principal")

WL Developer Pty Ltd ACN 637 792 888 as trustee for the  
WL Developer Trust ("WL Developer")

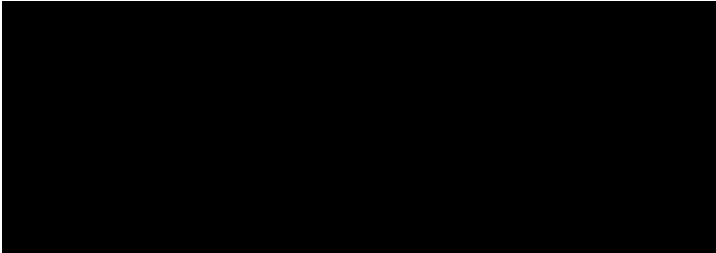
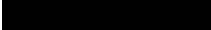


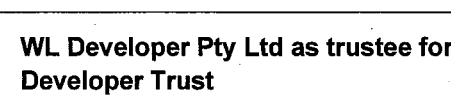
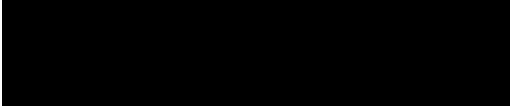
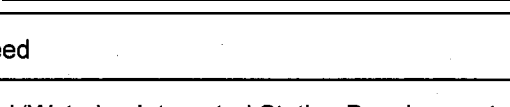
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# Deed of Variation No. 1 – Metro Quarter Development Project Delivery Agreement

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# Deed of Variation No. 1 – Metro Quarter Development Project Delivery Agreement

## Details

<b>Parties</b>	<b>Principal and WL Developer</b>	
<b>Recitals</b>	<b>A</b>	The Principal and the WL Developer are parties to the OSD PDA, under which the WL Developer agrees to procure the financing, design, construction, commissioning, supervision and completion of the MQD Works.
	<b>B</b>	
	<b>C</b>	The Principal and the WL Developer have agreed to vary the OSD PDA pursuant to the terms of this document to give effect to the Proposed Scheme Change  
<b>Principal</b>	<b>Name</b>	<b>Sydney Metro</b>
	<b>ABN</b>	12 354 063 515
	<b>Address</b>	Level 43, 680 George Street Sydney NSW 2000
	<b>Attention</b>	
	<b>Email</b>	
<b>WL Developer</b>	<b>Name</b>	<b>WL Developer Pty Ltd as trustee for the WL Developer Trust</b>
	<b>ACN</b>	637 792 888
	<b>Address</b>	Level 28, 200 George Street, Sydney NSW 2000
	<b>Attention</b>	
	<b>Email</b>	
<b>Effective Date</b>	The date of this deed	
<b>OSD PDA</b>	The document titled 'Waterloo Integrated Station Development - Metro Quarter Development Project Delivery Agreement' between the Principal and the WL Developer dated 18 December 2019.	

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**Governing law** New South Wales

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**Date of deed** See Signing page

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# Deed of Variation No. 1 – Metro Quarter Development Project Delivery Agreement

## General terms

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### 1 Interpretation

#### 1.1 OSD PDA defined terms

In this document, unless the contrary intention appears, any word beginning with a capital letter which is not defined in this document but is defined in the OSD PDA has the same meaning in this document as in the OSD PDA.

#### 1.2 Definitions

These meanings apply unless the contrary intention appears.

**Details** means the section of this document headed "Details".

**Effective Date** means the date so described in the Details.

**General Conditions of Contract** means the general conditions of the OSD PDA forming part of the OSD PDA, excluding its Schedules.

**OSD PDA** means the agreement so described in the Details.

**Principal** means the person so described in the Details.

**WL Developer** means the person so described in the Details.

#### 1.3 Rules for interpreting this document

The following clauses of the OSD PDA are deemed to be incorporated in this document in full (with any necessary changes made):

- (a) clause 1.2 (*Interpretation*);
- (b) clause 1.4 (*No bias against drafter*); and
- (c) clause 1.5 (*Business Day*).

#### 1.4 Consideration

Each party acknowledges that it has received valuable consideration for entering into this document.

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### 2 Variation of OSD PDA

With effect from the Effective Date, the OSD PDA is varied as follows:

- (a) the General Conditions of Contract are varied as show in mark-up in Schedule 1A to this document;
- (b) Schedule A2 is varied as show in mark-up in Schedule 1 to this document;

- (c) Schedule A4 is varied as shown in mark-up in Schedule 2 to this document;
- (d) Schedule A15 is varied as shown in mark-up in Schedule 3 to this document;
- (e) Schedule A29 is varied as shown in mark-up in Schedule 4 to this document;
- (f) Schedule A37 is varied as shown in mark-up in Schedule 5 to this document;
- (g) Schedule D5 is varied as shown in mark-up in Schedule 6 to this document (noting that [REDACTED] attached to Schedule D5 remain unamended);
- (h) Schedule D6 is varied as shown in mark-up in Schedule 7 to this document (noting that [REDACTED] attached to Schedule D6 remain unamended);
- (i) Schedule D8 is varied as shown in mark-up in Schedule 8 to this document;
- (j) Schedule D9 is varied as shown in mark-up in Schedule 9 to this document;
- (k) Schedule E1 is varied as shown in mark-up in Schedule 10 to this document;
- (l) Schedule E3 is varied as show in mark up in Schedule 11 to this document;
- (m) Schedule E7 is varied as shown in mark-up in Schedule 12 to this document.

## 2.2 Effect of amendment

Except as expressly amended by this document, no changes to the OSD PDA are to be inferred or implied, and in all other respects the OSD PDA is confirmed and remains in full force and effect.

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## 3 General

### 3.1 Incorporation of clauses from the OSD PDA

The following clauses of the OSD PDA are deemed to be incorporated in this document in full (with any necessary changes made):

- (a) clause 1.6 (*Authorities*);
- (b) clause 1.8 (*Principal's rights do not affect risk allocation*);
- (c) [REDACTED]
- (d) clause 33 (*Confidentiality and permitted disclosure*);
- (e) clause 37 (*Representations and warranties*); and

- (f) clause 40 (*General*) (excluding clause 40.4).

### 3.2 **Survival of certain provisions; no merger**

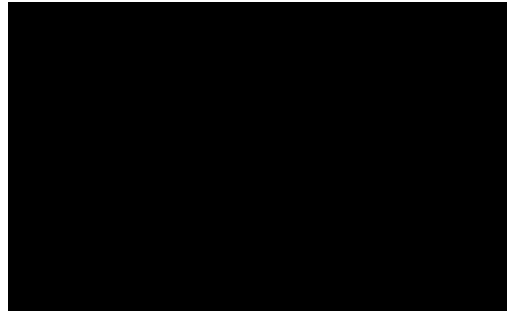
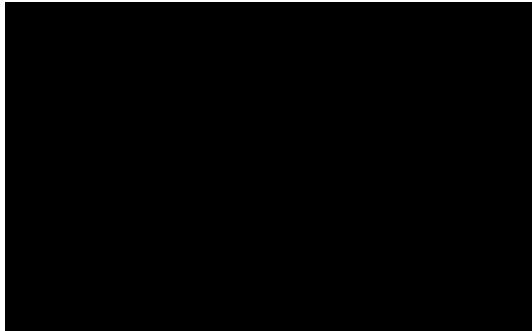
- (a) Without limiting clause 40.4 of the OSD PDA (which, for the avoidance of doubt, shall apply to those provisions of the OSD PDA which have been amended and attached at Schedule 1A (as applicable)):
  - (i) clause 1.1 (*OSD PDA defined terms*), clause 1.2 (*Definitions*), clause 1.3 (*Rules for interpreting this document*), clause 3 (*General*), the representations, warranties and indemnities given by the WL Developer under this deed and any other provisions which are expressed to survive termination or by implication from their nature are intended to survive termination (together, the **Surviving Clauses**) and any rights arising on termination will survive rescission, termination or expiration of this deed; and
  - (ii) if this deed is rescinded or terminated, no party will be liable to any other party except:
    - (A) under the Surviving Clauses; or
    - (B) in respect of any breach of this deed occurring before such rescission or termination.
  - (iii) **(No merger)** No right or obligation of any party will merge on completion of any transaction under this deed. All rights and obligations under this deed survive the execution and delivery of any transfer or other document which implements any transaction under this deed.

**EXECUTED** as a deed

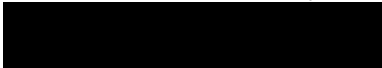
# Deed of Variation No. 1 – Metro Quarter Development Project Delivery Agreement Signing page

DATED: 30 April 2021

SIGNED for SYDNEY METRO  
ABN 12 354 063 515 by its duly  
authorised delegate, in the presence  
of:



Signed, sealed and delivered for  
and on behalf of WL DEVELOPER  
PTY LTD ACN 637 792 888 as  
trustee for the WL Developer Trust



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

\_\_\_\_\_  
Address of witness

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

\_\_\_\_\_  
Address of witness



# Deed of Variation No. 1 – Metro Quarter Development Project Delivery Agreement Signing page

DATED: 30 April 2021

SIGNED for SYDNEY METRO  
ABN 12 354 063 515 by its duly  
authorised delegate, in the presence  
of:

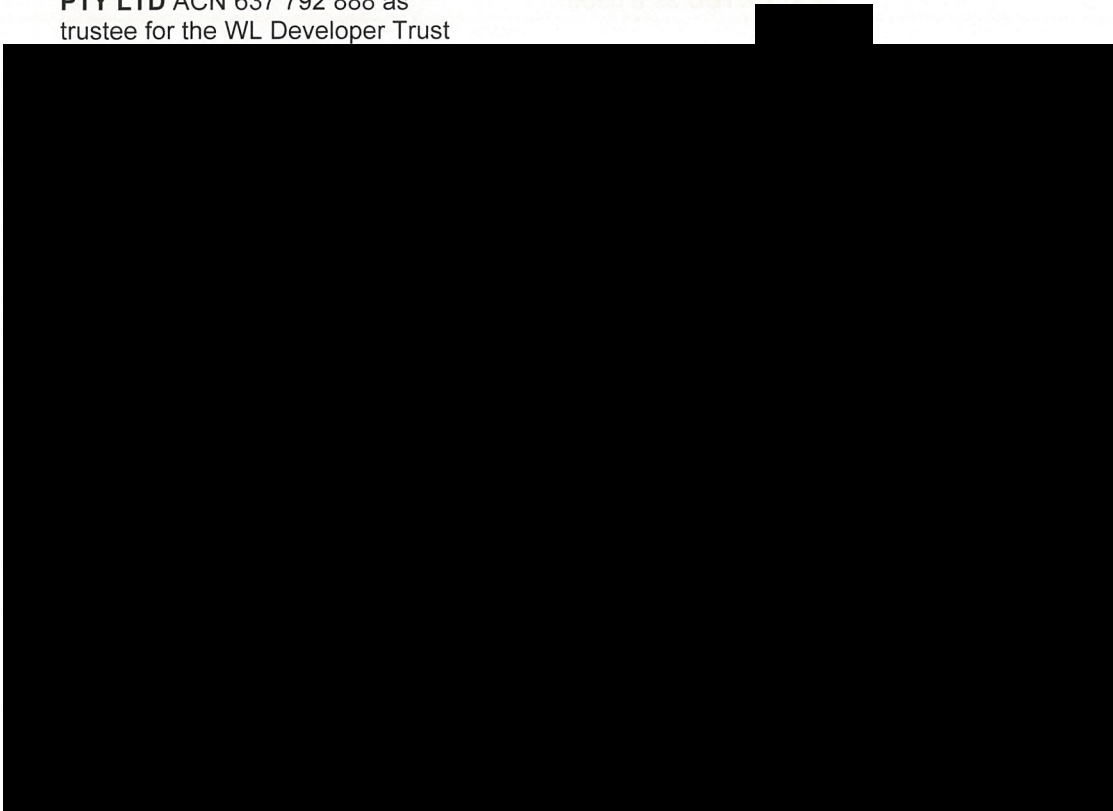
\_\_\_\_\_  
Signature of delegate

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

Signed, sealed and delivered for  
and on behalf of **WL DEVELOPER**  
**PTY LTD** ACN 637 792 888 as  
trustee for the WL Developer Trust



# Schedule 1A – General Conditions of Contract



# Waterloo Integrated Station Development

Metro Quarter Development Project Delivery  
Agreement

Contract No: 503

**Sydney Metro**

ABN 12 354 063 515

and

**WL Developer Pty Ltd ACN 637 792 888**

as trustee for the WL Developer Trust

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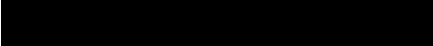
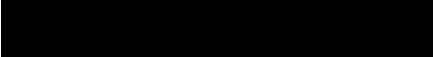
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**THIS DEED** is made on 18 December 2019 as amended by Variation Deed No.1 on 30 April 2021

**BETWEEN:**

- (1) **Sydney Metro** ABN 12 354 063 515, a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW) and located at Level 43, 680 George Street, Sydney NSW 2000 (**Principal**); and
- (2) the entity referred to in item 1 of the Reference Schedule (**WL Developer**).

**RECITALS:**

- (A) The Principal is procuring Sydney Metro City & Southwest on behalf of the NSW government and the people of New South Wales.
- (B) To support the opening of Sydney Metro City & Southwest in 2024, Sydney Metro wishes to facilitate the development of the Waterloo Metro Quarter Development as a world-class precinct fully integrated with Waterloo Station and comprising mixed uses, new community facilities and new public plaza and open spaces and retail shops, with a high quality pedestrian priority environment.
- (C) Following completion of a request for tenders process, Sydney Metro selected:
  - (1) the WL Developer as the successful tenderer for procuring the delivery of the Metro Quarter Development; and
  - (2) the WL Contractor as the successful tenderer for the delivery of the Station Project Works.
- (D) The Principal and the WL Developer now wish to enter into this deed to set out the terms on which the WL Developer will:
  - (1) procure the financing, design, construction, commissioning, supervision and completion of the MQD Works;
  - (2) make payments to the Principal as consideration for the rights and benefits granted to the WL Developer under this deed;
  - (3) procure the interface and co-ordination of the MQD Works with the activities of the Interface Contractors and the WL Contractor's Activities; and
  - (4) otherwise perform its obligations under this deed.
- (E) The Principal will:
  - (1) grant to the WL Developer the right to procure the undertaking of the Metro Quarter Development; and
  - (2) grant a Call Option in respect of each Non-Residential Stratum Lot and Residential Stratum Lot (excluding the Social Housing Lot) which, upon exercise, will result in the transfer of the freehold title in each Non-Residential Stratum Lot or Residential Stratum Lot (excluding the Social Housing Lot) to the relevant Purchasers nominated by the WL Developer.
- (F) The Principal and the WL Contractor have separately entered into the Station Delivery Deed in respect of the Station Project Works.

- (G) The Principal and the WL Developer have agreed to vary this deed in accordance with Variation Deed No.1 to reflect the agreement between them in respect of the Proposed Scheme Change.

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

Unless the context or express provisions of this deed otherwise require, capitalised words and phrases used in this deed have the meanings given to them in Schedule A2 (*Definitions*).

**1.2 Interpretation**

In this deed, headings (including headings in parentheses in sub-clauses) are for convenience only and do not affect the interpretation of this deed and unless the context indicates a contrary intention:

- (a) "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;
- (b) a reference to a "party" to this deed or a "person" or "entity" includes that party's, person's or entity's executors, administrators, successors and permitted substitutes and assigns, including persons taking part by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;
- (c) a reference to a "document", "contract", "deed" or "agreement" is to that document, contract, deed or agreement as updated, varied, novated, ratified or replaced from time to time;
- (d) a reference to any "Authority", "institute", "association" or "body" is:
  - (i) if that Authority, institute, association or body is reconstituted, renamed, replaced or restructured 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, restructured or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
  - (ii) if that Authority, institute, association or body is dissolved or ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or object as that Authority, institute, association or body;
- (e) a reference to a "statute" includes its delegated legislation and a reference to a statute or delegated legislation or any section or provision of either of these includes:
  - (i) all ordinances, by-laws, regulations of and other statutory instruments (however described) issued under the statute or delegated legislation; and
  - (ii) any consolidations, amendments, re-enactments and replacements;
- (f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

- (g) a reference to:
  - (i) a "part" or a "schedule" is a reference to a part or schedule to or of this deed; and
  - (ii) this deed includes all schedules to it;
- (h) 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;
- (i) "includes" in any form is not a word of limitation;
- (j) a reference to "\$" or "dollar" is to Australian currency;
- (k) any reference to "information" will be read as including information, representations, statements, data, samples, bore logs, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;
- (l) anything (including an amount) is a reference to the whole and each part of it and the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (m) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (n) words and terms defined in the GST Law have the same meaning in clauses concerning GST;
- (o) if a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled;
- (p) references to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled;
- (q) a time of day is a reference to Sydney time; and
- (r) words in parentheses after a cross reference to a clause must not be used in the interpretation of this deed.

### 1.3 Order of precedence

- (a) The documents which comprise this deed (other than the WL Developer's Tender Design) are to be regarded as mutually explanatory and anything contained in one but not the others will be equally binding as if contained in all of them.
- (b) If there is any Error in or between the various documents that comprise this deed then:
  - (i) if the Error is between the documents comprising this deed, the documents will be given precedence in accordance with the following:
    - (A) the General Conditions and Schedule A2 (*Definitions*), Schedule A5 (*Planning Applications and Approvals*), Schedule A7 (*Modification*

*Procedure*), Schedule A8 (*Dispute Procedure*), Schedule A9 (*Design Development Procedure*), [REDACTED] Schedule A31 (*Affordable Housing*), Schedule A32 (*Social Housing*) and Schedule D3 (*Transfer of title*); and

- (B) the remaining schedules;
- (ii) if the Error is in or between the Design Documentation, the documents will be given precedence in accordance with the following:
  - (A) the Principal Project Requirements;
  - (B) the Final Plans and Specifications;
  - (C) the Interim Stage Design Documentation;
  - (D) the Detailed SSD Application Design Documentation;
  - [REDACTED]
  - (F) the Approved Tender Design Elements;
  - (G) the Concept SSD Design Documentation; and
  - (H) the WL Developer's Tender Design;
- (iii) to the extent clause 1.3(b)(i) and clause 1.3(b)(ii) do not apply or resolve the Error and the Error relates to the required quality or standard of the MQD Works, the WL Developer must comply with the highest quality or standard specified or perform the more onerous obligation; and
- (iv) to the extent clauses 1.3(b)(i) to 1.3(b)(iii) (inclusive) do not apply or resolve the Error and the Error is between figured and scaled dimensions, figured dimensions will prevail over the scaled dimensions.
- (c) To the extent that the WL Developer is required to comply with a Project Plan, the terms of this deed will have precedence over the Project Plan to the extent of any Error. A Project Plan cannot impose an obligation on the Principal to do something different to, or earlier than, what is required by this deed.
- (d) Where the WL Developer considers that there is an Error in or between the provisions of this deed, it must promptly notify the Principal's Representative in writing, who must give the WL Developer a direction as to the interpretation to be followed. The Principal will have no Liability to the WL Developer arising out of or in any way in connection with any such direction as to interpretation.

#### 1.4 **No bias against drafter**

No provision of this deed is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.

#### 1.5 **Business Day**

If the day on or by which anything must be done under this deed is not a Business Day, that thing must be done no later than the next Business Day.



## 1.6 Authorities

- (a) **(No fettering of discretion)** The WL MQD Contract Documents will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of:
- (i) the Principal or any other Public Transport Agency or LAHC to exercise any of their respective functions and powers pursuant to any Law; or
  - (ii) the ASA to exercise any of its functions and powers pursuant to the ASA Charter.
- (b) **(No act or omission)** Without limiting clause 1.6(a), anything the Principal, any other Public Transport Agency or the ASA does, or fails to do or purports to do, pursuant to their respective functions and powers either as an AEO or an Authority or under any Law or pursuant to the ASA Charter, will be deemed not to be an act or omission by the Principal, the Public Transport Agency or the ASA under this deed (including a breach of contract) or otherwise and the Principal will have no Liability to the WL Developer in relation thereto.
- (c) **(Breach by the Principal)** Clause 1.6(a) and clause 1.6(b) do not limit any Liability which the Principal would have had to the WL Developer under this deed as a result of a breach by the Principal of a term of this deed but for clause 1.6(a) and clause 1.6(b).
- (d) **(Exercise of statutory functions)** The WL Developer acknowledges that:
- (i) Authorities (other than the Principal) that have jurisdiction over aspects of the MQD Works, parts of the Construction Site and other areas affected by the MQD Works may, from time to time, exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the carrying out of the MQD Works; and
  - (ii) except to the extent expressly stated otherwise in this deed, the WL Developer bears the risk of all occurrences of the kind referred to in clause 1.6(d)(i), and the Principal will have no Liability to the WL Developer arising out of or in any way in connection with such occurrences.
- (e) **(No exercise of statutory functions)** The parties acknowledge that in procuring the carrying out of the MQD Works or exercising its rights under this deed, the WL Developer is not exercising any statutory functions or powers of the Principal.

## 1.7 Best or reasonable endeavours

If the Principal or the Principal's Representative is required under the terms of this deed to exercise best or reasonable endeavours:

- (a) 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;
- (b) the Principal is not obliged to expend any money or make any payment to the WL Developer or any other person;
- (c) the Principal is not required to ensure the relevant outcome; and
- (d) the Principal does not agree to:
  - (i) interfere with or influence the exercise by any person of a statutory power or discretion;

- (ii) exercise a power or discretion or otherwise act in a manner that promotes the objectives and expected outcomes of the WL MQD Contract Documents if the Principal regards that exercise as not in the public interest;
- (iii) develop policy or legislate by reference only or predominantly to the objectives and expected outcomes of the WL MQD Contract Documents;
- (iv) procure legislation in the future in a manner that is only consistent with the objectives and expected outcomes of the WL MQD Contract Documents; or
- (v) act in any other way that the Principal regards as not in the public interest.

**1.8 Principal's rights do not affect risk allocation**

(a) **(Monitoring performance)** The Principal has various rights under this deed which are designed to give the Principal the ability to monitor (but not to co-ordinate or supervise) the performance of the WL Developer's obligations under the WL MQD Contract Documents. Those rights include:

- (i) the right to review Project Plans, Design Documentation, Applications, the WL Developer's Program, Progress Reports and other documents which the WL Developer must submit to the Principal or the Principal's Representative pursuant to this deed (**WL Developer Submissions**); and
- (ii) rights to inspect and monitor the MQD Works.

(b) **(No relief)** [REDACTED], neither the exercise of, nor the failure to exercise, such rights by the Principal will:

- (i) relieve the WL Developer from, or alter or affect, the WL Developer's Liabilities, obligations or responsibilities;
- (ii) prejudice or limit the Principal's rights against the WL Developer; or
- (iii) preclude the Principal from subsequently asserting that the WL Developer has not fulfilled its obligations,

whether under this deed or otherwise according to Law.

(c) **(No assumption of risk)** Unless otherwise expressly provided for in this deed:

- (i) acceptance of any certificate, statement, assessment or report provided by the WL Developer to the Principal or the Principal's Representative is not approval by the Principal or the Principal's Representative of the WL Developer's performance of its obligations under this deed;
- (ii) neither the Principal nor the Principal's Representative is obliged to review, assumes or owes any duty of care to the WL Developer to review, or if it does review, in reviewing any WL Developer Submissions for errors, omissions or compliance with this deed or any Law;
- (iii) no review of, comments on, consent to, information supplied to or notice in respect of, or any failure to review, provide information, comment on, consent to or give any notice in respect of any WL Developer Submissions will:
  - (A) relieve the WL Developer from, or alter or affect, the WL Developer's Liabilities, obligations, warranties or responsibilities or prejudice or limit the Principal's rights against the WL Developer whether under this deed or otherwise according to Law;

- (B) constitute an instruction to accelerate, disrupt, prolong or vary any of the MQD Works; or
- (C) affect the time for the performance of the WL Developer's obligations;
- (iv) the WL Developer will not be relieved from compliance with any of its obligations under this deed or from any of its Liabilities as a result of:
  - (A) compliance with any Project Plan;
  - (B) any audits or other monitoring by the Principal or the Principal's Representative of the WL Developer's compliance with any Project Plan;
  - (C) any failure by the Principal or its Associates to detect any non-compliance including where any failure arises from any negligence on the part of the Principal or its Associates; or
  - (D) any consent provided by the Principal or the Principal's Representative or any failure or refusal by the Principal or the Principal's Representative to provide consent;
- (v) neither the Principal nor its Associates assumes or owes any duty of care to the WL Developer to inspect, or if they do so inspect, in inspecting, the performance of the WL Developer's obligations or the MQD Works for errors, omissions or compliance with the requirements of this deed;
- (vi) any inspection of such matters (or lack of inspection) by or on behalf of the Principal or its Associates will not in any way:
  - (A) relieve the WL Developer from, or alter or affect, the WL Developer's Liabilities, obligations, warranties or responsibilities; or
  - (B) prejudice or limit the Principal's rights against the WL Developer, whether under this deed or otherwise according to Law; and
- (vii) the WL Developer is relying on its own skill and judgment, and that of the WL Developer's Associates, in relation to all aspects of the WL Developer Submissions, the MQD Works and the MQD Project and is not relying on the skill or judgment of the Principal, or any of the Principal's Associates.
- (d) **(No Liability)** The Principal will have no Liability to the WL Developer and is released from any Loss incurred or suffered by the WL Developer or its Associates because of any defect or omission in, or any issue arising out of any WL Developer Submissions.

#### 1.9 **Separable Portions**

- (a) Subject to clause 1.9(b) and clause 1.9(c), but despite any other provision of this deed:
  - (i) all relevant provisions of this deed will apply separately to each Separable Portion and references to "MQD Works" means so much of the MQD Works as is comprised in the relevant Separable Portion; and
  - (ii) if a Separable Portion has achieved Completion, the WL Developer must continue to comply with its obligations under this deed to procure the carrying out of the balance of the MQD Works in order to achieve Completion of the remaining Separable Portions in accordance with this deed.

- (c) The Certificate of Completion (Social Housing), and the process to obtain the Certificate of Completion (Social Housing) under clause 22.3A, applies separately to each category of the Social Housing Works described in clause 22.3A(a)(i) and (ii) and not on a Separable Portion by Separable Portion basis.

#### 1.10 Electronic files

- (a) Where this deed refers to:
  - (i) an electronic file on a separate disc or other electronic storage device which forms part of this deed; or
  - (ii) a document being included or contained in Schedule F1 (*Electronic files*) (or similar),

those electronic files are contained in the disc or other electronic storage device identified in Schedule F1 (*Electronic Files*).

- (b) The parties acknowledge and agree that:
  - (i) Schedule F1 (*Electronic files*) contains:
    - (A) a list of electronic files (**List**); and
    - (B) an electronic storage device comprising copies of all of the electronic files on the List (**Device**);
  - (ii) the parties intend that the Device only contain copies of the electronic files on the List; and
  - (iii) to the extent of any Error between the List and the Device (**Electronic Discrepancy**):
    - (A) clauses 1.3(b)(iii) and 1.3(d) (*Order of precedence*) do not apply;
    - (B) the List will prevail; and
    - (C) to the extent an Electronic Discrepancy is identified by either party:
      - (aa) that party will notify the other party; and
      - (bb) the parties will promptly take such action as is necessary to ensure the Electronic Discrepancy is overcome and the parties intention as set out in clause 1.10(b)(ii) is reflected on the Device, including adding electronic files to the Device, replacing electronic files on the Device or removing electronic files from the Device.

## 2. GENERAL OBLIGATIONS

### 2.1 Objectives and Project Values

- (a) (**Objectives**) Each party will, subject to and in accordance with this deed, perform its obligations under this deed having regard to the achievement of:
  - (i) the Sydney Metro City & Southwest Strategic Objectives;

- (ii) the MQD Objectives; and
  - (iii) the Principal's Vision Statement.
- (b) **(Project Values)** Each party will adhere to and uphold the Project Values and work collaboratively in a spirit of mutual trust and co-operation in the performance of their obligations under this deed.
- (c) **(Principal's rights not affected)** The obligations under clause 2.1(b) will not affect clause 1.7 (*Best or reasonable endeavours*) or the exercise of a right or discretion under this deed by the Principal or the Principal's Representative.

## 2.2 Design and construction of MQD Works

The WL Developer must:

- (a) procure the carrying out, design, construction and supervision of the MQD Works in accordance with Good Industry Practice and this deed and so that at all times up to Completion, [REDACTED];
- (b) ensure that, on Completion, the MQD:
  - (i) complies with this deed and the Principal Project Requirements; and [REDACTED]
- (c) ensure that the MQD as designed and constructed as at Completion [REDACTED]

## 2.3 Quality of work

The WL Developer must, in procuring the carrying out of the MQD Works, ensure that the MQD is constructed using Construction Materials which:

- (a) comply with all Laws;
- (b) are consistent with Good Industry Practice for work of a similar nature to the applicable MQD Works; and
- (c) are suitable new materials and are safe and fit for their intended purpose.

## 2.4 Acceptance of risk

- (a) **(Acceptance of risk)** Except to the extent that this deed expressly provides otherwise, the WL Developer accepts all responsibility for and the risk of all Loss, delays and disruptions which it suffers or incurs arising out of or in any way in connection with the MQD Works, the procurement of the MQD Works, the MQD and the WL Developer's obligations under this deed, including:
  - (i) all Costs of the MQD Project and financing of the MQD Project (including the ability to finance any aspect of the MQD Project);
  - (ii) any risks and Liabilities of the WL Developer and others arising out of or in connection with the WL MQD Contract Documents from time to time;
  - (iii) any financial return, income, revenue or profit derived or to be derived in connection with the MQD Project being less than the financial return, income, revenue or profit estimated by the WL Developer;

- (iv) the construction and achievement of Completion of each Separable Portion, including the achievement of Completion of each Separable Portion by a particular time or at all; and
  - (v) the conditions of the market applying from time to time to the sale or lease of residential strata units (including Affordable Housing) or commercial or retail premises.
- (b) **(Breach by the Principal)** Clause 2.4(a) does not limit any Liability which the Principal has to the WL Developer which results from a breach by the Principal of a term of this deed.

## 2.5 **Principal's Statements of Business Ethics**

- (a) **(Compliance)** The WL Developer must at all times comply with the Principal's Statements of Business Ethics.
- (b) **(Subcontractor acknowledgement)** Prior to the engagement of any Subcontractor by the WL Developer, the WL Developer must obtain a written acknowledgement from such Subcontractor that it has received, read, understood and will comply with the Principal's Statements of Business Ethics.

## 2.6 **Affordable Housing**

The WL Developer must comply with the Affordable Housing Requirements.

## 2.7 **Social Housing**

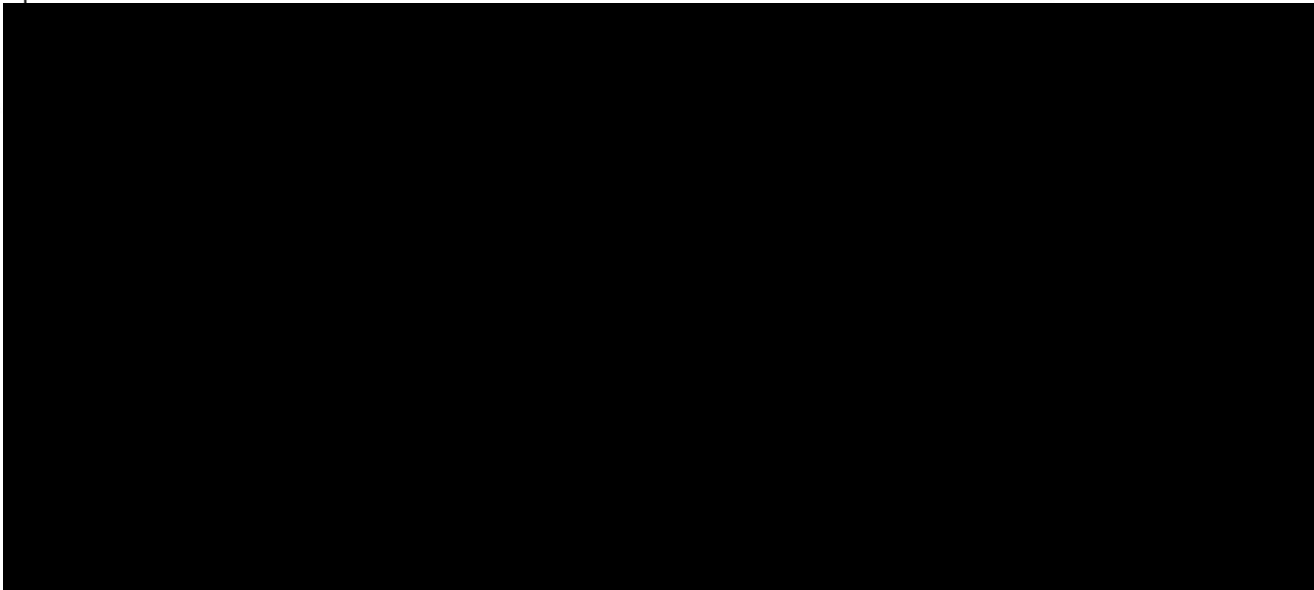
The WL Developer must comply with the Social Housing Requirements.

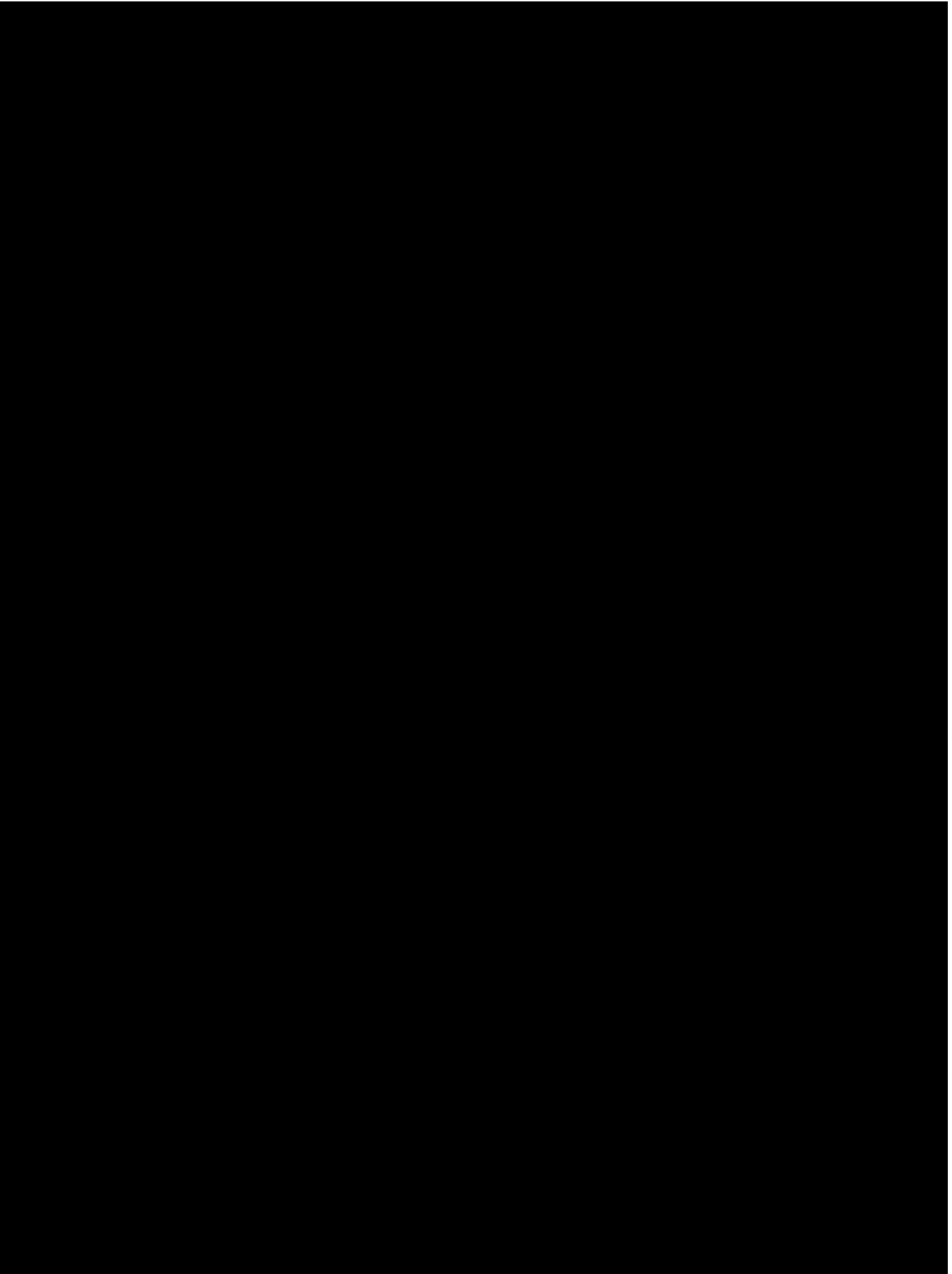
## 2.8 **Principal Project Requirements**

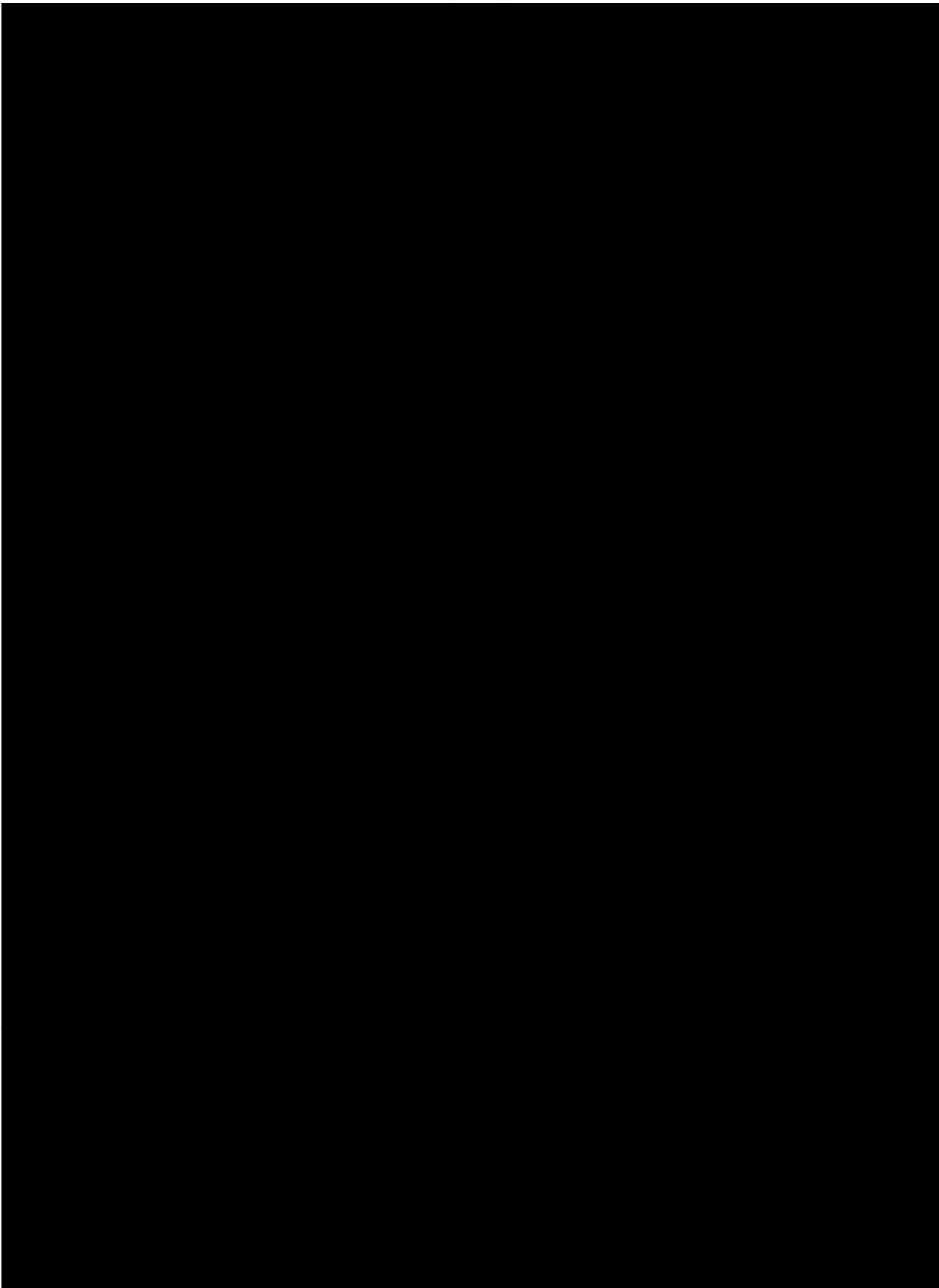
The WL Developer must comply with:

- (a) MQD Design Parameters (Metro); and
- (b) MQD Requirements (Precinct).

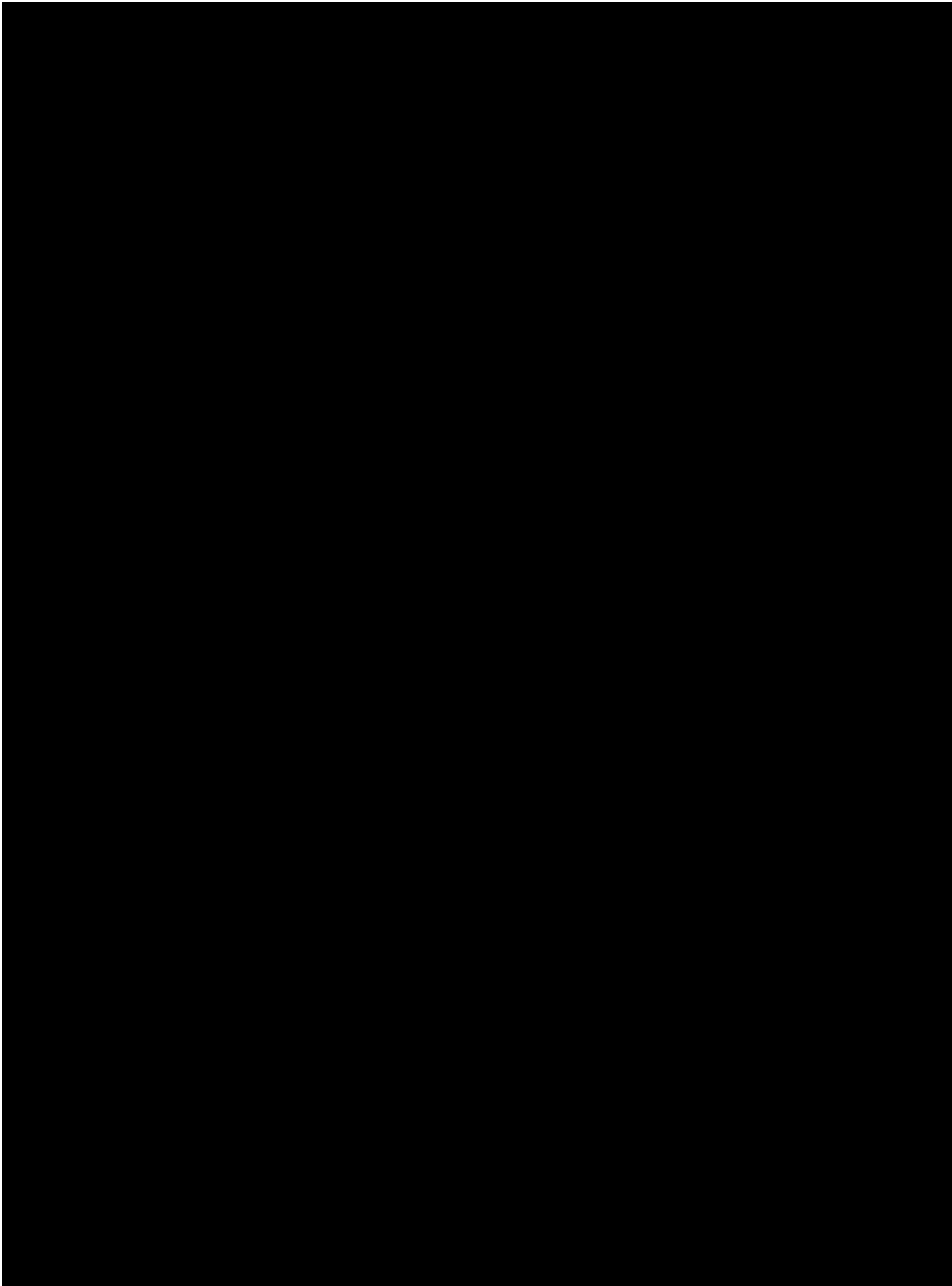
## 2.9 **Proposed Scheme Change**

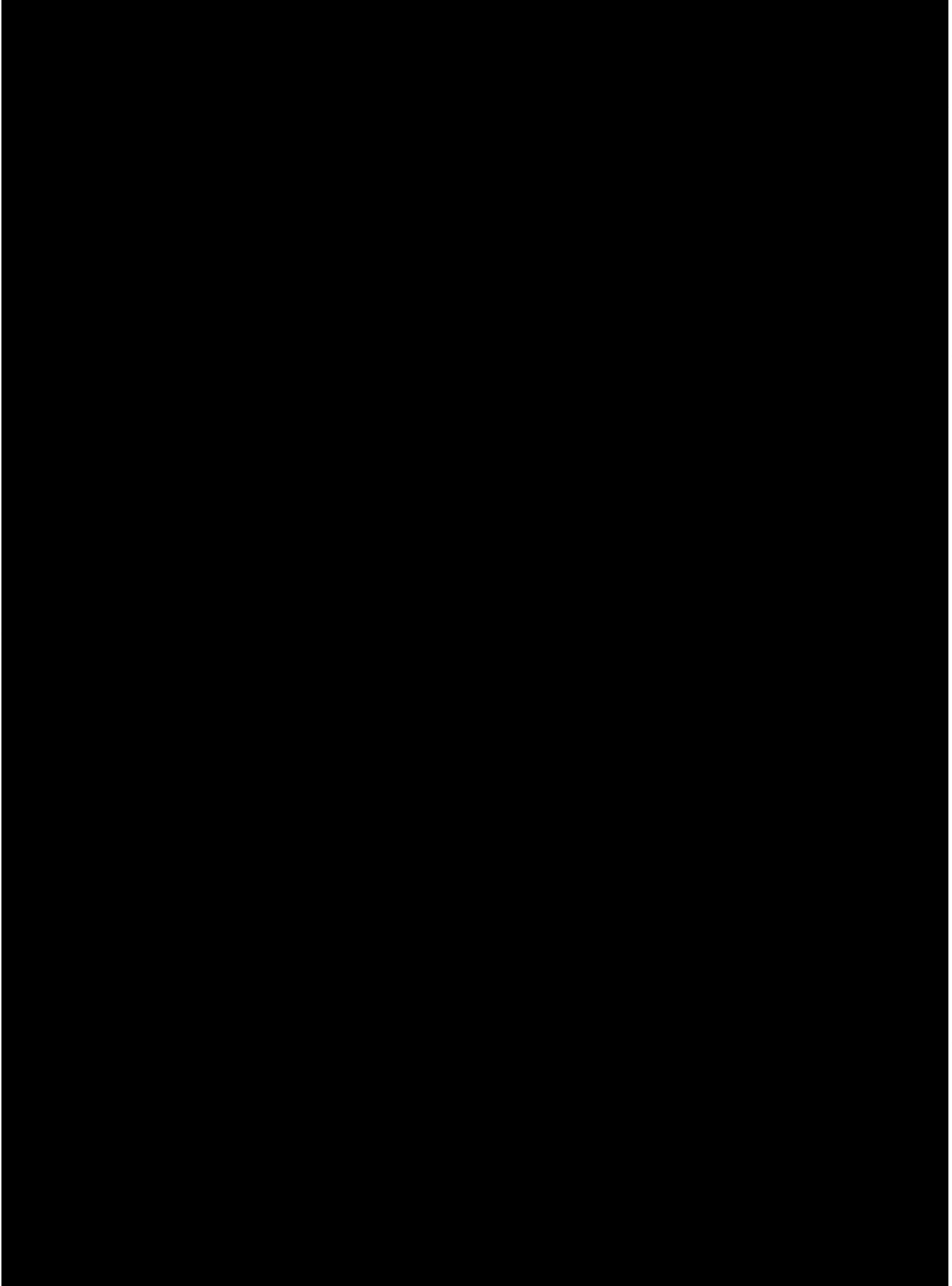












### 3. SECURITY

#### 3.1 Parent Company Guarantee

On or before the date of this deed, the WL Developer must give the Principal's Representative:

- (a) a duly executed Parent Company Guarantee from each WL Developer Guarantor and must ensure that, in relation to each Parent Company Guarantee, all stampings, registrations and filings required by:
  - (i) Law (or by the law of any foreign jurisdiction); or
  - (ii) the Principal to ensure that it is able to expatriate from any foreign jurisdiction any amounts that may be payable under a Parent Company Guarantee, have been completed in the form and substance satisfactory to the Principal (in its absolute discretion); and
- (b) a legal opinion in a form acceptable to the Principal confirming the enforceability of the Parent Company Guarantee under the law of any foreign jurisdiction, if applicable.

### 4. DESIGN AND DESIGN DOCUMENTATION

#### 4.1 Design obligations

The WL Developer must procure the design of the MQD Works and the preparation of the Design Documentation:

- (a) **(design development)** in accordance with:
  - (i) this deed;
  - (ii) the Principal Project Requirements;
  - (iii) the Relevant Plans and Specifications;
  - (iv) any Modification permitted under this deed;
  - (v) the CSSI Approval (where relevant), the Development Consents and all relevant Approvals; and
  - (vi) the Basis of Design;
- (b) **(construction requirements)** so that:
  - (i) the MQD Works are effectively integrated with the Station Project Works; and
  - (ii) at all times prior to and on the Applicable Transfer Date, the MQD Works and the MQD in that Applicable Transfer Area comply with all applicable Laws; and
- (c) **(skill, care and diligence)** in accordance with the level of skill, care and diligence expected of a professional designer and builder experienced in projects of a similar nature to the MQD Project.

**4.2 Concept SSD Design Documentation**

- (a) **(Concept SSD Design Documentation)** The WL Developer agrees that:
  - (i) prior to the date of this deed, the Principal prepared the Concept SSD Design Documentation; and
  - (ii) the WL Developer bears all risks associated with the use of, or reliance on, the Concept SSD Design Documentation and that such use and reliance will not limit or otherwise reduce any of the WL Developer's obligations under this deed.
- (b) **(No Liability)** The Principal will have no Liability to the WL Developer arising out of or as a result of the Concept SSD Design Documentation.

**4.3 WL Developer's Tender Design**

- (a) **(WL Developer's Tender Design)** The WL Developer agrees that:
  - (i) prior to the date of this deed, the WL Developer prepared the WL Developer's Tender Design; and
  - (ii) the WL Developer bears all risks associated with the use of, or reliance on, the WL Developer's Tender Design and that such use and reliance will not limit or otherwise reduce any of the WL Developer's obligations under this deed.
- (b) **(No Liability)** The Principal will have no Liability to the WL Developer arising out of or as a result of the WL Developer's Tender Design.

**4.4 MQD Design Documentation**

- (a) **(Submission of MQD Design Documentation)** The WL Developer must submit to the Principal's Representative and where applicable, the Independent Certifier (Social Housing):

[REDACTED]

- (ii) the Detailed SSD Application Design Documentation; and
- (iii) the Final Stage Design Documentation,

at the times set out in Schedule A9 (*Design Development Procedure*) and, if requested by the Principal's Representative, the Interim Stage Design Documentation when the Interim Stage Design Documentation is at:

- (iv) a 50% level of completed design; and
- (v) a 75% level of completed design,

in hardcopy and in an electronic format for review by the Principal's Representative and, where applicable, the Independent Certifier (Social Housing).

- (b) **(Submission of amended MQD Design Documentation)** At any time after the WL Developer has submitted any [REDACTED], any Detailed SSD Application Design Documentation, any Interim Stage Design Documentation or any Final Stage Design Documentation to the Principal's Representative, the WL Developer may notify the Principal's Representative of the WL Developer's proposal to amend the [REDACTED] the Detailed SSD Application Design

Documentation, the Interim Stage Design Documentation or the Final Stage Design Documentation (as applicable). The provisions of clauses 4.5 (*Certification of MQD Design Documentation*) to 4.11 (*Basis of Design and MQD Requirements (Design)*) (inclusive) will apply to the [REDACTED], the Detailed SSD Application Design Documentation, the Interim Stage Design Documentation or the Final Stage Design Documentation that the WL Developer proposes to amend as if such documentation was submitted to the Principal pursuant to clause 4.4(a), but in respect of Interim Stage Design Documentation or Final Stage Design Documentation this regime does not restrict the WL Developer's ability to proceed to:

- (i) the next stage of submission of the Interim Stage Design Documentation or Final Stage Design Documentation under clause 4.4(a); or
  - (ii) construction,  
(as the case may be).
- (c) **(Project Control Group)** The WL Developer must provide at each Project Control Group meeting:
- (i) updates on the progress of the preparation of the MQD Design Documentation; and
  - (ii) the estimated date or dates on which the WL Developer anticipates it will submit to the Principal's Representative the MQD Design Documentation in accordance with Schedule A9 (*Design Development Procedure*).
- (d) **(Temporary works)** The WL Developer may submit Design Documentation related to temporary works required for the purpose of performing the MQD Works, however the regime in clauses 4.4(a), 4.4(b), 4.4(c), 4.6 (*Design development*) and 4.8 (*Design Excellence*) do not apply to such Design Documentation.

#### 4.5 **Certification of MQD Design Documentation**

Together with all MQD Design Documentation submitted to the Principal's Representative pursuant to clause 4.4(a) (*Submission of MQD Design Documentation*) or clause 4.4(d) (*Temporary Works*), the WL Developer must deliver to the Principal's Representative a certificate in the form of Schedule B2 (*WL Developer's Certificate - MQD Design Documentation*) certifying that:

- (a) the relevant MQD Design Documentation complies with the Principal Project Requirements and this deed;
- (b) the Residential MQD Works, as shown in the MQD Design Documentation, will satisfy the Residential MQD Works Requirements;
- (c) the MQD, as shown in the relevant MQD Design Documentation, does not have and is not reasonably expected to [REDACTED];
- (d) in respect of any MQD Design Documentation other than Final Stage Design Documentation, the design as shown on that MQD Design Documentation will be capable of achieving the requirements of the Basis of Design when fully developed; and
- (e) in respect of Final Stage Design Documentation, the MQD as shown on the relevant Final Stage Design Documentation achieves the requirements of the Basis of Design.

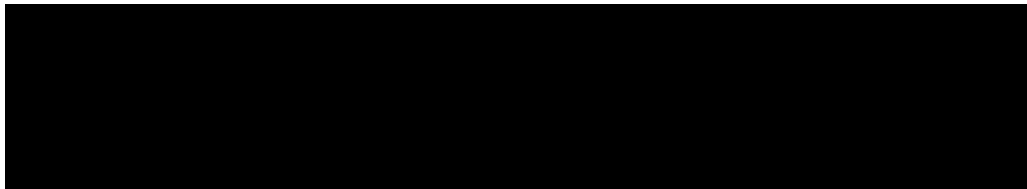
4.6 **Design development**

The WL Developer must comply with the design development procedure set out in Schedule A9 (*Design Development Procedure*) in respect of all MQD Design Documentation submitted or required to be submitted by the WL Developer under clause 4.4(a) (*MQD Design Documentation*).

4.7 **Design Documentation for construction**

(a) **(MQD Works other than Social Housing Works)** Except to the extent that it relates to Social Housing Works, the Final Stage Design Documentation that has been submitted to the Principal's Representative pursuant to clause 4.4(a) (*Submission of MQD Design Documentation*) will be the **Final Plans and Specifications** for the purposes of constructing the relevant part of the MQD Works if one of the following conditions is met:

- (i) the Principal's Representative has issued the WL Developer with a notice under clause 2.2(b)(ii) of Schedule A9 (*Design Development Procedure*); or

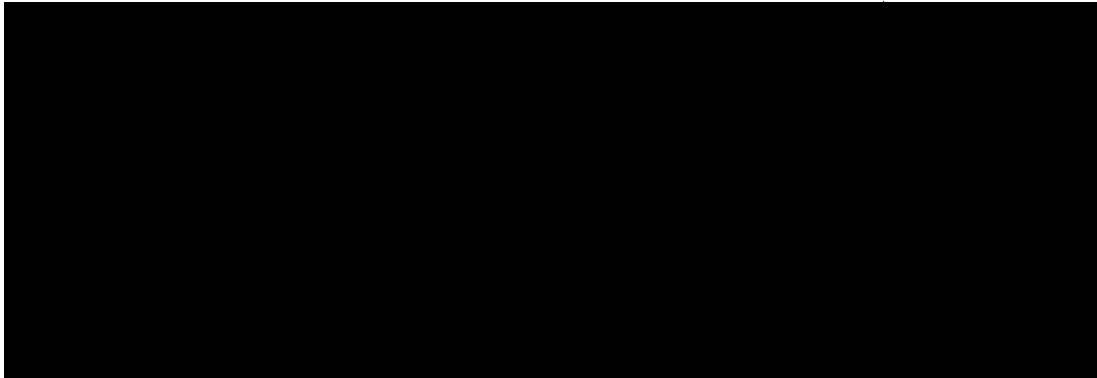


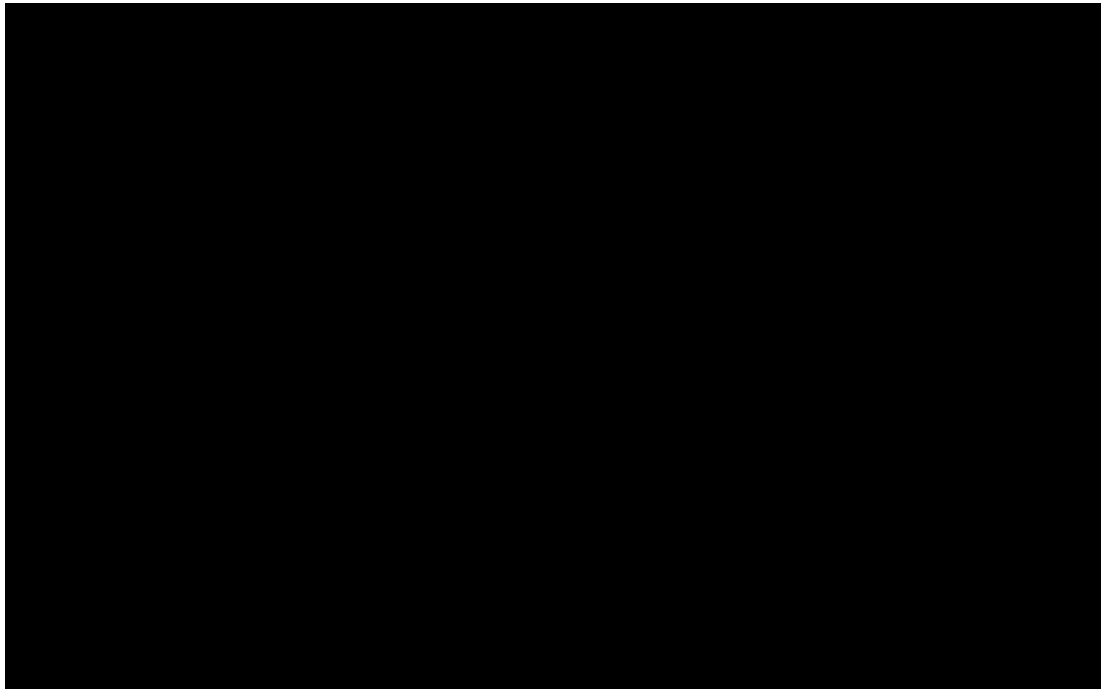
(a1) **(Social Housing Works)** Final Stage Design Documentation relating to Social Housing Works that has been submitted to the Principal's Representative and the Independent Certifier (Social Housing) pursuant to clause 4.4(a) (*MQD Design Documentation*) will be the **Final Plans and Specifications** for the purposes of constructing the relevant part of the MQD Works if:

- (i) the Independent Certifier (Social Housing) has issued to the WL Developer, the Principal and LAHC a certificate in the form of Schedule B11 (*Certificate of Design Compliance (Social Housing)*); and

(ii) either:

- (A) the Principal's Representative has issued the WL Developer with a notice under clause 2.2(b)(ii) of Schedule A9 (*Design Development Procedure*); or





#### 4.8 Design Excellence

- (a) **(Principal's Representative may provide)** The Principal's Representative may, in respect of any MQD Design Documentation submitted to the Principal's Representative by the WL Developer under clause 4.4(a) (*MQD Design Documentation*):
- (i) provide copies of any such MQD Design Documentation to; and
  - (ii) seek comments, feedback and directions from and take into account the views of,
- the Design Review Panel within the Principal's Representative's review timeframes set out in Schedule A9 (*Design Development Procedure*).
- (b) Not used.
- (c) **(No effect on obligations)** Any comments, feedback or directions provided during any workshop or meeting by a member of the Design Review Panel will not:
- (i) relieve the WL Developer of its obligations, or constitute a waiver of any of the Principal's rights, under this deed; or
  - (ii) be construed as a comment, amendment or direction by the Principal or its Associates, nor will any comments made by the Design Review Panel give rise to any obligation on the part of the WL Developer to comply with anything which the members of the Design Review Panel say or do during such workshops or meetings.

#### 4.9 Explanation of MQD Design Documentation

If required by the Principal's Representative, the WL Developer must, whenever it submits MQD Design Documentation pursuant to clause 4.4(a) (*MQD Design Documentation*):

- (a) **(design presentation workshop)** deliver a design presentation workshop to the Principal's Representative and other nominated Associates of the Principal and/or the Design Review Panel and/or the Independent Certifier (Social Housing) within

5 Business Days after its submission (or such later date as agreed between the parties); and

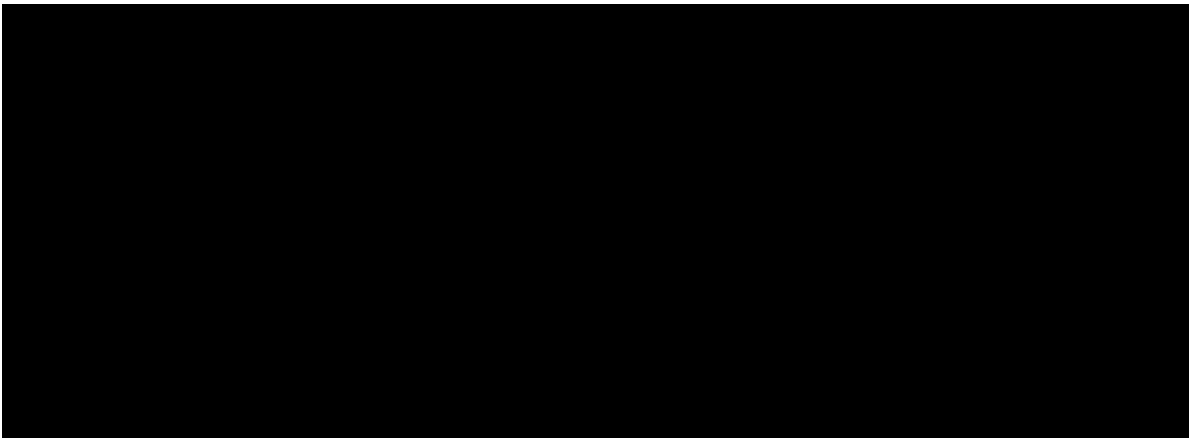
- (b) **(design personnel)** make available the appropriate design personnel to:
  - (i) explain the relevant MQD Design Documentation; and
  - (ii) provide such information regarding the relevant MQD Design Documentation as the Principal's Representative or the Design Review Panel or the Independent Certifier (Social Housing) reasonably requests.

#### 4.10 Warranties

The WL Developer warrants to the Principal that:

- (a) **(requirements of this deed)** it remains responsible for ensuring that the MQD Works will satisfy the requirements of this deed despite the Concept SSD Design Documentation being prepared by the Principal;
  - (b) **(requirements of the Principal Project Requirements, Basis of Design and this deed)** the Design Documentation will satisfy the requirements of the Principal Project Requirements, the Basis of Design and the other requirements of this deed;
  - (c) **(engineering requirements)** the MQD Works are or will be designed within:
    - (i) the engineering capacity (including maximum loadings) of the MQD Enabling Works; and
  - (d) **(MQD Works as designed and constructed)** the design and construction of the MQD Works and the MQD in each Separable Portion will comply with clause 2.2 (*Design and construction of MQD Works*).
-





5. **CONSTRUCTION**


5.1 **Construction obligations**

The WL Developer must procure the construction of the MQD Works:

- (a) **(Approvals)** in accordance with:
  - (i) the CSSI Approval (where relevant, and including conditions E66 and E67 of the CSSI Approval), the Development Consents and all Approvals;
  - (ii) the Final Plans and Specifications; and
  - (iii) all other requirements of this deed; and
- (b) **(compliance with other requirements):**
  - (i) in a proper and workmanlike manner;
  - (ii) with due skill, care and diligence and in accordance with Good Industry Practice; and
  - (iii) so that, at all times prior to and on the Applicable Transfer Date, the MQD Works and the MQD in that Applicable Transfer Area comply with all applicable Laws.

5.2 **Commencement of construction**

The WL Developer must not permit any work to be commenced on a Construction Site for a Separable Portion until:

- (a) **(Project Plans)** each of the following Project Plans for the Separable Portion have been submitted to the Principal's Representative and have not been rejected by the Principal's Representative within the review period specified in the Project Plan Requirements (or, if a Project Plan has been rejected, a revised Project Plan has been submitted to the Principal's Representative and has not been rejected by the Principal's Representative within the review period specified for a revised Project Plan in the Project Plan Requirements):
  - (i) Construction and Site Management Plan;
  - (ii) Project Health and Safety Management Plan;
  - (iii) 

- (iv) [REDACTED]
- (v) [REDACTED]
- (vi) [REDACTED]
- (vii) not used;
- (viii) not used; and
- (ix) [REDACTED]
- (b) **(Parent Company Guarantee)** the WL Developer has complied with clause 3.1 (*Parent Company Guarantee*);
- (c) **(Pre-Commencement Certificates)** the WL Developer has provided the Principal's Representative with a copy of the Approved Engineer's Certificates (Pre-Commencement) or, if applicable, the Approved Engineer's Certificates (Interim) for that Separable Portion;
- (d) **(Approved Engineer deed poll)** the WL Developer has complied with clause 8.6(g) (*Approved Engineer*) for the Separable Portion;
- (e) **(Approvals)** the WL Developer has notified the Principal's Representative that all Approvals necessary for commencement of that Separable Portion have been obtained and has provided the Principal's Representative with copies of those Approvals;
- (f) **(Acceptable Detailed SSD Consent)** an Acceptable Detailed SSD Consent for the Separable Portion has been obtained;
- (g) **(Insurances)** the WL Developer has effected the Insurances required by clause 29.5 (*WL Developer's Insurance obligations*) for the Separable Portion and, if relevant, has complied with clause 5.7(c)(i)(D) (*Home Building Act*);
- (h) [REDACTED]
- (i) **(D&C Contract)** the WL Developer has provided to the Principal's Representative a full copy of the executed D&C Contract (including all schedules, annexures and exhibits to the D&C Contract), which has been entered into in accordance with clause 16.4 (*D&C Contract*);
- (j) **(D&C Side Deed)** the Principal, the WL Developer, the D&C Contractor [REDACTED] have entered into a D&C Side Deed; and
- (k) **(notification of Community Housing Provider)** the WL Developer has notified the Principal's Representative of the Community Housing Provider and provided evidence to the Principal's Representative of the contractual arrangements that have been entered into with the Community Housing Provider for the Affordable Housing in that Separable Portion in accordance with Schedule A31 (*Affordable Housing*).

**5.3 Notice of commencement of a Separable Portion**

In respect of each Separable Portion:

- (a) **(Notice of Date for Commencement of a Separable Portion)** the WL Developer must give the Principal's Representative at least 60 Business Days' prior written notice as to when it expects construction of a Separable Portion to commence (**Date for Commencement of a Separable Portion**);
- (b) **(Notice of Anticipated Substantial Commencement)** the WL Developer must give the Principal's Representative at least 25 Business Days' prior written notice as to the date on which the WL Developer expects Substantial Commencement of the Separable Portion to occur (**Anticipated Date for Substantial Commencement of a Separable Portion**);
- (c) **(WL Developer may update)** the WL Developer may update the Anticipated Date for Substantial Commencement of a Separable Portion and the Date for Commencement of a Separable Portion by written notice to the Principal provided that the revised date is not earlier than the date first notified by the WL Developer under clause 5.3(a) or clause 5.3(b) in respect of that Separable Portion (as applicable); and
- (d) **(Notice of Substantial Commencement)** the WL Developer must notify the Principal's Representative in writing within 5 Business Days after Substantial Commencement of the Separable Portion has occurred. The date notified in the WL Developer's notice is the **Date of Substantial Commencement**.

#### 5.4 Utility Services

- (a) **(Risk)** The WL Developer bears the risk of the existence, location, condition and availability of all Utility Services (in so far as they affect the carrying out of the MQD Works) and must procure the investigation, protection, relocation, removal, modification, disconnection, support, reinstatement and provision of all Utility Services necessary for the carrying out of the MQD Works and to otherwise comply with its obligations or exercise its rights under the WL MQD Contract Documents.
- (b) **(Payment)** The WL Developer must obtain, pay for and contract for the provision of all Utility Services required for the carrying out of the MQD Works.
- (c) **(Consent)** The WL Developer must:
  - (i) obtain the Principal's Representative's prior written consent in respect of any new connections for Utility Services forming part of or in relation to the MQD Works or changes or modifications to existing connections for such Utility Services to the extent those connections will or may reasonably be expected to [REDACTED] and
  - (ii) consult with and keep the Principal's Representative fully informed as to the WL Developer's dealings with the Authorities providing the Utility Services referred to in clause 5.4(c)(i).
- (d) **(Disruption)** The WL Developer must ensure that, as a consequence of or in relation to the carrying out of the MQD Works, there are no unplanned disruptions to the Utility Services [REDACTED]

## 5.5 Environmental obligations

- (a) **(Contamination)** The WL Developer bears the risk of, and must pay all its costs arising from, all Contamination on, in, over, or about the Construction Site.
- (b) **(Hazardous Chemicals)** The WL Developer must ensure that:
  - (i) Hazardous Chemicals are:
    - (A) handled in a manner that will not cause or create an Environmental Hazard; and
    - (B) not abandoned or dumped on the Construction Site; and
  - (ii) no other substance is released from, deposited to, or emanates from, the Construction Site such that a state of Contamination occurs.
- (c) **(Environmental responsibility)** The WL Developer must, at all times, carry out, and ensure that its Subcontractors carry out, the obligations of the WL Developer in an environmentally responsible manner, in accordance with Good Industry Practice, and so as to protect the Environment and keep the Construction Site in a good and safe condition.

## 5.6 Prevention of disturbance and interference

- (a) **(WL Developer to procure prevention)** In procuring the carrying out of the MQD Works, the WL Developer must, and must ensure its Subcontractors:
  - (i) **(minimise nuisance)** minimise nuisance and prevent unreasonable noise, dust, vibration and disturbances except to the extent such nuisance, noise, dust, vibration or disturbance is permitted by Law;
  - (ii) **(take precautions)** take all reasonable precautions to avoid obstruction of and damage to any property (including the property of the Principal and its Associates) and Utility Services;
  - (iii) **(no interference)** not restrict, close, interfere with or obstruct the free flow of people and vehicles, access to any premises, car parks, roads, pedestrian ways, public spaces, parks, bicycle paths or facilities, or traffic on any lane or shoulder of the existing road network, or the operations or activities carried out on, adjacent to or in the vicinity of the Construction Site, including the Waterloo Station:
    - (A) unless and to the extent that it is necessary for the performance of the MQD Works; and
    - (B) without first obtaining the consent of all relevant Authorities and, to the extent it impacts on the Principal or its Associates, the Waterloo Station (including the use and occupation of the Waterloo Station) or the undertaking of the works or any other activities under the Station Delivery Deed, without first obtaining the consent in writing of the Principal's Representative; and
  - (iv) **(instructions of Authorities)** comply with the instructions of all relevant Authorities in relation to any restriction, closure, interference or obstruction contemplated by clause 5.6(a)(iii).
- (b) The WL Developer must ensure its Subcontractors program and co-ordinate the MQD Works in accordance with Good Industry Practice and take all steps reasonably

available to minimise the effect of the carrying out of the MQD Works on the occupants and users of land adjoining, or in the vicinity of, the Construction Site (including Existing Operators and adjoining property owners).

## 5.7 Home Building Act

- (a) **(WL Developer to procure compliance)** Any provision of this deed that imposes an obligation on the WL Developer to carry out, co-ordinate or supervise the MQD Works or perform any other obligation under this deed which comprises Home Building Works is to be read as the WL Developer having an obligation to procure appropriately qualified and licensed Subcontractors to perform those obligations in order to achieve the requirements of this deed, and the WL Developer must discharge that obligation by procuring that an appropriately qualified and licensed Subcontractor performs those obligations so as to achieve the requirements of this deed.
- (b) **(Acknowledgement)** The parties acknowledge and agree that:
- (i) as at the date of this deed, the WL Developer does not have a Contractor Licence which permits it to do Home Building Work;
  - (ii) neither this deed nor any other WL MQD Contract Documents requires the Principal to perform Home Building Work;
  - (iii) neither this deed nor any other WL MQD Contract Documents requires the WL Developer to perform Home Building Work itself and, by entering into this deed, the WL Developer is not contracting to itself do Home Building Work and, rather, clause 5.7(a) applies in relation to the performance of any Home Building Work; and
  - (iv) the WL Developer will not itself perform any Home Building Work unless and to the extent that the WL Developer does have a Contractor Licence which permits it to do Home Building Work.
- (c) **(Compliance with Home Building Act)** The WL Developer:
- (i) must:
    - (A) procure the carrying out of any Home Building Work in accordance with the Home Building Act and by Subcontractors who hold appropriate Contractor Licences under the Home Building Act;
    - (B) in procuring the Residential MQD Works, not breach, and ensure that its Subcontractors do not breach, the Home Building Act;
    - (C) procure from suppliers and manufacturers of all goods, plant, machinery and equipment forming part of the Residential MQD Works market standard guarantees and warranties in respect of all such goods, plant, machinery and equipment and, without limiting the Subcontractor's obligations under its contract, use its best endeavours to procure that the relevant Subcontractor assigns the right to enforce those guarantees and warranties to the WL Developer and the Principal (exercisable at the discretion of the WL Developer or the Principal (as applicable)); and
    - (D) procure that any insurances required under the Home Building Act are effected;

- (ii) warrants to the Principal that any Subcontract it has entered into or will enter into for the carrying out of Residential MQD Works will require that those works be done in accordance with, and will comply with, the Home Building Act;
  - (iii) not used;
  - (iv) in addition to any other warranties required under the Home Building Act from time to time, must procure that and warrants for the benefit of the Principal that:
    - (A) the Residential MQD Works will be done with due care and skill and in accordance with the Final Plans and Specifications as amended in accordance with this deed;
    - (B) all materials used in the Residential MQD Works will be good and suitable for the purpose for which they are used and that those materials will be new;
    - (C) the Residential MQD Works will be done in accordance with, and will comply with, the Home Building Act and any other Law;
    - (D) the Residential MQD Works will be done with due diligence and within the time stipulated in any contract relating to the works, or if no time is stipulated, within a reasonable time;
    - (E) to the extent the Residential MQD Works consist of a dwelling, the Residential MQD Works will result in a dwelling that is reasonably fit for occupation as a dwelling; and
    - (F) the Residential MQD Works and any materials used in doing the Residential MQD Works will be reasonably fit for any specified purpose where a person for whom the work is done has made known the particular purpose for which the work is required or the result the work is to achieve,
- for the warranty period that would have applied in respect of that warranty under the Home Building Act if that warranty had been given under the Home Building Act rather than under this deed, including any warranty period which applies in respect of any defects rectification work relating to the MQD;
- (v) must, to the extent that the Home Building Act, or any other Law, implies a warranty or requires an owner or developer to provide a warranty, in relation to the Residential MQD Works, provide the same warranty to the Principal;
  - (vi) must, prior to completion of the Residential MQD Works, provide to the Principal's Representative a copy of each of the guarantees and warranties referred to in clause 5.7(c)(i)(C) and, to the extent that it is within the WL Developer's ability to do so, allow the Principal to enforce the guarantees and warranties directly if the Principal notifies the WL Developer of such enforcement. All reasonable Costs incurred by the Principal in enforcing such guarantees and warranties will be a debt due and payable by the WL Developer to the Principal; and
  - (vii) must, at its Cost, comply with all obligations imposed on a developer under Part 11 of the *Strata Schemes Management Act 2015* (NSW) in respect of the MQD Works.

## 6. SAFETY AND ENVIRONMENT

### 6.1 Care of people, property and the Environment

The WL Developer must procure the carrying out of the MQD Works in a manner that:

- (a) does not put the health or safety of persons at risk and prevents injury or death;
- (b) protects and prevents damage to property and the Environment; and
- (c) protects and prevents damage to the Station Project Works, the Interface Works, the Station Construction Site and Waterloo Station.

### 6.2 Work health and safety

The WL Developer must:

- (a) **(WHS Legislation)** in carrying out its obligations or exercising its rights under this deed, comply, and must ensure that its Subcontractors comply, with the WHS Legislation and other applicable Laws (including the Chain of Responsibility Provisions), Codes of Practice and Australian standards relating to work health and safety;
- (b) **(corporate work health and safety management system)** have a corporate work health and safety management system which complies with the Law and is otherwise in accordance with the Office of the Federal Safety Commissioner's Audit Criteria Guidelines and New South Wales Government Work Health and Safety Management Systems and Auditing Guidelines (5th Edition) (September 2013, updated May 2014);
- (c) **(notify)** notify the Principal's Representative in accordance with the PHSM of all work health and safety Incidents;
- (d) **(assurances to the Principal's Representative)** following commencement of construction of a Separable Portion on a Construction Site and at the end of March, June, September and December of each year, provide the Principal's Representative with written assurances from:
  - (i) the WL Developer about the WL Developer's ongoing compliance; and
  - (ii) all Significant Subcontractors about each Significant Subcontractor's ongoing compliance,

with all applicable Laws, Codes of Practice and Australian standards and other requirements of this deed for work health and safety and rehabilitation management;
- (e) **(report)** provide the Principal's Representative with written reports on any work health and safety and rehabilitation matters connected with the MQD Works as the Principal's Representative may require from time to time;
- (f) **(co-operate)** consult, co-operate and co-ordinate and procure that its Subcontractors consult, co-operate and co-ordinate with the Interface Contractors and the Principal's Representative to ensure that all parties are able to comply with their respective obligations under the WHS Legislation;
- (g) **(duties)** carry out the WL Developer's duties and procure that its Subcontractors carry out their duties under the WHS Legislation to enable the Principal to discharge its duties under the WHS Legislation and other applicable Laws; and

- (h) **(safety leadership)** provide strong safety leadership and continuously promote safety as a core value.

### 6.3 Principal contractor

- (a) **(Definitions)** In clause 6.2 (*Work health and safety*), this clause 6.3 and clause 6.4 (*Sydney Metro Principal Contractor Health and Safety Standard*), the terms "principal contractor", "workplace", "construction work" and "construction project" have the meaning given to those terms in the WHS Legislation. For the purposes of the WHS Legislation and this deed:

- (i) the construction work involved in the MQD Works; and
- (ii) any construction work carried out on a Construction Site by the WL Contractor under the Station Delivery Deed, any Interface Contractor, the Principal or its Associates or any other person which is performed during any period in which the Appointed Principal Contractor has been engaged as principal contractor **(Construction Site Interface Work)**,

are taken to be part of the same "construction project".

- (b) **(Engagement as principal contractor)** The parties acknowledge and agree that:
- (i) the WL Developer:
    - (A) is a person conducting a business or undertaking that is commissioning a construction project comprising the MQD Works and the Construction Site Interface Work;
    - (B) must engage the Appointed Principal Contractor under the D&C Side Deed as the principal contractor in respect of the MQD Works and the Construction Site Interface Work; and
    - (C) authorises the Appointed Principal Contractor to have management and control of each workplace at which the MQD Works and the Construction Site Interface Work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation;
  - (ii) the Appointed Principal Contractor has accepted the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor under the WHS Legislation and this deed; and
  - (iii) the Principal's Representative must:
    - (A) give the Appointed Principal Contractor prior notice of any Interface Contractor undertaking Construction Site Interface Work before such Construction Site Interface Work commences; and
    - (B) provide the Appointed Principal Contractor and the WL Developer with executed deed polls in favour of the Appointed Principal Contractor in the form set out in Schedule A18 (*Site Interface Deed Poll*) from each Interface Contractor engaged by the Principal undertaking Construction Site Interface Work.
- (c) **(Period of engagement)** The Appointed Principal Contractor's engagement and authorisation as a principal contractor will continue until the earlier of:
- (i) the termination of this deed; and



- (ii) in respect of an Applicable Transfer Area, the Applicable Transfer Date.
- (d) **(If engagement not effective)** If the engagement of the Appointed Principal Contractor as principal contractor under the D&C Side Deed is not effective for any reason, the WL Developer must:
  - (i) exercise and fulfil the functions and obligations of a principal contractor under the WHS Legislation as contemplated by clause 6.3(b); or
  - (ii) otherwise, ensure that the Appointed Principal Contractor exercises and fulfils the functions and obligations of a principal contractor under the WHS Legislation as if the Appointed Principal Contractor had been validly engaged and authorised as principal contractor as contemplated by clause 6.3(b).

#### 6.4 **Sydney Metro Principal Contractor Health and Safety Standard**

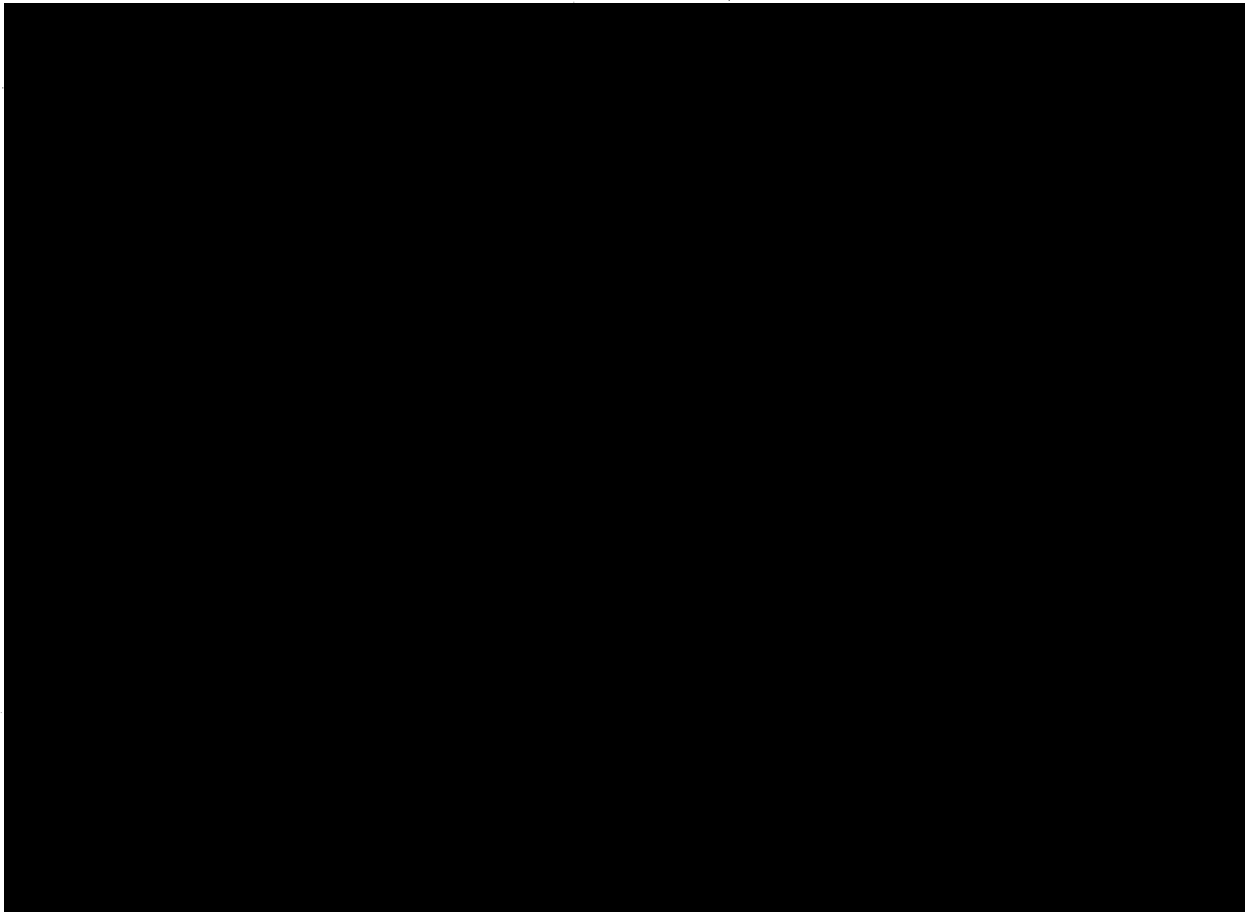
- (a) **(Comply)** At all times prior to and including the Station Date of Completion, the WL Developer must comply with those parts of the Sydney Metro Principal Contractor Health and Safety Standard, as amended from time to time, that the Principal's Representative notifies the WL Developer in writing that it must comply with as if it was a principal contractor for the purposes of that standard.
- (b) **(Update to standard)** The Principal's Representative may update the Sydney Metro Principal Contractor Health and Safety Standard from time to time, including to address work health and safety issues relating to the MQD Works and Sydney Metro City & Southwest.
- (c) **(No Liability)** The Principal will have no Liability to the WL Developer arising out of or in any way in connection with:
  - (i) any update or amendment to the Sydney Metro Principal Contractor Health and Safety Standard; or
  - (ii) any act or omission of the Principal or its Associates in relation to the Sydney Metro Principal Contractor Health and Safety Standard (including any failure of the Principal or its Associates to do anything specified in the Sydney Metro Principal Contractor Health and Safety Standard as being an obligation of the Principal or its Associates).

#### 6.5 **Incident management**

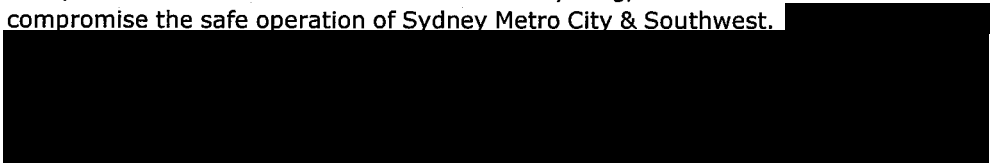
- (a) **(Establishment of procedures)** The WL Developer must, within 50 Business Days of the date of this deed, identify clear guidelines for responding to any Incident and establish procedures to ensure that the Principal's Representative is promptly notified of any Incident.
- (b) **(Reporting of Incidents)** If an Incident occurs, the WL Developer must immediately report the Incident to the Principal's Representative and to any Authority required by Law.
- (c) **(Guidelines prepared under Station Delivery Deed)** If the WL Contractor:
  - (i) has prepared guidelines for responding to any Incident in accordance with clause 6.7(a) of the Station Delivery Deed which are satisfactory to the Principal's Representative, then those guidelines will, for the purposes of clause 6.5(a), satisfy the WL Developer's obligations under this deed; and
  - (ii) reports any SDD Incident under clause 6.7(b) of the Station Delivery Deed and the Incident referred to in clause 6.5(b) of this deed is the same as the

SDD Incident, then the reporting of the SDD Incident by the WL Contractor under clause 6.7(b) of the Station Delivery Deed will satisfy the WL Developer's obligations under clause 6.5(b) of this deed.

- (d) **(WL Developer must take action)** Without limiting clause 5.5 (*Environmental obligations*) and clause 7.1 (*Compliance with Laws*), in relation to any environmental or safety Incident involving Contamination or waste, the WL Developer must, at its own Cost:
- (i) promptly take all appropriate action to manage and dispose of all Contamination or waste arising from the Incident; and
  - (ii) manage the Incident in a manner which minimises damage to the reputation of the Principal and its Associates including complying with any reasonable request of the Principal's Representative.



- (d) **(Accreditation)** To the extent that, in respect of the carrying out of the MQD Works, the WL Developer or its Associates carry out any Railway Operations for which accreditation is required under the Rail Safety National Law, the WL Developer must obtain or procure that its Associates obtain any necessary accreditation or other Approval required to enable it to comply with all applicable Law.
- (e) **(No interference with safe operation)** The WL Developer must not do anything, and procure that its Associates do not do anything, that would interfere with or compromise the safe operation of Sydney Metro City & Southwest.



- [REDACTED]
- (f) **(No breach)** The WL Developer must ensure that it does not do anything or fail to do anything, and ensure that its Associates do not do anything or fail to do anything that would cause the Principal or any of its Associates to be in breach of the [REDACTED]
  - (g) **(No release)** Compliance by the WL Developer with its obligations under this clause 6.6 does not discharge the WL Developer from complying with its other obligations under this deed and is not evidence of compliance by the WL Developer with its other obligations under this deed.

#### 6.7 **Cleaning up**

In procuring the carrying out of the MQD Works, the WL Developer must ensure that its Subcontractors:

- (a) **(Clean and tidy)** keep the Construction Site and the MQD Works clean and tidy and free of refuse; and
- (b) **(Removal of rubbish)** regularly remove rubbish, litter, graffiti and surplus material (including Construction Materials) from the Construction Site.

#### 6.8 **NGER Legislation**

The WL Developer must at all times comply with the requirements of Schedule A10 (*NGER Legislation*) in relation to the NGER Legislation.

#### 6.9 **Sustainability requirements**

- (a) **(WL Developer to comply)** The WL Developer must procure that the design and construction of the MQD Works is carried out in a manner that enables the Sustainability Requirements to be satisfied.
- (b) **(Provision of certificates)** Subject to clause 6.9(c), the WL Developer must provide copies of Sustainability Certificates to the Principal's Representative which evidence the achievement of all Sustainability Requirements at the times set out in Schedule A15 (*Sustainability Requirements*).
- (c) **(ESD Consultant)** If the WL Developer is not reasonably able to satisfy any condition to the grant of a Sustainability Certificate which is required to be provided on or before Completion, the WL Developer must:
  - (i) notify the Principal in writing that the condition is not able to be satisfied;
  - (ii) provide the ESD Consultant Certificate in respect of the relevant Sustainability Requirement on or before Completion; and
  - (iii) provide a copy of the relevant Sustainability Certificate to the Principal's Representative on or before the expiry of the Defects Correction Period.

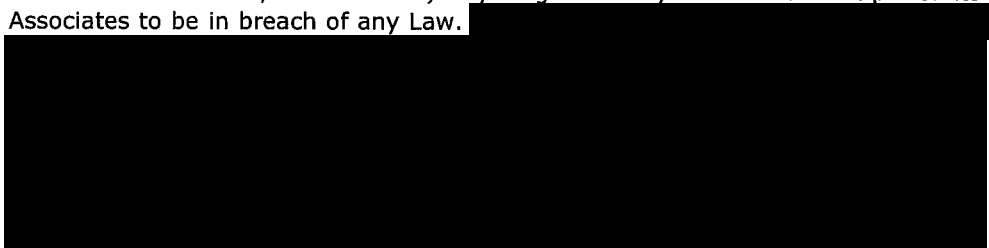
7. **LAW AND APPROVALS**

7.1 **Compliance with Laws**

The WL Developer must:

(a) **(Compliance)** in procuring the carrying out of the MQD Works, comply (and ensure that its Associates comply) with all applicable Laws (including any Environmental Notices) arising out of or in connection with the carrying out of the MQD Works and ensure that at all times prior to and on the Applicable Transfer Date, each MQD within an Applicable Transfer Area complies with all applicable Laws;

(b) **(Not put the Principal in breach)** not do, or fail to do (and ensure that its Associates do not do, or fail to do) anything that may cause the Principal or its Associates to be in breach of any Law.



(c) **(Notify)** notify the Principal's Representative in writing as soon as practicable after the WL Developer:

(i) becomes aware of any non-compliance with the requirements of any Law in connection with the MQD Works, the Construction Site or the carrying out of the MQD Works;

(ii) becomes aware of any information, fact or circumstance in any way connected with the MQD Works or the Construction Site or the carrying out of the MQD Works where:

(A) if the Principal or its Associates were to be aware of such information, fact or circumstance, the Principal would be required to notify any Authority of that information, fact or circumstance pursuant to any Law (without limiting any other obligation of the WL Developer in relation to the information, fact or circumstance); and

(B) the WL Developer is aware of that notification obligation of the Principal or its Associates; or

(iii) notifies any Authority of any matter pursuant to any Law which is in any way connected with the MQD Works or the Construction Site or the carrying out of the MQD Works, in which case the WL Developer must give the Principal's Representative a copy of such notification and of any subsequent correspondence with the Authority in relation to the subject of the notification; and

(d) **(Copies to the Principal)** unless otherwise agreed by the parties in writing, give the Principal's Representative copies of:

(i) all notices that the WL Developer (or its Associates) gives to any Authority at the time or before it submits such notices to an Authority;

(ii) all documents (including Approvals and other notices) that any Authority issues to the WL Developer (or its Associates); and

- (iii) any other material communications between the WL Developer (or its Associates) and an Authority,

in connection with or arising from the carrying out of the MQD Works.

## 7.2 Change in Law

Subject to [REDACTED] the WL Developer agrees that:

- (a) **(Acceptance of risk)** it accepts all risk in relation to any Change in Law; and
- (b) **(No relief)** a Change in Law will not relieve the WL Developer from, or alter or affect, the WL Developer's Liabilities, obligations or responsibilities whether under this deed or otherwise according to Law.

## 7.3 Approvals

- (a) **(Obligations)** The WL Developer must:
  - (i) **(Obtain and maintain)** obtain and maintain all Approvals required to perform the obligations of the WL Developer, except for the Principal Approvals;
  - (ii) **(Comply with conditions)** comply with, carry out and fulfil (or procure the compliance with, carrying out, or fulfilment of) the conditions and requirements of all Approvals, including those conditions and requirements which the Principal is, under the terms of the Approvals, required to comply with, carry out or fulfil (unless and to the extent that it is only possible for the Principal to comply with, carry out or fulfil those conditions or requirements and the Principal will comply with, carry out or fulfil those conditions or requirements at the Cost of the WL Developer to the extent they relate to or are required for the MQD Works); and
  - (iii) **(Provide assistance)** provide the Principal's Representative with such assistance as may be reasonably required by the Principal to enable the Principal to:
    - (A) obtain any Principal Approvals which are to be obtained by the Principal after the date of this deed; or
    - (B) subject to clause 7.3(a)(ii), satisfy or fulfil the conditions and requirements of Approvals which must be satisfied or fulfilled by the Principal.
- (b) **(Acceptance of risk)** The WL Developer accepts all risk arising out of or in connection with obtaining all Approvals required for the MQD Project, including the risk of appeals or modifications to such Development Consents and Approvals (other than the Principal Approvals).

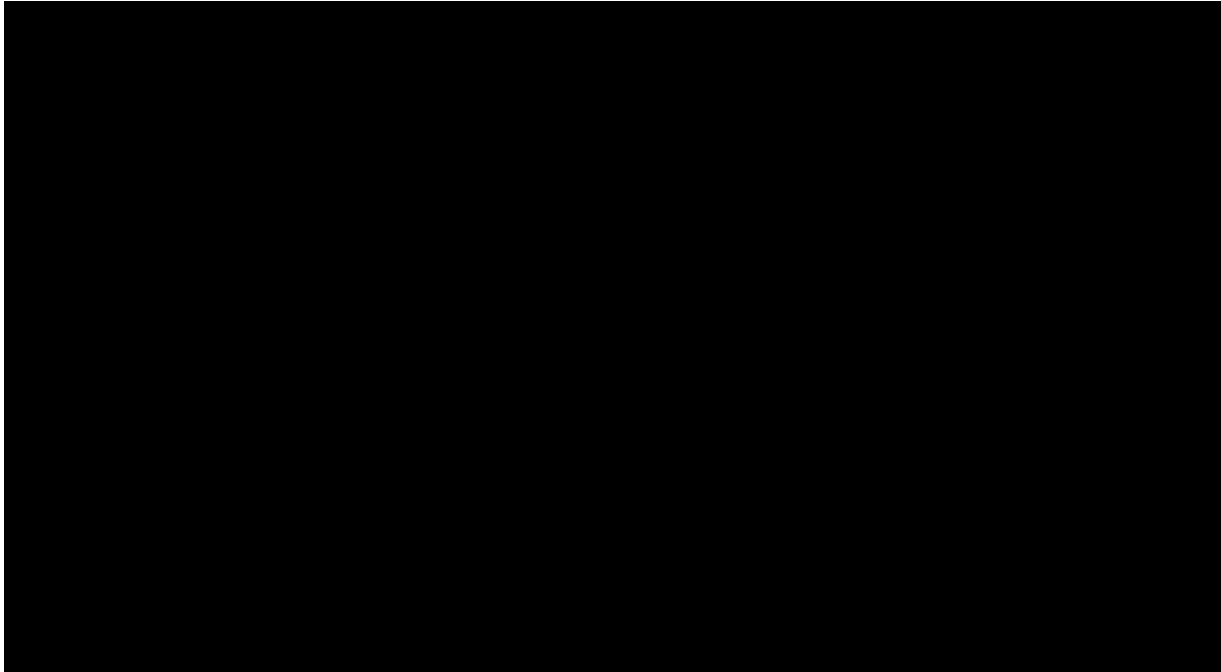
## 7.4 Concept SSD Consent and Metro Quarter SSP

- (a) **(Copy of Concept SSD Consent)** Prior to the date of this deed, the Principal received the Original Concept SSD Consent and provided the WL Developer with a copy of the Original Concept SSD Consent.
- (b) **(No Liability)** [REDACTED] the Principal has no

Liability to the WL Developer by reason of the form and content of the Concept SSD Consent.

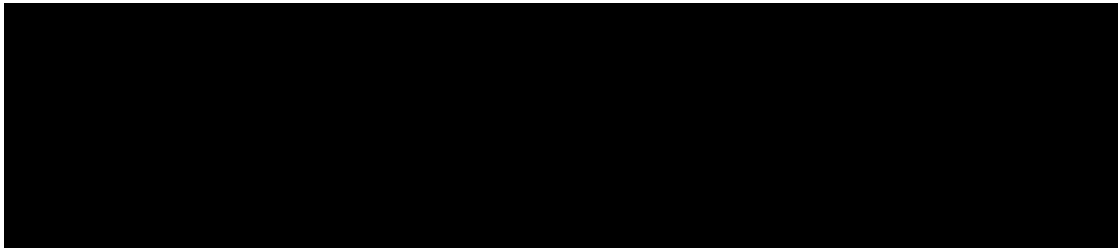
(c) **(Copy of Waterloo Metro Quarter SSP)** Prior to the date of this deed, the Principal provided the WL Developer with notification of the enactment of the Waterloo Metro Quarter SSP.

(d) **(No Liability)** [REDACTED] the Principal has no Liability to the WL Developer by reason of the form and content of the Waterloo Metro Quarter SSP.



**7.6 WL Developer Applications and WL Developer Approvals**

- (a) **(Prepare and progress WL Developer Applications)** The WL Developer must prepare and progress the WL Developer Applications in accordance with clauses 3.1 and 3.2 of Schedule A5 (*Planning Applications and Approvals*).
- (b) **(WL Developer Approvals)** The provisions of clauses 3.3 to 3.4 (inclusive) of Schedule A5 (*Planning Applications and Approvals*) apply to any Approval which is granted.
- (c) **(Process to apply to any Application)** The provisions of clauses 3.1 and 3.2 (inclusive) of Schedule A5 (*Planning Applications and Approvals*) and this clause 7.6 apply to any Application by the WL Developer or to a modification of any Development Consent proposed by the WL Developer as if references to "WL Developer Application" are to the relevant Application.



## 8. GOVERNANCE AND ADMINISTRATION

### 8.1 Principal's Representative

- (a) The Principal's Representative will carry out all of its functions under this deed as the agent of the Principal (and not as an independent certifier, assessor or valuer).
- (b) The WL Developer must comply with and procure that its Subcontractors comply with all Directions given by the Principal's Representative in accordance with this deed.

### 8.2 Appointees of the Principal's Representative

- (a) **(Principal appointees)** The Principal's Representative:
  - (i) may by written notice to the WL Developer, appoint persons to exercise any of the functions of the Principal's Representative under this deed;
  - (ii) must not appoint more than one person to exercise a specific function at any one time;
  - (iii) may vary or revoke any appointment under clause 8.2(a)(i) by written notice to the WL Developer; and
  - (iv) may continue to exercise a function under this deed despite appointing another person to exercise the function under clause 8.2(a)(i) (provided that all Directions of the Principal's Representative take precedence over those of any other representatives to the extent of any inconsistency).
- (b) **(References include appointees)** All references in this deed to the Principal's Representative include a reference to an appointee under clause 8.2(a)(i).

### 8.3 WL Developer's Representative

- (a) **(Appointment)** The WL Developer must ensure that at all times from the date of this deed to the last Applicable Transfer Date there is a WL Developer's Representative.
- (b) **(Communications in English)** All communications by the WL Developer's Representative must be in the English language.
- (c) **(Authority)** The WL Developer's Representative, and any replacement, at all times has or will have authority to act on behalf of the WL Developer in respect of this deed.

### 8.4 WL Developer's acknowledgement

- (a) **(WL Developer is bound)** Any notice, consent, approval or other communication given or sighted by the WL Developer's Representative or any WL Developer's Representative's delegate will bind the WL Developer.
- (b) **(Knowledge of the WL Developer)** All matters within the knowledge of the WL Developer's Representative or any WL Developer's Representative's delegate will be deemed to be within the knowledge of the WL Developer.
- (c) **(Directions deemed to be given to the WL Developer)** Any Directions given by the Principal's Representative, or by a delegate appointed under clause 8.2(a) (*Appointees of the Principal's Representative*) on behalf of the Principal's Representative, to any WL Developer's Representative or WL Developer's Representative's delegate, will be deemed to have been given to the WL Developer.

## 8.5 Release in favour of Principal's Representative

- (a) **(No Liability for representative)** Neither the Principal's Representative nor any delegates will have any Liability to the WL Developer in relation to or in connection with this deed.
- (b) **(No reliance for the Principal/WL Developer)** Nothing in clause 8.5(a) releases:
  - (i) the Principal from any Liability it would otherwise have to the WL Developer arising out of the conduct of the Principal's Representative and any of the Principal's Representative's delegates; or
  - (ii) the WL Developer from any Liability it would otherwise have to the Principal arising out of the conduct of the WL Developer's Representative and any of the WL Developer's Representative's delegates.

## 8.6 Approved Engineer

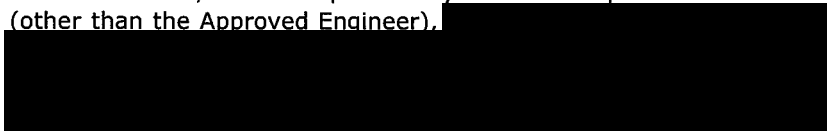
- (a) **(Engagement)** The WL Developer must:
  - (i) engage each Approved Engineer at the WL Developer's Cost; and
  - (ii) not engage or replace an Approved Engineer without the prior written consent of the Principal's Representative (which must not be unreasonably withheld or delayed).
- (b) **(Skill, qualifications and experience)** The WL Developer warrants that each Approved Engineer, any replacement Approved Engineer and any person signing the certificates to be provided in accordance with clause 8.6(c) under this deed in relation to any Engineering Discipline have:
  - (i) at least the qualifications, experience and expertise described in Schedule A14 (*Requirements of Approved Engineer*) for the relevant Engineering Discipline;
  - (ii) the requisite experience and skill to perform the role of Approved Engineer for the relevant Engineering Discipline in accordance with clause 8.6(c); and
  - (iii) has effected professional indemnity insurance policies which are subject to the usual terms and conditions that apply to such a policy and which provide cover for at least:
    - (A) in relation to the Engineering Discipline of "Structural", [REDACTED]
    - (B) in relation to the Engineering Discipline of "Earthing, Bonding, Electrolysis and Electromagnetic Compatibility", [REDACTED]
    - (C) in relation to the Engineering Discipline of "Noise and Vibration", [REDACTED]

(or such other amounts agreed by the parties) in each case for one claim or in the aggregate during any one period of insurance.
- (c) **(Role)** The WL Developer must procure that each person performing the role of the Approved Engineer under this deed:
  - (i) provides an Approved Engineer's Certificate (Pre-Commencement) in relation to the relevant Engineering Discipline for each Separable Portion which independently certifies that the MQD Works as shown in the Final Plans and Specifications will not cause the MQD (during construction and on Completion)



- [REDACTED]
- (ii) provides the Approved Engineer's Certificate (Post-Completion) in relation to each Engineering Discipline for each Separable Portion which certifies that the MOD as constructed [REDACTED]
  - (iii) if the WL Developer proposes to commence construction prior to the Final Stage Design Documentation being taken to be Final Plans and Specifications in accordance with clause 4.7 (*Design Documentation for construction*), provide a certificate in relation to each Engineering Discipline for each Separable Portion which certifies all matters in the Approved Engineer's Certificate (Pre-Commencement) in relation to each Engineering Discipline, except that to the extent relevant, that certification will relate to Final Stage Design Documentation rather than the Final Plans and Specifications (**Approved Engineer's Certificate (Interim)**). If an Approved Engineer's Certificate (Interim) in relation to each Engineering Discipline is provided, the Approved Engineer's Certificate (Pre-Commencement) in relation to each Engineering Discipline must be provided within 10 Business Days after the Final Stage Design Documentation is or is taken to be Final Plans and Specifications in accordance with clause 4.7 (*Design Documentation for construction*);
  - (iv) if the certificates provided under clauses 8.6(c)(i), 8.6(c)(ii) and 8.6(c)(iii) are in relation to the Engineering Discipline of "Structural", certify:
    - (A) in the certificates provided under clauses 8.6(c)(i) and 8.6(c)(iii) that:
      - (aa) the structural monitoring strategy for the Station Project Works and the Waterloo Station has been prepared by the WL Developer in accordance with clause 17.2(a)(i) to the Approved Engineer's satisfaction; and
      - (bb) the MQD Works are designed in accordance with Australian Standards relevant to the structural component and as referenced in the National Construction Code; and
    - (B) not used;
  - (v) if the certificates provided under clauses 8.6(c)(i), 8.6(c)(ii) and 8.6(c)(iii) are in relation to the Engineering Discipline of "Earthing, Bonding, Electrolysis and Electromagnetic Compatibility", certify:
    - (A) in the certificate provided under clauses 8.6(c)(i) and 8.6(c)(iii) that the adverse effects of stray currents and electrolysis caused by the MQD and the MQD Works is considered in the design and electrolysis mitigation and monitoring strategy for the Station Project Works and the Waterloo Station prepared by the WL Developer in accordance with clause 17.2(a)(ii) to the Approved Engineer's satisfaction; and
    - (B) in the certificate provided under clause 8.6(c)(ii) that all the considerations and strategies referred to in clause 8.6(c)(v)(A) have been fully implemented to the Approved Engineer's satisfaction with required documented evidence in place to satisfy this; and
  - (vi) identify technical interfaces [REDACTED]  
[REDACTED] consult with the WL Developer and other

Approved Engineers for the other Engineering Disciplines in relation to those interfaces, and certify in the certificates provided under clauses 8.6(c)(i), 8.6(c)(ii) and 8.6(c)(iii) that those interfaces have been considered and addressed to the Approved Engineer's satisfaction.

- (d) **(Independence)** The WL Developer must:
- (i) ensure that:
    - (A) not used;
    - (B) an Approved Engineer is not an employee of the WL Developer, the D&C Contractor, the Principal or any of their respective Associates (other than the Approved Engineer), 
      - (C) all advice and comments (including drafts and calculations) provided by an Approved Engineer to the WL Developer or the D&C Contractor are in writing and retained as a record; and
  - (ii) on request, provide the Principal's Representative with any advice or comments referred to in clause 8.6(d)(i)(C).
- (e) **(Provision of information)** The WL Developer must:
- (i) allow the Approved Engineers to attend design meetings;
  - (ii) allow access or procure access for the Approved Engineers to the Construction Site and all places at which the MQD Works and MQD Enabling Works are being undertaken; and
  - (iii) provide the Approved Engineers with all information and documents as may be:
    - (A) necessary or reasonably required for the Approved Engineers to perform their role under this deed; or
    - (B) requested by the Approved Engineers or directed by the Principal's Representative.
- (f) **(No Claim)** Nothing that an Approved Engineer does or fails to do pursuant to the purported exercise of its functions will give rise to any Liability from the Principal to the WL Developer.
- (g) **(Approved Engineer Deed Poll)** The WL Developer must procure that each Approved Engineer executes a deed poll in favour of the Principal in the form of the deed poll in Schedule A26 (*Approved Engineer Deed Poll*) prior to the WL Developer commencing work on the Construction Site.
- (h) **(Not approval or evidence)** No certification or determination by an Approved Engineer will:
- (i) constitute an approval by the Principal of the WL Developer's performance of its obligations under this deed;

- (ii) be taken as an admission or evidence that the MQD Works or any other matters certified or determined by an Approved Engineer comply with this deed; or
  - (iii) prejudice any rights or powers of the Principal under this deed or otherwise according to Law, including any rights which the Principal may have in respect of Defects in the MQD Works.
- (i) **(No liability for acts)** No act or omission of an Approved Engineer, including any certification or determination by the Approved Engineer:
- (i) is an act or omission by the Principal or its Associates (including a breach of contract) under or in connection with the WL MQD Contract Documents; or
  - (ii) without limiting clause 8.6(h), will give rise to any Liability from the Principal to the WL Developer.

#### 8.7 **Project Control Group**

- (a) **(Establishment of Project Control Group)** The WL Developer must establish, and comply with the requirements in respect of, the Project Control Group contemplated in Schedule B1 (*Governance Groups*).
- (b) **(Effect of Project Control Group)** The Project Control Group is consultative and advisory only and nothing which occurs during a meeting of any such group will:
- (i) affect the rights or obligations of any party under the WL MQD Contract Documents;
  - (ii) give rise to any Liability from the Principal to the WL Developer or from the WL Developer to the Principal;
  - (iii) relieve a party from, or alter or affect, a party's Liabilities or responsibilities whether under this deed or otherwise according to Law;
  - (iv) prejudice a party's rights against the other whether under this deed or otherwise according to Law; or
  - (v) be construed as a Direction by a party to do or not do anything.

#### 8.8 **Interface with the D&C Contractor**

- (a) **(Attendance at meetings)** If required by the Principal's Representative, the WL Developer must procure that representatives of the D&C Contractor attend any meeting, forum or working group that is contemplated by or established in connection with this deed.
- (b) **(Notices and correspondence)** The Principal's Representative may (but is not obliged to) at any time:
- (i) copy the D&C Contractor on any notice or other communication that is issued by the Principal's Representative to the WL Developer under or in connection with any WL MQD Contract Document; or
  - (ii) consult directly with the D&C Contractor in relation to any part of the carrying out of the MQD Works that has been subcontracted to the D&C Contractor.

### 8.9 Exchange of information between government agencies

- (a) **(Authorisation)** The WL Developer authorises the Principal and its Associates to make information concerning the WL Developer or the MQD Project available to NSW government departments or agencies. Such information may include any information provided by the WL Developer to the Principal or the Principal's Representative and any information relating to the WL Developer's performance under this deed.
- (b) **(Future opportunities)** The WL Developer acknowledges that any information about the WL Developer or the MQD Project from any source, including substantiated reports of unsatisfactory performance, may be taken into account by the Principal and its Associates and NSW government departments and agencies in considering whether to offer the WL Developer or any Related Entity of the WL Developer future opportunities for NSW government work.

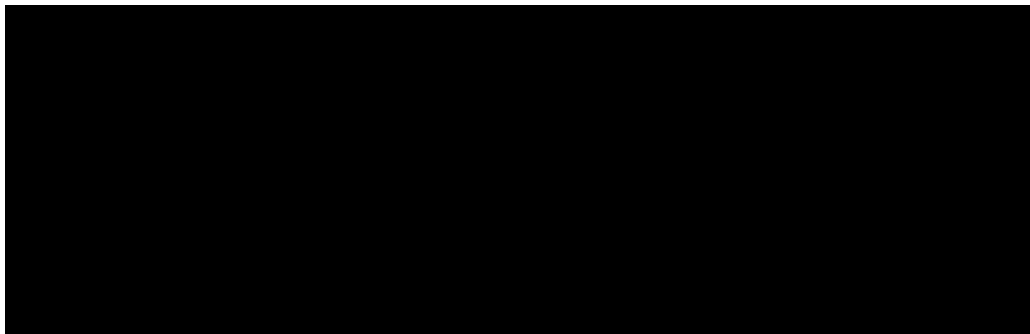
### 8.10 Reports on progress and information

- (a) **(Progress Reports)** The WL Developer must provide reports to the Principal's Representative in accordance with and at the times required by Schedule A11 (*Progress Reports*).
- (b) **(Other information)** The WL Developer must promptly give the Principal's Representative such other information relating to the MQD Works or compliance by the WL Developer of its obligations under this deed as the Principal's Representative may reasonably require from time to time.

### 8.11 Not used

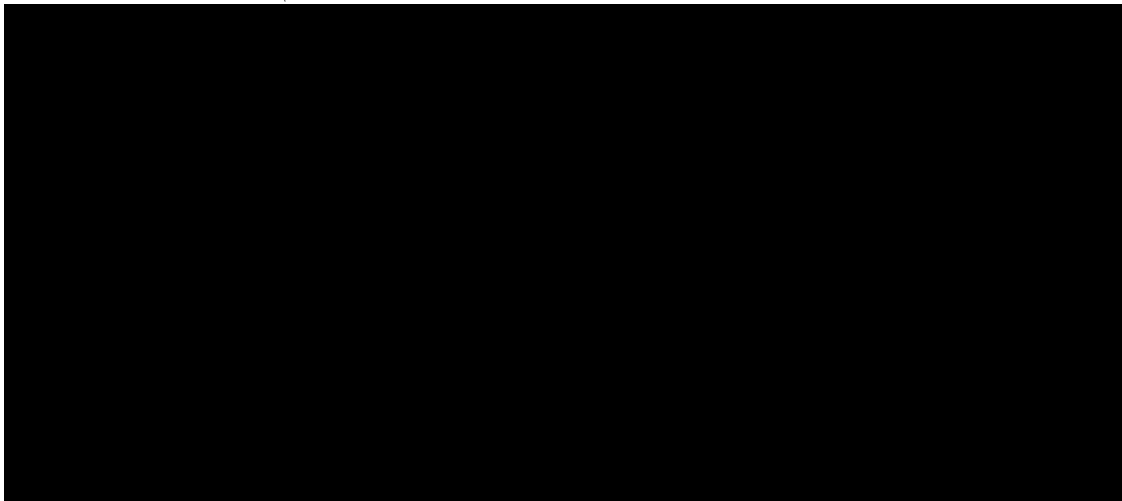
### 8.12 Independent Certifier (Social Housing)

(a)

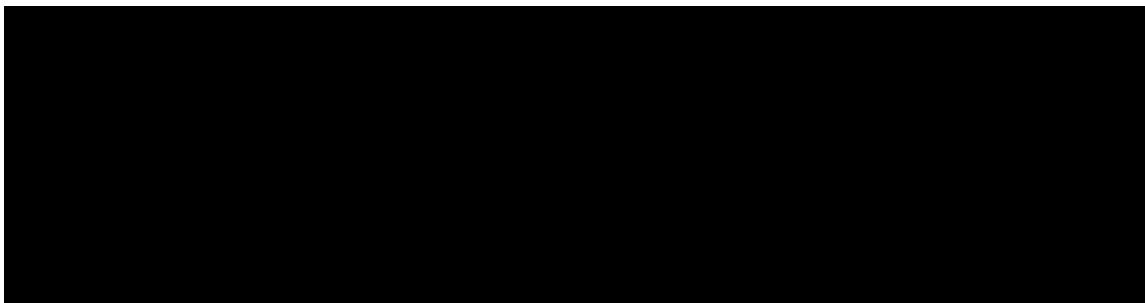


- (b) **(Role)** The Independent Certifier (Social Housing)'s role under this deed is to independently:
  - (i) review the Final Plans and Specifications in respect of the Social Housing Works and provide a Certificate of Design Compliance (Social Housing) which independently certifies that the Final Plans and Specifications for the Social Housing Works comply with the Social Housing Requirements;
  - (ii) inspect the completed Social Housing Works and provide Certificates of Completion (Social Housing) which each independently certify that the Social Housing Works have been completed in accordance with the Social Housing Requirements and the Final Plans and Specifications for the Social Housing;
  - (iii) observe the carrying out of the Social Housing Works and monitor compliance by the WL Developer with respect to the Social Housing Requirements and any Project Plan applicable to the Social Housing Works; and

- (iv) perform all other functions as required under the Independent Certifier Deed (Social Housing).



- (e) **(Independent)** The Independent Certifier (Social Housing) is obliged to act independently of the Principal, the WL Developer, LAHC, the D&C Contractor and their respective Associates.
- (f) **(Copy all information to other party)** All notices and documents provided by a party to the Independent Certifier (Social Housing) must be copied to the other parties to the Independent Certifier Deed (Social Housing). If a party is required to provide a notice or document to the Independent Certifier (Social Housing) within a specified time period, that notice or document must be provided to the other parties to the Independent Certifier Deed (Social Housing) within the same time period.
- (g) **(Provision of information and access)** The WL Developer must:
  - (i) provide the Independent Certifier (Social Housing) with all information and documents;
  - (ii) allow the Independent Certifier (Social Housing) to attend meetings and access all premises and the Construction Site; and
  - (iii) allow the Independent Certifier (Social Housing) to insert Witness Points in any Project Plans that are applicable to the Social Housing Works,  
as may be:
    - (iv) necessary or reasonably required for the Independent Certifier (Social Housing) to perform its role under this deed and the Independent Certifier Deed (Social Housing); or
    - (v) reasonably requested by the Independent Certifier (Social Housing) or directed by the Principal's Representative.



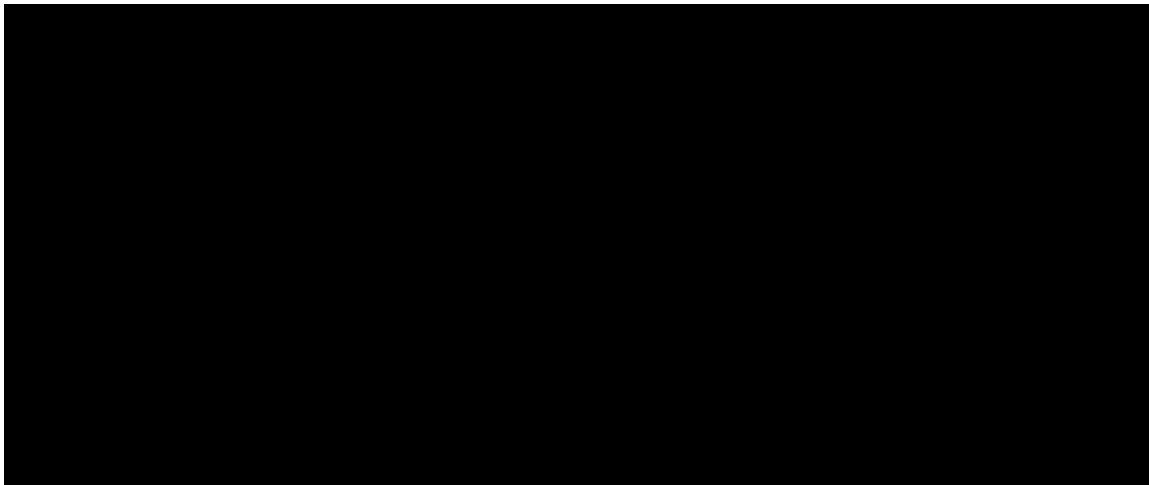
### 8.13 **Effect of decisions of the Independent Certifier (Social Housing)**

- (a) **(Not approval or evidence)** No certification or determination by the Independent Certifier (Social Housing) will:
- (i) constitute an approval by the Principal of the WL Developer's performance of its obligations under this deed;
  - (ii) be taken as an admission or evidence that the Social Housing Works or any other matters certified or determined by the Independent Certifier (Social Housing) comply with this deed; or
  - (iii) prejudice any rights or powers of the Principal under this deed or LAHC under the LAHC Deed Poll or otherwise according to Law.
- (b) **(No liability for acts)** No act or omission of the Independent Certifier (Social Housing), including any certification, determination, notice or other exercise of its functions by the Independent Certifier (Social Housing):
- (i) is an act or omission of or by the Principal or its Associates (including a direction under this deed or a breach of contract) under or in connection with the WL MQD Contract Documents; or
  - (ii) without limiting clause 8.13(a), will give rise to any Liability of the Principal to the WL Developer.

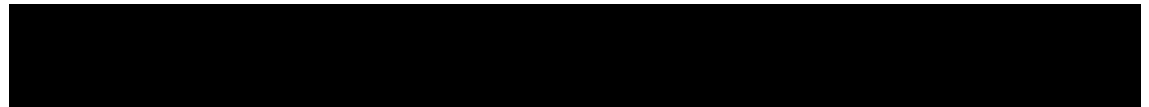
## 9. **ACCESS AND CONSTRUCTION SITE**

### 9.1 **Rights to land**

- (a) **(Construction Site)** The Principal grants to the WL Developer, and the WL Developer accepts the grant of, a licence to access the Construction Site in accordance with clauses 9.2 (*Access to the Construction Site on or after the Site Access Date*) to 9.6 (*Principal's right of entry to Construction Site*) (inclusive).

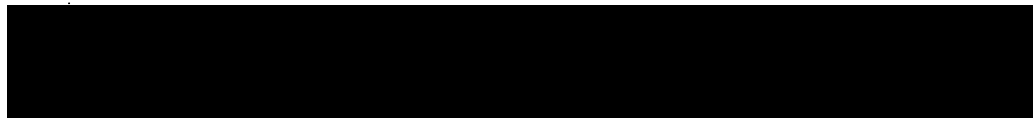


- (c) **(Congregational Church Land)** The WL Developer acknowledges and agrees as follows:
  - (i) the Congregational Church Land is located adjacent to the Construction Site and is not owned by the Principal or its Associates; and



9.2 **Access to the Construction Site on or after the Site Access Date**

- (a) **(Principal to give access)** The Principal must:
  - (i) give the WL Developer access to each part of the Construction Site by no later than the relevant Site Access Date;
  - (ii) give the WL Developer access to the relevant part of the Construction Site prior to the Site Access Date where the Principal has given the WL Contractor early access to the equivalent part of the Station Construction Site pursuant to the Station Delivery Deed; and
  - (iii) thereafter continue to allow the WL Developer to access the Construction Site on the terms of this deed.
- (b) **(Delay)** Delay in providing access to the relevant part of the Construction Site will not be a breach of this deed, but will entitle the WL Developer to claim:
  - (i) an extension of time in accordance with clause 20.6 (*Extensions of time*); and



9.3 **Period and terms of Construction Licence**

- (a) **(Period of Construction Licence)** Each Construction Licence:
  - (i) commences on the applicable Construction Licence Commencement Date; and
  - (ii) terminates on the earlier of:
    - (A) in respect of an Applicable Transfer Area, the Applicable Transfer Date;

- (B) the date of termination of this deed; and
  - (C) in respect of each Construction Licence relating to a S1 Construction Site, the commencement of the Construction Licence in relation to the S2 Construction Site over the same area as that S1 Construction Site.
- (b) **(Terms of access)** The Construction Licence:
- (i) is a non-exclusive licence to the WL Developer (which may be sub-licensed to the D&C Contractor);
  - (ii) is personal in nature;
  - (iii) does not create any entitlement or interest in the Construction Site;
  - (iv) is granted to the WL Developer solely for the purpose of:
    - (A) procuring the carrying out of the MQD Works;
    - (B) performing its other obligations under the WL MQD Contract Documents;
    - (C) designing and performing, or procuring the design and performance of, any WL Developer's Fitout Works in the MQD; and
    - (D) permitting the WL Contractor to carry out the WL Contractor's Activities;
  - (v) is subject to the WL Developer complying with clause 5.2 (*Commencement of construction*), clause 5.7(c)(i)(D) (*Home Building Act*), clause 6.2 (*Work health and safety*), clause 6.3 (*Principal contractor*), clause 7.1(a) (*Compliance with Laws*), clause 7.1(b) (*Compliance with Laws*), clause 29.5 (*WL Developer's Insurance obligations*) and Schedule D1 (*Site Access Schedule*); and
  - (vi) is subject to the rights of the Principal and its Associates to access the Construction Site pursuant to clause 9.6 (*Principal's right of entry to Construction Site*), clause 24.4(b) (*Access for the Principal*) [REDACTED]

#### 9.4 Licence Fees

- (a) **(Licence Fees)** In consideration of the grant of each Construction Licence, and subject to clauses 9.4(c), 9.4(d), [REDACTED] and [REDACTED] the WL Developer must pay to the Principal the relevant Licence Fee for each day (or part thereof) during which the WL Developer was provided access to the relevant Construction Site. The obligation to pay the Licence Fee in respect of a Construction Licence ceases on the date of termination of that Construction Licence in accordance with clause 9.3(a)(ii) (*Period and terms of Construction Licence*).
- (b) **(Payment)** The WL Developer must pay each Licence Fee to the Principal within 10 Business Days after the end of each month during which the WL Developer was provided access to the relevant Construction Site.
- (c) **(Principal to waive)** The Principal waives the requirement for the WL Developer to pay the Licence Fee in respect of a Construction Site for the period [REDACTED]



9.5 **Access to the Construction Site**

- (a) **(Access routes)** The WL Developer must access the Construction Site only at the points of entry and exit and using the routes for ingress and egress set out in the Construction and Site Management Plan.
- (b) **(WL Developer responsibility)** The WL Developer:
  - (i) acknowledges that the Principal has not secured rights of access over the routes for ingress and egress set out in the Construction and Site Management Plan; and

- (c) **(No Liability)** The Principal will have no Liability to the WL Developer in connection with routes for ingress and egress, or failure to gain or delay in gaining ingress to or egress from the Construction Site.

9.6 **Principal's right of entry to Construction Site**

- (a) **(Principal's rights)** Without limiting any other rights of the Principal or its Associates to access the Construction Site, the Principal (and any person authorised by the Principal, including its Associates and any Interface Contractor) may, at any time before the Applicable Transfer Date, enter the relevant part of the Construction Site (forming part of the Applicable Transfer Area) and any other premises where the MQD Works are being carried out, for:
  - (i) in the case of the Principal and its Associates, the purpose of:
    - (A) observing or inspecting (but not co-ordinating or supervising) the carrying out of the MQD Works;
    - (B) monitoring (but not co-ordinating or supervising) compliance by the WL Developer or the WL Contractor with their respective obligations under any of the WL MQD Contract Documents or the WL Station Contract Documents and any Project Plan;
    - (C) exercising any right or performing any obligation which the Principal has under any WL MQD Contract Document or under any WL Station Contract Document; or
    - (D) any other purpose connected with Sydney Metro City & Southwest; and
  - (ii) in the case of an Interface Contractor, carrying out Interface Work.

- (b) **(WL Developer's assistance)** The WL Developer must:
- (i) co-ordinate the activities of the WL Developer so they do not interfere with the exercise by the Principal or its Associates of their rights of entry; and
  - (ii) provide the Principal and its Associates with every reasonable facility and other assistance necessary for any inspection by the Principal or its Associates.

#### 9.7 Access to the Station Lot by the WL Developer

- (a) **(Request for access)** If the WL Developer requires access to the Station Lot after the Station Date of Completion for the purpose of procuring the carrying out of the MQD Works or performing its obligations under this deed, the WL Developer must give the Principal's Representative no less than 10 Business Days' prior written notice, together with details of:
- (i) the area of the Station Lot to which access is required;
  - (ii) the proposed access period and proposed time of the day;
  - (iii) the reason access to the Station Lot is required, including all activities that the WL Developer and its Associates will undertake in the Station Lot; and
  - (iv) the details of the WL Developer's Associates who will be accessing the Station Lot and the tools and equipment that the WL Developer and its Associates propose to bring on site,

**(Station Access Notice).**

- (b) **(Principal's Representative to consider request to access)** The Principal's Representative must provide a notice in writing to the WL Developer as soon as reasonably practicable but in any event no later than 10 Business Days after receiving a Station Access Notice stating that either:
- (i) the WL Developer may access the area of the Station Lot identified in the Station Access Notice on the terms set out in the Station Access Notice and other conditions specified by the Principal's Representative; or
  - (ii) the WL Developer may not access the Station Lot.
- (c) **(Not unreasonably withhold)** The Principal's Representative cannot unreasonably withhold consent to allow access to the Station Lot under clause 9.7(b)(ii).
- (d) **(WL Developer's obligations)** If the WL Developer accesses the Station Lot after the Principal's Representative grants such access under clause 9.7(b)(i), the WL Developer:
- (i) acknowledges that:
    - (A) the Principal or its Associates will appoint a principal contractor in respect of the Station Lot and, if requested by the Principal's Representative, the WL Developer must execute a deed poll in favour of that principal contractor in the form of Schedule A18 (*Site Interface Deed Poll*); and
    - (B) the carrying out of the MQD Works interfaces with the Interface Works and the Interface Contractors may be executing work on parts of the

Station Lot at the same time the MQD Works are being carried out;  
and

- (ii) must:
  - (A) procure that the Subcontractors at all times fully co-operate, co-ordinate, interface and supervise the carrying out of the MQD Works with any Interface Contractors executing work on parts of the Station Lot;
  - (B) at all times comply and ensure that its Associates comply with the Directions of the Principal's Representatives in relation to such access; and
  - (C) at all times procure the carrying out of the MQD Works so as to minimise any interference with or disruption or delay to the Interface Works and use of the Waterloo Station by Customers (where relevant).

(e) **(No Liability)** The WL Developer:

- (i) bears all risks associated with the WL Developer and its Associates accessing the Station Lot pursuant to this clause 9.7; and
- (ii) releases the Principal and the Principal's Associates from any Loss or Claims arising out of or in connection with the WL Developer exercising its right of access to the Station Lot under this clause 9.7 (including complying with any Directions of the Principal's Representative) or the Principal's Representative's decision to withhold access in accordance with clause 9.7(b)(ii).

#### 9.8 Existing Operations

(a) **(Existing Operators)** The WL Developer acknowledges that:

- (i) Existing Operators and other persons must continue their Existing Operations during the course of the carrying out of the MQD Works; and
- (ii) the routes of ingress to and egress from the Construction Site are used by Existing Operators and other persons and will not be available exclusively to the WL Developer.

(b) **(Risk)** The WL Developer must procure the co-ordination and supervision of, and bear the risk of such co-ordination and supervision of, its access to and from the Construction Site with any other relevant persons and entities (including Existing Operators) that use the routes for ingress to and egress from the Construction Site and any delay and disruption to the carrying out of the MQD Works which arises from any Existing Operations.

(c) Not used.

(d) **(No Liability)** The Principal will have no Liability to the WL Developer in relation to:

- (i) the WL Developer's obligations under this clause 9.8; or
- (ii) any act, omission or requirement of an Existing Operator.

(e) **(Associates)** The WL Developer must ensure that its Associates, in performing the obligations of the WL Developer of exercising any rights of the WL Developer, including carrying out the MQD Works at all times comply with this clause 9.8.

## 9.9 Encumbrances

- (a) **(Existing Encumbrances)** The Principal must ensure that, in respect of a Construction Site on the relevant Construction Licence Commencement Date, the relevant Construction Site will only be affected by:
- (i) the Existing Encumbrances; and
  - (ii) any Encumbrance created pursuant to:
    - (A) clause 9.9(c), [REDACTED] clause 22.6 (*Early Occupation Licence (Cope Street Plaza)*), clauses 4 and 5 of Schedule A31 (*Affordable Housing*), Schedule D8 (*Subdivision Requirements*) or Schedule D9 (*Subdivision Principles*) of this deed; or
    - (B) clause 9.11(b) (*Encumbrances*), clause 23.2 (*Subdivision requirements*), Schedule D12 (*Subdivision Requirements*) or Schedule D13 (*Subdivision Principles*) of the Station Delivery Deed,

or any licence or right of occupation granted by the Principal to Interface Contractors in accordance with clause 11.3(a)(iv) (*Co-operation and co-ordination with Interface Contractors*).
- (b) **(Compliance)** The WL Developer must, at its Cost, comply with any Encumbrances burdening or benefiting the Construction Site as if the WL Developer were the owner of that land.
- (c) **(Principal may create)** The Principal may, at any time and from time to time, create or permit the creation on the title to the Construction Site:
- (i) any Encumbrance necessary, in the opinion of the Principal, to enable the construction, operation and/or maintenance and repair of Sydney Metro City & Southwest (including the Waterloo Station);
  - (ii) any Encumbrance where consented to by the WL Developer or any Encumbrance acquired by an Authority (other than the Principal) by compulsory acquisition; and
  - (iii) any Encumbrance as contemplated in the ISD Subdivision Documents.
- (d) **(Principal's Representative to provide notice)** The Principal's Representative must promptly provide the WL Developer with written notice of any proposed Encumbrance to be created in accordance with clause 9.9(c), and its proposed terms.

(e)

(f)

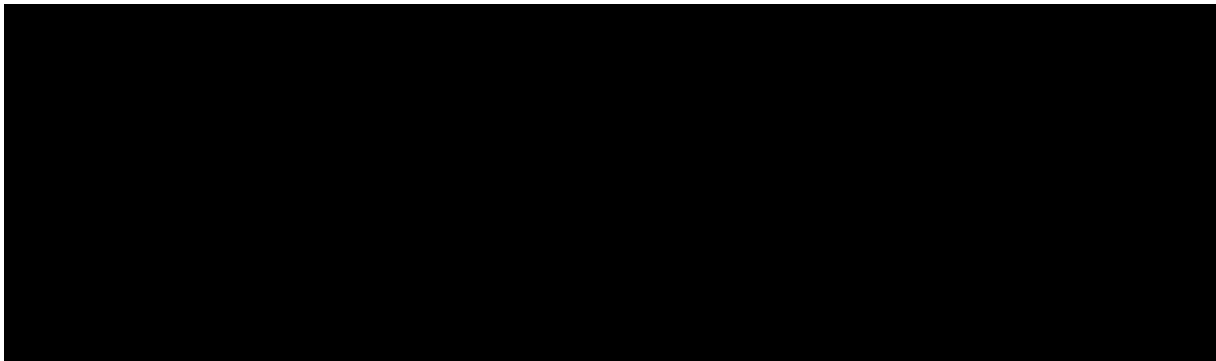
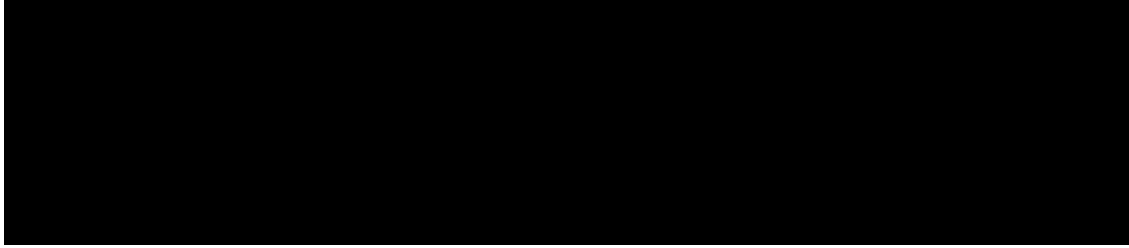
(g)

- (h) **(Principal and WL Developer must meet)** After the date of this deed, if the Principal proposes to create, or permit the creation of Encumbrances pursuant to clause 9.9(c):
- (i) to burden or affect the Impacted Areas;
  - (ii) which will prevent the WL Developer from complying with its obligations under this deed; or

the Principal must meet with the WL Developer to discuss the proposed Encumbrance, the terms of the proposed Encumbrance [REDACTED] within 10 Business Days of receipt of a notice served under clause 9.9(d), before creating or permitting the creation of Encumbrances in accordance with clause 9.9(c), unless it is a licence or right of occupation granted by the Principal to Interface Contractors in accordance with clause 11.3(a)(iv) (*Co-operation and co-ordination with Interface Contractors*).

- (i) **(No further encumbrances)** Except as otherwise provided in this deed (including clause 9.9(c) and clause 11.3(a)(iv) (*Co-operation and co-ordination with Interface Contractors*) or the Station Delivery Deed), the Principal must not at any time create, or permit the creation of, any Encumbrance or Security Interest in respect of the Construction Site (excluding any part of the Construction Site which comprises or will comprise the Station Lot or the Station Retail Lot) after the date of this deed without the consent of the WL Developer (such consent not to be unreasonably withheld or delayed).

- (j) **(Easement for support of the Station)** Without limiting any other provision of this deed, the Principal may create and register on title an easement burdening any relevant part of the Principal's Land to provide a right of support to Waterloo Station or any part of Waterloo Station, such easement to be substantially on the same terms as the easement for support as set out in the Draft Section 88B Instrument.
- (k) **(Other Authority Encumbrances under the Station Delivery Deed)** If the Principal is required by an Authority to create an Encumbrance in favour of that Authority over the Impacted Areas (including in circumstances where clause 9.11(b)(ii) of the Station Delivery Deed applies), the Principal will notify that Authority of the rights of the WL Developer under this deed.



10. **PHYSICAL CONDITIONS**

10.1 **Acceptance of site**

- (a) **(Acceptance of site)** The WL Developer accepts:
  - (i) the Construction Site; and
  - (ii) any structures or other things on, above or adjacent to, or under the Construction Site,  
  
in their present condition from time to time, subject to all defects and Site Conditions, and agrees that it is responsible for, and assumes the risk of:
    - (iii) all Loss, delay or disruption it suffers or incurs; and
    - (iv) any adverse effect on the carrying out of the MQD Works or the MQD Project, arising out of, or in any way in connection with, any Site Conditions encountered in or on the Construction Site or in the carrying out of the MQD Works and releases the Principal from all Claims and Liabilities in connection with such matters.
- (b) **(Examination and investigation)** The WL Developer warrants that, prior to the date of this deed, the WL Developer:
  - (i) examined this deed, the WL MQD Contract Documents, the Station Delivery Deed, the WL Station Contract Documents, the Construction Site and its

surroundings and any other information that was made available in writing by the Principal or its Associates, to the WL Developer or its Associates during the tender period;

- (ii) informed itself of all matters relevant to the employment of labour and all industrial matters on the Construction Site;
  - (iii) was given the opportunity prior to entering into this deed to itself undertake, and to request others to undertake, tests, enquiries and investigations:
    - (A) relating to the subject matter of the Information Documents; and
    - (B) for design purposes and otherwise;
  - (iv) had sufficient opportunity to obtain and obtained all necessary legal, geotechnical and other technical advice in relation to the terms of this deed, the WL MQD Contract Documents, the Information Documents, the Site Conditions, as well as the risks, contingencies and other circumstances having an effect on its Tender and the performance of its obligations and its potential Liabilities under the WL MQD Contract Documents;
  - (v) had sufficient access to the Construction Site and its surroundings, undertook sufficient tests, enquiries and investigations, had sufficient information and obtained a sufficient understanding of the risks involved to enable it to make an informed decision regarding the acceptance of risk in relation to Site Conditions, whether or not to enter into the WL MQD Contract Documents and assume the obligations and potential risks and Liabilities which they impose on the WL Developer; and
  - (vi) satisfied itself as to the correctness and sufficiency of its Tender and that it has made adequate allowance for the costs of complying with all of its obligations under the WL MQD Contract Documents and of all matters and things necessary for the due and proper performance and completion of the MQD Works and the WL Developer's obligations under this deed.
- (c) **(No representation or warranty)** The Principal makes no representation and gives no warranty to the WL Developer or its Associates in respect of:
- (i) the Site Conditions which may be encountered during the execution of the MQD Works or otherwise in respect of the condition of:
    - (A) the Construction Site and its surroundings; or
    - (B) any structure or other thing on, under, above or adjacent to the Construction Site;
  - (ii) the adequacy or suitability of the Construction Site for the MQD Works; or
  - (iii) the existence, location, condition or availability of Utility Services on, under, above, adjacent to or related to the Construction Site.

## 10.2 Information Documents

- (a) **(No warranty)** Without limiting clause 10.2(b):
  - (i) the WL Developer acknowledges that the Information Documents may be inaccurate, inadequate, incomplete or unsuitable;

- (ii) the Principal does not warrant, guarantee, assume any duty of care or other responsibility for or make any representation about the accuracy, adequacy, completeness or suitability of the Information Documents;
  - (iii) the WL Developer acknowledges that where an Information Document or any part of an Information Document is included in a schedule to this deed, it is included only for the purposes of identification of that document or part of that document (unless it is expressly stated in the document that it forms part of this deed); and
  - (iv) the Principal and its Associates will have no Liability to the WL Developer or its Associates arising out of or in any way in connection with:
    - (A) the provision of, or the purported reliance upon, or use of, the Information Documents to or by the WL Developer or its Associates or any other person to whom the Information Documents are disclosed; or
    - (B) a failure by the Principal or its Associates to provide any information to the WL Developer or its Associates, except where such failure is a breach of this deed (for which the WL Developer's only remedy will be a claim for breach of contract).
- (b) **(No reliance)** The WL Developer:
- (i) warrants that it did not in any way rely upon:
    - (A) any Information Document or any other information, data, representation, statement or document made, or provided to the WL Developer or its Associates, by the Principal or its Associates or any other information, data, representation, statement or document for which the Principal or its Associates is responsible or may be responsible whether or not obtained from the Principal or its Associates; or
    - (B) the accuracy, adequacy, suitability or completeness of such Information Document or other information, data, representation, statement or document,for the purposes of entering into this deed or procuring the carrying out of the MQD Works;
  - (ii) warrants that it enters into the WL MQD Contract Documents based on its own investigations, interpretations, deductions, information and determinations; and
  - (iii) acknowledges that it is aware that the Principal has entered into this deed relying upon:
    - (A) the warranties, acknowledgements and agreements in clause 10.2(b)(i) and clause 10.2(b)(ii); and
    - (B) the agreements and acknowledgements in the WL Developer's Tender.
- (c) **(Release and indemnity)** The WL Developer releases and indemnifies the Principal from and against:
- (i) any Claim against the Principal by, or Liability of the Principal to, any person; or



- (ii) (without being limited by clause 10.2(c)(i)) any Loss incurred by the Principal, arising out of or in any way in connection with:
  - (iii) the provision of, or the purported reliance upon, or use of the Information Documents to or by the WL Developer or its Associates or any other person to whom the Information Documents are disclosed by the WL Developer, or a failure by the Principal or its Associates to provide any information to the WL Developer or its Associates;
  - (iv) any breach by the WL Developer of this clause 10.2; or
  - (v) the Information Documents being relied upon or otherwise used by the WL Developer or its Associates, or by any other person to whom the Information Documents are disclosed by the WL Developer, in the preparation of any information or document, including any Information Document which is "misleading or deceptive" or "false and misleading" (within the meaning of those terms in sections 18 and 29 (respectively) of the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) or any equivalent provision of State or Territory legislation).

### 10.3 **Native Title Claims and Threatened Species Claims**

- (a) **(Commencement of application or claim)** If:
  - (i) there is a Native Title Claim; or
  - (ii) a Threatened Species Claim is commenced,  
which affects any part of the Construction Site and/or the carrying out of the MQD Works, the WL Developer must:
    - (iii) continue to perform its obligations under this deed and the other WL MQD Contract Documents unless otherwise:
      - (A) directed by the Principal's Representative;
      - (B) ordered by any court or tribunal; or
      - (C) required by Law;
    - (iv) at the request of the Principal's Representative, or if required to do so under any Law or by order of a court or tribunal, provide, at its own Cost, all reasonable assistance in connection with dealing with the Native Title Claim or Threatened Species Claim (including giving the Principal and its Associates access to the Construction Site or that part of the Construction Site that is the subject of the Native Title Claim or Threatened Species Claim when reasonably required by the Principal's Representative for that purpose); and
    - (v) take all reasonable steps to mitigate any Loss to the Principal in complying with its obligations under clause 10.3(a)(iii).
- (b) **(Principal's Representative's right to suspend)** For the purposes of clause 10.3(a)(iii)(A), the Principal's Representative may by written notice, direct the WL Developer to procure the suspension of the performance of any or all of the MQD Works until such time as the Principal's Representative gives the WL Developer further notice.

- (c) **(No Liability)** The Principal will have no Liability to the WL Developer as a result of a direction by the Principal under this clause 10.3.

## 11. **INTERFACE WITH INTERFACE CONTRACTORS**

### 11.1 **Master Interface Protocols Deed Poll**

- (a) The WL Developer must:
  - (i) within 5 Business Days after receipt of a request from the Principal's Representative, provide to the Principal's Representative the Master Interface Protocols Deed Poll, duly executed by the WL Developer and the D&C Contractor; and
  - (ii) at all relevant times comply with and procure that the D&C Contractor complies with the terms of the Master Interface Protocols Deed Poll.
- (b) The Principal will procure that the Operator and each Interface Contractor nominated by the Principal executes a Master Interface Protocols Deed Poll.

### 11.2 **Cooperation and Integration Deeds**

- (a) The WL Developer must:
  - (i) within 5 Business Days after receipt of a request from the Principal's Representative, provide to the Principal's Representative:
    - (A) the Operator Cooperation and Integration Deed; and
    - (B) each Interface Contractor Cooperation and Integration Deed with any Interface Contractor nominated by the Principal,each duly executed by the WL Developer and the D&C Contractor in the number of counterparts required by the Principal's Representative; and
  - (ii) at all relevant times comply, and ensure that the D&C Contractor complies, with the terms of the Cooperation and Integration Deeds.
- (b) If the Principal's Representative makes a request under clause 11.2(a)(i) for the WL Developer to execute and procure that the D&C Contractor executes:
  - (i) an Operator Cooperation and Integration Deed to which the Operator will be party; or
  - (ii) an Interface Contractor Cooperation and Integration Deed to which any Interface Contractor nominated by the Principal will be party,

the Principal must, within 20 Business Days of receiving the executed documents from the WL Developer, itself execute, and procure that the Operator or the relevant Interface Contractor nominated by the Principal (as applicable), executes the relevant document.

### 11.3 Co-operation and co-ordination with Interface Contractors

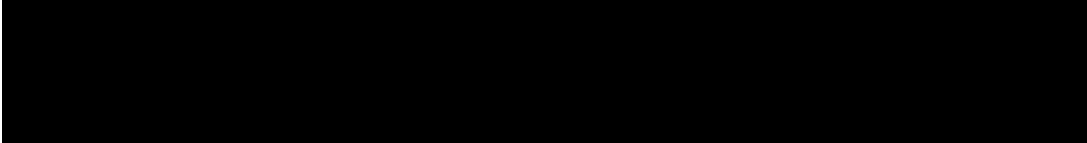
Without limiting the WL Developer's obligations under the Cooperation and Integration Deeds, the WL Developer:

- (a) **(WL Developer acknowledgement)** acknowledges that:
- (i) the Interface Work forms part of Sydney Metro City & Southwest;
  - (ii) the WL Developer's activities and its Subcontractors' activities in relation to the MQD Works may interface with the activities of the Interface Contractors;
  - (iii) Interface Contractors will be executing work on areas adjacent to or in the vicinity of the Construction Site and may be executing works on parts of the Construction Site at the same time as the WL Developer's Subcontractors are performing the MQD Works;
  - (iv) the Principal may grant the Interface Contractors a non-exclusive licence to use and occupy the Construction Site to carry out the Interface Works;
  - (v) Interface Contractors may require information to co-ordinate the Interface Works with the carrying out of the MQD Works, and the WL Developer must procure that such information is provided in a timely manner; and
  - (vi) any delay in, or failure by the WL Developer to procure the co-operation and co-ordination of its Subcontractors with any Interface Contractor may adversely impact upon, delay or disrupt any one or more Interface Contractors in a way which may lead to the Principal and Interface Contractors suffering or incurring Loss;
- (b) **(co-operation with Interface Contractors)** must at all times:
- (i) ensure that its Subcontractors permit the Interface Contractors (if the WL Developer's consent or authority is required) to execute the Interface Work on the applicable parts of the Construction Site or on any property adjacent to or in the vicinity of the Construction Site:
    - (A) at the same time as the WL Developer's Subcontractors are performing the MQD Works; and
    - (B) at the times agreed with the relevant Interface Contractor, or failing agreement, at the times determined by the Principal's Representative (acting reasonably in the context of the Sydney Metro City & Southwest project as a whole),

and for this purpose ensure each Interface Contractor has safe, clean and clear access (including suitable access ways) to those parts of the Construction Site or property adjacent to or in the vicinity of the Construction Site (to the extent controlled by the WL Developer), required by that Interface Contractor for the purpose of carrying out their work subject to, where the relevant Interface Contractor is carrying out Construction Site Interface Work, the Interface Contractor engaged by the Principal for such Construction Site Interface Works executing a deed poll in favour of the Appointed Principal Contractor in the form of Schedule A18 (*Site Interface Deed Poll*);
  - (ii) ensure that its Subcontractors protect the MQD Works and other improvements on the Construction Site from damage by Interface Contractors;

- (iii) fully co-operate, and procure that its Subcontractors fully co-operate with the Interface Contractors, and do everything reasonably necessary to:
  - (A) facilitate the execution of work by the Interface Contractors, including providing each Interface Contractor with such assistance as may be directed by the Principal's Representative (acting reasonably in the context of the Sydney Metro City & Southwest project as a whole); and
  - (B) ensure the effective co-ordination of the design and construction of the MQD Works with the design and construction of the Interface Work (where relevant);
- (iv) ensure that its Subcontractors carefully co-ordinate and interface the carrying out of the MQD Works with the Interface Work, and for this purpose:
  - (A) make proper allowance in all programs for the Interface Work;
  - (B) review all programs provided by Interface Contractors and confirm that they adequately allow for the MQD Works and the interfaces between the Interface Work and the MQD Works;
  - (C) monitor the progress of the Interface Work;
  - (D) notify the Principal's Representative of any interface or sequence of activities that may affect the commencement, progress or completion of the MQD Works; and
  - (E) if requested, provide the Interface Contractors with sufficient information about the current and expected MQD Works to assist them to co-ordinate the Interface Work;
- (v) ensure that its Subcontractors co-operate, meet with, liaise and share information so that the WL Developer and the relevant Interface Contractor each comply with the provisions of the relevant Environment Protection Licence (if applicable);
- (vi) ensure that its Subcontractors perform the MQD Works so as to minimise any interference with or disruption or delay to the Interface Work;
- (vii) ensure that its Subcontractors are responsible for co-ordinating the MQD Works, including work sequencing, construction methods, safety and industrial relations matters, with those affecting, and influenced by, the Interface Contractors' personnel and Interface Work, including providing to the Principal's Representative copies of work method statements for those parts of the MQD Works which are adjacent to, in the vicinity of, or interface with any Interface Work, at least 15 Business Days prior to commencing the work described in the work method statement. The Principal's Representative, the WL Developer's Representative and the relevant Interface Contractor's representative may agree in writing to a shorter time period for the provision of work method statements;
- (viii) attend, and procure that its Subcontractors attend, interface co-ordination meetings chaired by the Principal's Representative with Interface Contractors and others every 10 Business Days, or at other times to be advised by the Principal's Representative, to review current and future issues, including the exchange of information, status, problems, solutions and newly identified interfaces;

- (ix) when information is required from an Interface Contractor, ensure that its Subcontractors provide reasonable written notice to that Interface Contractor requesting that information and specifying the date by which such information is required, which must be as soon as reasonably practicable but in any event at least 10 days after the date of the notice, with a copy to the Principal's Representative;
- (x) ensure that any written notice given under clause 11.3(b)(ix) provides the Interface Contractor with the longest possible time for the provision of the information requested having regard to the circumstances;
- (xi) when any information is requested by the Interface Contractors relating to the MQD Works or the carrying out of the MQD Works, including confirming the compatibility or suitability of work methods to be used in, or any other aspect of, the Interface Work with the MQD Works or the carrying out of the MQD Works, ensure that its Subcontractors:
  - (A) provide the information to the Interface Contractor, with a copy to the Principal's Representative, within a reasonable time requested by the Interface Contractor; and
  - (B) ensure and warrant (as at the date the information is provided) that the information provided is accurate; and
- (xii) ensure that its Subcontractors use their best endeavours to resolve any problems, and work closely and iteratively with the Interface Contractors, including providing work methodologies, to achieve the best solution to such problems, related to:
  - (A) the provision of information;
  - (B) the obtaining of information;
  - (C) the adequacy of information provided to, or received from, the Interface Contractors;
  - (D) co-ordination in accordance with this clause 11.3(b); and
  - (E) technical issues with the information provided to, or received from, the Interface Contractors;
- (c) **(similar clauses)** acknowledges that the Principal will ensure that conditions similar to those in this clause 11.3 applying to the WL Developer will apply to all the Interface Contractors engaged by the Principal that are working on the Construction Site; and



**11.4 Disputes between the WL Developer and Interface Contractors**

- (a) **(Notice)** If, despite the WL Developer having complied with all of its obligations in clause 11.3(b) (*Co-operation and co-ordination with Interface Contractors*), the WL Developer and any Interface Contractor fail to resolve any interface issue or dispute between them, the WL Developer must promptly give the Principal's Representative written notice of any interface issue or dispute with any Interface Contractor (with a copy to the Interface Contractor).

- (b) **(Meeting)** Following receipt of the WL Developer's notice under clause 11.4(a):
  - (i) the Principal's Representative must promptly convene a meeting between the WL Developer, the relevant Interface Contractor and any other relevant person (as reasonably determined by the Principal's Representative);
  - (ii) the Principal's Representative must work in good faith with the WL Developer and the Interface Contractor to resolve the issues or dispute; and
  - (iii) the WL Developer must work in good faith with the Principal's Representative and the Interface Contractor to resolve the issues or dispute.

## 11.5 No Claims arising out of Interface Work

The WL Developer:

- (a) **(WL Developer acknowledgement)** acknowledges and agrees that:
  - (i) the Interface Contractors may require access to the Construction Site in order to perform their obligations under their respective contracts with the Principal;
  - (ii) [REDACTED] no act or omission by an Interface Contractor will, whether or not it causes any delay, disruption or interference to the carrying out of the MQD Works, entitle the WL Developer to claim an extension of time under this deed or constitute a Direction by the Principal or the Principal's Representative to carry out a Modification or constitute a breach of this deed; and
  - (iii) [REDACTED] the Principal will not be liable for any Claim by the WL Developer arising out of or in any way in connection with:
    - (A) any Interface Contractor carrying out Interface Work; or
    - (B) any act or omission of an Interface Contractor; and
- (b) **(sufficient allowance)** warrants that the WL Developer's Program contains sufficient allowances for the assumption by the WL Developer of the obligations and risks under clause 11.3 (*Co-operation and co-ordination with Interface Contractors*) and this clause 11.5.

## 12. THIRD PARTY RIGHTS AND COMMUNITY RELATIONS

### 12.1 Third party rights

The WL Developer must procure any rights from third parties that it requires to exercise its rights or perform its obligations under this deed, including any arrangements required with:

- (a) adjoining landowners, infrastructure providers and relevant stakeholders; and
- (b) Utility Service providers regarding existing and future Utility Services.

## 12.2 **Community relations**

The WL Developer:

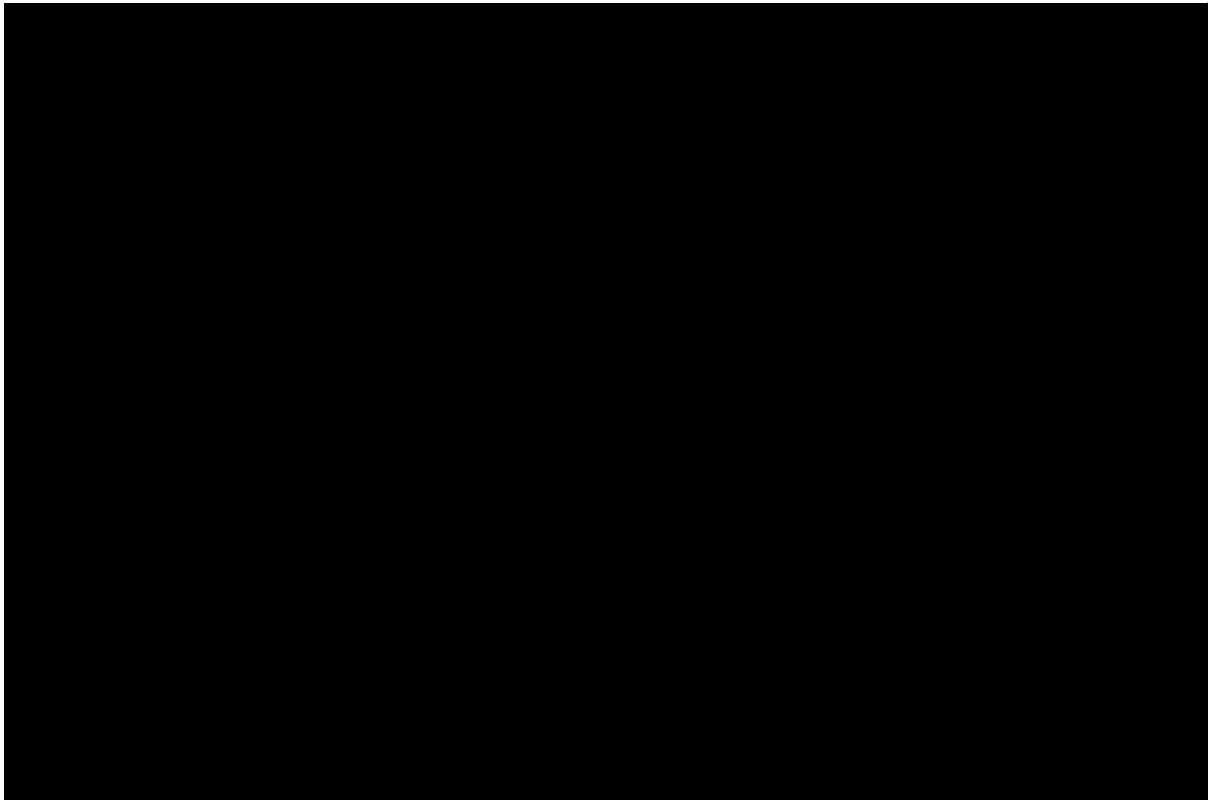
- (a) **(community relations)** acknowledges that:
  - (i) the areas where the MQD Works are being carried out are of great importance to many people, including local residents and businesses; and
  - (ii) the Principal will retain a key role in the management of community relations activities for the MQD Project; and
- (b) **(WL Developer to participate)** must manage and participate in all community relations and involvement programs and activities:
  - (i) contained in the Community Communications Strategy; or
  - (ii) as reasonably required by the Principal's Representative from time to time.

## 13. **INTERFACE WITH STATION PROJECT WORKS**

### 13.1 **Acknowledgements regarding Station Project Works**

The parties acknowledge that:

- (a) the Principal and the WL Contractor are parties to the Station Delivery Deed;
- (b) the WL Contractor may carry out the WL Contractor's Activities on the Construction Site pursuant to the Station Delivery Deed;
- (c) certain areas of the Station Construction Site will become part of the S2 Construction Site on the day after the Station Date of Completion;
- (d) to the extent that the WL Developer requires access to or a right to occupy or use the Station Construction Site prior to the Station Date of Completion, the WL Developer must procure that access or right for itself directly from the WL Contractor; and
- (e) the Station Project Works include the design and construction by the WL Contractor of the Primary Plaza and the Secondary Plaza.



14. **DESIGN AND CONSTRUCTION OF STATION PROJECT WORKS**

14.1 **Design and construction of Station Project Works**

The WL Developer agrees that:

- (a) **(works under Station Delivery Deed)** the design and construction of the Station Project Works are to be carried out and completed by the WL Contractor in accordance with the Station Delivery Deed;
- (b) **(warranties)** in relation to any warranties in respect of the Station Project Works:
  - (i) the WL Contractor has agreed to give various warranties to the Principal in respect of the Station Project Works under the Station Delivery Deed;
  - (ii) the Principal has no obligation to give the WL Developer the benefit of any such warranties; and
  - (iii) it is the responsibility of the WL Developer to procure any warranties and representations or other obligations it requires in relation to the Station Project Works from the WL Contractor directly;
- (c) **(no modifications)** it must not seek any modification to the design or the works comprising the Station Project Works:
  - (i) prior to the Station Date of Completion, except as permitted under the Station Delivery Deed; and
  - (ii) between the Station Date of Completion and in respect of the Station Project Works relevant to a Separable Portion, the Date of Completion of the applicable Separable Portion, without the prior written consent of the Principal's Representative (such consent to be given or withheld in the Principal's Representative's absolute discretion); and



- (d) **(WL Developer's risk)** any agreed changes to the Station Project Works proposed by the WL Developer under this deed will be at the risk and Cost of the WL Developer and the WL Developer releases and indemnifies the Principal from and against any Claim against the Principal or any Loss incurred by the Principal arising out of or as a result of such modifications to the Station Project Works.

## 15. RECORDS, ACCESS TO RECORDS AND NOTICES

### 15.1 Records

- (a) **(Keeping Records)** The WL Developer must make and keep appropriate records which evidence the WL Developer's compliance with the WL MQD Contract Documents **(Records)**.
- (b) **(Right to inspect Records)** The Principal, the Principal's Representative or any nominee of them may, at any time, inspect and make copies of the whole or part of any Record (other than Records relating generally to the financial conduct of the WL Developer's whole business and board minutes unless the WL Developer is expressly required to make such Records available to the Principal or the Principal's Representative under this deed) and may access the premises of the WL Developer or its Subcontractors to have access to the Records.
- (c) **(Records not in writing)** If a Record is stored on a medium other than in writing, the WL Developer must make available immediately upon request such facilities as may be necessary to enable a legible reproduction of the Record to be produced to the Principal or the Principal's Representative and where a Record is in electronic format, the WL Developer must provide the Principal and the Principal's Representative with a non-exclusive licence to use the software necessary to view and, where relevant, analyse, the information.
- (d) **(No right to refuse inspection)** The WL Developer is not entitled to refuse inspection of any Record to which the Principal or the Principal's Representative has the right to inspect pursuant to clause 15.1(b) on any basis except legal professional privilege. If a Record is confidential, the WL Developer may refuse inspection of the Record until the person who is conducting the inspection has executed an undertaking to keep the information confidential.
- (e) **(Cooperation)** The WL Developer must co-operate with the Principal and the Principal's Representative when conducting an inspection. Co-operation will include the explanation of all filing and costing systems and the extraction of requested categories of documentation from files upon request.
- (f) **(Maintenance and destruction of records)** The WL Developer must:
- (i) keep the Principal's Representative informed as to where the Records are being maintained, which must be in Australia; and
  - (ii) maintain all Records for at least 7 years after the Last Date of Completion.

### 15.2 Providing documents to the Principal's Representative

As soon as practicable, and in any case within 65 Business Days after the Date of Completion of each Separable Portion, the WL Developer must do all things required to procure the issue and delivery to the Principal's Representative of copies of the following items:

- (a) as-built drawings for that Separable Portion (in hardcopy and in an electronic format); and

- (b) all certificates issued by any Authority in relation to that Separable Portion which have not previously been delivered to the Principal's Representative.

### 15.3 ASIC and ASX notices

The WL Developer must give the Principal's Representative, as soon as practicable, copies of all notices and other documents relevant to the MQD Project or ability of the WL Developer to perform its obligations under any WL MQD Contract Document given or received by the WL Developer to or from the Australian Securities and Investments Commission, the ASX Limited or any other recognised stock exchange (to the extent applicable).

## 16. SUBCONTRACTING

### 16.1 Subcontracting by the WL Developer

- (a) **(WL Developer may subcontract)** Subject to clause 5.7 (*Home Building Act*) and this clause 16, the WL Developer:
  - (i) must enter into Subcontracts for the performance of the MQD Works; and
  - (ii) may enter into Subcontracts for the performance of any of the WL Developer's rights or obligations under a WL MQD Contract Document.
- (b) **(Liability for acts of Subcontractors)** The WL Developer will be liable to the Principal for the acts and omissions of Subcontractors in connection with the performance of any obligation of the WL Developer, the exercise of any right of the WL Developer under this deed or the performance of the MQD Works as if such acts or omissions were acts or omissions of the WL Developer.
- (c) **(No relief)** Subcontracting by the WL Developer of any obligation under the WL MQD Contract Documents will not relieve the WL Developer of, or otherwise affect, any obligation or Liability it has to the Principal under the WL MQD Contract Documents.

### 16.2 Significant Subcontracts

- (a) **(Principal consent required)** The WL Developer must not, and must ensure that the D&C Contractor does not:
  - (i) where it may impact on the ability of the WL Developer to perform its obligations under this deed or impact on the rights or increase the Liabilities or obligations of the Principal:
    - (A) make or permit any amendment to, or replacement of or waiver of a provision of; or
    - (B) enter into any agreement or arrangement which affects the operation or interpretation of;
  - (ii) terminate, surrender, rescind or accept repudiation of (or give the relevant Significant Subcontractor an entitlement to terminate, surrender, rescind or accept repudiation of); or
  - (iii) permit the novation, assignment or substitution of any counterparty's right, obligation or interest in,
    - a Significant Subcontract without obtaining the Principal's Representative's prior written consent (which consent must not be unreasonably withheld or delayed but may be conditional).

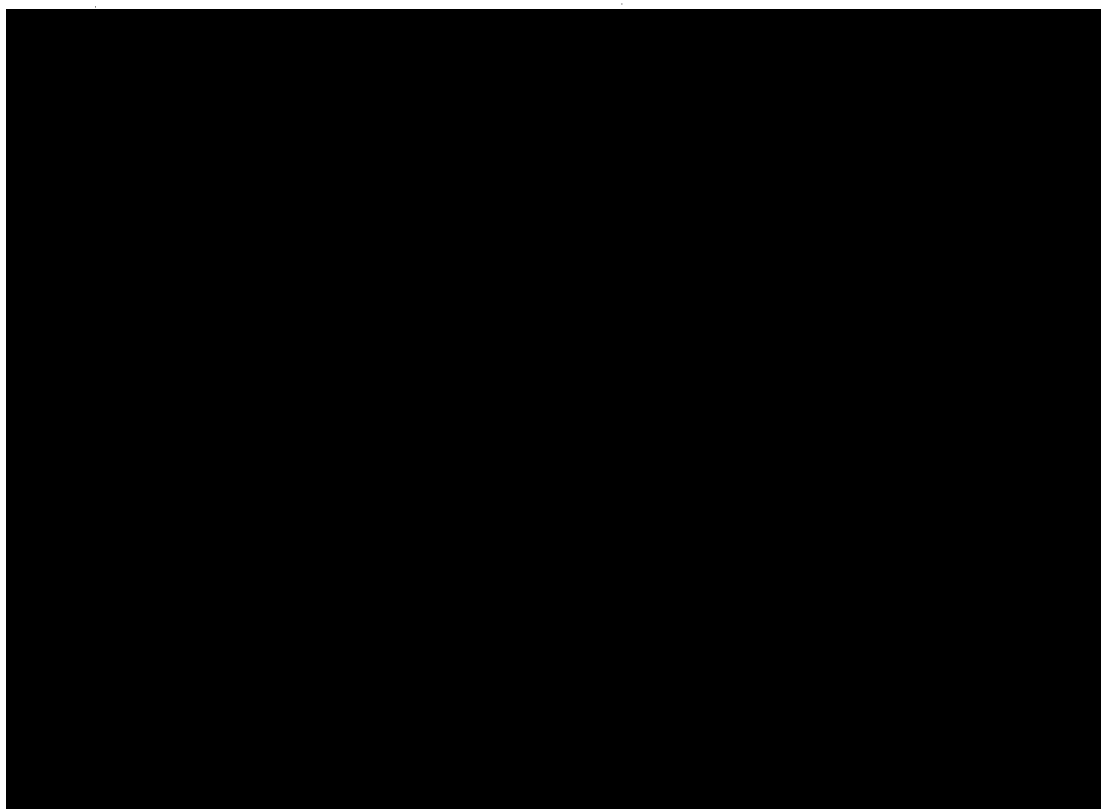
- (b) **(Copy)** The WL Developer must provide the Principal's Representative with a copy of each Significant Subcontract (subject to, excluding the D&C Contract, removal, exclusion or redaction of any "commercial-in-confidence provisions" as that term is defined in the GIPA Act).
- (c) **(Significant Subcontractor direct deed)** If required by the Principal's Representative, the WL Developer must procure that a Significant Subcontractor (other than the D&C Contractor) and (if applicable) its parent company acceptable to the Principal's Representative enters into a side deed with the Principal in the form of the D&C Side Deed or as otherwise required by the Principal.

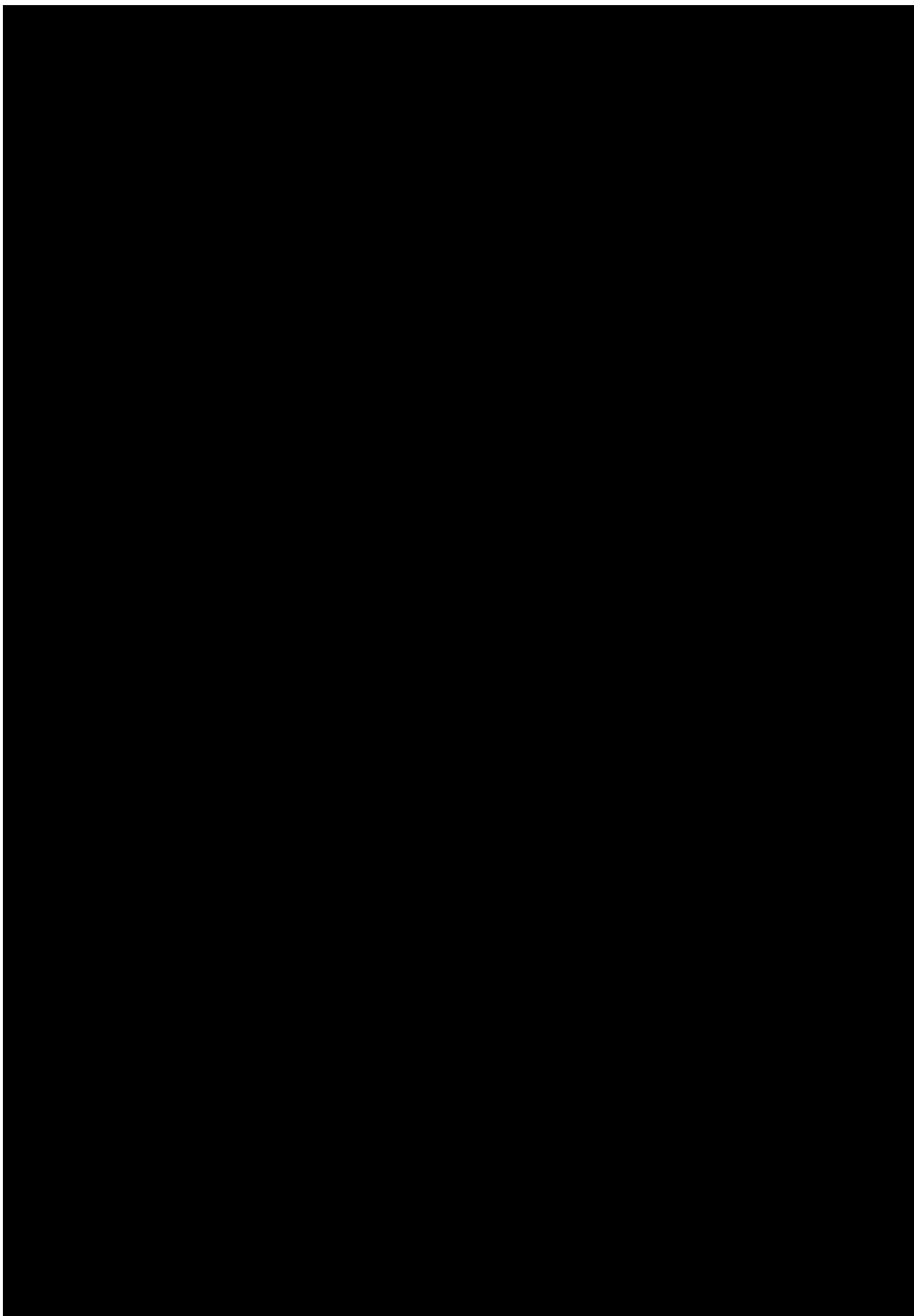
**16.3 Provisions to be included in Subcontracts**

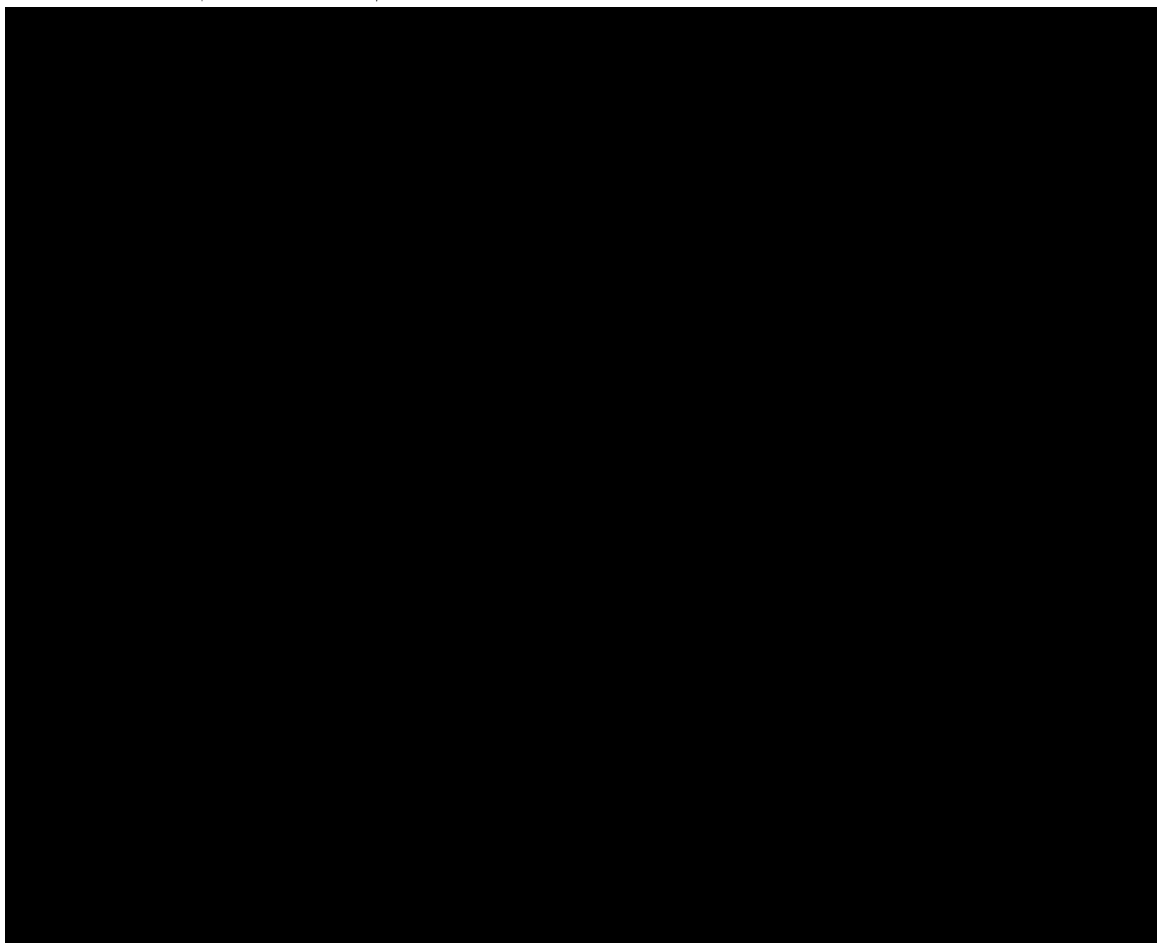
The WL Developer must (unless otherwise approved in writing by the Principal's Representative having regard to the nature and location of the Subcontractor) ensure that:

- (a) **(Subcontract requirements)** each Subcontract that it or the D&C Contractor enters into in connection with the MQD Works, regardless of its value, includes the provisions required by part A of Schedule A6 (*Subcontract Requirements*);
- (b) **(Significant Subcontract requirements)** without limiting clause 16.3(a), each Significant Subcontract that it or the D&C Contractor enters into in connection with the MQD Works includes the provisions required by part B of Schedule A6 (*Subcontract Requirements*); and
- (c) **(Home Building Act)** each Subcontract that it or the D&C Contractor enters into in connection with the Residential MQD Works, regardless of its value, includes provisions on substantially the same terms as included in clauses 5.7(c)(i) to 5.7(c)(vi) (*Home Building Act*) (inclusive) and complies with the Home Building Act.

**16.4 D&C Contract**







17. **PROJECT PLANS AND STRATEGIES**

17.1 **Project Plans**

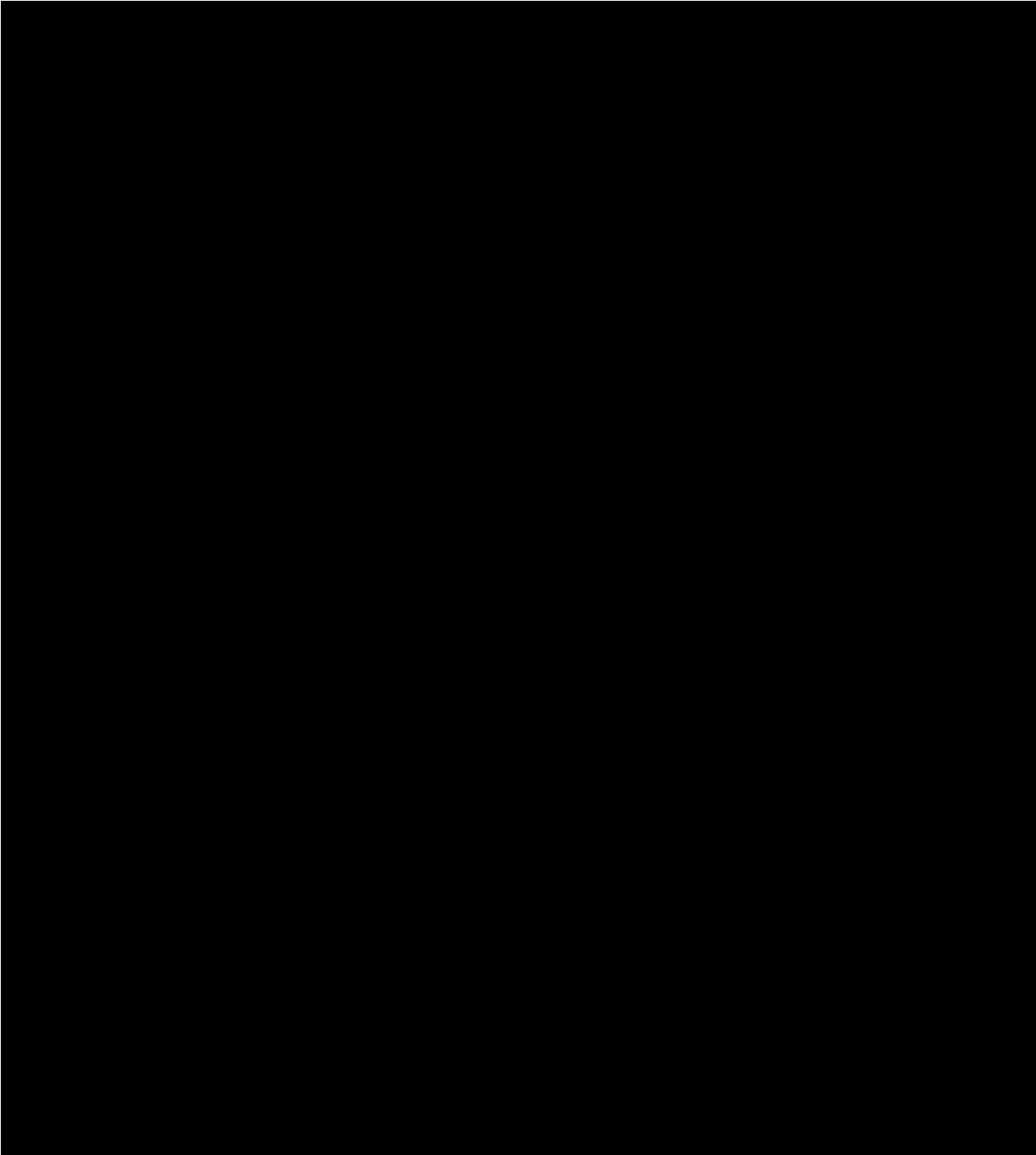
The WL Developer must:

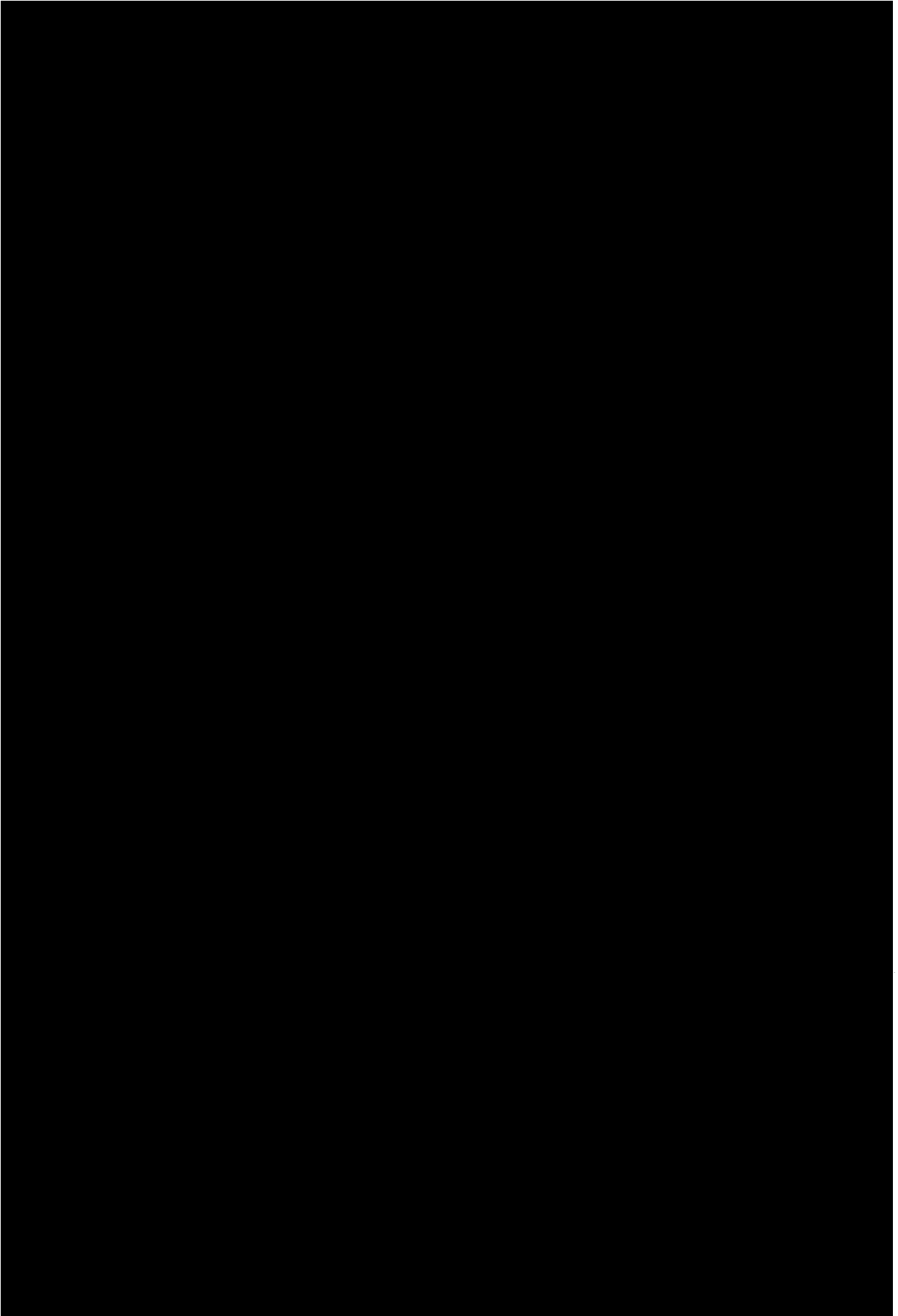
- (a) **(preparation of Project Plans)** develop, update and submit all Project Plans to the Principal's Representative in accordance with the Project Plan Requirements; and
- (b) **(compliance with Project Plans)** implement and comply with all Project Plans that have not been rejected by the Principal's Representative in accordance with the Project Plan Requirements.

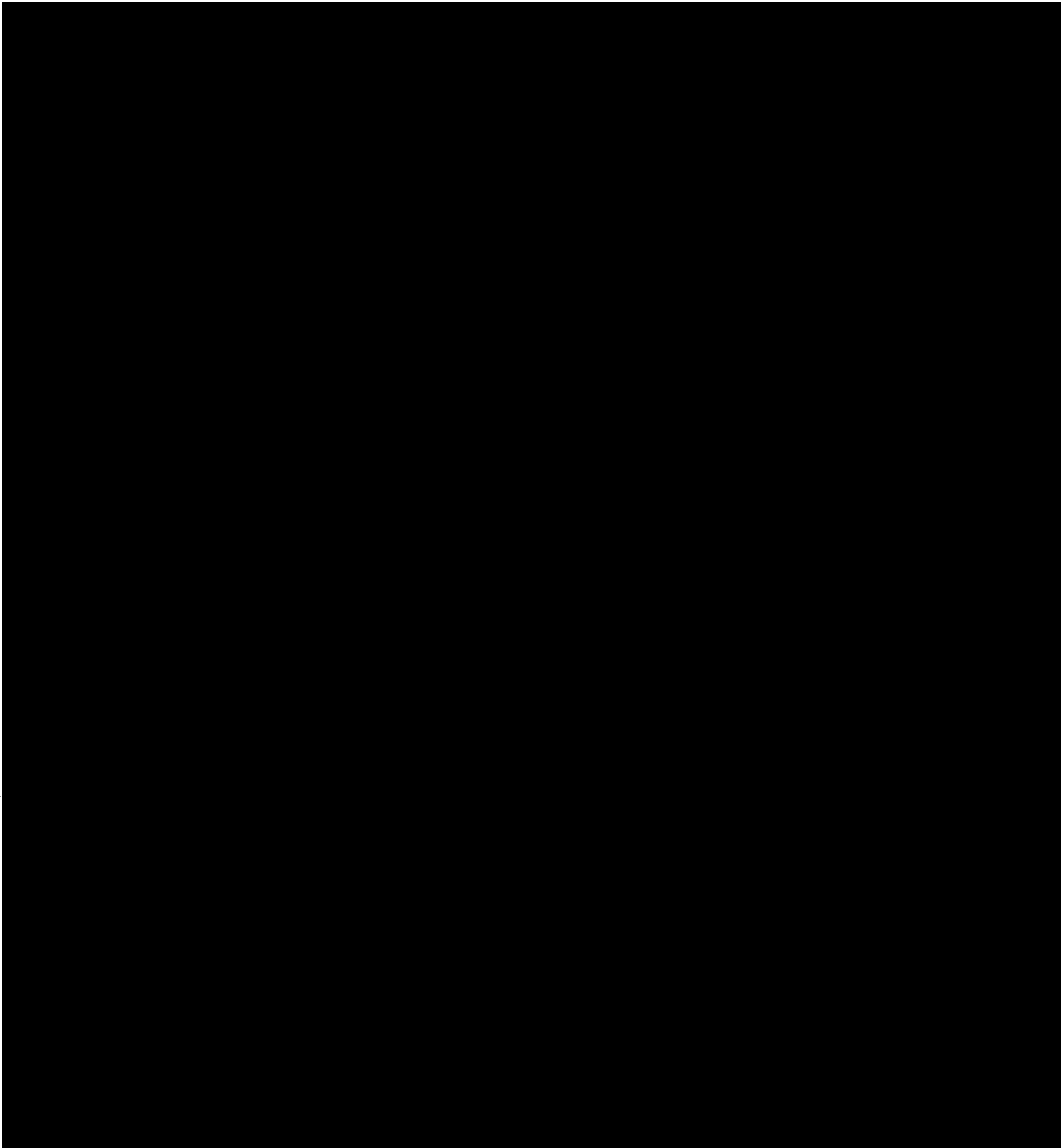
17.2 **Strategies**

- (a) **(Preparation of strategies)** Prior to the commencement of the MQD Works, the WL Developer must prepare the following strategies to the satisfaction of the Approved Engineer under clauses 8.6(c)(iv)(A)(aa) and 8.6(c)(v)(A) (*Approved Engineer*):
  - (i) **(monitoring strategy)** a strategy which details how the WL Developer will monitor induced movement caused by the MQD; and
  - (ii) **(stray current and electrolysis strategy)** a strategy which details how the WL Developer will mitigate and evaluate adverse effects of stray currents and electrolysis.

- (b) **(Compliance with strategies)** The WL Developer must implement and comply with the strategies referred to in clause 17.2(a) until Completion of the MQD Works.
- (c) **(Submission to the Principal's Representative)** The WL Developer must submit to the Principal's Representative:
  - (i) all strategies and any update to those strategies prepared by the WL Developer referred to in clause 17.2(a); and
  - (ii) progressive documentation including dilapidation surveys and any other reports and information and data relating to the implementation of the strategies and considerations of those strategies referred to in clause 17.2(a).







**19. MODIFICATIONS**

**19.1 Principal initiated Modifications**

The Principal's Representative may propose a Modification or require the WL Developer to procure the carrying out of a Modification in accordance with clause 2 of Schedule A7 (*Modification Procedure*).



19.2 **WL Developer initiated Modifications**

The WL Developer may:

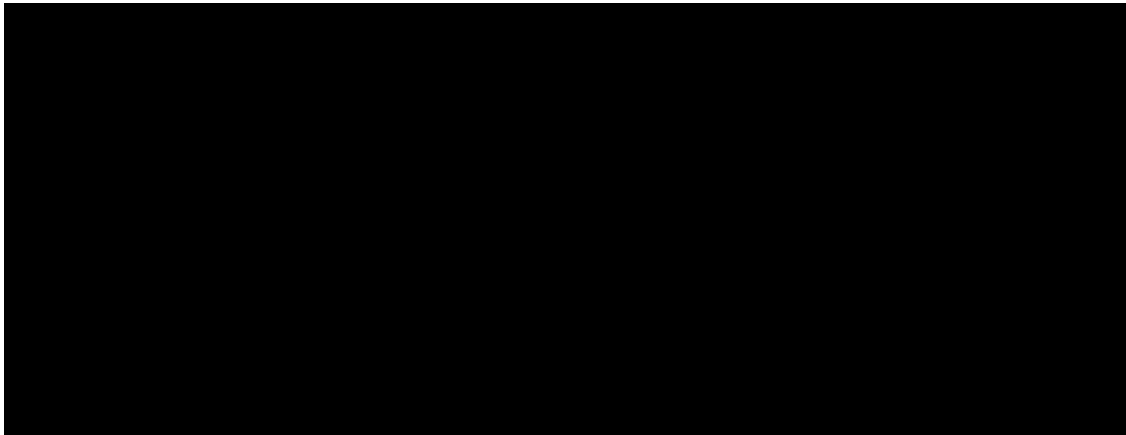
- (a) **(Modifications)** propose a Modification in accordance with clause 3 of Schedule A7 (*Modification Procedure*); and
- (b) **(Unrestricted Modifications)** in its absolute discretion effect or procure the effecting of any Unrestricted Modification.

20. **TIME**

20.1 **Commencement and progress**

The WL Developer must procure:

- (a) **(commence)** the prompt commencement of the performance of the MQD Works under this deed; and
- (b) **(progress)** the expeditious and diligent progress of the MQD Works,



20.2 **Achieving milestones**

The WL Developer must:

- (a) use all reasonable endeavours to:
  - (i) **(Detailed SSD Application)** lodge the Detailed SSD Application for each Separable Portion by the relevant Date for Detailed SSD Application Lodgement. The WL Developer must notify the Principal's Representative within 2 Business Days after such lodgement, with such notice to include evidence of the lodgement; and
  - (ii) **(Completion)** achieve Completion of each Separable Portion (excluding Separable Portion 1 [REDACTED] and Separable Portion 2 [REDACTED]) by the Date for Completion of that Separable Portion;
- (b) use all reasonable endeavours to Substantially Commence each Separable Portion by the Date for Substantial Commencement of that Separable Portion; and
- (c) achieve Completion of:
  - (i) Separable Portion 1 [REDACTED] and

- (ii) Separable Portion 2 [REDACTED]

by the relevant Date for Completion for that Separable Portion.

### 20.3 **WL Developer's Program**

- (a) **(WL Developer's Initial Program)** The WL Developer's Initial Program is contained in Schedule A12 (*WL Developer's Initial Program*).
- (b) **(WL Developer submission)** The WL Developer must prepare and update:
  - (i) the WL Developer's Program; and
  - (ii) if applicable, the Updated WL Developer's Program,
 in accordance with the requirements set out in Schedule A11 (*Progress Reports*).

### 20.4 **Progressing the MQD Works**

- (a) **(Substantial Commencement)** Immediately after the MQD Works for a Separable Portion have Substantially Commenced, the WL Developer must at all times either:
  - (i) procure the progress of the Separable Portion in accordance with or in advance of the Updated WL Developer's Program; or
  - (ii) where the Separable Portion is behind the Updated WL Developer's Program, take all such steps as are necessary to ensure that the Separable Portion is being progressed with due expedition, including but not limited to:
    - (A) procuring that reasonable steps are taken to reduce and/or mitigate any delay in the progress of the Separable Portion;
    - (B) procuring that substantial progress is made on critical path activities; and
    - (C) continuing to expend funds in progressing the Separable Portion,
 at a level commensurate with what might reasonably be expected for works of a comparable scope, size and program, except to the extent that the WL Developer is relieved (including by way of an extension of time) of the obligation to do so by the express provisions of this deed.
- (b) **(Provision of information)** The WL Developer must provide the Principal's Representative with all information reasonably requested by the Principal's Representative in relation to the steps being taken, and the expenditure being incurred, by the WL Developer as required by clause 20.4(a).
- (c) **(D&C Contractor Insolvency Event)** If the WL Developer has ceased, or is unable to proceed with, the procurement of any part of the MQD Works as a result of an Insolvency Event occurring in respect of the D&C Contractor, the WL Developer must:
  - (i) immediately after the WL Developer becomes aware that an Insolvency Event has occurred in relation to the D&C Contractor, notify the Principal's Representative in writing to that effect;
  - (ii) within 20 Business Days after issuing a notice under clause 20.4(c)(i), prepare and submit to the Principal's Representative a D&C Contractor Replacement

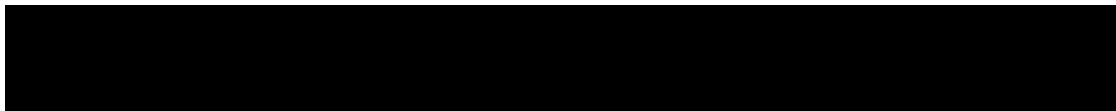
Plan together with the notice provided by the WL Developer under clause 20.4(c)(i);

- (iii) in consultation in good faith with the Principal's Representative, amend the D&C Contractor Replacement Plan having regard to the Principal's Representative's reasonable requirements and, if applicable, re-submit the amended D&C Contractor Replacement Plan to the Principal's Representative;
- (iv) comply with and diligently implement the Final D&C Contractor Replacement Plan to enable the WL Developer to procure that a Subcontractor proceeds with the MQD Works;
- (v) ensure that the Construction Site and the MQD Works are kept safe and are at all times secure during the period of the implementation of the Final D&C Contractor Replacement Plan;
- (vi) regularly update the Principal in relation to its progress in implementing the Final D&C Contractor Replacement Plan; and
- (vii) provide such information as requested by the Principal's Representative (acting reasonably) in relation to any matters contemplated under this clause 20.4(c).

**20.5 Delay Events**

Without limiting clause 21.2 (*Acceleration*), the WL Developer may only claim an extension of time to:

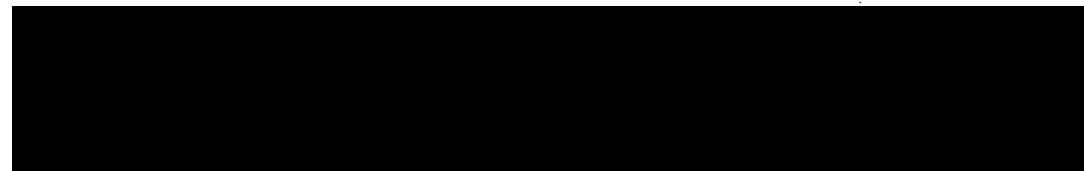
- (a) the Date for Detailed SSD Application Lodgement if the WL Developer is or will be delayed in lodging the Detailed SSD Application by the Date for Detailed SSD Application Lodgement;



- (c) the Date for Completion of a Separable Portion if the WL Developer is or will be delayed in achieving Completion of that Separable Portion,

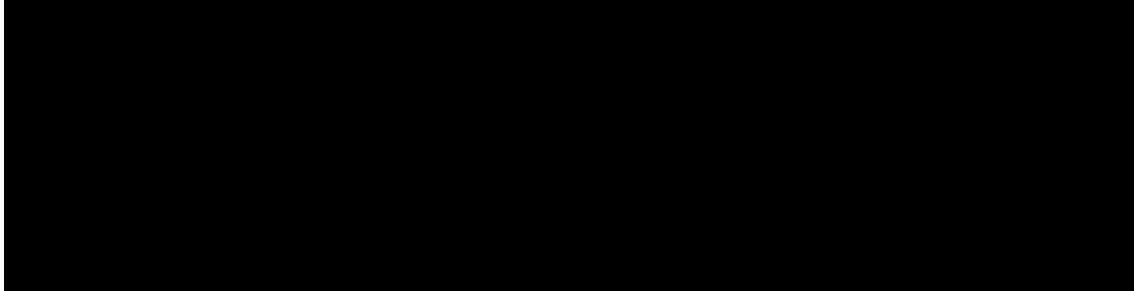
as a result of:

- (d) a failure by the Principal to provide the WL Developer with access to part of the S1 Construction Site [redacted] relevant to that Separable Portion by the relevant Site Access Date;
- (e) the MQD Works forming part of that Separable Portion being damaged by the Principal;

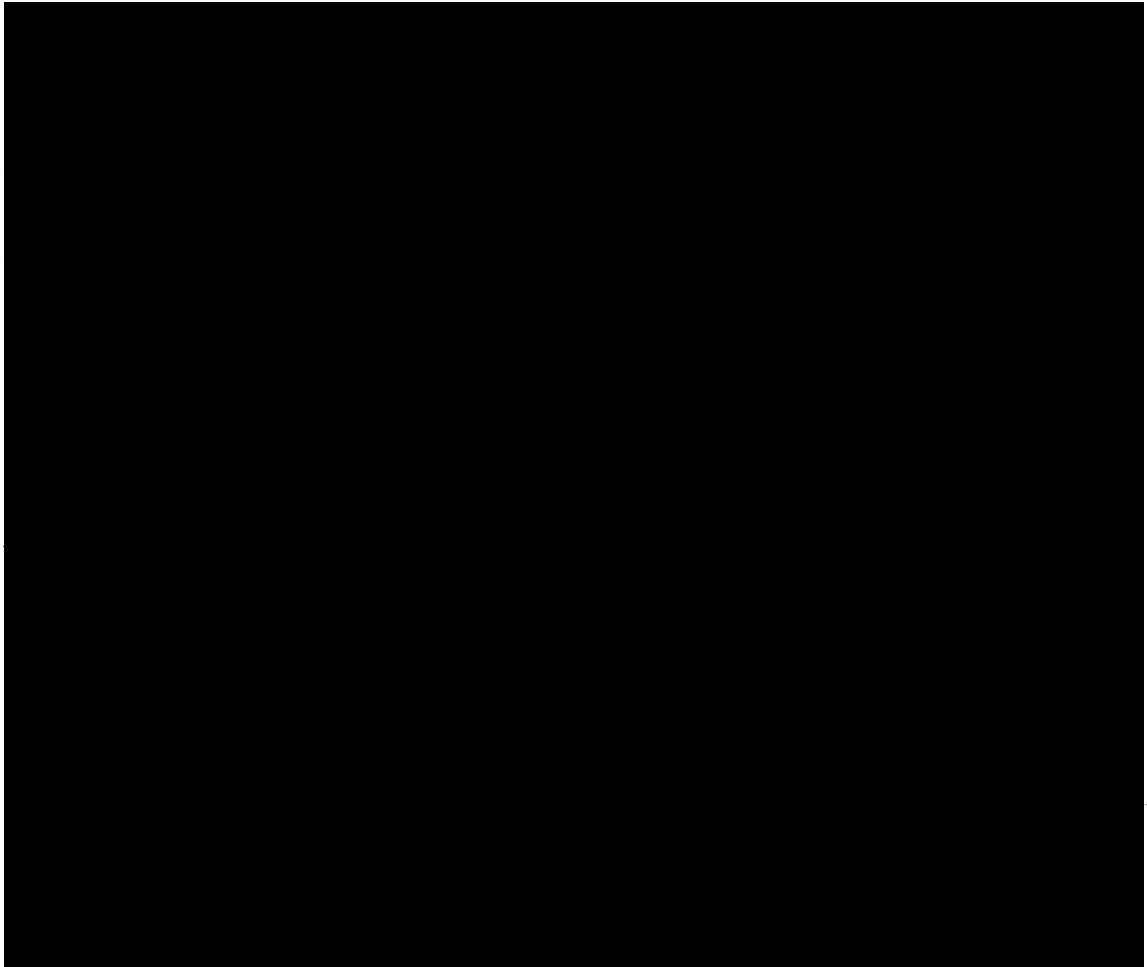


- (h) a Modification Order;

- (i) a Force Majeure Event;
- (j) a direction by the Principal's Representative under clause 21.1 (*Suspension*) requiring the WL Developer to suspend the performance of any part of the MQD Works, but only to the extent that the reason for such suspension has not been caused by or contributed to by any breach or failure to comply with this deed or a WL MQD Contract Document by the WL Developer or its Associates;



- (m) the MQD Works forming part of that Separable Portion being damaged by an Interface Contractor; or



- (o) a direction by the Principal's Representative under clause 4(b) of Schedule A32 (*Social Housing*) to procure testing in relation to materials or work which forms part of the Social Housing Works that is in addition to any testing required by this deed and if the material or work tested is found to comply with this deed; or

(each a **Delay Event**).

## 20.6 Extensions of time

(a) **(Entitlement)** The WL Developer is entitled to an extension of time to a Milestone Date only if:

(i) the WL Developer has complied with clause 2.1(a) or clause 2.2(a) of Schedule A11 (*Progress Reports*) (as applicable) (in each case, in respect of the calendar month immediately preceding the occurrence of the event of delay);

(ii) the WL Developer is or will be delayed in:

(A) lodging the Detailed SSD Application by the Date for Detailed SSD Application Lodgement;

(C) achieving Completion of the relevant Separable Portion,

(as applicable) by one or more Delay Events; and

(iii) in relation to each event of delay caused by a Delay Event, the WL Developer submits an initial written notice to the Principal's Representative promptly upon becoming aware of the Delay Event (and in any event within 10 Business Days after the WL Developer became aware or ought reasonably to have become aware of the cause of delay) containing:

(A) details of the Delay Event;

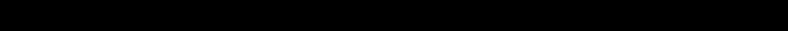
(B) details of the likely delay; and

(C) a description of all measures which the WL Developer has taken and will be taking to preclude the occurrence of the delay and minimise the consequences of the delay.

(b) **(Written claim)** To claim an extension of time, the WL Developer must:

(i) submit a written claim to the Principal's Representative within 10 Business Days after the WL Developer's initial notice issued under clause 20.6(a)(iii) specifying:

(A) the number of days claimed;

(B) details of the Delay Event and why the Delay Event actually caused or will cause the WL Developer to be delayed in lodging the Detailed SSD Application by the Date for Detailed SSD Application Lodgement,  or achieving Completion of the Separable Portion (or any of them, as applicable), including a statement of the facts and the provisions of this deed on which the claim is based;

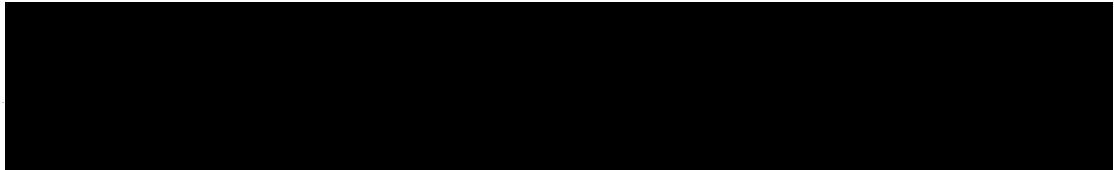
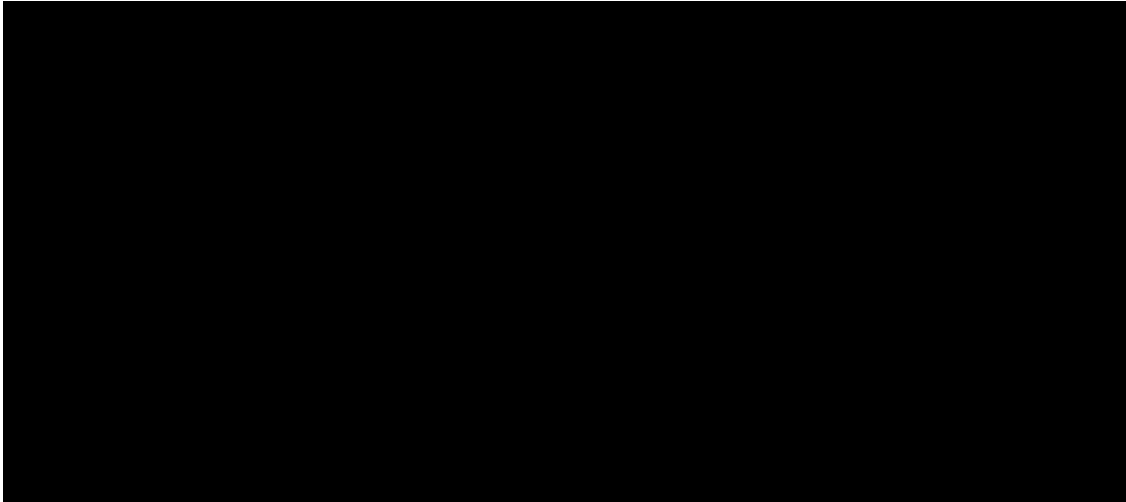
(C) detailed evidence in satisfaction of the requirements of this clause 20.6;

- (D) critical path analysis in the same format as the WL Developer's Program for the period of the delay;
  - (E) details of the Delay Costs arising from the Delay Event to which it believes it will be entitled; and
  - (F) not used; and
- (ii) in the case of an ongoing delay where the WL Developer 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 15 Business Days after the first written claim provided under clause 20.6(b)(i); and
  - (B) within 10 Business Days after the cessation of the Delay Event, containing the information required under clause 20.6(b)(i).
- (c) The Principal's Representative may request additional information reasonably required to assess the WL Developer's claim for an extension of time and the WL Developer must promptly provide such information.

#### 20.7 Limiting factors

- (a) **(No entitlement)** The WL Developer is not entitled to any extension of time (and the Principal has no Liability to the WL Developer) if the WL Developer fails to deliver notices in the form and within the time required by clause 20.6(a)(iii), clause 20.6(b)(i) and clause 20.6(b)(ii) (*Extensions of time*) (if relevant).
- (b) **(Reduction of entitlement)** The WL Developer's entitlement to an extension of time will be reduced to the extent that:
- (i) not used;
  - (ii) a delay caused by a Delay Event and a delay caused other than by a Delay Event occur at the same time and the WL Developer would have been delayed even if the Delay Event had not occurred;
  - (iii) the WL Developer or any of its Associates caused or contributed to the delay;
  - (iv) the WL Developer failed to comply with:
    - (A) a Cooperation and Integration Deed; or
    - (B) its obligations under this deed in connection with the Interface Contractors,
 and such failure caused or contributed to the delay the subject of the WL Developer's claim;
  - (v) the delay was or would have been reduced had the WL Developer or any of its Associates taken all reasonable steps to preclude the occurrence of the Delay Event and minimise the consequences of the delay (other than applying additional resources to make up the time lost); or
  - (vi) subject to clause 20.7(d), the delay is caused by or contributed to by a failure of the WL Developer to comply with its obligations under a WL MQD Contract

Document or is caused or contributed to by an act or omission of the WL Contractor or the WL Contractor's Associates.

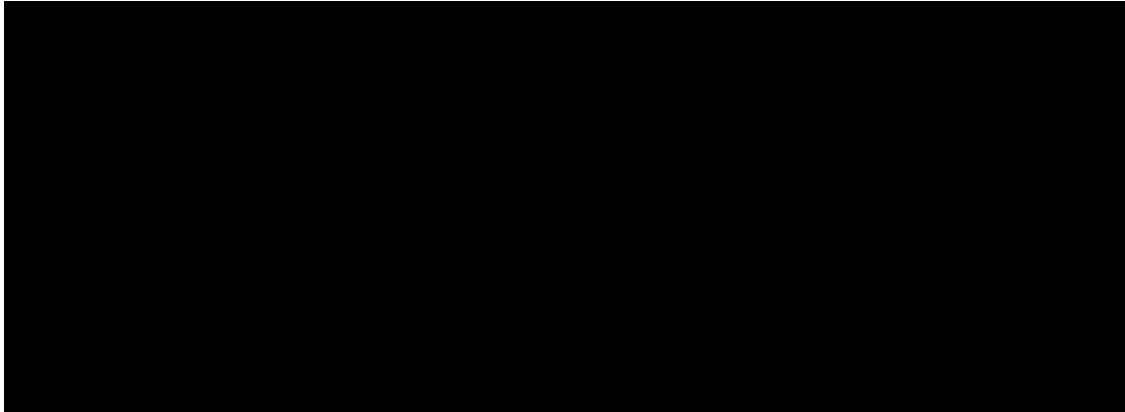


**20.8 Determination of extension of time claim**

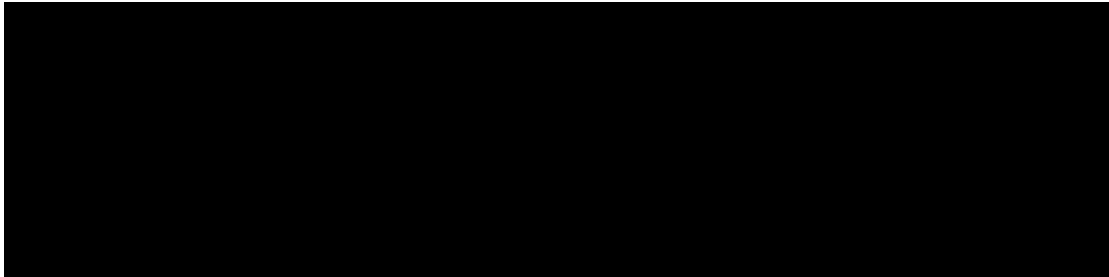
- (a) **(Principal's Representative's determination)** Without limiting clause 20.8(g), the Principal's Representative must determine the reasonable extension of time to which the WL Developer is entitled either:
  - (i) within 20 Business Days after receiving a claim which complies with clause 20.6(b); or
  - (ii) in the case of an ongoing delay, within 20 Business Days after receiving a claim which complies with:
    - (A) clause 20.6(b)(i);
    - (B) clause 20.6(b)(ii)(A); or
    - (C) clause 20.6(b)(ii)(B),by giving the WL Developer:
  - (iii) written notice of the determination which includes the extension of time granted and the adjusted Milestone Date, with reasons where the extension of time granted is for a shorter period of time than that claimed by the WL Developer; or
  - (iv) if no extension is granted, written notice of that decision, with reasons.
- (b) **(Principal's Representative's discretion to extend)** The Principal's Representative may, in the Principal's Representative's absolute discretion, extend a

Milestone Date at any time, and for any reason, by giving written notice to the WL Developer regardless of whether:

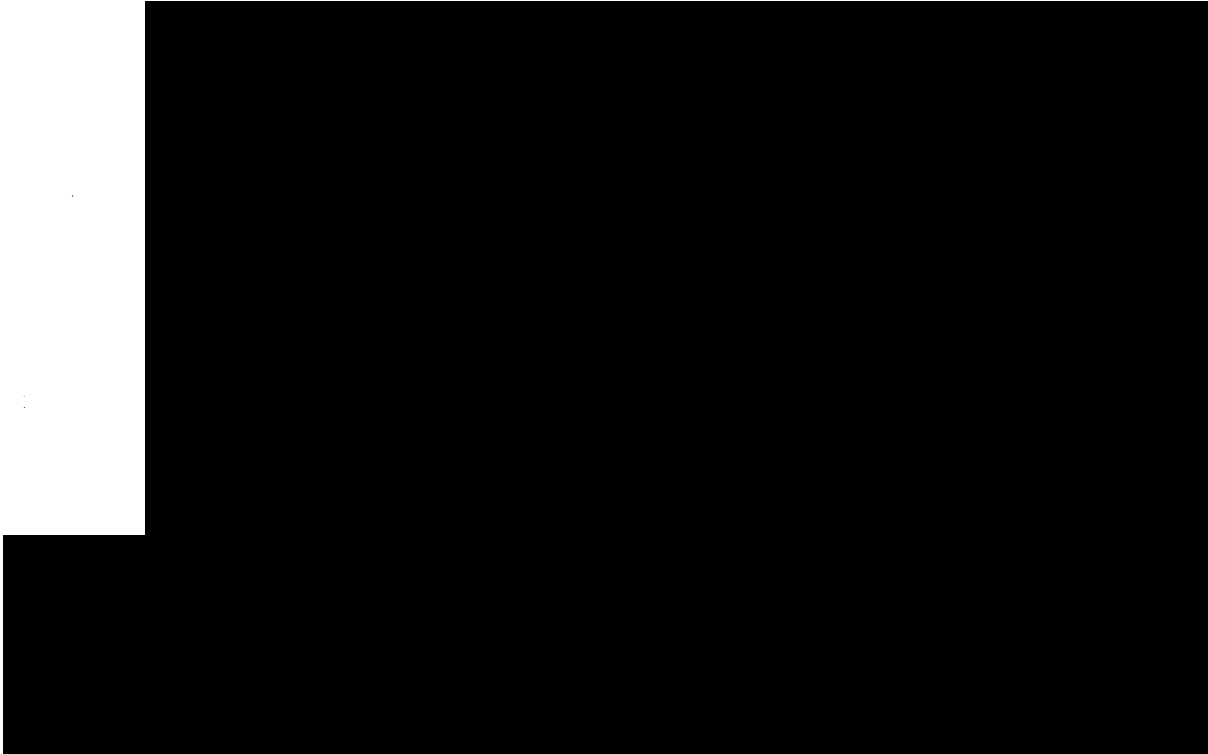
- (i) the WL Developer has claimed or is entitled to an extension of time under this deed; or
  - (ii) the Principal's Representative has previously either rejected any claim or failed to make a determination under clause 20.8(a).
- (c) **(Not for the benefit of WL Developer)** The Principal's Representative is not required to exercise the discretion under clause 20.8(b) for the benefit of the WL Developer.
- (d) **(No impact on Delay Event)** The Principal's Representative's exercise of its discretion under clause 20.8(b) does not limit the WL Developer's right to claim an extension of time to a Milestone Date or to claim Delay Costs where, but for the exercise of such discretion, the WL Developer would have been entitled to an extension of time to a Milestone Date and/or to Delay Costs (as applicable).
- (e) **(Principal's Representative may take into account)** Subject to clause 20.8(e1), in determining a claim for an extension of time, the Principal's Representative is not obliged to, but may in its sole discretion, take into account:
- (i) the latest accepted version of the WL Developer's Program at the time of the relevant extension of time claim; and
  - (ii) any other information available to the Principal's Representative at the time the determination is required to be made, including information regarding the progress of the Separable Portion up to the time the determination is required to be made.



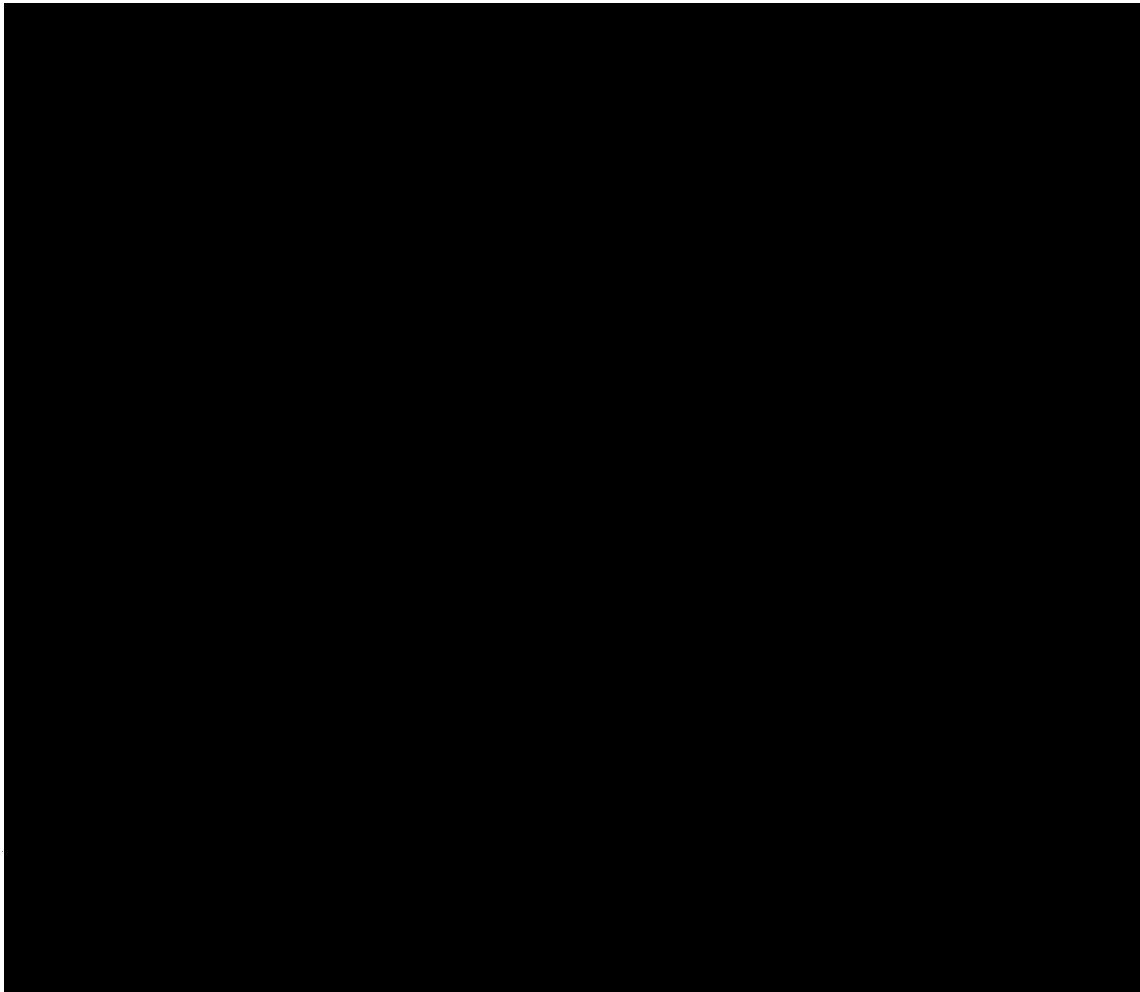
- (f) **(Time not at large)** A failure by the Principal's Representative to grant an extension of time in accordance with this clause 20.8 will not cause time to be set at large, but does not affect the right of the WL Developer to claim damages.







20.9 **Delay Costs**



- [REDACTED]
- (b) **(Claim)** The WL Developer must give to the Principal's Representative, within 15 Business Days after the cessation of the Delay Event:
    - (i) in respect of Delay Costs [REDACTED]  
[REDACTED] a written claim specifying details of the Delay Costs claimed and how those Delay Costs have been calculated; and
- [REDACTED]
- [REDACTED]

- (c) **(Limiting factors)** The WL Developer agrees that the WL Developer is not entitled to Delay Costs if the WL Developer does not strictly comply with the time limits within which the notice and claim must be given under clause 20.9(b).
  - (d) **(Determination of Delay Costs)** The Principal's Representative must, within 20 Business Days after receiving a claim which complies with clause 20.9(b)(i), make a determination of the relevant Delay Costs to which the WL Developer is entitled and give the WL Developer written notice of the determination.
- [REDACTED]

20.10 **Not used**

20.11 **Look ahead regime**

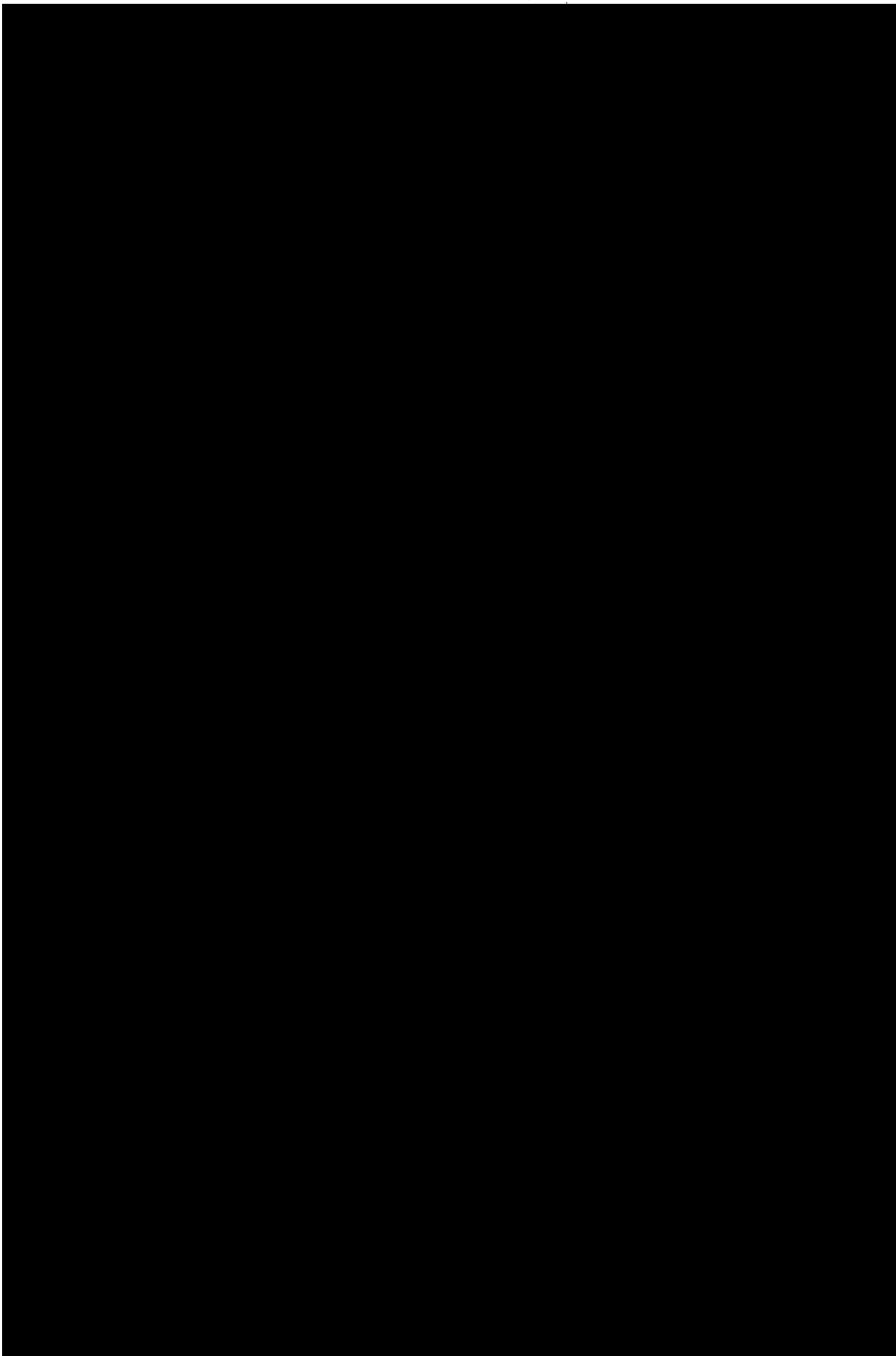
- (a) During the Trigger Period, the Principal's Representative may notify the Independent Certifier that the Principal's Representative requires the Independent Certifier to inspect the MQD Works to determine whether the WL Developer will achieve Completion by the Sunset Date.

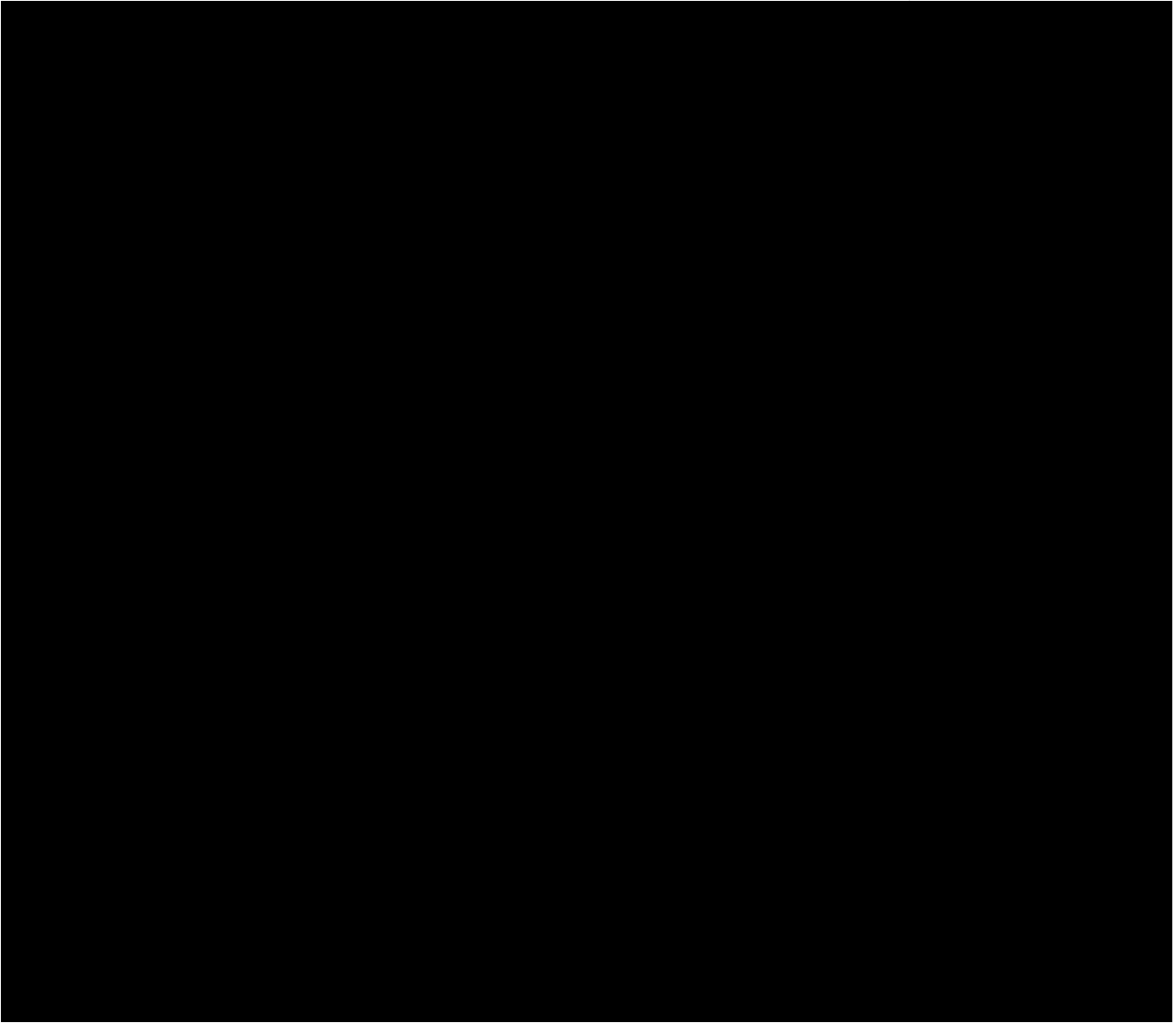
- (b) If the Principal's Representative gives a notice under clause 20.11(a), the Independent Certifier must:
  - (i) within 20 Business Days of the Principal's Representative's notice under clause 20.11(a), inspect the MQD Works and determine whether or not there is No Reasonable Likelihood; and
  - (ii) within 10 Business Days of the inspection by the Independent Certifier of the MQD Works under clause 20.11(b)(i), issue a certificate to the Principal's Representative and the WL Developer stating:
    - (A) whether or not there is No Reasonable Likelihood; and
    - (B) if there is No Reasonable Likelihood, the date on which the Independent Certifier believes that Completion will occur, together with reasons why the Independent Certifier has determined there is No Reasonable Likelihood.
- (c) The WL Developer must provide all reasonable assistance to the Independent Certifier to enable the Independent Certifier to make a determination under this clause 20.11, including providing access to all necessary information and documents as requested by the Independent Certifier and to all relevant areas of the MQD Works.
- (d) If the Principal's Representative or the WL Developer disputes the Independent Certifier's certificate under clause 20.11(b)(ii), the Principal's Representative or the WL Developer may, by notice provided within 10 Business Days of receipt of the Independent Certifier's certificate, refer the matter to dispute resolution in accordance with the Dispute Procedure to determine whether or not there is No Reasonable Likelihood (and, in those circumstances, to also determine the date that Completion is reasonably likely to occur).
- (e) If:
  - (i) the Independent Certifier determines there is No Reasonable Likelihood, and the WL Developer has not, within 10 Business Days of receipt of the Independent Certifier's certificate, referred the matter to dispute resolution in accordance with the Dispute Procedure; or
  - (ii) following resolution of the Dispute pursuant to the Dispute Procedure, it is determined that there is No Reasonable Likelihood,

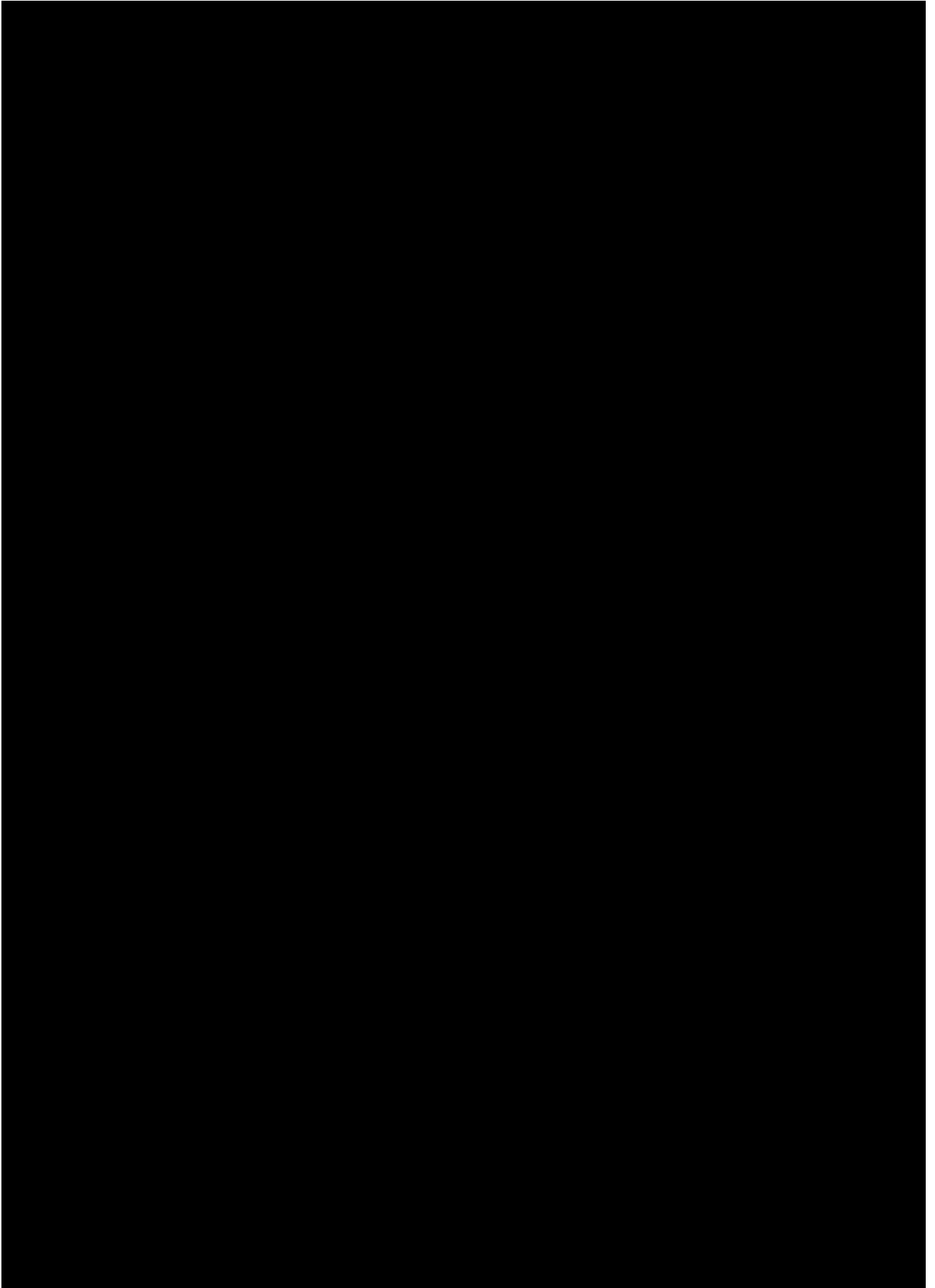
the WL Developer may, subject to clause 20.11(f), give notice to the Independent Certifier or the Expert (as applicable) and the Principal's Representative within 10 Business Days of receipt of the Independent Certifier's certificate or the Expert's determination (whichever is the later to occur) of the measures that the WL Developer proposes to implement in order to accelerate the MQD Works.
- (f) The WL Developer's notice under clause 20.11(e) must include:
  - (i) details of the resources that the WL Developer intends to employ in order to achieve the required acceleration of the MQD Works;
  - (ii) details of any proposed re-sequencing of the WL Developer's Program; and
  - (iii) a revised WL Developer's Program prepared in accordance with clause 3 of Schedule A11 (*Progress Reports*) which shows all activities and dates required to achieve Completion by the Sunset Date,

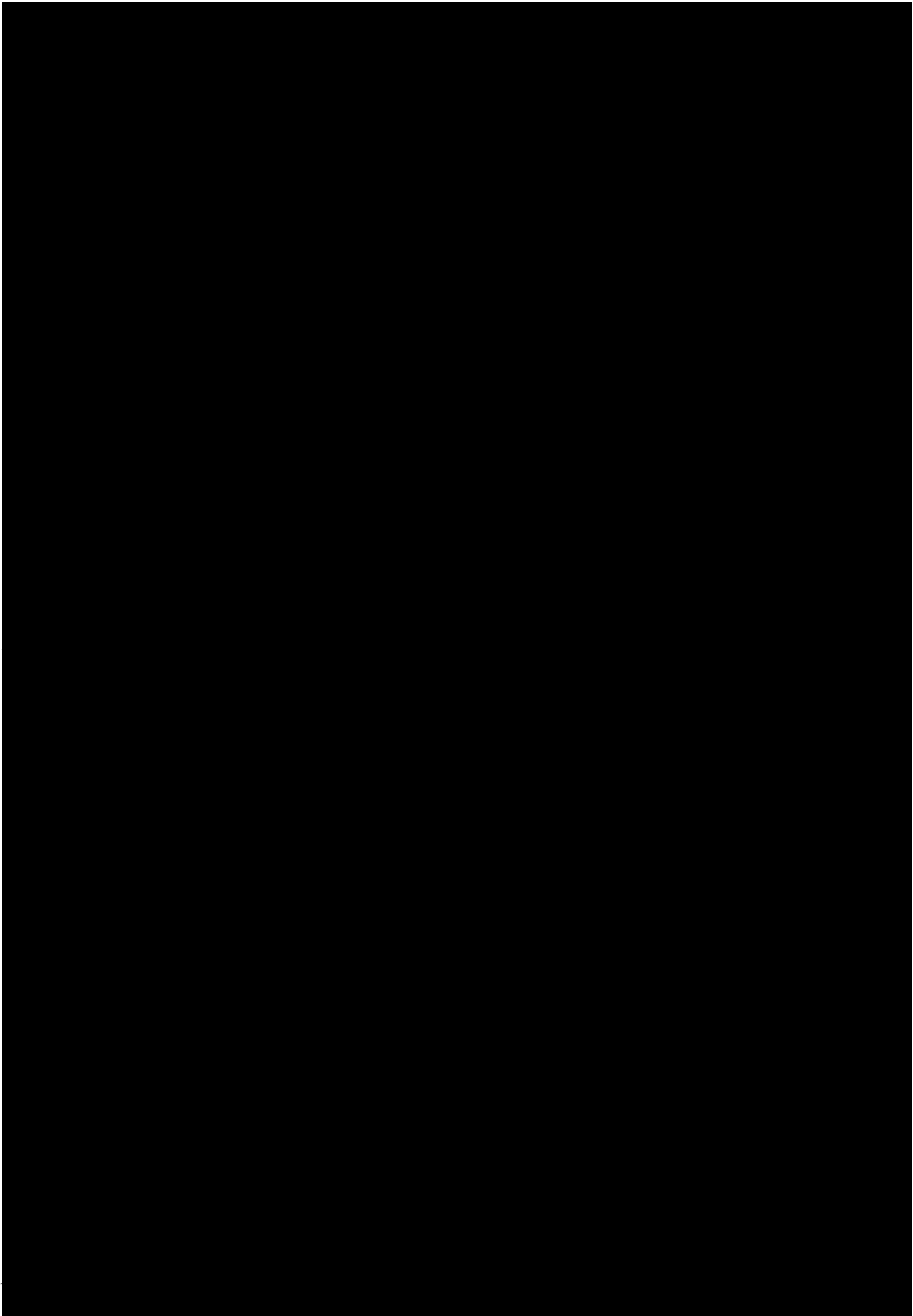
(together, the **Acceleration Plan**).

- (g) If the WL Developer proposes an Acceleration Plan, the Independent Certifier or the Expert (as applicable) must determine whether or not there is No Reasonable Likelihood, taking into account part or all of the Acceleration Plan to the extent the Independent Certifier or Expert (as applicable) considers that the Acceleration Plan can be reasonably achieved by the WL Developer, and provide written notice of its determination to the Principal's Representative and WL Developer.
- (h) If the Independent Certifier or the Expert (as applicable) determines under clause 20.11(g) that there is not No Reasonable Likelihood and the WL Developer has provided an Acceleration Plan in accordance with clause 20.11(f), the WL Developer must accelerate the MQD Works in accordance with the Acceleration Plan.
- (i) The Principal's Representative must, at least 20 Business Days prior to the commencement of the Trigger Period, provide to the WL Developer's Representative the names of three independent certifiers who have the necessary skills, resources and expertise to carry out the responsibilities and functions of the Independent Certifier pursuant to this clause 20.11.
- (j) Within 10 Business Days of the date of the Principal's Representative's notice under clause 20.11(i), the WL Developer may select one certifier from that list and notify the Principal's Representative of its selection.
- (k) If the WL Developer has not given the Principal's Representative a notice under clause 20.11(j) within the period specified under that clause, the Principal's Representative may select one of the certifiers from the list it notified to the WL Developer's Representative under clause 20.11(i).
- (l) Prior to giving a notice pursuant to clause 20.11(a), the Principal must:
  - (i) engage the certifier selected by the WL Developer in accordance with clause 20.11(j) or selected by the Principal's Representative in accordance with clause 20.11(k) (as applicable) as the Independent Certifier at the Principal's cost; and
  - (ii) procure that the Independent Certifier enters into the Independent Certifier Deed Poll in favour of the WL Developer.











## 21. DIRECTIONS TO SUSPEND AND ACCELERATE

### 21.1 Suspension

- (a) **(Right to suspend)** The Principal's Representative may, at any time, direct the WL Developer to require its Subcontractors to suspend all or any part of the MQD Works (and, after a suspension has been directed, to procure the re-commencement of the carrying out of all or a part of the MQD Works) if the MQD Works or the carrying out of the MQD Works:
- (i) have caused:
    - (A) a significant spill of Contamination;
    - (B) any accident or release of Contamination which the Principal's Representative believes may pose a danger to health, life or property;
    - (C) any actual damage to the Environment or a significant risk of harm to the Environment; or
    - (D) a fatality or injury to any person including any Incident which must be reported to SafeWork NSW, ONRSR or other work health and safety regulator;
  - (ii) are likely to pose a threat and/or cause damage to:
    - (A) the Interface Works;
    - (B) the Waterloo Station or the Station Project Works;
    - (C) the health and safety of people or property; or
    - (D) the safety and security of the Waterloo Station; or
  - (iii) are directly and materially impacting on, or are likely to directly and materially impact on, the ability of the Principal or its Associates to comply with:
    - (A) any WHS Legislation, [REDACTED] or the Heavy Vehicle National Law; or
    - (B) any safety requirements in respect of either the WL Contractor's Activities or the work and activities of Interface Contractors,

and the WL Developer must promptly comply with such direction immediately after receipt of such direction.
- (b) Not used.

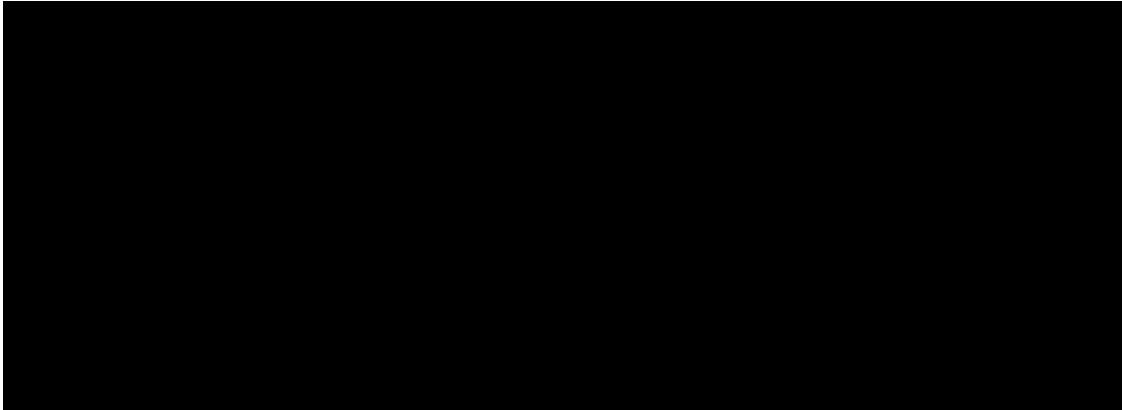


## 21.2 Acceleration

- (a) **(Direction)** The Principal's Representative may, by notice in writing expressly referring to this clause 21.2, request the WL Developer to procure the acceleration of the MQD Works if, in the opinion of the Principal's Representative, the MQD Works are directly and materially impacting on, or are likely to directly and materially impact on, the WL Contractor's Activities or the Interface Works.
- (b) **(Notice of impact of acceleration)** If the Principal's Representative makes a request under clause 21.2(a), the WL Developer must, within 15 Business Days after receipt of such request, inform the Principal's Representative of the time and cost consequences of the acceleration and submit for approval a written notice **(Acceleration Impact Notice)** setting out:
- (i) the details of any changes required to the WL Developer's Program to reflect the effects of the acceleration on the MQD Works; and
  - (ii) if the acceleration would result in the WL Developer incurring additional Costs, the amount of those [REDACTED] except to the extent that such [REDACTED] relate to or the requirement for the acceleration was caused by or contributed to by any breach by the WL Developer or its Associates of any of their obligations under the WL MQD Contract Documents or was caused by or contributed to by an act or omission of the WL Contractor or the WL Contractor's Associates.
- (c) **(Acceptance or rejection of Acceleration Impact Notice)** The Principal's Representative must, within 20 Business Days after receipt of an Acceleration Impact Notice, notify the WL Developer in writing as to whether it accepts or rejects the Acceleration Impact Notice.
- (d) **(Acceptance)** If the Principal's Representative accepts the Acceleration Impact Notice:
- (i) the WL Developer must procure the acceleration of the MQD Works in accordance with the Principal's Representative's direction under clause 21.2(c) (or as varied by the parties' agreement);
  - (ii) the WL Developer's Program will be amended as specified in the Acceleration Impact Notice;
  - (iii) the Date for Completion of the relevant Separable Portion will be brought forward as specified in the Acceleration Impact Notice (or as varied by the parties' agreement); and
  - (iv) the costs of acceleration as specified in the Acceleration Impact Notice (or as varied by the parties' agreement) must be paid by the Principal to the WL Developer.
- (e) **(No obligation to accelerate)** If the Principal's Representative rejects the Acceleration Impact Notice or does not provide the WL Developer with a notice under clause 21.2(c) within the period referred to in clause 21.2(c), the Acceleration Impact

Notice will have no force and effect and the WL Developer is not obliged to procure the acceleration of the MQD Works.

- (f) **(No Liability)** Except to the extent contemplated under clause 21.2(d)(iv), the Principal will have no Liability to the WL Developer as a consequence of any acceleration, change or re-sequencing of the MQD Works.



## 22. COMPLETION

### 22.1 Requesting Certificate of Completion (Principal Project Requirements)

- (a) **(Notice of Completion by WL Developer)** When the WL Developer considers Completion (Principal Project Requirements) has been achieved for a Separable Portion (irrespective of whether Completion of all of the MQD Works in the Separable Portion has been achieved), the WL Developer must give the Principal's Representative written notice in the form set out in Schedule B3 (*Notice of Completion (Principal Project Requirements)*). The Principal's Representative and the WL Developer's Representative must jointly inspect those parts of the MQD Works at a mutually convenient time and within 10 Business Days of the issue of such notice.
- (b) **(Certificate of Completion)** The Principal's Representative must, within 5 Business Days after the joint inspection referred to in clause 22.1(a), if the Principal's Representative considers that the WL Developer's Subcontractors have:
- (i) achieved Completion (Principal Project Requirements) for the Separable Portion, provide to the WL Developer a certificate in the form set out in Schedule B5 (*Certificate of Completion (Principal Project Requirements)*); or
  - (ii) not achieved Completion (Principal Project Requirements) for the Separable Portion, issue a notice to the WL Developer to that effect and provide a detailed list of outstanding work required to be completed in order for the Certificate of Completion (Principal Project Requirements) to be issued in respect of the Separable Portion.
- (c) **(WL Developer to procure carrying out of work)** On receipt of the detailed list referred to in clause 22.1(b)(ii), the WL Developer must procure the carrying out of the work set out in that list and, on completion of that work, request the Principal's Representative to issue a Certificate of Completion (Principal Project Requirements) in respect of that Separable Portion, and clause 22.1(a), clause 22.1(b) and this clause 22.1(c) will re-apply.

## 22.2 **Notice of anticipated Completion**

The WL Developer must, at least 20 Business Days prior to the date on which it reasonably anticipates Completion will be achieved for a Separable Portion, give a notice in writing to the Principal's Representative, specifying the date it anticipates that Completion of the Separable Portion will be achieved.

## 22.3 **Not used**

## 22.3A **Notice of completion of Social Housing Works**

(a) **(Notice of anticipated completion of Social Housing Works)** When the WL Developer considers that Completion (Social Housing) has been achieved in respect of:

- (i) the Social Housing Works relating to the Social Housing Car Parks (including associated access); or
- (ii) all other Social Housing Works,

the WL Developer must give the Principal's Representative and the Independent Certifier (Social Housing) notice in writing requesting a joint inspection of the relevant Social Housing Works.

(b) **(Completion joint inspection)** The Principal's Representative, the WL Developer's Representative, the Independent Certifier (Social Housing) and one or more representatives of LAHC must, within 5 Business Days after receipt of the WL Developer's written notice referred to in clause 22.3A(a), jointly inspect the relevant Social Housing Works at a mutually convenient time.

(c) **(Attendance at inspection)**

- (i) The Principal's Representative may invite any other person to attend any joint inspection provided for by this clause 22.3A.
- (ii) The Principal's Representative and LAHC may provide comments to the Independent Certifier (Social Housing) (with a copy to the WL Developer) in relation to the Social Housing Works.

(d) **(Certificate of Completion (Social Housing))** The Independent Certifier (Social Housing) must, within 10 Business Days of the joint inspection, provide to the WL Developer, the Principal's Representative and LAHC a Certificate of Completion (Social Housing) signed by the Independent Certifier (Social Housing) in respect of:

- (i) the Social Housing Works relating to the Social Housing Car Parks (including associated access); or
- (ii) all other Social Housing Works,

if Completion (Social Housing) has been achieved in respect of the relevant Social Housing Works, which Certificate of Completion (Social Housing) must specify the date on which Completion (Social Housing) was achieved.

(e) **(Defects in Social Housing Works)** A Defect in the Social Housing Works will not prevent those Social Housing Works achieving Completion (Social Housing) or the

relevant Separable Portion achieving Completion if the Independent Certifier (Social Housing) determines that the Defect:

- (i) does not prevent the Social Housing Works from being used and occupied for their intended purpose;
  - (ii) is capable of being corrected without causing unreasonable interference to occupants and users of the Social Housing Works after Completion of the Social Housing Works; and
  - (iii) the WL Developer has reasonable grounds for not promptly correcting the Defect prior to Completion of the Social Housing Works.
- (f) **(Rectification of Defects in Social Housing Works)** The WL Developer must:
- (i) within 30 days of receipt of the Certificate of Completion (Social Housing) in clause 22.3A(d), use reasonable endeavours to rectify the Defects referred to in clause 22.3A(e); and
  - (ii) within 90 days of receipt of the Certificate of Completion (Social Housing) in clause 22.3A(d), rectify the Defects referred to in clause 22.3A(e).



#### 22.4 Requesting Certificate of Completion

- (a) **(Notice of Completion)** When the WL Developer considers that Completion of a Separable Portion has been achieved, the WL Developer must give the Principal's Representative written notice in the form set out in Schedule B4 (*Notice of Completion*) together with a copy of each of:
- (i) the Certificate of Completion (Principal Project Requirements) for that Separable Portion;
  - (ii) all Approved Engineer's Certificates (Post-Completion) for that Separable Portion;
  - (iii) the Occupation Certificates for the whole of the MQD Works within and associated with that Separable Portion which have been issued and are in force to enable occupation of the relevant MQD;
  - (iv) the Sustainability Certificate, or where relevant, ESD Consultant Certificate, for that Separable Portion;
  - (v) for each Separable Portion containing Social Housing Works other than Social Housing Works relating to the Social Housing Car Parks (including associated access), a Certificate of Completion (Social Housing) for the relevant Social Housing Works; and
  - (vi) for the last Separable Portion containing Social Housing Works relating to the Social Housing Car Parks (including associated access), a Certificate of

Completion (Social Housing) for the Social Housing Works relating to the Social Housing Car Parks (including associated access).

- (b) **(Certificate of Completion)** The Principal's Representative must, within 10 Business Days after receipt of all the documents referred to in clause 22.4(a), provide to the WL Developer a certificate in the form of Schedule B6 (*Certificate of Completion*).
- (c) **(Failure to issue certificate)** If the Principal's Representative does not issue a Certificate of Completion within 10 Business Days after receipt of all the documents required under clause 22.4(a):
  - (i) the WL Developer must notify the Principal's Representative in writing of the failure to issue the Certificate of Completion; and
  - (ii) if the Principal's Representative does not issue a Certificate of Completion within 5 Business Days after receipt of the notice under clause 22.4(c)(i), the Principal's Representative is deemed to have issued a Certificate of Completion.

## 22.5 Effect of Certificates

- (a) **(Certificates issued by the Principal)** The issue of a Certificate of Completion (Principal's Project Requirements) or Certificate of Completion is evidence that Completion (Principal's Project Requirements) or Completion, as applicable, of a Separable Portion has been achieved but will not:
  - (i) constitute an acknowledgment that the WL Developer has complied with its obligations under this deed;
  - (ii) be taken as an admission or evidence that the MQD Works comply with this deed; or
  - (iii) prejudice any rights or powers of the Principal under this deed.
- (b) **(Certificate of Completion (Social Housing))** If the Independent Certifier (Social Housing) issues a Certificate of Completion (Social Housing) relating to Social Housing Works in accordance with clause 22.3A(d), except in the case of manifest error on the face of the certificate, the Certificate of Completion (Social Housing) is evidence that Completion (Social Housing) of the relevant Social Housing Works has been achieved but will not:
  - (i) constitute an acknowledgment that the WL Developer has complied with its obligations under this deed;
  - (ii) be taken as an admission or evidence that the Social Housing Works comply with this deed; or
  - (iii) prejudice any rights or powers of the Principal under this deed.

## 22.6 Early Occupation Licence (Cope Street Plaza)

On and from the day after the Date of Completion of Separable Portion 1 [REDACTED] the Principal grants to the WL Developer the Early Occupation Licence (Cope Street Plaza) for the Term (as that term is defined in the Early Occupation Licence (Cope Street Plaza)) and on the terms and conditions set out in the Early Occupation Licence (Cope Street Plaza).

## 23. **INTELLECTUAL PROPERTY RIGHTS**

### 23.1 **Ownership of Design Documentation**

As between the Principal and the WL Developer, all IPRs in or in relation to the Design Documentation:

- (a) prepared by the Principal or its Associates will vest in the Principal immediately and automatically on its creation; and
- (b) prepared by the WL Developer or its Associates will vest in the WL Developer immediately and automatically on its creation.

### 23.2 **Licence to the WL Developer**

- (a) **(Licence)** The Principal grants to the WL Developer a royalty-free licence to use (including the right to sub-license) the Principal's IPRs in the Concept SSD Design Documentation solely to the extent necessary to enable the WL Developer to procure the carrying out of the MQD Works or comply with its obligations under this deed.
- (b) **(Release)** The WL Developer, to the fullest extent permitted under Law, releases the Principal and its Associates from and against any Loss or Claims arising out of or in connection with the IPRs granted in relation to the Concept SSD Design Documentation.

### 23.3 **Right to use IPRs**

The WL Developer warrants in favour of the Principal that the WL Developer has or will have a transferable right to use all IPRs in the Design Documentation and methods of working produced by or on behalf of the WL Developer for the purpose of undertaking or procuring the MQD Works and otherwise complying with its obligations under this deed.

### 23.4 **Licence to the Principal**

- (a) **(Licence)** If this deed is terminated for any reason, or to the extent required to enable the Principal to exercise its rights under clause 31.8 (*Principal's rights after termination*) or clause 40.20 (*Step-in*), the WL Developer must:
  - (i) grant to the Principal, and to the extent that the WL Developer does not own the IPRs in the Design Documentation, the WL Developer must ensure that the Principal is granted, a royalty-free, irrevocable and transferable licence in relation to the IPRs in the Design Documentation to enable the Principal or its Associates to carry out, maintain, rectify, repair, improve, service, alter or complete the MQD Works, occupy the MQD or design, construct, complete and operate the Waterloo Station;
  - (ii) as soon as reasonably practicable deliver copies of all Design Documentation (whether complete or not) and all other information, documents and records the Principal or its Associates reasonably require for the purpose of carrying out, maintaining, rectifying, repairing, improving, servicing, altering or completing the MQD Works, occupying the MQD or designing, constructing, completing and operating the Waterloo Station, including in electronic forms, then in existence to the Principal's Representative (provided that the WL Developer is entitled to keep one copy of the Design Documents, information, documents and records for its records); and
  - (iii) do all things reasonably required by the Principal's Representative to enable the Principal or its Associates to exercise its rights to use all Design Documentation for the purpose of carrying out, maintaining, rectifying,

repairing, improving, servicing, altering or completing the MQD Works, occupying the MQD or designing, constructing, completing and operating the Waterloo Station.

- (b) **(Undertaking)** The WL Developer warrants that it has or will obtain an undertaking (in the form substantially consistent with the applicable part of Schedule A21 (*Moral Rights Consent*)) from any consultant performing any design work in relation to the MQD Works, not to enforce any Moral Rights that author may have, now or in the future, in any such design work in which copyright subsists, so that:
  - (i) the Principal and its Associates may freely exercise its rights pursuant to the licence granted under clause 23.4(a)(i); or
  - (ii) where the design work relates to the Social Housing Works, LAHC may freely exercise its rights pursuant to the licence granted under clause 3 of the LAHC Deed Poll.

## 24. DEFECTS RECTIFICATION

### 24.1 Notice of Defect

- (a) Subject to clause 24.1(c), at any time prior to the expiry of the Defects Correction Period, the Principal's Representative may give the WL Developer a notice of a Defect (**Defects Notice**).
- (b) Any Defects Notice issued by the Principal's Representative under clause 24.1(a) must:
  - (i) identify the Defect; and
  - (ii) specify a reasonable time for rectification of the Defect.

### 24.2 WL Developer's obligations

The WL Developer must:

- (a) if a Defect is found (whether or not it is the subject of a Defects Notice) during the Defects Correction Period, procure the prompt rectification of such Defect;
- (b) give notice to the Principal's Representative when, in the WL Developer's opinion, the Defect has been rectified; and
- (c) in relation to a HBA Defect, rectify that Defect:
  - (i) in accordance with the relevant provisions of the Home Building Act for rectifying defects under that Act;
  - (ii) in a manner which minimises the impact on and causes as little inconvenience as possible to the users of the MQD; and



- (i) in accordance with the reasonable requirements of any owner or occupant of the relevant part of the MQD.

#### 24.3 **Failure to rectify Defect**

- (a) **(WL Developer failure)** If the WL Developer fails to procure the rectification of a Defect:

- (i) where a Defects Notice has not been given, within a reasonable period of time; or
- (ii) where a Defects Notice has been given, within the period of time specified in the Defects Notice,

then, subject to clause 24.3(c), the Principal's Representative may have the rectification work carried out.

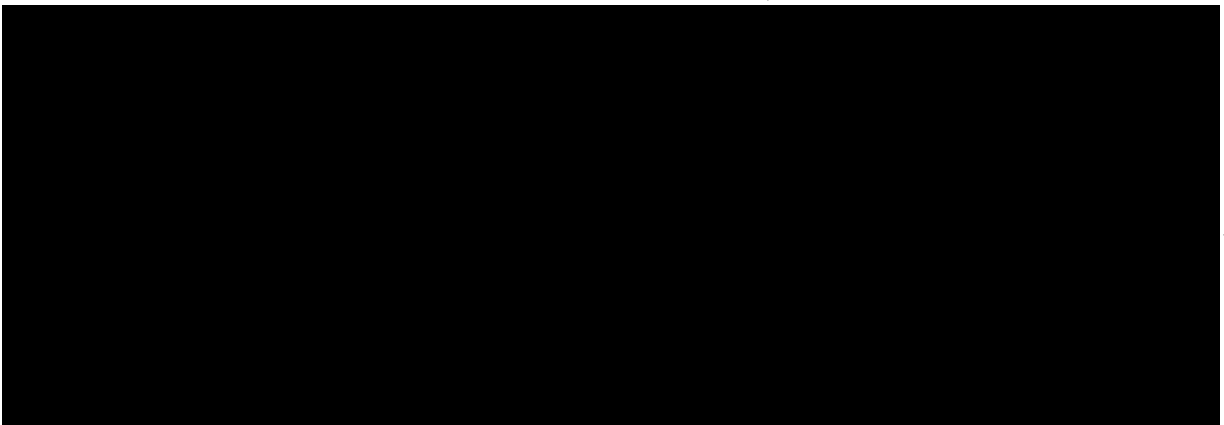
- (b) **(Principal's costs)** The costs of rectification which are suffered or incurred by the Principal as a consequence of exercising its rights under clause 24.3(a) will be a debt due and payable by the WL Developer to the Principal.
- (c) **(HBA Defects)** If a failure to procure the rectification of a Defect relates to a HBA Defect with respect to which a Defects Notice has not been given, the Principal must, if practicable:
  - (i) give the WL Developer a Defects Notice in respect of the HBA Defect; and
  - (ii) not have the rectification work carried out until the expiry of the period of time specified in the Defects Notice.

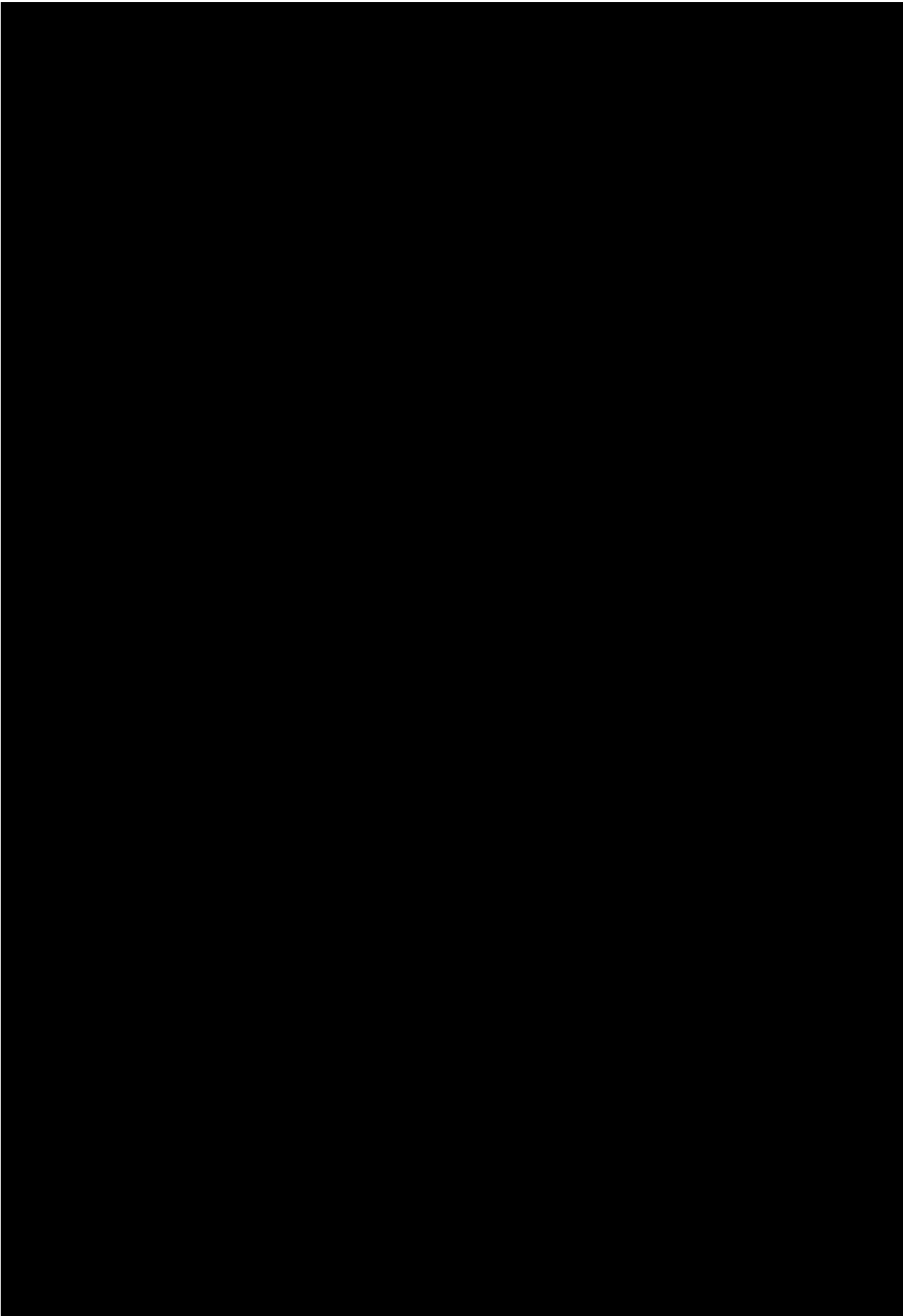
#### 24.4 **Access**

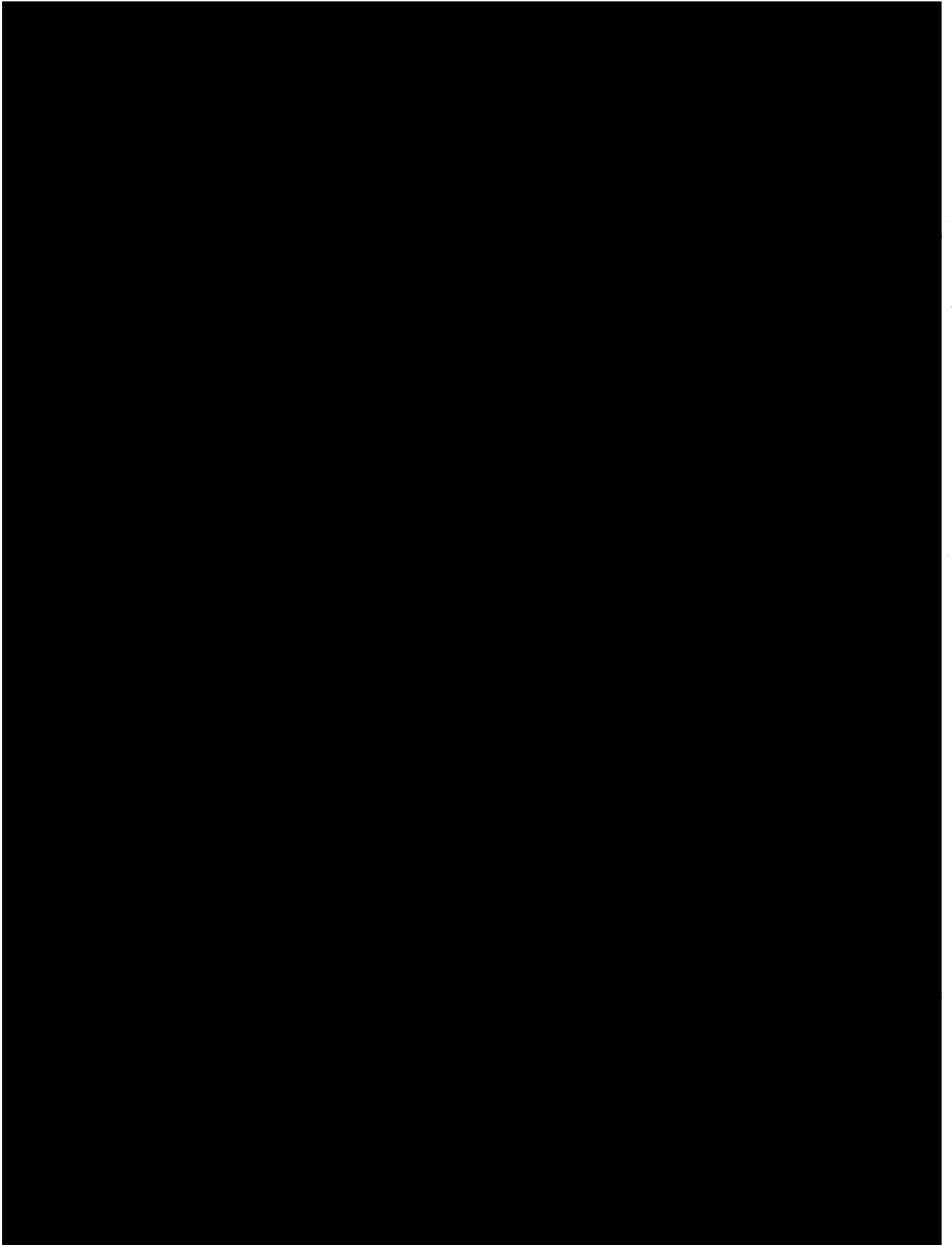
The WL Developer must:

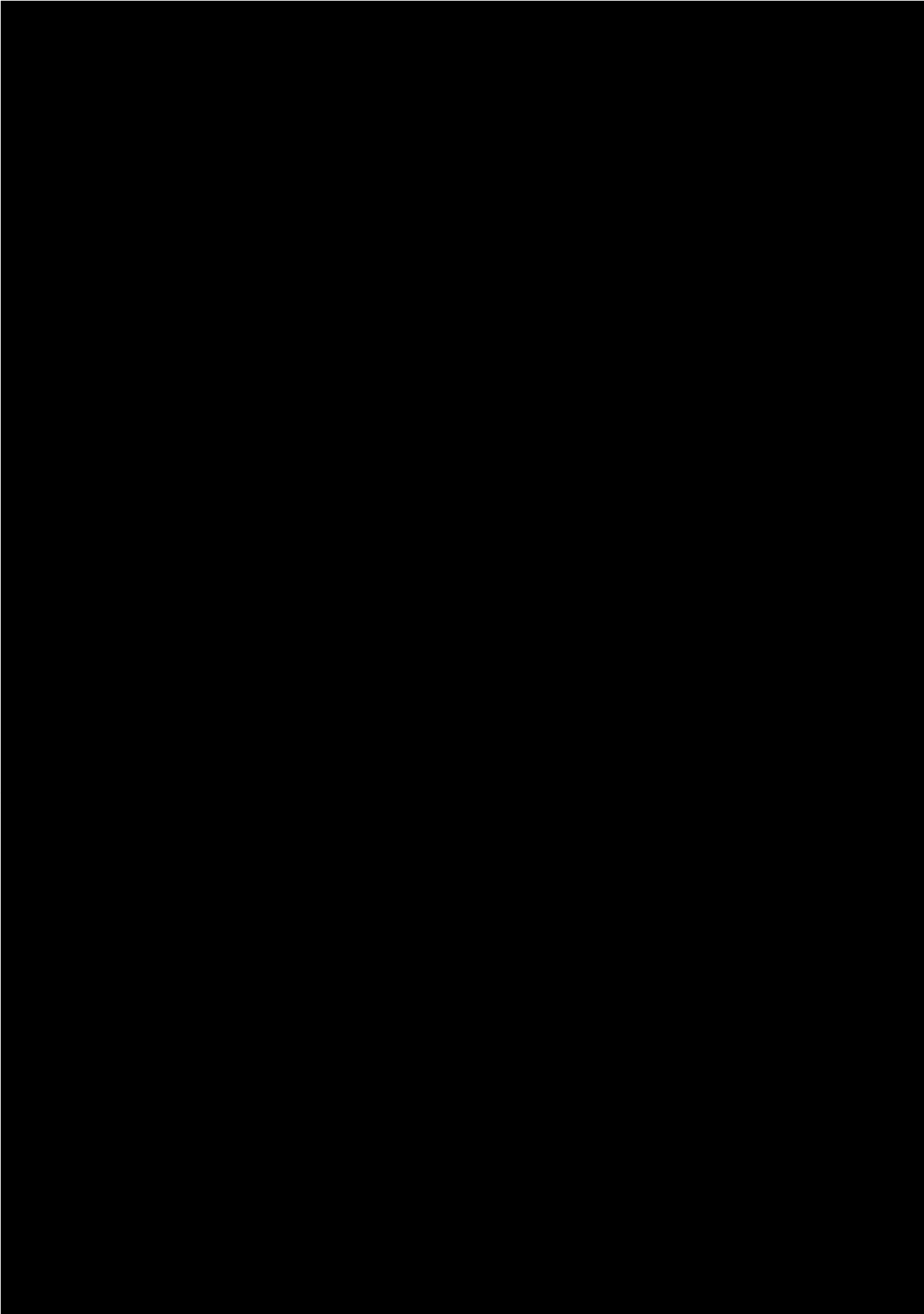
- (a) **(Access to remedy Defect)** ensure that a party which is rectifying or remedying Defects has access to the relevant area of the Construction Site and the MQD Lot (as applicable) for the purposes of rectifying those Defects in accordance with this clause 24; and
- (b) **(Access for the Principal)** allow or procure the Principal and its Associates reasonable access to the Construction Site and the MQD Lot (as applicable) during the Defects Correction Period to inspect the MQD Works for the purpose of this clause 24.

#### 25. **TRANSFER OF TITLE, SUBDIVISION AND SALE OF LOTS**











26. **MARKETING AND SIGNAGE**

26.1 **Naming, branding and marketing the MQD**

- (a) **(Naming and branding)** Subject to clause 26.2 (*Principal's IPRs*):
- (i) the WL Developer has the naming rights and branding rights in respect of the MQD other than the Social Housing Lot; and
  - (ii) from the date of this deed until the relevant Applicable Transfer Date, the WL Developer must consult with the Principal's Representative and have regard to the Principal's Representative's feedback regarding the proposed name of the MQD in the Applicable Transfer Area other than the Social Housing Lot before using that name and/or erecting any signage in connection with that name.
- (b) **(Marketing)** The WL Developer is responsible for all aspects of the marketing and promotion of the MQD.

26.2 **Principal's IPRs**

If:

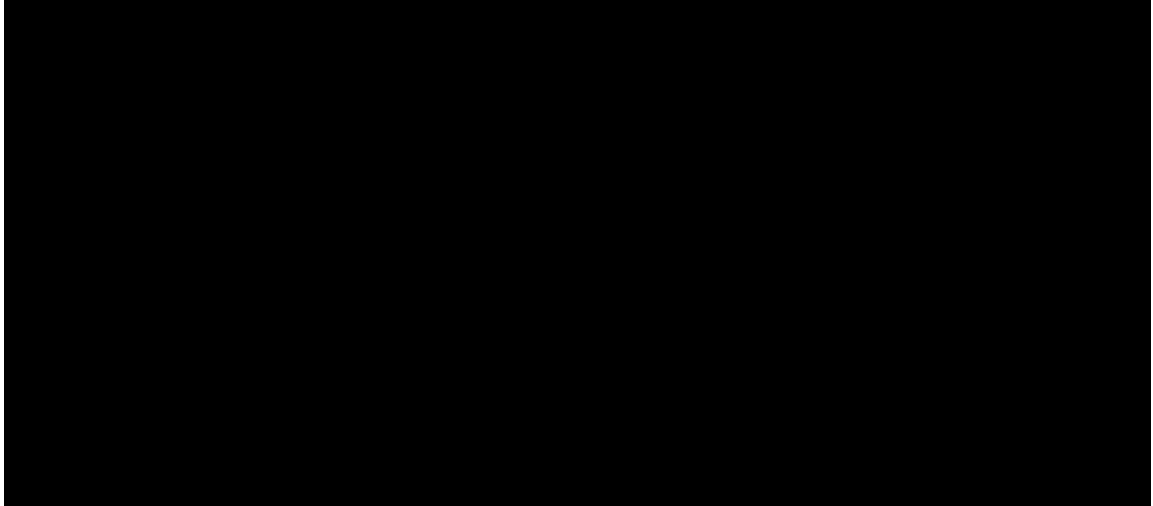
- (a) the proposed name of the MQD;
- (b) any signage, branding or marketing of the MQD; or
- (c) any signage or marketing on or in the Construction Site,

will or is likely to infringe the Principal's IPRs, the WL Developer must obtain the Principal's Representative's written consent prior to its use, such consent to be given or withheld in the Principal's Representative's absolute discretion.

27. **PAYMENTS**

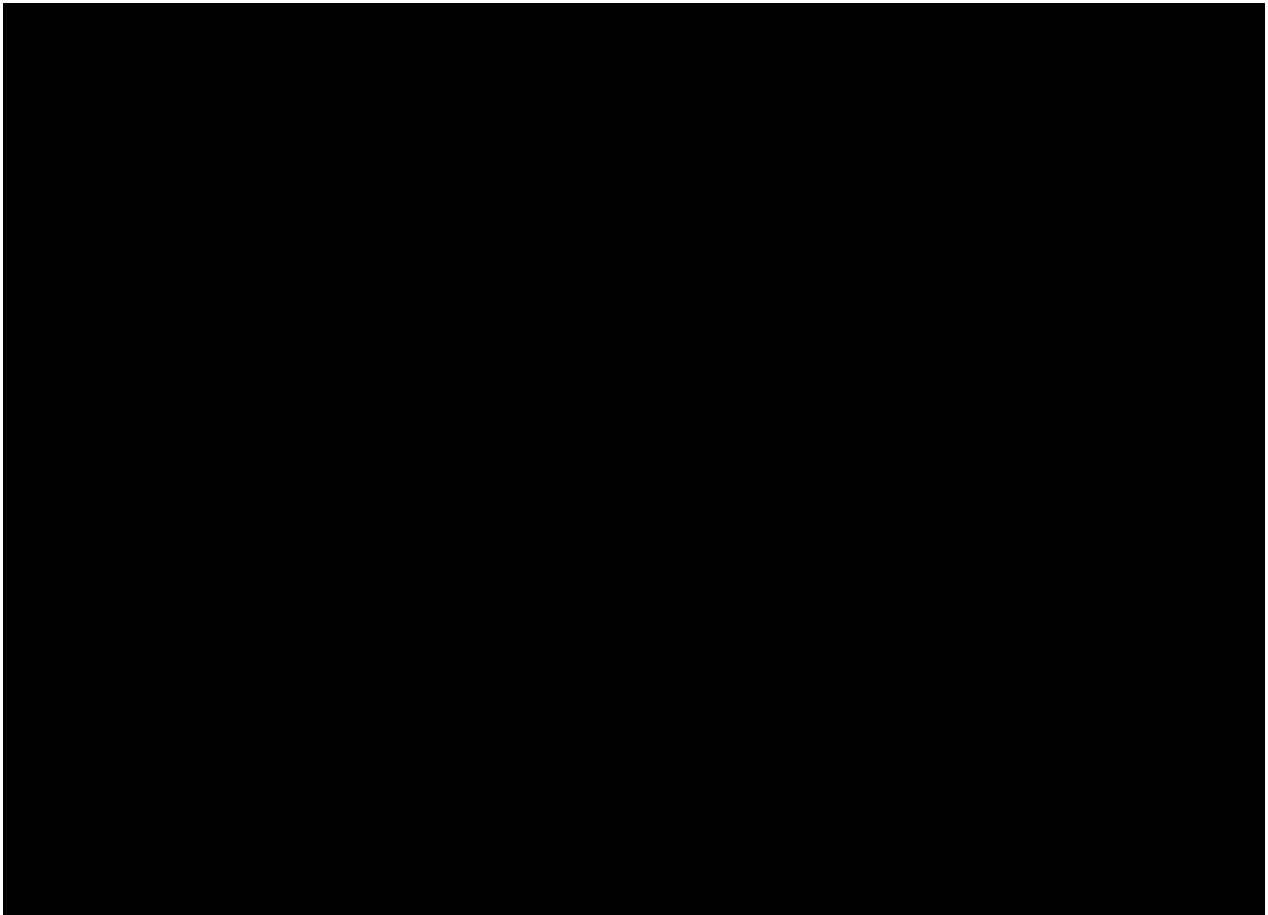
27.1 **WL Developer Payments**

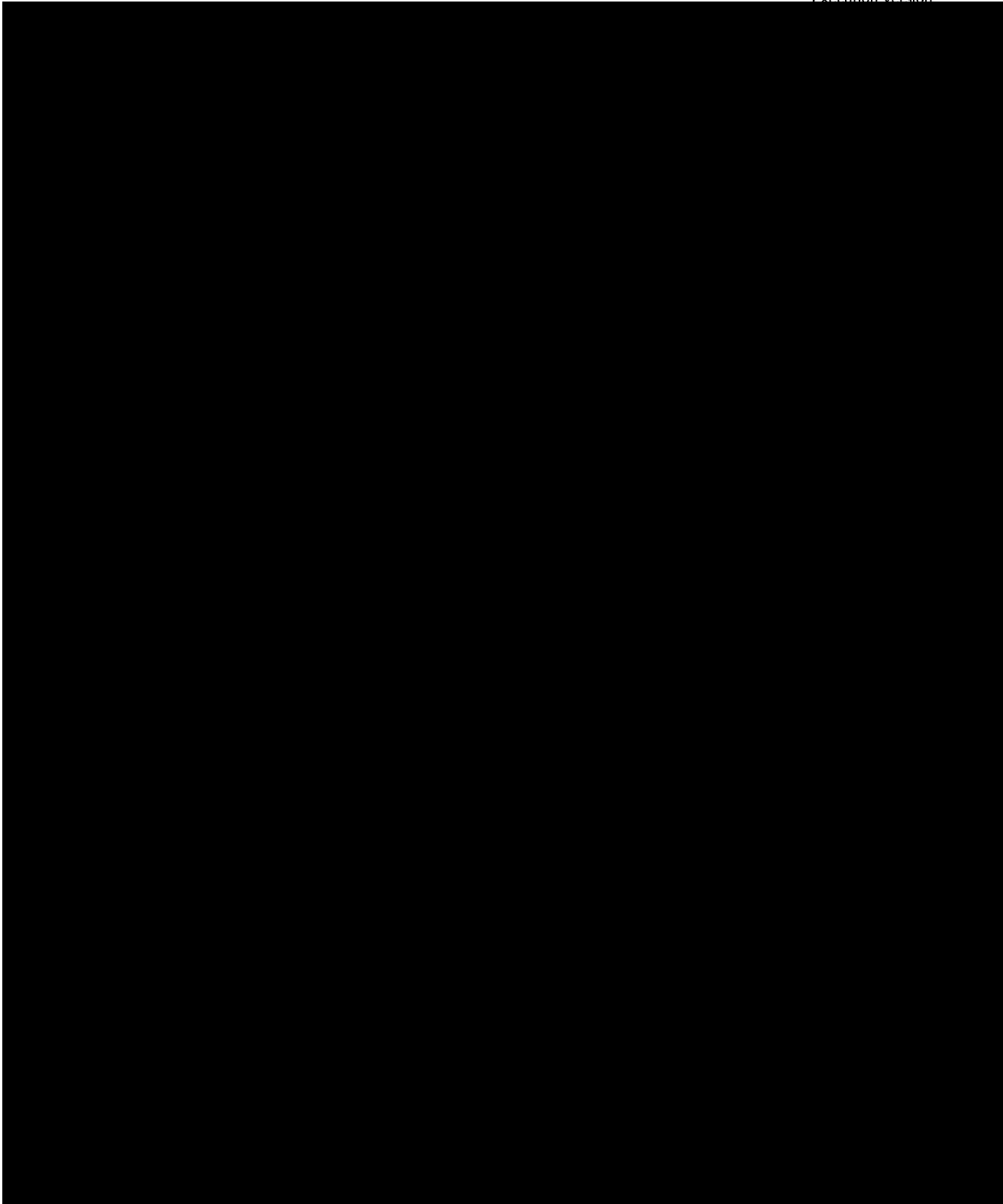
- (a) **(WL Developer to pay)** The WL Developer must pay the WL Developer Payments to the Principal in accordance with this clause 27.1 and the Payment Schedule as consideration for all rights and benefits granted to the WL Developer under this deed.



27.2 **WL Developer Payment is non-refundable**

Unless otherwise expressly stated in this deed, the WL Developer Payment is the Principal's property and is not refundable in any circumstances.





28. **GST**

28.1 **Payment of GST**

- (a) **(Amounts exclusive of GST)** Unless otherwise expressly stated, all amounts payable under or in connection with this deed are stated exclusive of GST.

- (b) **(If payable)** If GST is or will be payable on a supply made under or in connection with this deed:
  - (i) the consideration otherwise provided for that supply under this deed is increased by the amount of that GST; and
  - (ii) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within 5 Business Days after receiving a written demand from the supplier.

#### 28.2 **Later adjustment to price or GST**

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving 5 Business Days' written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply but only to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation,

and, in either case, must issue an adjustment note reflecting the adjustment event in relation to the supply to the recipient within 20 Business Days after the adjustment event.

#### 28.3 **Tax invoice/adjustment note**

The right of the supplier to recover from the recipient any amount in respect of GST under this deed on a supply is subject to the issuing of a tax invoice or adjustment note to the recipient.

#### 28.4 **Indemnities and reimbursement**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under this deed must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

#### 28.5 **Non-monetary consideration**

If a party notifies the other party that it believes it is providing or receiving non-monetary consideration in respect of a supply made or acquired under this deed, the parties will cooperate in good faith to:

- (a) agree whether there is a provision of non-monetary consideration and its value; and
- (b) if so, take any necessary action, acting at all times in accordance with any rulings and compliance guidelines issued by the Commissioner of Taxation, to minimise any adverse impact on both parties to the extent allowable by Law.



29. **CARE OF THE MQD WORKS, RISKS AND INSURANCE**

29.1 **Responsibility for care of the MQD Works**

(a) **(Responsibility until the Applicable Transfer Date)** The WL Developer is responsible for the care of, and bears the risk of destruction, loss or damage to:

- (i) **(MQD Works)** the MQD Works from the date of this deed; and
- (ii) **(Construction Site)** each part of the Construction Site (including any improvements on the Construction Site) from the relevant Construction Licence Commencement Date,

up to and including, in respect of each Applicable Transfer Area, the Applicable Transfer Date.

(b) **(Responsibility for the Social Housing Works after the Applicable Transfer Date)** After the time referred to in clause 29.1(a), the WL Developer will bear the risk of any destruction, loss of or damage to the Social Housing Works and all associated parts of the Construction Site arising from:

- (i) any act or omission of the WL Developer or its Associates during the Defects Liability Period (Social Housing); or
- (ii) any event which occurred while the WL Developer was responsible for the care of the Social Housing Works and the associated parts of the Construction Site under clause 29.1(a).

29.2 **Principal's insurance**

(a) **(Requirement to effect)** The Principal must, in respect of a Separable Portion, effect:

- (i) within 25 Business Days after the date of this deed, public and products liability insurance;
- (ii) subject to clause 29.2(a)(iv), if the Date for Commencement of a Separable Portion is on or before the Date of Completion of Portion 2 (as that term is defined in the Station Delivery Deed), at least 20 Business Days before the applicable Date for Commencement of a Separable Portion, contract works (material damage) insurance in respect of the Separable Portion;
- (iii) subject to clause 29.2(a)(v) and the WL Developer complying with its obligations in clause 29.2(e), if the Date for Commencement of a Separable Portion is on or before the Date of Completion of Portion 2 (as that term is defined in the Station Delivery Deed), at least 20 Business Days before the applicable Date for Commencement of a Separable Portion, [REDACTED]

[REDACTED]

on the terms of the policies set out in Schedule A17 (*Insurance Policies*) including for the benefit of:

- (vi) the WL Developer (as a named party);
- (vii) [REDACTED] the D&C Contractor (as a named party);  
and
- (viii) any other entity with an insurable interest notified by the WL Developer to the Principal in writing from time to time (as a named party).

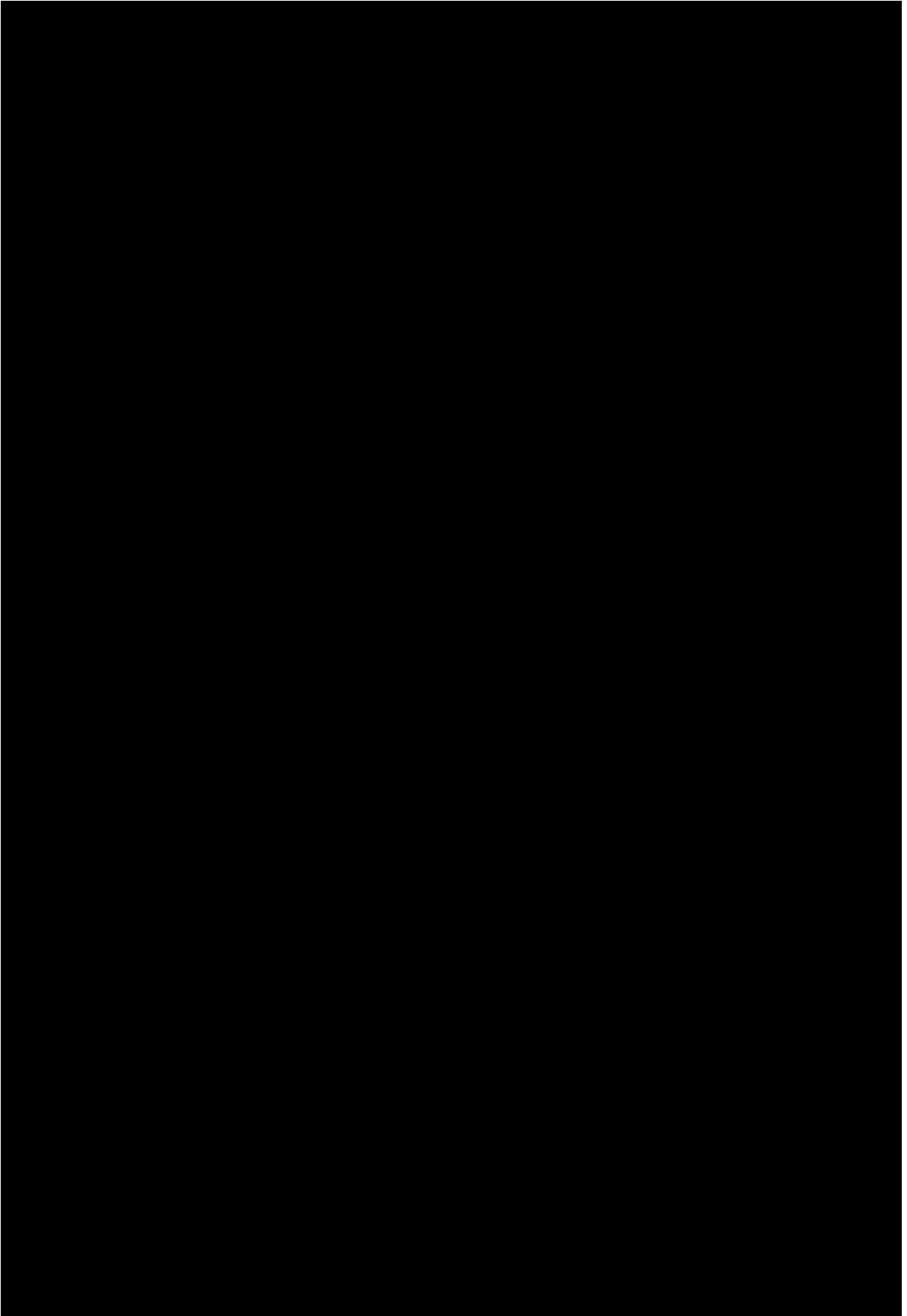
(b) **(Requirement to maintain)** The Principal must ensure that the Insurances it is required to take out pursuant to clause 29.2(a) are maintained in respect of a Separable Portion:

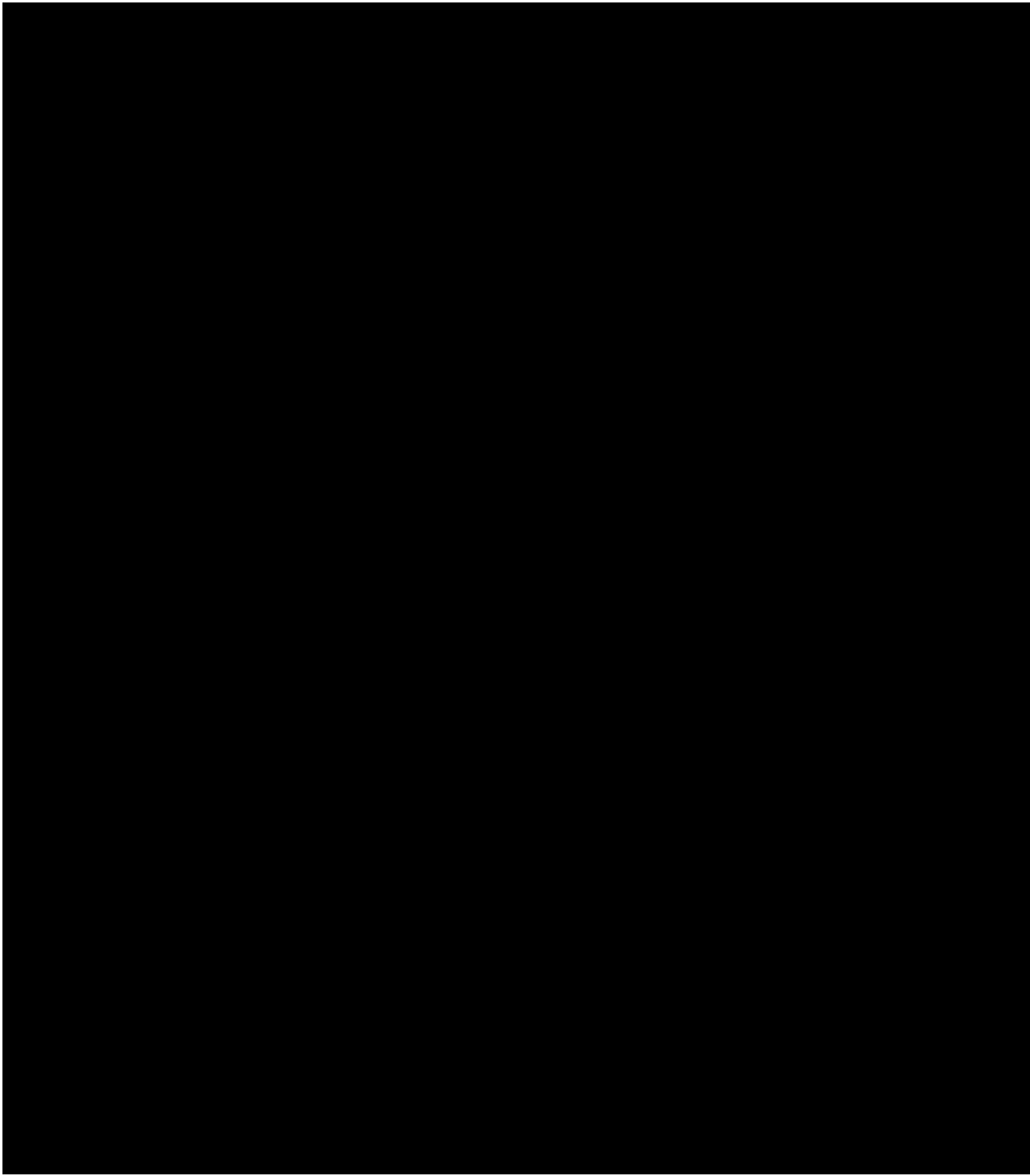
- (i) in the case of contract works (material damage) insurance, until the end of all Defects Correction Periods for the Separable Portion;
- (ii) in the case of public and products liability insurance, until the date which is the earlier of:
  - (A) in respect of each Applicable Transfer Area, the Applicable Transfer Date; and
  - (B) cancellation of the public and products liability insurance by the Principal pursuant to [REDACTED]; and

[REDACTED]

(c) **(WL Developer acknowledgement)** The Principal's Insurances are subject to the exclusions, conditions, deductibles and excesses noted on the Principal's Insurance policies and the WL Developer acknowledges and agrees that:

- (i) it has satisfied itself of the nature and extent of the cover provided by the Principal's Insurances;
- (ii) the Principal's Insurances do not cover every risk to which the WL Developer or its Associates may be exposed and are subject to deductibles and limits and the WL Developer may, at its Cost, elect to effect insurance for any risk or liability which is not covered by the Principal's Insurances;





**29.5 WL Developer's Insurance obligations**

The WL Developer must effect and maintain, or cause to be effected and maintained, the Insurances required by Schedule A16 (*WL Developer Insurance Requirements*).

## 29.6 Periods of Insurance

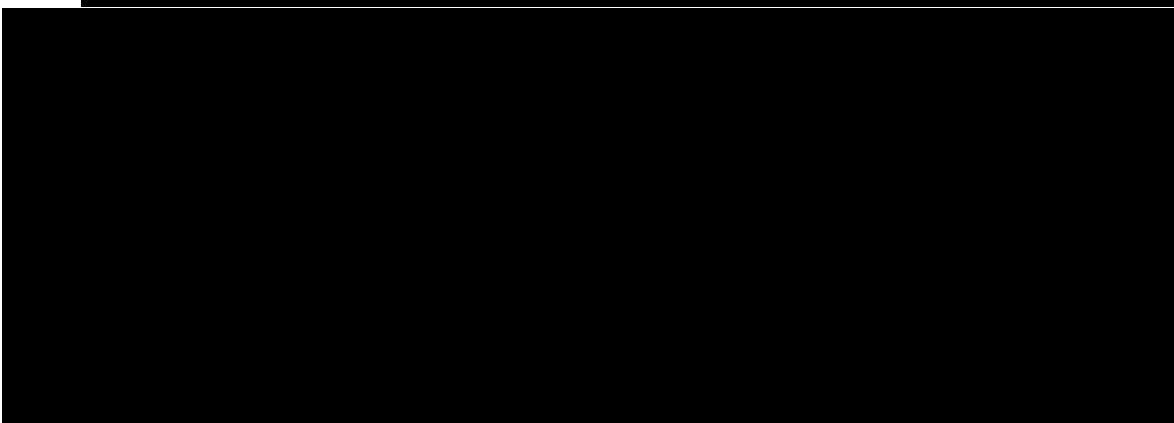
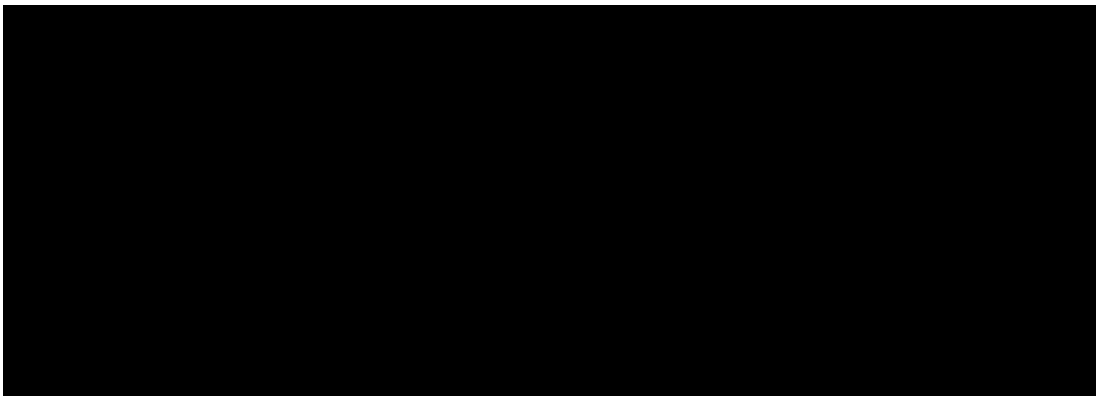
The WL Developer must ensure that the Insurances it is required to take out pursuant to this deed:

- (a) **(requirement to effect)** are effected:
- (i) in the case of the Insurance referred to in clause 1.3 of Schedule A16 (*WL Developer Insurance Requirements*), within 2 Business Days after the date of this deed;
  - (ii) in the case of the Insurances referred to in clause 1.2, clause 1.4, clause 1.5 and clause 1.6 of Schedule A16 (*WL Developer Insurance Requirements*) in respect of a Separable Portion, at least 5 Business Days before the applicable Date for Commencement of a Separable Portion; and
  - (iii) in the case of the Insurance referred to in clause 1.7 of Schedule A16 (*WL Developer Insurance Requirements*), the date of cancellation of the public and products liability insurance pursuant to [REDACTED]; and
- (b) **(requirement to maintain)** are maintained:
- (i) not used;
  - (ii) in the case of the Insurances referred to in clause 1.2, clause 1.4, clause 1.5, clause 1.6 and clause 1.7 of Schedule A16 (*WL Developer Insurance Requirements*) in respect of a Separable Portion, until the end of all Defects Correction Periods for that Separable Portion; and
  - (iii) in the case of the Insurances referred to in clause 1.3 of Schedule A16 (*WL Developer Insurance Requirements*) in respect of a Separable Portion, until 7 years after the Date of Completion of that Separable Portion.

## 29.7 Evidence of policies

- (a) **(Provision of evidence)** The WL Developer must, in respect of the Insurances which it is required to effect or maintain or cause to be effected or maintained, pursuant to this clause 29, provide the Principal's Representative within 5 Business Days after a request with:
- (i) certificates of currency of the Insurances before the relevant commencement date referred to in clause 29.6(a) (*Periods of Insurance*) for each Insurance, which certificates must be in such form and contain such details as may be required by the Principal's Representative;
  - (ii) updated certificates of currency for the Insurances whenever requested by the Principal's Representative;
  - (iii) where an Insurance policy insures the Principal, the WL Developer and Subcontractors, a copy of that Insurance policy whenever requested by the Principal's Representative; and
  - (iv) other evidence of the Insurances which the Principal's Representative reasonably requires.
- (b) **(Principal may effect)** If the WL Developer [REDACTED] otherwise fails to effect and maintain Insurances which the WL Developer is required to effect and maintain under this

clause 29, the Principal may (but is not obliged to) effect and maintain the relevant Insurances and any costs incurred by the Principal in doing so will be a debt due and payable by the WL Developer to the Principal and the WL Developer must provide the Principal with reasonable assistance and information to allow it to exercise this right.



29.9 **Undertaking to inform**

The WL Developer must ensure that, in respect of each Insurance required to be effected under this clause 29, it:

- (a) **(no prejudice)** does not do anything, or allow anything to be done, which prejudices that Insurance;
- (b) **(rectify)** if necessary, rectifies anything which may prejudice that Insurance;
- (c) **(reinstate or replace)** reinstates or replaces any Insurance policy (other than any of the Principal's Insurances);
- (d) **(not cancel etc)** does not cancel, vary or allow any Insurance policy (other than any of the Principal's Insurances) to lapse without the prior written consent of the Principal's Representative;
- (e) **(notify)** immediately notifies the Principal's Representative if:
  - (i) an Insurance policy is cancelled;
  - (ii) any event occurs which may result in an Insurance policy being cancelled;
  - (iii) it is notified by an insurer that a policy may be cancelled; or

- (iv) it becomes aware of any actual, threatened or likely claims under any of the Insurances which could materially reduce the available limit of indemnity; and
- (f) **(provision of information)** gives full, true and particular information to the insurer of all matters and things the non-disclosure of which may in any way prejudice or affect any such policy or the payment of all or any benefits under the Insurance.

#### 29.10 Reinstatement

If, prior to the time the WL Developer ceases to be responsible under clause 29.1 (*Responsibility for care of the MQD Works*) for the care of a part of the MQD Works or any other thing referred to in clause 29.1 (*Responsibility for care of the MQD Works*), any destruction, damage or loss occurs to the MQD Works or any other thing referred to in clause 29.1 (*Responsibility for care of the MQD Works*) for which the WL Developer bears the risk under this clause 29, the WL Developer must:


- (a) **(make secure)** procure that the MQD Works and the parts of the Construction Site which are still under the control of the WL Developer are made secure;
- (b) **(consult)** promptly consult with the Principal's Representative to agree on steps to be taken to ensure:
  - (i) the prompt make good, repair or replacement of the destruction, loss or damage so that there is minimal disruption to the Station Project Works, the Interface Works and the Waterloo Station; and
  - (ii) that, to the greatest extent possible, the WL Developer continues to comply with its obligations under this deed;
- (c) **(make good)** promptly procure that any of the destruction, loss or damage to the MQD Works, the Construction Site or improvements on the Construction Site (if any) are made good, repaired or replaced;
- (d) **(manage)** procure that all make good, repair and replacement activities are managed so as to minimise the impact on the Station Project Works, the Interface Works and the Waterloo Station; and
- (e) **(keep informed)** keep the Principal's Representative fully informed of the progress of the make good, repair and replacement activities.

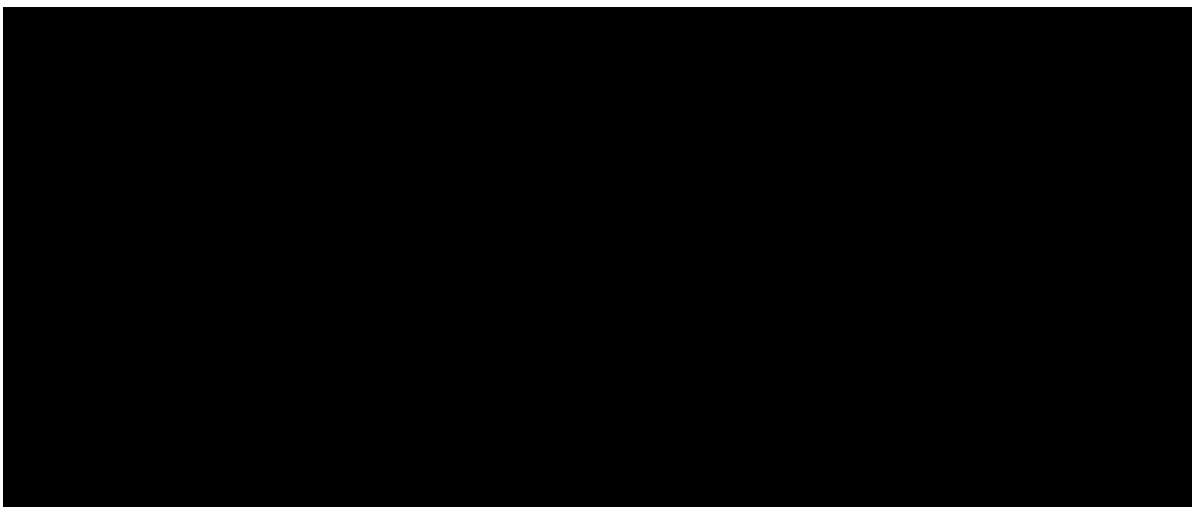
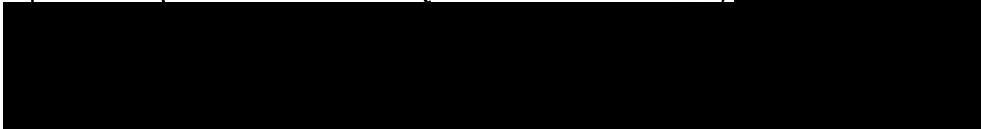
#### 29.11 Application of the Principal's Insurance proceeds

If all or any part of the MQD Works in an Applicable Transfer Area are damaged or destroyed on or before the Applicable Transfer Date, the parties agree that:

- (a) if permitted by the insurance policy and agreed to by the insurer, the Principal and the WL Developer will be joint loss payees in respect of any benefits payable under the Insurance referred to in clause 29.2(a)(ii) and clause 1.6 of Schedule A16 (*WL Developer Insurance Requirements*) and all proceeds (less any costs of reinstatement that the Principal's Representative is reasonably satisfied that the WL Developer has already incurred in procuring the reinstatement of the MQD Works) will be paid to an account in the names of the Principal and the WL Developer, which proceeds will then be used for the purpose of reinstating the relevant MQD Works;
- (b) as the WL Developer proceeds to procure the reinstatement of the relevant MQD Works, the Principal and the WL Developer will consent to the moneys being progressively withdrawn from the joint account for the purposes of satisfying the costs of such reinstatement, provided that the Principal's Representative is

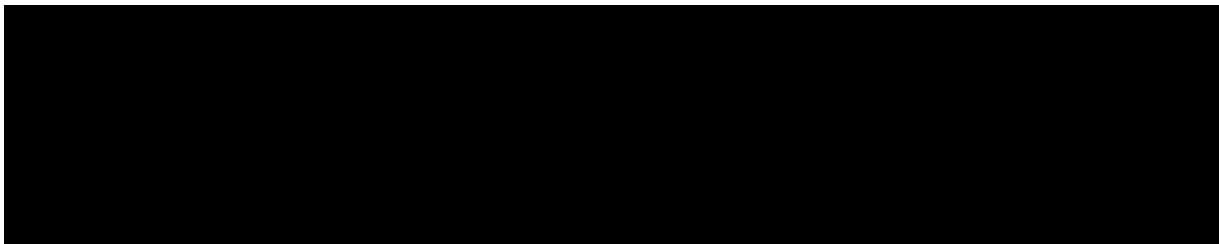
reasonably satisfied that the proceeds being withdrawn will be used by the WL Developer for the procurement of such reinstatement; and

- (c) if the proceeds received under any Principal's Insurance in respect of the damage to or destruction of the relevant MQD Works are less than the cost of procuring the repair or replacement of the relevant MQD Works (or those Principal's Insurances are void or unenforceable or in accordance with their terms do not cover the particular damage or destruction), the WL Developer must procure completion of the repair and replacement of those MQD Works at its own Cost, 

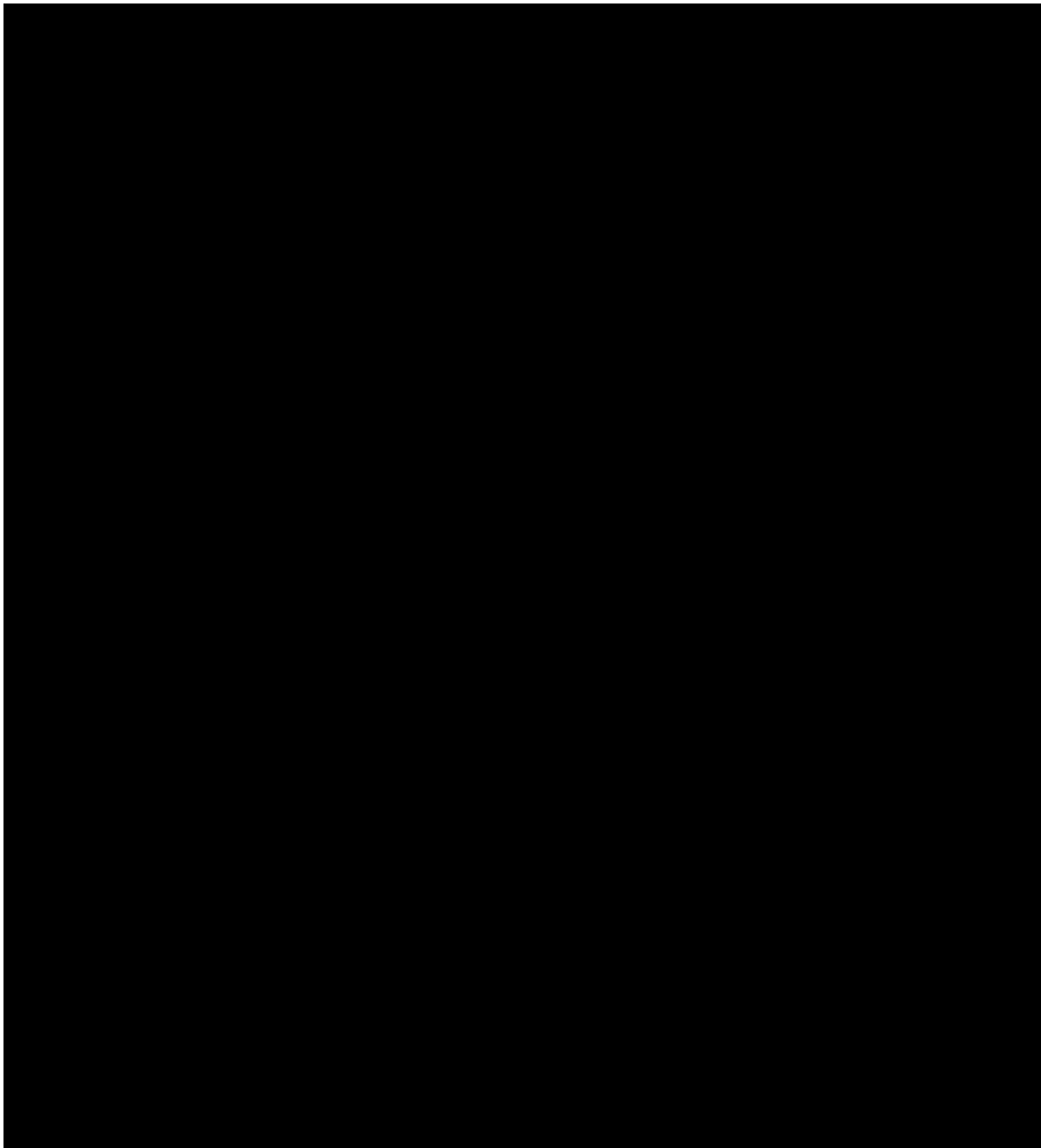


#### 29.13 **Change to limits and Insurances**

- (a) **(Principal may change)** The Principal may increase or decrease the limits of indemnity required for the Insurances referred to in, or change the types of Insurances required to be effected or maintained by the WL Developer under this deed at each renewal date of the relevant Insurance by providing 6 months' prior written notice to the WL Developer.
- (b) **(Change required to conform)** The Principal may only change the limits of indemnity required for the Insurances referred to in, or require additional insurances under, this deed where it has obtained an opinion from a reputable insurance broker or otherwise appropriately qualified consultant that a change is required in order to conform with current prudent insurance practice for an entity with a risk profile comparable to the WL Developer.
- (c) **(WL Developer must change)** The WL Developer must, within 60 days of receipt of a notice from the Principal to change the limits of indemnity required for the insurances referred to in Schedule A16 (*WL Developer Insurance Requirements*), or to change the types of insurances required by Schedule A16 (*WL Developer Insurance Requirements*), effect the required changes.







**29.15 Liabilities of WL Developer not affected**

The effecting of Insurances does not limit the Liabilities or obligations of the WL Developer under this deed.

**29.16 Survival of termination**

This clause 29 survives termination or expiry of this deed.

30. **INDEMNITY AND LIABILITY EXCLUSIONS**

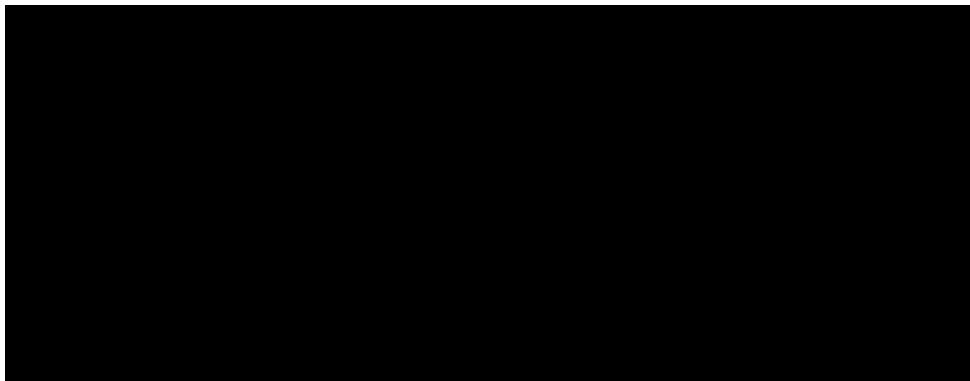
30.1 **Indemnity by the WL Developer**

The WL Developer indemnifies each State Indemnified Party from and against:

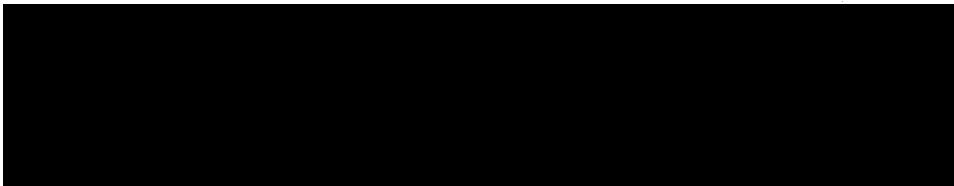
- (a) any Losses incurred or suffered by a State Indemnified Party in respect of:
  - (i) damage to, loss or destruction of, or loss of use of or access to (whether total or partial), any State Indemnified Party's real or personal property; or
  - (ii) any Claim against a State Indemnified Party (including by another State Indemnified Party) or any Liability a State Indemnified Party may have to third parties in respect of or arising out of or in connection with:
    - (A) any illness, personal injury to, or death of, any person; or
    - (B) damage to, loss or destruction of, or loss of use of or access to (whether total or partial), any real or personal property,

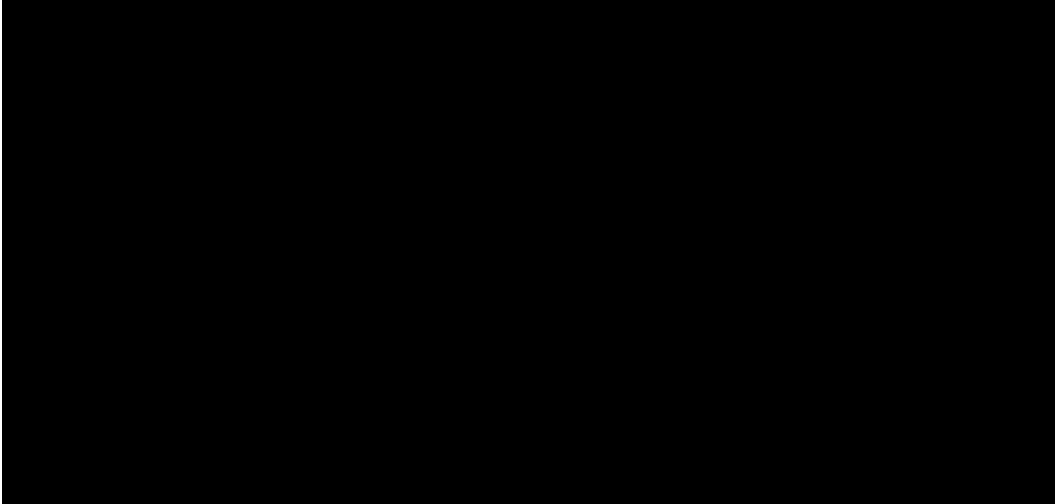
caused by, arising out of, or in any way in connection with the performance of the obligations of the WL Developer or the exercise of rights by the WL Developer under this deed, including procuring the MQD Works, or the designing and performing, or procuring the design and performance of, any WL Developer's Fitout Works in the MQD by the WL Developer;

- (b) any Losses incurred or suffered by a State Indemnified Party, or any Claim made by or Liability to any other person, arising out of or in any way in connection with:
  - (i) any breach of (including breach of warranty), or failure to comply with, the terms of any WL MQD Contract Document by the WL Developer or its Associates;
  - (ii) the carrying out of the MQD Works or the designing and performing, or procuring the design and performance of, any WL Developer's Fitout Works in the MQD but excluding:

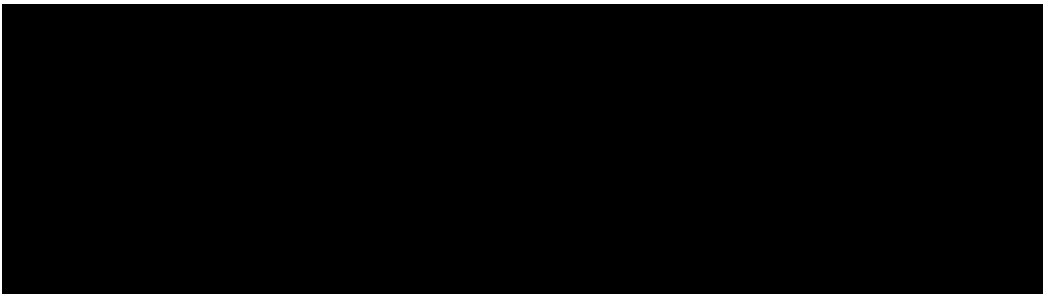


- (iii) any fraudulent, negligent or unlawful act or omission by the WL Developer or any of its Associates,

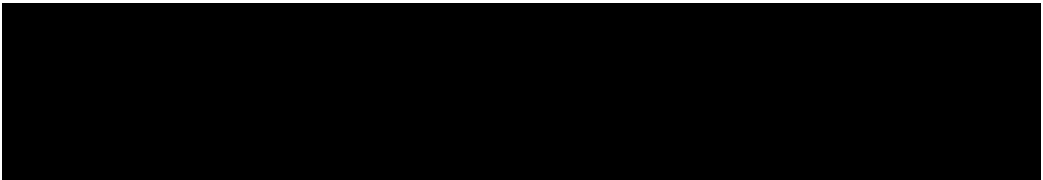




- (v) any Residential Sale Contract or Non-Residential Sale Contract;
- (vi) any failure by the Appointed Principal Contractor to exercise or fulfil the functions and responsibilities of the principal contractor under the WHS Legislation;
- (vii) any IPR Claim;



- (x) any occupation of the Station Lot pursuant to clause 9.7 (*Access to the Station Lot by the WL Developer*);



- (xii) breach by the WL Developer of any of the warranties and obligations in clause 5.7 (*Home Building Act*); or



- (c) any Environmental Liabilities arising out of or in connection with:
  - (i) a breach of this deed by the WL Developer or its Associates;
  - (ii) a negligent, wrongful or reckless act or omission of the WL Developer or its Associates arising from or in connection with:
    - (A) the carrying out of the MQD Works;

- (B) accessing or using the Construction Site [REDACTED]
- (C) exercising any right or performing any obligation of the WL Developer or its Associates under any WL MQD Contract Document;
- (iii) the carrying out of the MQD Works; and
- (iv) all Contamination on, in, over or about the Construction Site.

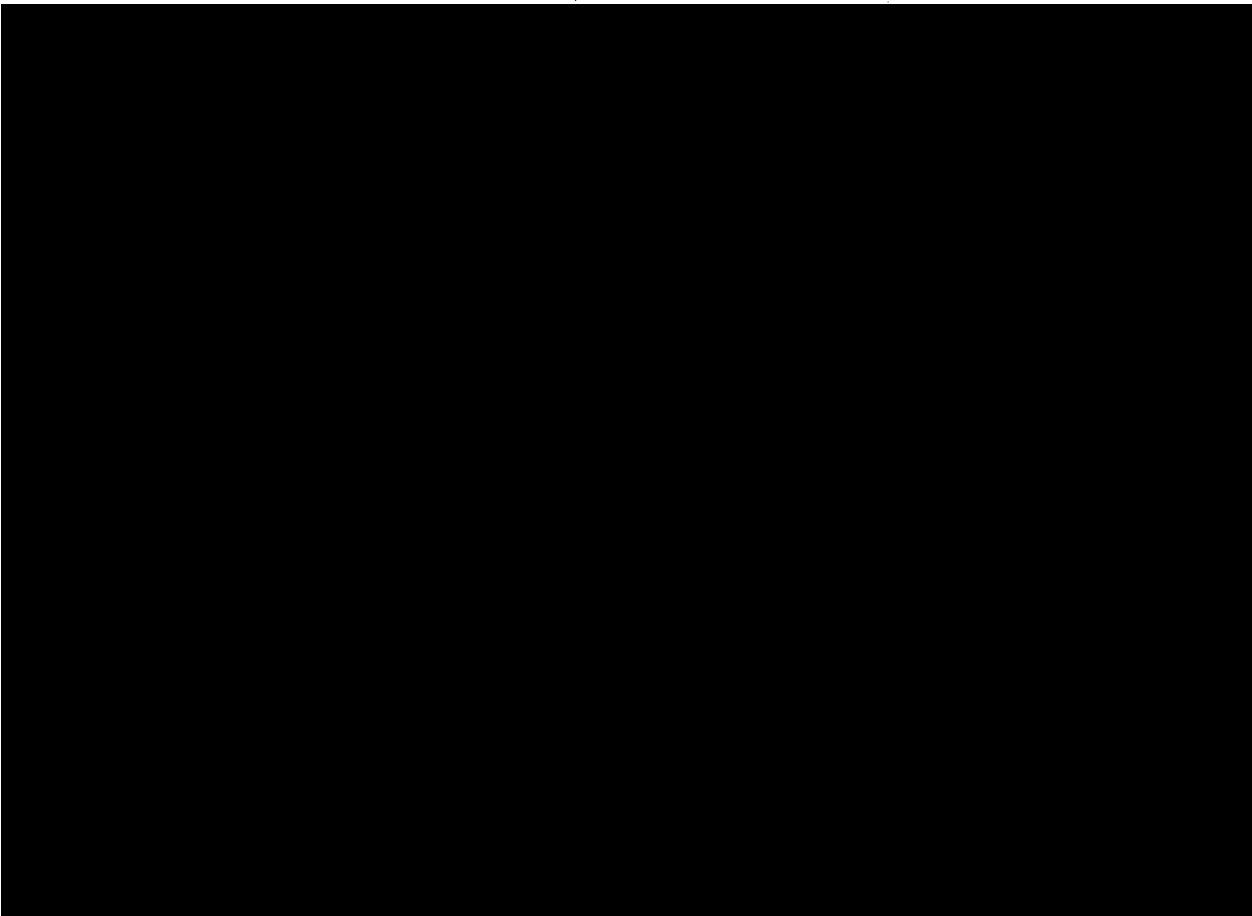
**30.2 Contribution by the Principal**

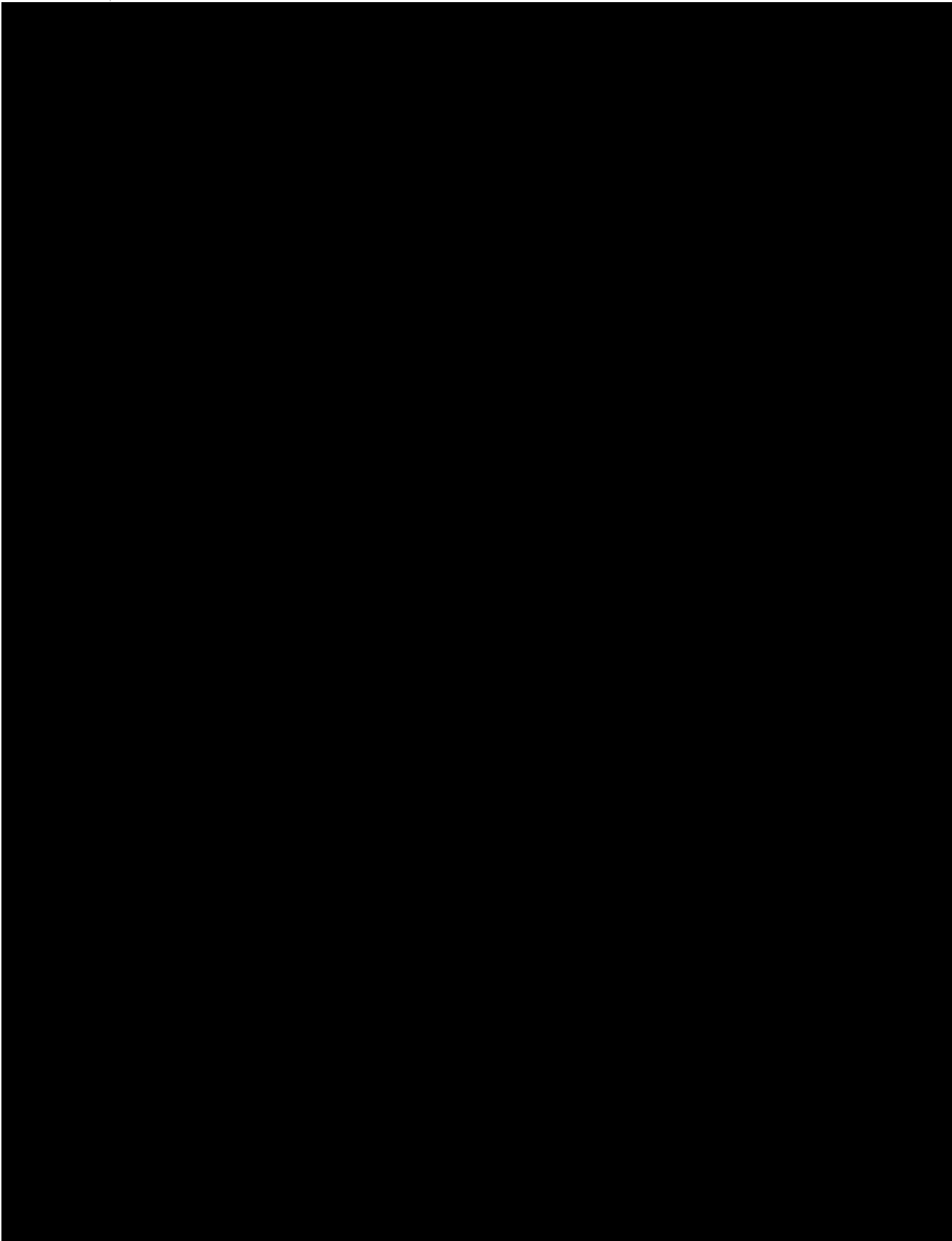
The WL Developer's liability to indemnify any State Indemnified Party under this deed will be reduced to the extent that a breach of this deed by the Principal or an act or omission (including a negligent act or omission) of the Principal, its Associates or any other State Indemnified Party contributed to the Liability, Claim or Loss.

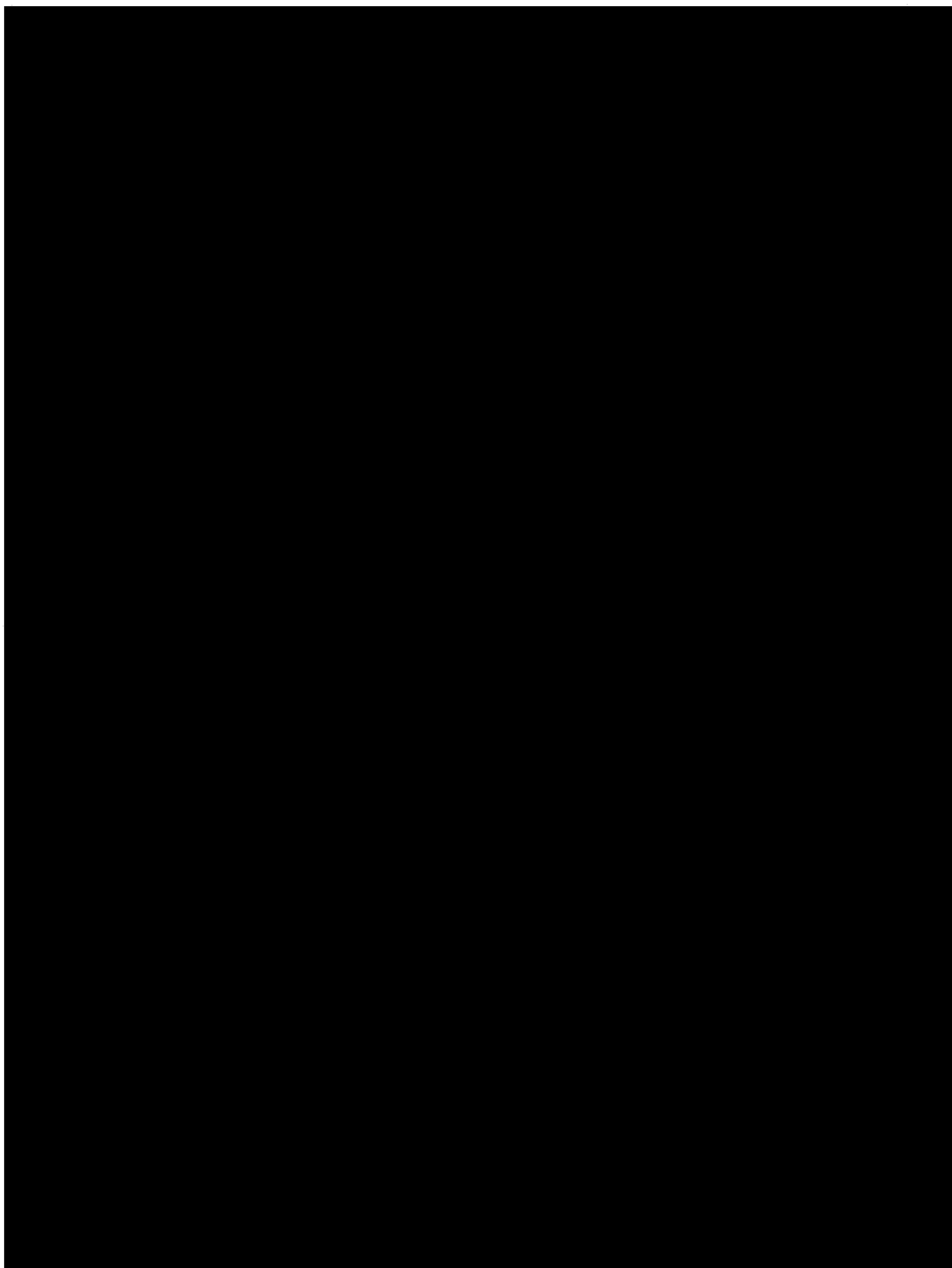
**30.3 Obligations not affected**

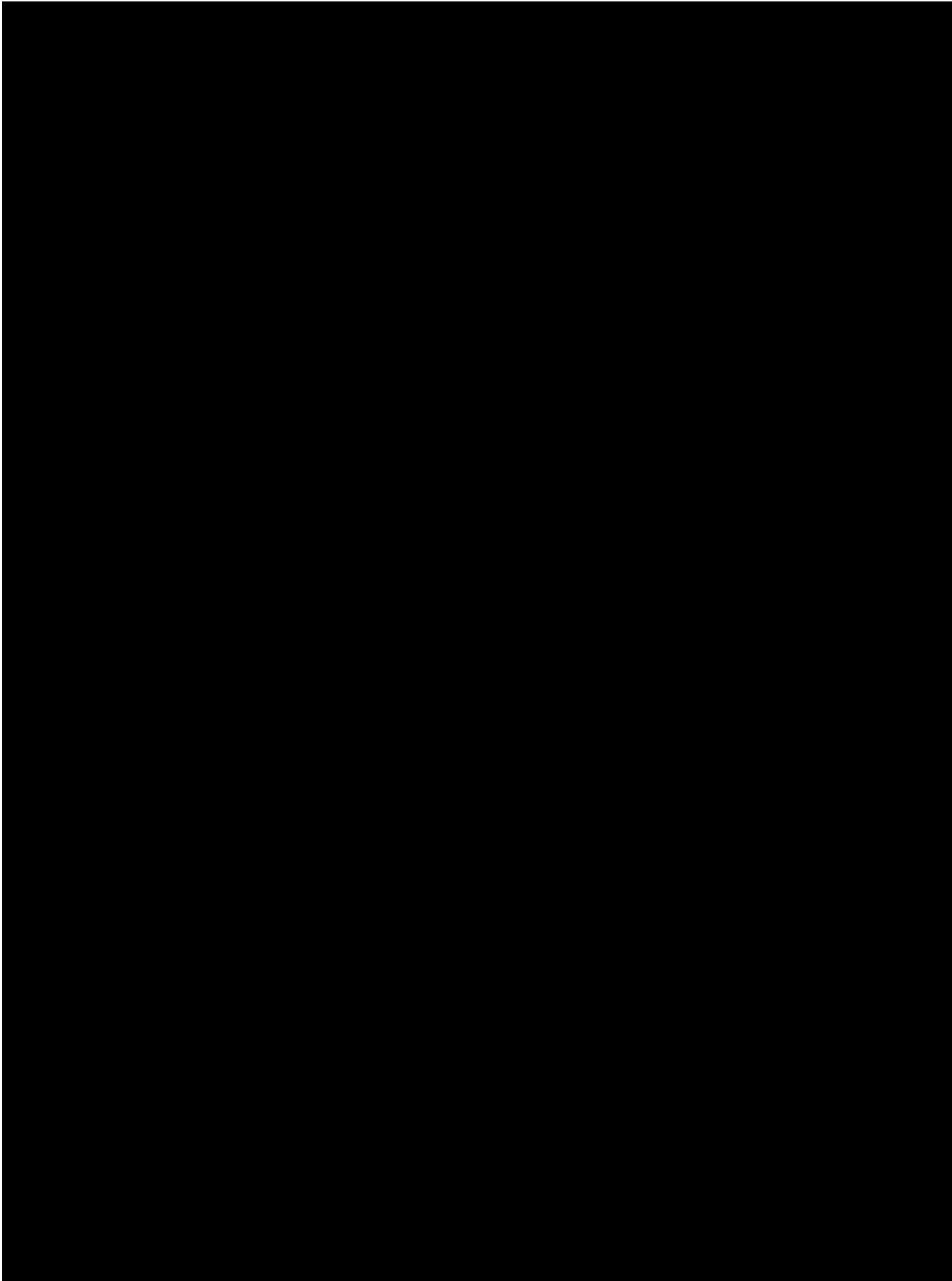
- (a) **(No affect)** Clause 30.1 (*Indemnity by the WL Developer*) does not limit or otherwise affect the WL Developer's other obligations under this deed or otherwise according to Law.
- (b) **(No relief from insurance)** The WL Developer is not relieved of any obligation to indemnify a State Indemnified Party under clause 30.1 (*Indemnity by the WL Developer*) by reason of effecting insurance or being an insured party under an insurance policy effected by the Principal.

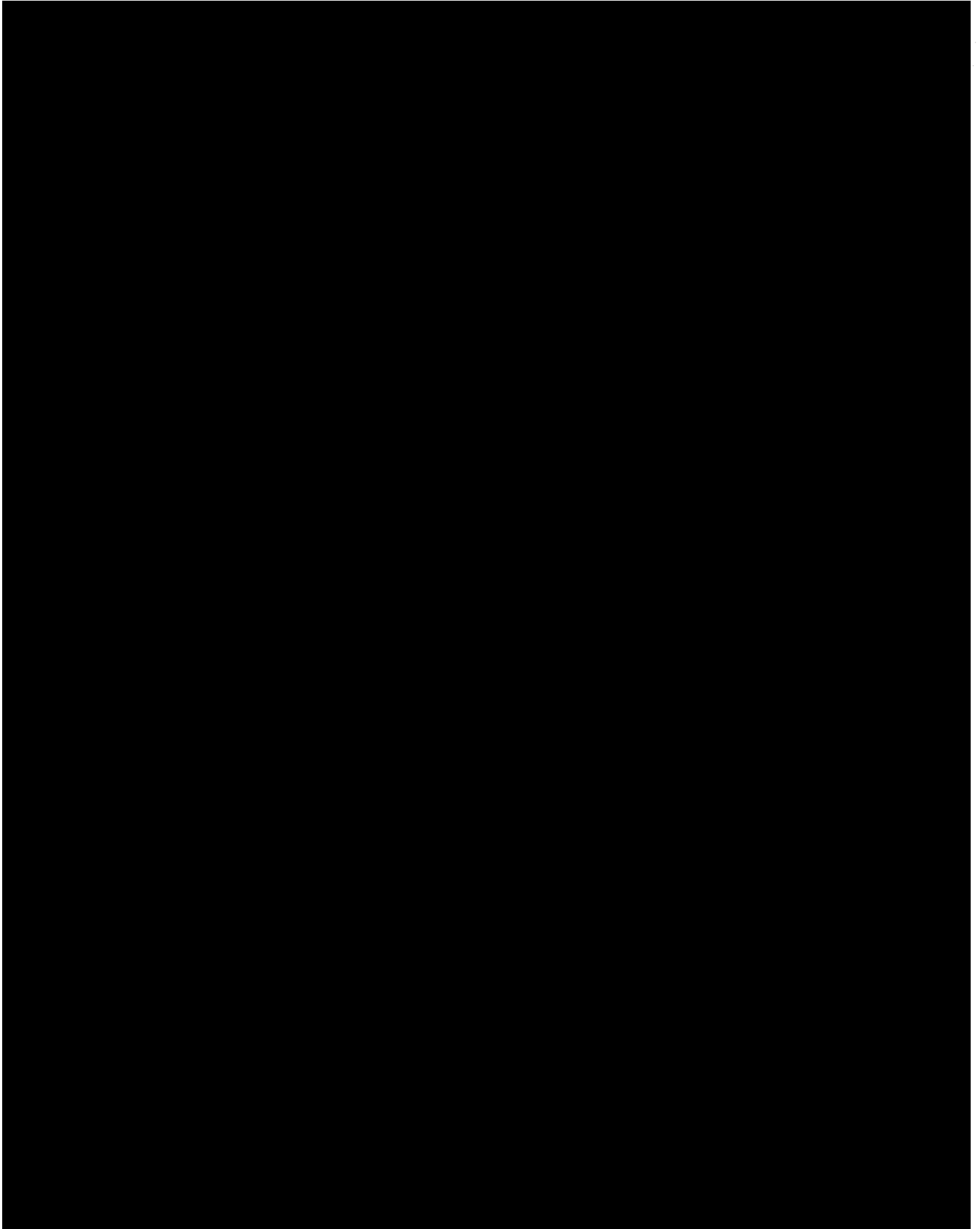
**30.4** [REDACTED]



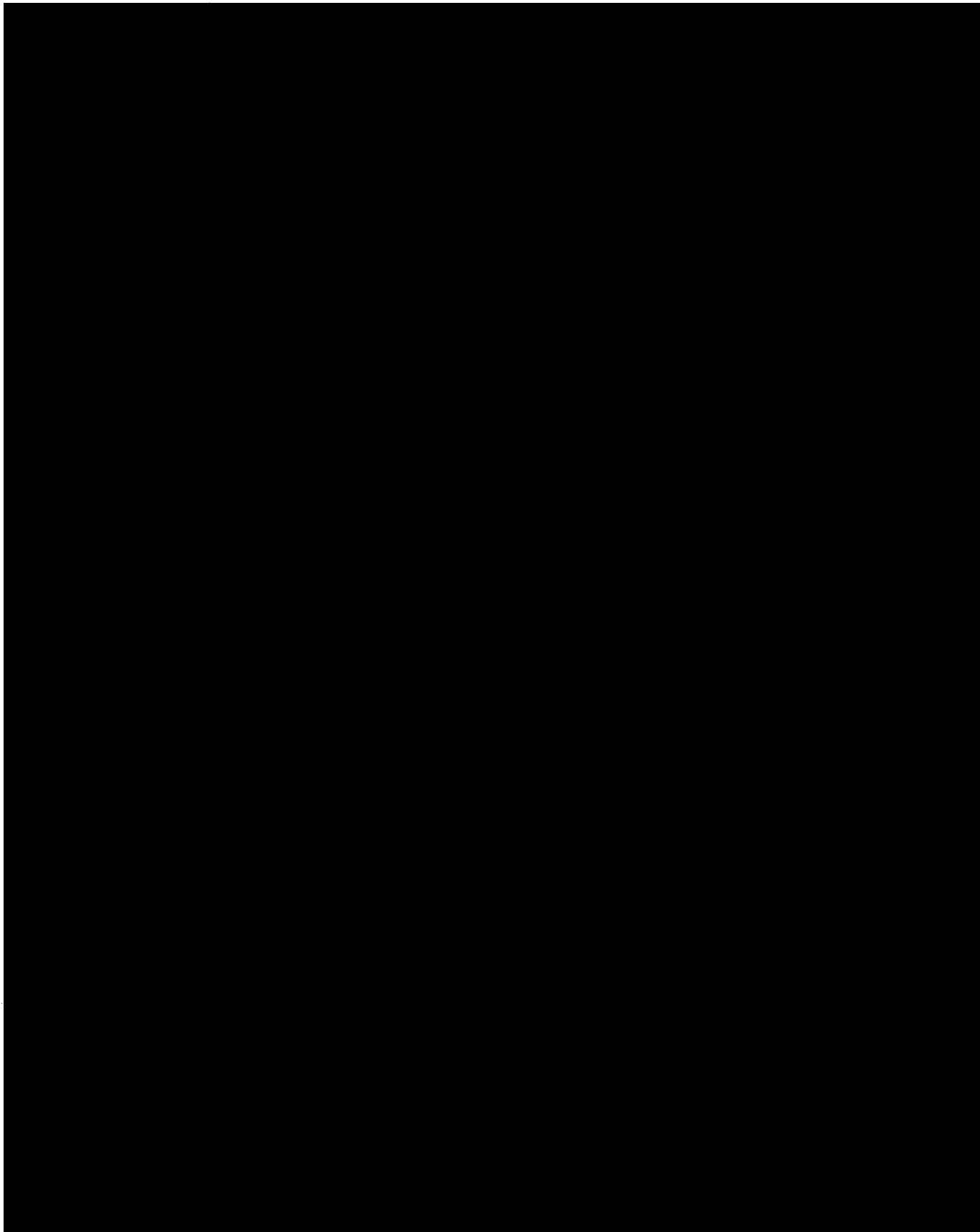


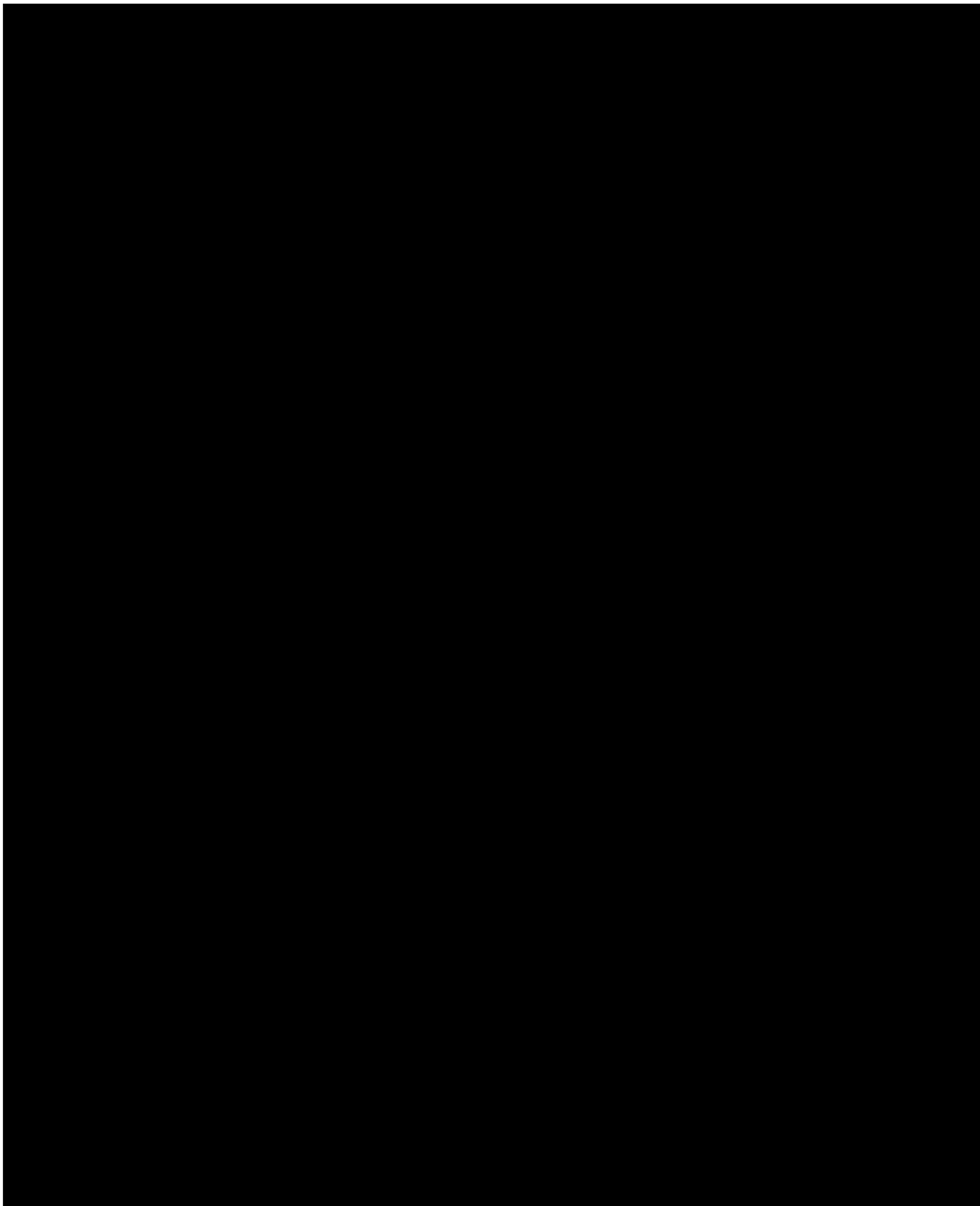












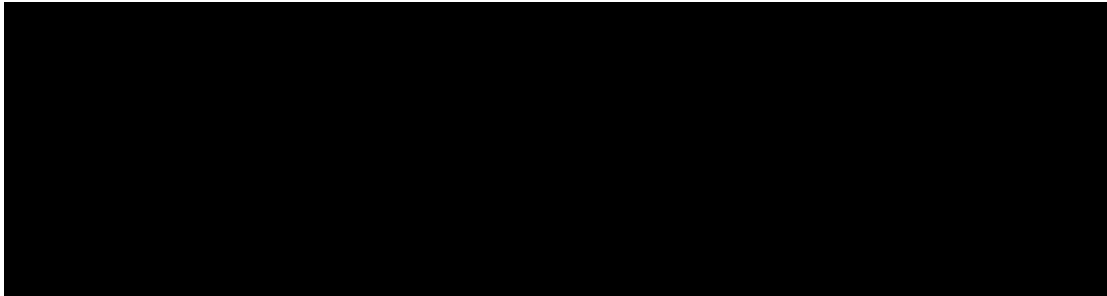
## 31. DEFAULT AND TERMINATION

### 31.1 Event of Default

Each of the following events is an Event of Default:

- (a) **(Abandonment)** the WL Developer Abandons a Separable Portion (provided that the Principal may not terminate this deed by reason of this Event of Default where an Insolvency Event has occurred in relation to the D&C Contractor and the WL Developer has complied with and is continuing to comply with clause 20.4(c) (*Progressing the MQD Works*));
  - (b) **(progress of MQD Works)** a breach by the WL Developer of clause 20.4 (*Progressing the MQD Works*) (provided that the Principal may not terminate this deed by reason of this Event of Default where an Insolvency Event has occurred in relation to the D&C Contractor and the WL Developer has complied with and is continuing to comply with clause 20.4(c) (*Progressing the MQD Works*));
  - (c) **(failure to insure)** the WL Developer does not effect or maintain (or cause to be effected or maintained) an Insurance which is required to be effected or maintained by the WL Developer under this deed and fails to do so within 10 Business Days after receipt of a notice from the Principal's Representative directing it to do so;
  - (d) **(fraud)** the Principal or its Associates is the victim of any fraud or dishonest conduct by the WL Developer or the D&C Contractor or their respective Associates in connection with the carrying out of the MQD Works or the Sydney Metro City & Southwest, or the Independent Commission Against Corruption or similar public body determines that the WL Developer or the D&C Contractor or their respective Associates have engaged in corrupt conduct, collusive pricing or other similar activity;
  - (e) **(incorrect representation or warranty)** a representation or warranty made or given by the WL Developer in this deed or any other of the WL MQD Contract Documents proves to be untrue which has a material adverse effect on the WL Developer's ability to comply with its obligations under the WL MQD Contract Documents;
  - (f) **(Parent Company Guarantee)** the WL Developer fails to provide a Parent Company Guarantee under clause 3.1 (*Parent Company Guarantee*);
  - (g) **(Parent Company Guarantee is void or voidable)** the Parent Company Guarantee becomes void or voidable;
- 
- (i) **(WHS)** the WL Developer fails to comply with or ensure compliance with the obligations under this deed regarding work health and safety;
  - (j) **(failure to provide Approved Engineer's Certificates (Pre-Commencement))** the WL Developer fails to provide all Approved Engineer's Certificates (Pre-Commencement) as required by this deed;
-

- (l) **(other breach)** any other material breach by the WL Developer of this deed or any other of the WL MQD Contract Documents (including a breach by the WL Developer of [REDACTED] or clause 29.10 (*Reinstatement*));



### 31.2 **Default Notice**

- (a) **(Content of Default Notice)** If an Event of Default occurs, the Principal's Representative may give the WL Developer a notice (**Default Notice**):

- (i) stating that it is a notice under this clause 31.2;
- (ii) providing details of the Event of Default; and
- (iii) requiring the WL Developer to:
  - (A) Remedy the Event of Default; or
  - (B) where the Event of Default cannot be remedied, overcome the Event of Default or make other arrangements to the satisfaction of the Principal's Representative,

within a reasonable period of time specified in the Default Notice (which period must not be less than 20 Business Days from the date of the Default Notice).

- (b) **(Compliance and Remedy Plan)** If the Principal's Representative gives the WL Developer a Default Notice:

- (i) the WL Developer must comply with the Default Notice; and
- (ii) unless urgent action is necessary or the relevant Event of Default is a failure to pay money or an Event of Default referred to in clause 31.1(f) or clause 31.1(g) (*Event of Default*):
  - (A) the WL Developer must give the Principal's Representative a program and plan (a **Remedy Plan**) outlining the manner in which the WL Developer will:
    - (aa) Remedy the Event of Default; or
    - (bb) overcome the Event of Default or make other arrangements to the satisfaction of the Principal's Representative,

in accordance with the terms of the Default Notice;
  - (B) the Principal's Representative must consult with the WL Developer to develop and agree that Remedy Plan; and
  - (C) the WL Developer must thereafter comply with that Remedy Plan.

### 31.3 **Rights of the Principal following Default Notice**

If, by the time specified in the Default Notice (or such longer period included in a Remedy Plan and agreed by the Principal's Representative), the WL Developer fails to remedy the breach or make arrangements satisfactory to the Principal's Representative or fails to comply with a Remedy Plan, the Principal may, by notice in writing to the WL Developer, immediately terminate this deed.

### 31.4 **WL Developer Termination Events**

Each of the following is a WL Developer Termination Event:

- (a) **(failure to pay)** the WL Developer fails to pay:
  - (i) any WL Developer Payment under this deed and the failure is not remedied within 20 Business Days after a written demand from the Principal; or
  - (ii) any other amount which the WL Developer is obliged to pay to the Principal under this deed for which the WL Developer has received prior written notice and the failure is not remedied within 20 Business Days after a further written demand has been issued by the Principal;
- (b) **(insolvency of WL Developer or WL Developer Guarantor)** an Insolvency Event occurs in relation to:
  - (i) the WL Developer (or where the WL Developer comprises more than one person, any one of those persons); or
  - (ii) a WL Developer Guarantor,
 

and the WL Developer is not able to satisfy the Principal's Representative (in its absolute discretion) within 10 Business Days of the Insolvency Event occurring (or such longer period agreed by the Principal's Representative) that this deed should not be terminated;
- (c) **(assignment or change in ownership)** the WL Developer breaches its obligations under clause 34.1 (*Assignment by the WL Developer*) or clause 34.2 (*Change in ownership*);
- (d) **(No Reasonable Likelihood)** it is determined that there is No Reasonable Likelihood under:
  - (i) clause 20.11(b) or clause 20.11(d) (as applicable) (*Look ahead regime*) and the WL Developer did not provide an Acceleration Plan in accordance with clauses 20.11(e) and 20.11(f); or
  - (ii) clause 20.11(g) (*Look ahead regime*); or
- (e) **(failure to achieve Completion of the MQD Works)** the WL Developer fails to achieve Completion of all of the MQD Works by the Sunset Date.

### 31.5 **Termination for WL Developer Termination Event**

If a WL Developer Termination Event occurs, the Principal may give a written notice to the WL Developer immediately terminating this deed. The notice must set out details of the WL Developer Termination Event for which the Principal is giving the notice.

### 31.6 Access termination event

- (a) **(Failure to provide access)** If the Principal fails to provide the WL Developer with access to any part of the S1 Construction Site by the applicable Construction Licence Sunset Date, the Principal's Representative may give the WL Developer a notice requesting to meet and discuss the Principal's failure to provide the WL Developer with access to that part of the S1 Construction Site.
- (b) **(Executive Negotiators to meet)** The Executive Negotiators must, within 5 Business Days after the WL Developer receives a notice under clause 31.6(a), meet and discuss the impact of and an appropriate course of action for managing the Principal's failure to provide the WL Developer with access to the relevant part of the S1 Construction Site, including the impact of the delay and termination of this deed on the WL Developer.
- (c) **(Failure to remedy or overcome)** If:
- (i) the parties have been unable to agree on an appropriate course of action for managing the Principal's failure to provide the WL Developer with access; and
  - (ii) the Principal's failure to provide access has not been remedied or its effects overcome within 30 Business Days' from the date of the notice referred to in clause 31.6(a),

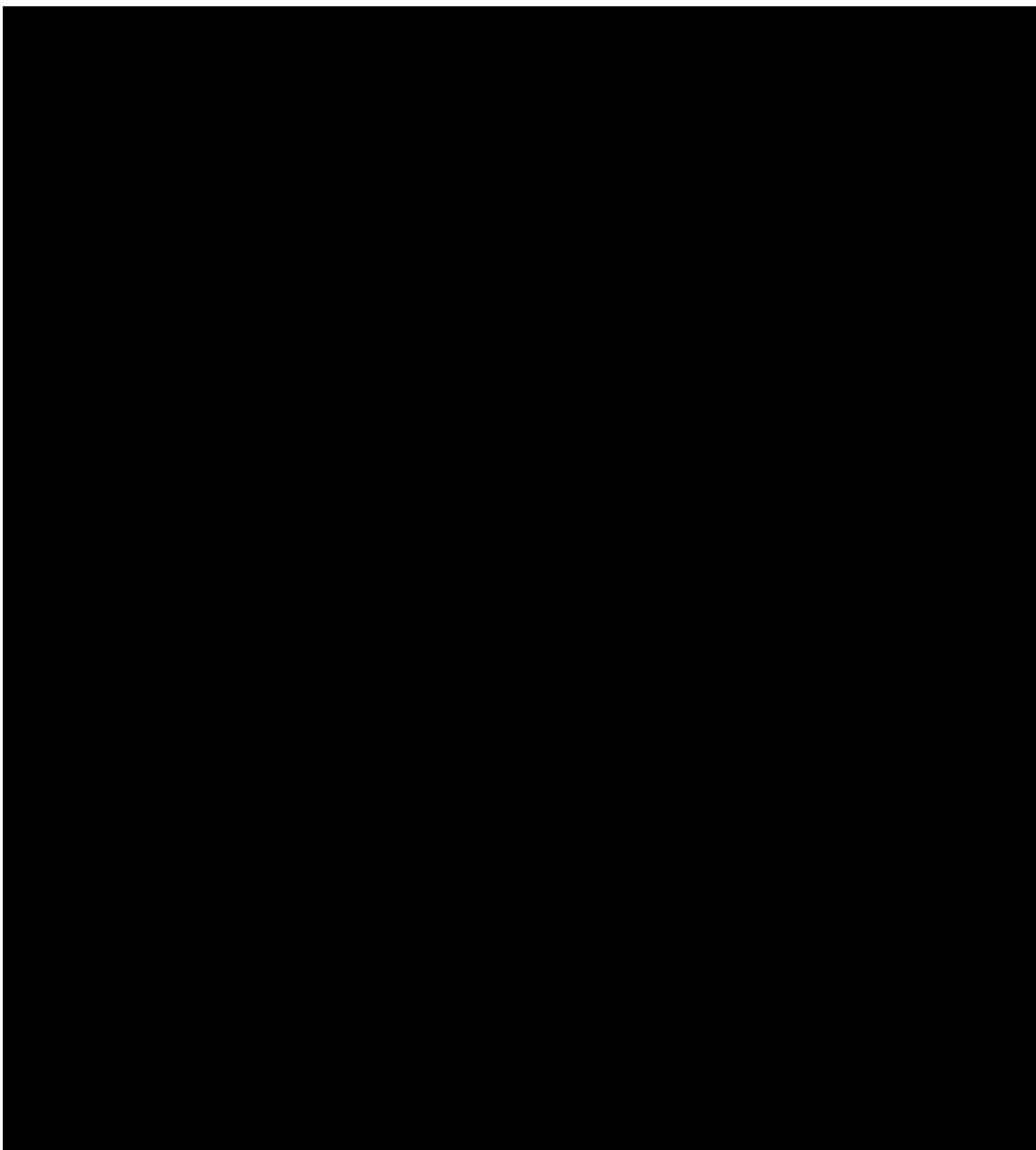
the Principal may, [REDACTED] in the Principal's absolute discretion, immediately terminate this deed by giving written notice to the WL Developer.

### 31.8 Principal's rights after termination

- (a) **(Principal's rights)** If this deed is terminated, the Principal's Representative may:
- (i) require the WL Developer to procure that:
    - (A) the Construction Site or any area affected by the MQD Works is made safe; and
    - (B) any Construction Plant and all materials, equipment and other things intended for the MQD Works or the carrying out of the MQD Works are removed from the Construction Site or any area affected by the MQD Works;
  - (ii) take possession of and use (and permit others to use) such of the following:
    - (A) Construction Plant and other things on or in the vicinity of the Construction Site [REDACTED] as are owned by the WL Developer and are reasonably required by the Principal's Representative to facilitate completion of the MQD Works; and

- (B) Design Documentation, Material and other information in connection with the MQD Works in the possession of the WL Developer or any of the WL Developer's Associates and the WL Developer must ensure that all necessary rights for this purpose are licensed to the Principal in accordance with clause 23.4(a) (*Licence to the Principal*);
  - (iii) engage third parties to carry out and complete the whole or any part of the MQD Works remaining to be completed;
  - (iv) contract with any of the Subcontractors; and
  - (v) exclude the WL Developer and any of the WL Developer's Associates from the Construction Site [REDACTED]
- (b) **(Survival)** This clause 31.8 survives the termination of this deed.

**31.9 Termination Payments**

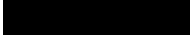




31.10 **Preservation of rights**

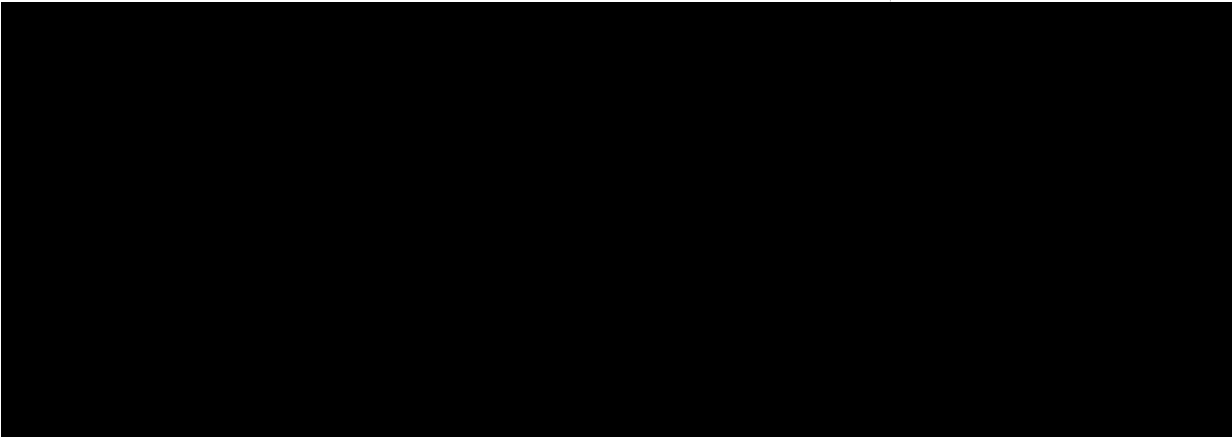
- (a) **(No prejudice)** Nothing in this clause 31 or that the Principal does or fails to do pursuant to this clause 31 will prejudice the right of the Principal to exercise any right or remedy which it may have, including where the WL Developer breaches or repudiates this deed.
- (b) **(Direct deeds)** The Principal's rights and entitlements set out in this clause 31 are in addition to the Principal's rights and entitlements under the D&C Side Deed and any other Significant Subcontractor Direct Deed.

31.11 **No other termination rights**

This clause 31, Schedule A5 (*Planning Applications and Approvals*),  and the Termination Payment Schedule are an exhaustive code with respect to the WL Developer's rights arising out of or in any way in connection with any termination and the WL Developer:

- (a) **(no other termination rights)** cannot otherwise terminate, rescind or treat this deed as repudiated; and
- (b) **(waiver of rights)** waives all rights at Law to terminate, rescind or treat this deed as repudiated,

otherwise than in accordance with this clause 31 and the Termination Payment Schedule.





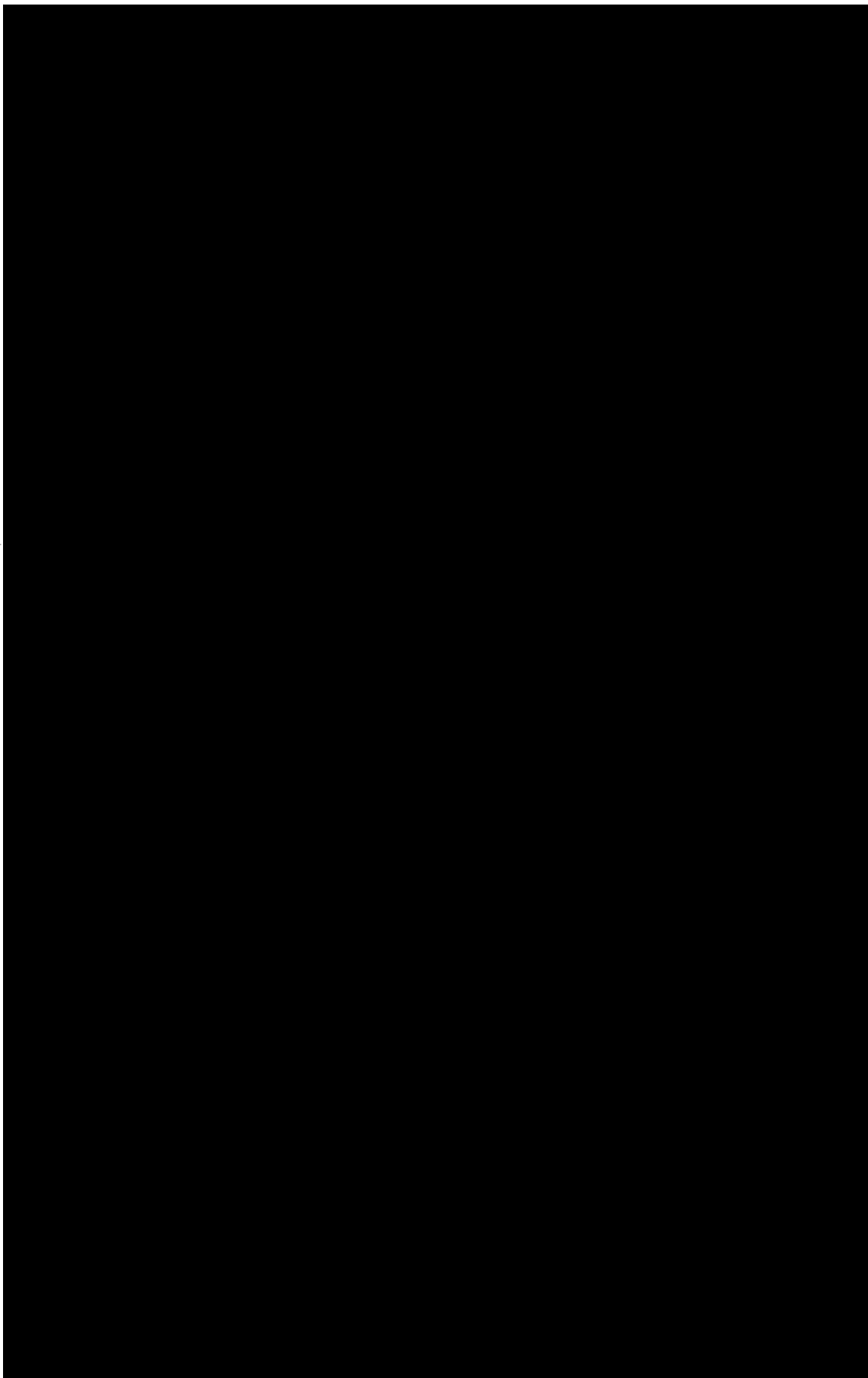
### 33. **CONFIDENTIALITY AND PERMITTED DISCLOSURE**

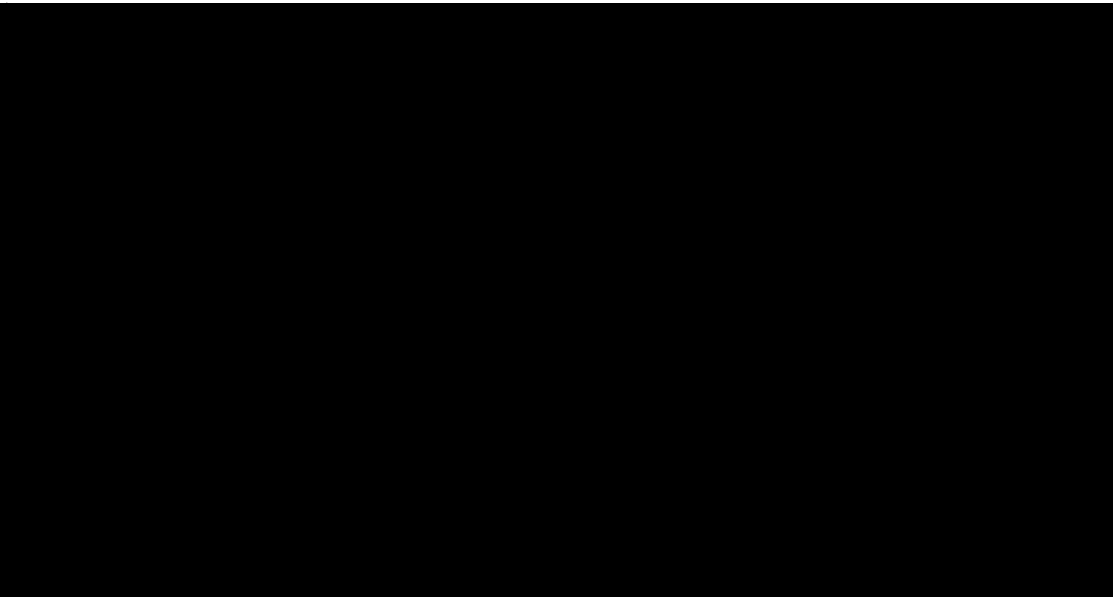
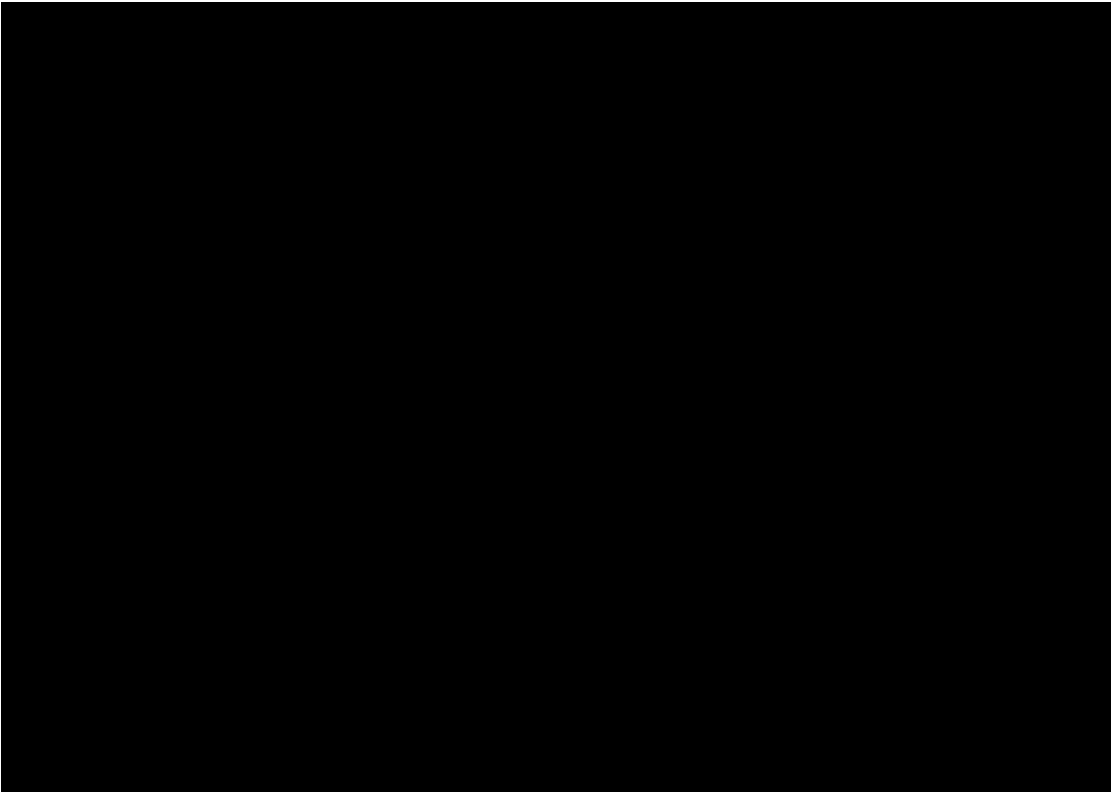
#### 33.1 **Confidentiality**

- (a) **(Keep confidential)** Subject to clause 33.1(b) and clause 33.1(c), the WL Developer must:
- (i) keep the WL MQD Contract Documents, all Information Documents and any information relating to the MQD Works, the MQD Project and any discussions concerning the WL MQD Contract Documents or any Information Documents (together the **Information**) confidential;
  - (ii) not use the Information except as necessary for the performance of the MQD Works; and
  - (iii) ensure that each of its Associates comply with clause 33.1(a)(i) and clause 33.1(a)(ii).
- (b) **(No obligation to keep confidential)** The WL Developer is not obliged to keep any Information confidential to the extent:
- (i) that Information is in the public domain through no default of the WL Developer;
  - (ii) that Information is:
    - (A) required to be disclosed by Law or the listing rules of any recognised stock exchange (to the extent applicable to it); or
    - (B) given to a court in the course of proceedings to which the WL Developer is a party; or
  - (iii) the Principal's Representative consents in writing to the disclosure of that Information.
- (c) **(Provision to other parties)** Subject to clause 33.1(a)(iii), the WL Developer may provide the Information to its Subcontractors, employees, agents, advisors, equity investors, Financiers, prospective Financiers and each of these parties' advisors as is necessary to enable the WL Developer to perform its obligations under this deed or any other WL MQD Contract Document, provided that the WL Developer ensures that the relevant recipient is subject to the same obligations of confidentiality as those contained in this deed.

#### 33.2 **Public Disclosure Obligations**

- (a) **(WL Developer acknowledgement)** The WL Developer acknowledges and agrees that the Principal and its Associates, the State or any Authority may be required to disclose, and may disclose, the WL MQD Contract Documents and information concerning the WL MQD Contract Documents, the MQD Project and the performance of the MQD Works:
- (i) under the GIPA Act or any similar legislation;
  - (ii) by Law;
  - (iii) to satisfy the disclosure requirements of the NSW Auditor General or to satisfy the requirements of Parliamentary accountability;
  - (iv) to an Authority;





- (c) **(WL Developer assistance)** The WL Developer must, at its own Cost, use all reasonable endeavours to assist the Principal and its Associates, the State or an Authority to meet the public disclosure obligations under this clause 33.2.

**33.3 Media requests**

Without limiting clause 33.1 (*Confidentiality*) and clause 33.2 (*Public Disclosure Obligations*), if the WL Developer receives a request from the media for comment with respect to any aspect of the MQD Works or the MQD Project, the WL Developer must:

- (a) promptly provide details of the request to the Principal's Representative;

- (b) in relation to the matters contemplated by the Community Communications Strategy, respond only in accordance with the requirements of that Project Plan; and
- (c) in relation to matters not contemplated by the Community Communications Strategy, not respond without the prior written consent of the Principal's Representative (such consent not to be unreasonably withheld or delayed).

#### 34. ASSIGNMENT AND CHANGE IN OWNERSHIP

##### 34.1 Assignment by the WL Developer

- (a) **(No assignment without consent)** Subject to the remainder of this clause 34, the WL Developer must not assign, transfer, novate, grant a Security Interest over, or otherwise dispose of or deal with all or any benefit, right or interest under or in:
  - (i) the WL MQD Contract Documents; or
  - (ii) prior to the Applicable Transfer Date, the Construction Site relevant to that Applicable Transfer Area or the Principal's Land (except to the extent as expressly permitted under this deed),

without the Principal's prior written consent (which may be given or withheld in its absolute discretion).
- (b) **(Principal to act promptly)** The Principal must act promptly in determining whether to provide its consent to the WL Developer for the purposes of this clause 34.1, where the provision of a mortgage, charge or other Encumbrance is reasonably required by the WL Developer in order to raise funds for the purposes of carrying out its obligations under this deed.
- (c) **(Conditions of assignment or novation)** It will be a condition of any assignment or novation of this deed in accordance with clause 34.1(a) that the proposed counterparty provides a parent company guarantee in a form satisfactory to the Principal from a parent company with a long term credit rating and financial standing acceptable to the Principal (in its absolute discretion).

##### 34.2 Change in ownership

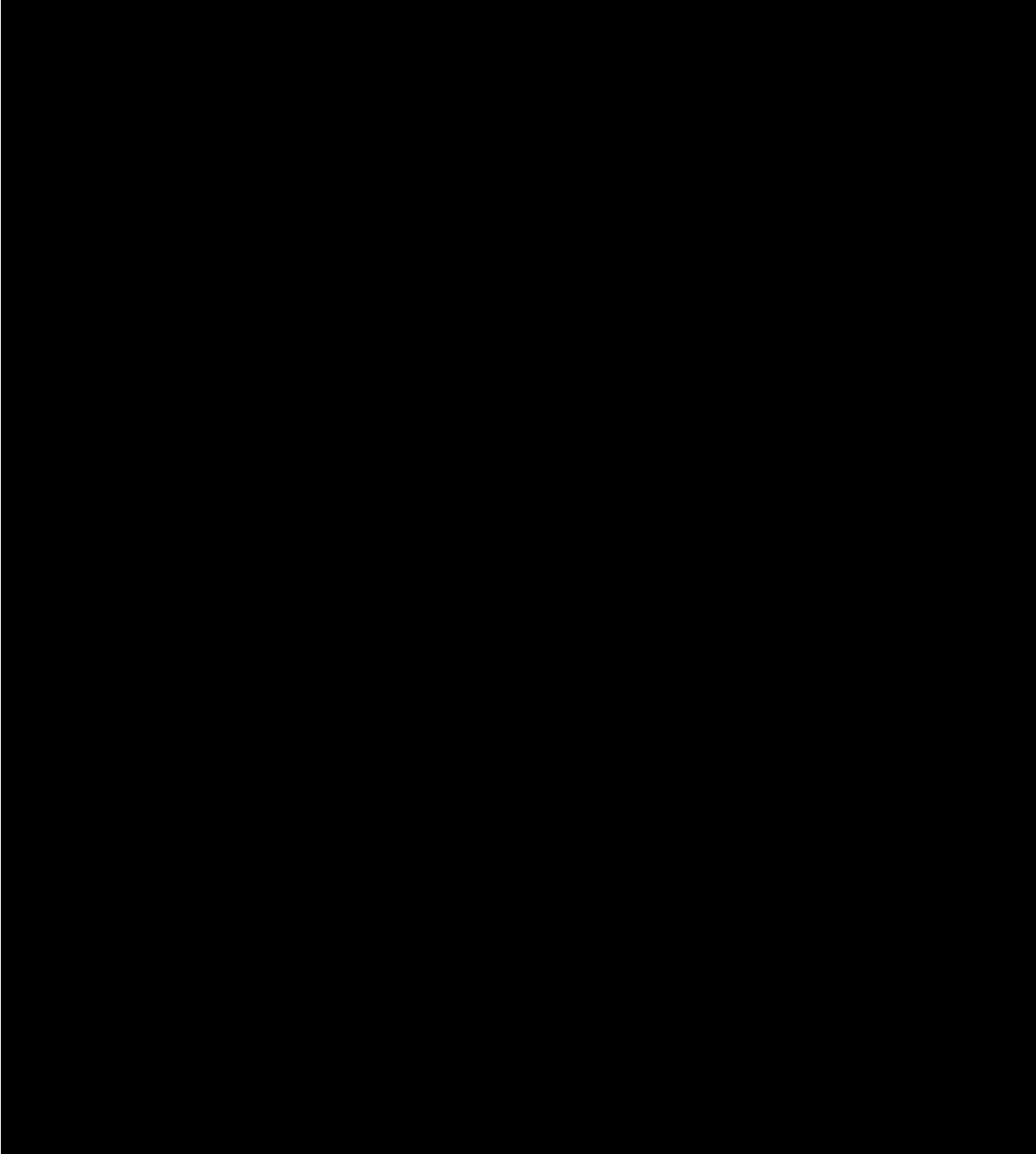
Subject to clause 34.3 (*Permitted changes in ownership*), the WL Developer:

- (a) **(legal and beneficial ownership)** represents and warrants that the legal and beneficial ownership and Control of the WL Developer will remain as it was at the date of this deed until the date which is the later of the expiry of the last Defects Correction Period under this deed and the last of the Applicable Transfer Dates; and
- (b) **(no change)** must not permit any direct or indirect change in the Control or the beneficial or legal ownership of any shares, units or other interest in the nature of equity in any member of the WL Developer until the date which is the later of the expiry of the last Defects Correction Period under this deed and the last of the Applicable Transfer Dates.

##### 34.3 Permitted changes in ownership

- (a) Clause 34.2 (*Change in ownership*) does not apply to:
  - (i) **(listed on stock exchange)** a transfer of any share or unit or other interest in the nature of equity which is listed on a recognised stock exchange;

- (ii) **(Related Entity)** any transfer of a share or unit or other interest in the nature of equity by a person to a Related Entity of that person, provided the WL Developer gives the Principal's Representative prior written notice of the transfer; or
- (iii) **(consent provided)** a transfer of any share or unit or other interest in the nature of equity where the Principal has provided its consent in writing to such transfer.



#### 34.4 **Assignment and novation by the Principal**

- (a) Without limiting clause 40.15 (*Transfer of functions or Public Transport Agency assets*), the Principal may:
- (i) assign, novate or otherwise transfer all or any part of its rights under this deed without the WL Developer's prior approval, provided that the assignee, novatee or transferee (as applicable) is an authority of the State, a Minister or a government entity including a wholly owned State corporation or any other entity that is wholly owned or controlled by the State;
  - (ii) not otherwise assign, novate or otherwise transfer all or any part of its rights under this deed without the WL Developer's prior written consent (which must not be unreasonably withheld or delayed); and
  - (iii) disclose to a proposed assignee, novatee or transferee any information in the possession of the Principal relating to the WL Developer.
- (b) In the case of a novation by the Principal under this clause 34.4:
- (i) the Principal will be released from its obligations under this deed and the respective rights of the Principal and the WL Developer against one another under this deed will cease;
  - (ii) the novated deed will be on the same terms as this deed, such that the incoming party and the WL Developer will assume the same obligations to one another and acquire the identical rights against one another as the rights and obligations discharged under clause 34.4(b)(i), except that the incoming party replaces the Principal for all purposes under the deed; and
  - (iii) the WL Developer consents to the disclosure by or on behalf of the Principal to the incoming party of their confidential information for the purposes of the novation.
- (c) The Principal may at any time enter into any subcontracting, delegation or agency agreements or arrangements in relation to any of its functions.

### 35. **FINANCING**

#### 35.1 **Financing documents**

The Principal acknowledges that:

- (a) **(WL Developer may obtain finance)** the WL Developer may obtain financial accommodation to fund the MQD Project;
- (b) **(Financier's Side Deed)** it may be a condition of obtaining that financial accommodation that the Principal enters into a Financier's Side Deed with the Financiers; and
- (c) **(Principal to sign)** the Principal will, upon written request by the WL Developer and within a reasonable period of time, enter into a Financier's Side Deed, subject to clause 35.2 (*Negotiating terms of the Financier's Side Deed*).

### 35.2 **Negotiating terms of the Financier's Side Deed**

The Principal and the WL Developer must act reasonably and the WL Developer must ensure that the Financiers act reasonably in negotiating any amendments to the Financier's Side Deed, provided that:

- (a) **(no risk to Principal)** the Principal is not required to agree to any:
  - (i) increase or adverse change in the profile of the risks or potential Liabilities of the Principal under the WL MQD Contract Documents; or
  - (ii) material derogation of the Principal's rights under the Principal MQD Contract Documents; and
- (b) **(payment of Costs)** the WL Developer agrees to pay all Costs reasonably incurred by the Principal arising out of or in connection with the negotiation and execution of the Financier's Side Deed.

### 36. **DISPUTE RESOLUTION**

Subject to clause 2.4 of Schedule A7 (*Modification Procedure*), any dispute, difference, controversy or Claim (**Dispute**) directly or indirectly based upon, arising out of, relating to or in connection with this deed, the MQD Project or the MQD Works, including any questions relating to the existence, validity or termination of this deed, but excluding a failure by a party to comply with a final and binding decision of the Expert, must be resolved in accordance with the Dispute Procedure.

### 37. **REPRESENTATIONS AND WARRANTIES**

#### 37.1 **Principal's representations and warranties**

The Principal represents and warrants for the benefit of the WL Developer that:

- (a) **(statutory body)** it is a statutory body validly constituted and existing under the *Transport Administration Act 1988* (NSW);
- (b) **(all authorisations)** it has or will have in full force and effect all authorisations necessary under its constituent legislation to enter into and perform its obligations under each of the Principal WL MQD Contract Documents (or will have them in full force and effect at the time the obligation is to be performed);
- (c) **(binding obligations)** each of the Principal WL MQD Contract Documents constitutes a valid and legally binding obligation of it in accordance with its terms; and
- (d) **(non-violation of Law)** the execution, delivery and performance of each of the Principal WL MQD Contract Document by the Principal does not violate any Law, or any document or agreement to which it is a party or which is binding on it or its assets.

#### 37.2 **WL Developer representations and warranties**

The WL Developer represents and warrants for the benefit of the Principal that:

- (a) **(incorporated)** it has been incorporated as a company limited by shares in accordance with the Law of its place of incorporation, is validly existing under that Law and has power and authority to carry on its business as it is now being conducted;

- (b) **(properly constituted)** it is duly registered, properly constituted and remains in existence;
- (c) **(power)** it has, or will have (in respect of those WL MQD Contract Documents still to be executed as at the date of this deed), power to enter into the WL MQD Contract Documents to which it is a party and comply with its obligations under them;
- (d) **(all authorisations)** it has, or will have (in respect of those WL MQD Contract Documents still to be executed as at the date of this deed) in full force and effect the authorisations necessary for it to enter into the WL MQD Contract Documents to which it is or will be a party, to comply with its obligations under them and to allow them to be enforced;
- (e) **(binding obligations)** its obligations under the WL MQD Contract Documents (once executed) are valid and binding and are enforceable against it in accordance with their terms;
- (f) **(no contravention)** the WL MQD Contract Documents and the transactions under them which involve it do not contravene its constituent documents or any Law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
- (g) **(benefits)** the entry by the WL Developer into the WL MQD Contract Documents to which it is or will be a party is in the best interests of the beneficiaries of the WL Developer Trust;
- (h) not used;
- (i) **(payment of debts)** there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable;
- (j) **(no breach)** it is not in breach of a Law or obligation affecting it or its assets in a way which is, or is likely to have, a material adverse effect on its ability to comply with its obligations under this deed and it is not in default of its material obligations under any of the WL MQD Contract Documents;
- (k) **(consolidated group)** except as disclosed in writing to the Principal prior to the date of this deed, it is not a member of any consolidated group for purposes of the *Income Tax Assessment Act 1997* (Cth);
- (l) **(no Event of Default)** no Event of Default has occurred or is subsisting;
- (m) **(no Liabilities)** it has not traded since its incorporation other than for the purposes of entering into the WL MQD Contract Documents to which it is a party and has no Liabilities other than those that have arisen in connection with entering into those WL MQD Contract Documents;
- (n) **(no immunity)** it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (o) **(no material change)** except to the extent otherwise disclosed by the WL Developer in writing prior to the date on which the warranty is given or deemed repeated, there has been no material change in the financial condition of the WL Developer (since its incorporation) which would prejudice the ability of the WL Developer to perform its obligations under the WL MQD Contract Documents;
- (p) **(full disclosure)** it is not aware of any material facts or circumstances that have not been disclosed to the Principal and which might, if disclosed, materially adversely



affect the decision of a prudent person considering whether or not to enter into this deed with the WL Developer;

- (q) **(no litigation)** except to the extent otherwise disclosed by the WL Developer in writing prior to the date on which the warranty is given or deemed repeated, no litigation, arbitration, mediation, conciliation, criminal or administrative procedures are current, pending or to its knowledge, threatened, which, if adversely determined, would or could have a material adverse effect on it or its ability to perform its financial or other obligations under any WL MQD Contract Document to which it is a party;
- (r) **(FIRB)** the Treasurer of the Commonwealth of Australia cannot prohibit and has not prohibited this deed and has not prohibited and cannot prohibit or will not prohibit the transactions contemplated by the WL MQD Contract Documents under the FIRB Act;
- (s) **(Trust power)** the WL Developer is empowered by the Trust Deed:
  - (i) to enter into and perform all documents to which it is expressed to be a party and to carry on the transactions contemplated by those documents; and
  - (ii) to carry on its business as now conducted or contemplated and to own its assets (including any asset purported to be charged or mortgaged by it),
 in its capacity as trustee of the WL Developer Trust, and there is no restriction on or condition of its doing so;
- (t) **(Trust)** the WL Developer Trust is duly established and validly existing;
- (u) **(Trust authorisations)** all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the Trust Deed for it to enter into and perform the documents to which it is expressed to be a party;
- (v) **(sole trustee)** the WL Developer is the sole trustee of the WL Developer Trust, has been validly appointed and remains as trustee of the WL Developer Trust, and no action has been taken or proposed to remove it as trustee; and
- (w) **(no termination)** the WL Developer Trust has not been terminated, nor has any event for the vesting of the assets of the WL Developer Trust occurred.

### 37.3 Repetition of representation and warranties

The representations and warranties contained in clauses 37.2(k), 37.2(l), 37.2(p) and 37.2(r) (*WL Developer representations and warranties*) are made on the date of this deed. Each other representation and warranty contained in clause 37.2 (*WL Developer representations and warranties*):

- (a) is made on the date of this deed; and
- (b) will be deemed to be repeated on each anniversary of the date of this deed up to and including the date which is the later of the expiry of the last Defects Correction Period under this deed and the last Applicable Transfer Date,

with reference to the facts and circumstances then subsisting.

### 37.4 Obligations not affected

The WL Developer acknowledges that the representations and warranties in this clause 37 and the WL Developer's obligations under the WL MQD Contract Documents remain

unaffected notwithstanding any receipt or review of, or comment or Direction on, documentation prepared by the WL Developer.

### 37.5 **Undertakings by WL Developer**

Each party undertakes to notify the other party promptly if any representation or warranty made or taken to be made by or on behalf of the party in connection with a WL MQD Contract Document other than this deed is found, having regard to the other party's rights under, or by virtue of this deed, to be materially incorrect or materially misleading when made or taken to be made.

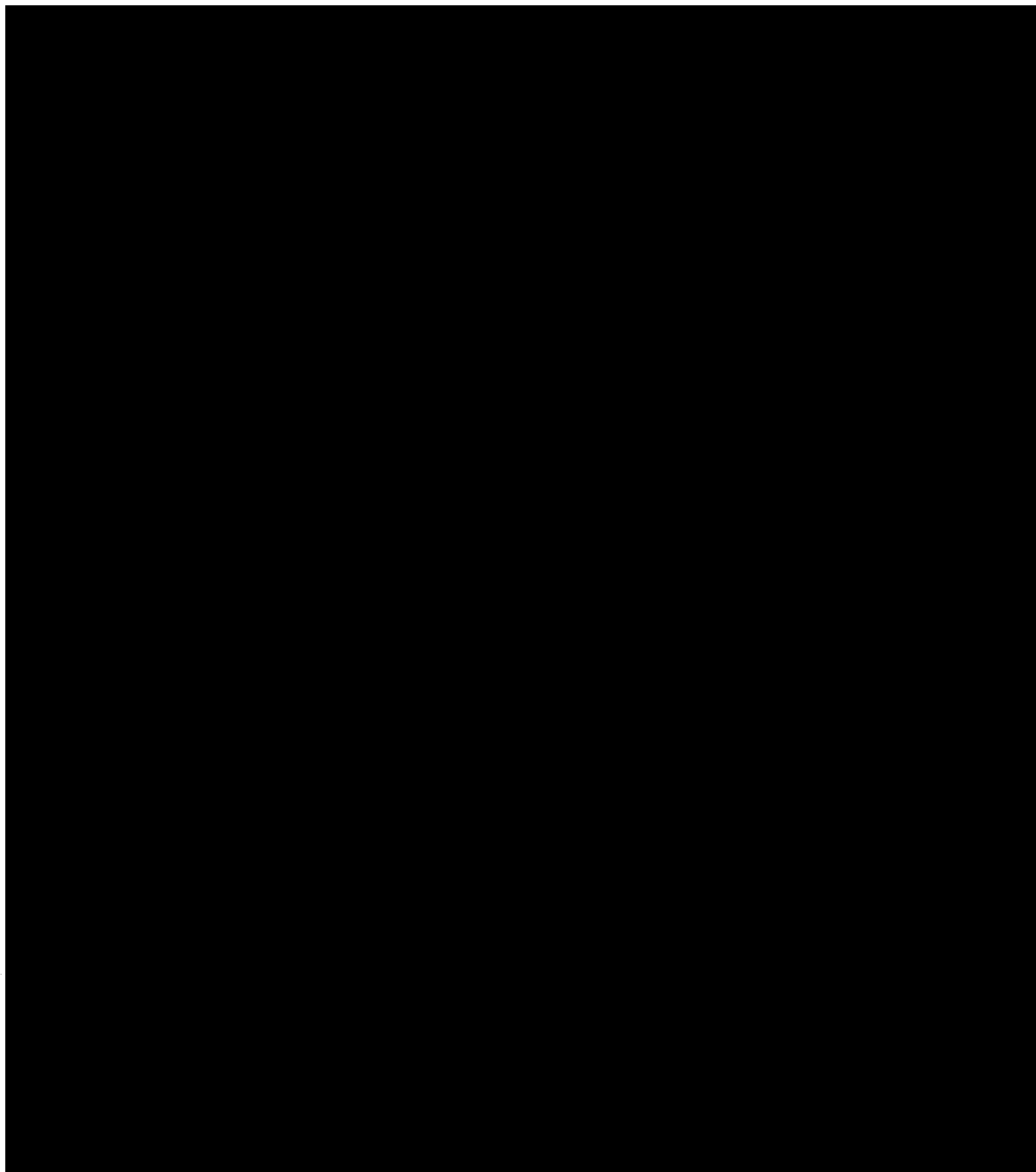
### 37.6 **Trustee limitation of liability**

- (a) The WL Developer enters into this deed only in its capacity as trustee of the WL Developer Trust constituted under the Trust Deed and in no other capacity. A liability arising under or in connection with this deed is limited and can be enforced against the WL Developer only to the extent to which the WL Developer, having sought indemnification, is actually indemnified in respect of that liability out of the assets of the WL Developer Trust. This limitation of the WL Developer's liability applies despite any other provision of this deed and extends to all liabilities and obligations of the WL Developer in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (b) No party to this deed or any person claiming through or on behalf of them will be entitled to:
  - (i) claim from or commence proceedings against the WL Developer in respect of any liability in any capacity other than as the trustee of the WL Developer Trust;
  - (ii) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the WL Developer, or prove in any liquidation, administration or arrangement of or affecting the WL Developer, except in relation to the assets of the WL Developer Trust; or
  - (iii) enforce or seek to enforce any judgment in respect of a liability under this deed or otherwise against the WL Developer in any capacity other than as trustee of the WL Developer Trust.
- (c) This clause 37.6 does not apply to any obligation or liability of the WL Developer to the extent to which there is, in respect of that obligation or liability, whether under the Trust Deed or by operation of law, a reduction in the extent of the WL Developer's indemnification, or loss of the WL Developer right of indemnification, out of the assets of the WL Developer Trust as a result of WL Developer's failure to properly perform its duties as trustee of the WL Developer Trust.
- (d) Nothing in clause 37.6(c) will make the WL Developer liable to any claim for an amount greater than the amount which the Principal would have been able to claim and recover from the assets of the WL Developer Trust in relation to the relevant liability if the WL Developer's right of indemnification out of the assets of the WL Developer Trust had not been prejudiced by failure to properly perform its duties.
- (e) The WL Developer is not obliged to do or refrain from doing anything under this deed (including incur any liability) unless its liability is limited in the same manner as set out in clauses 37.6(a) to 37.6(d).

38. **COSTS AND OTHER AMOUNTS**

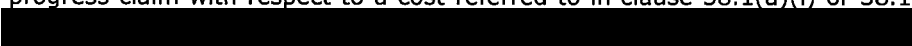
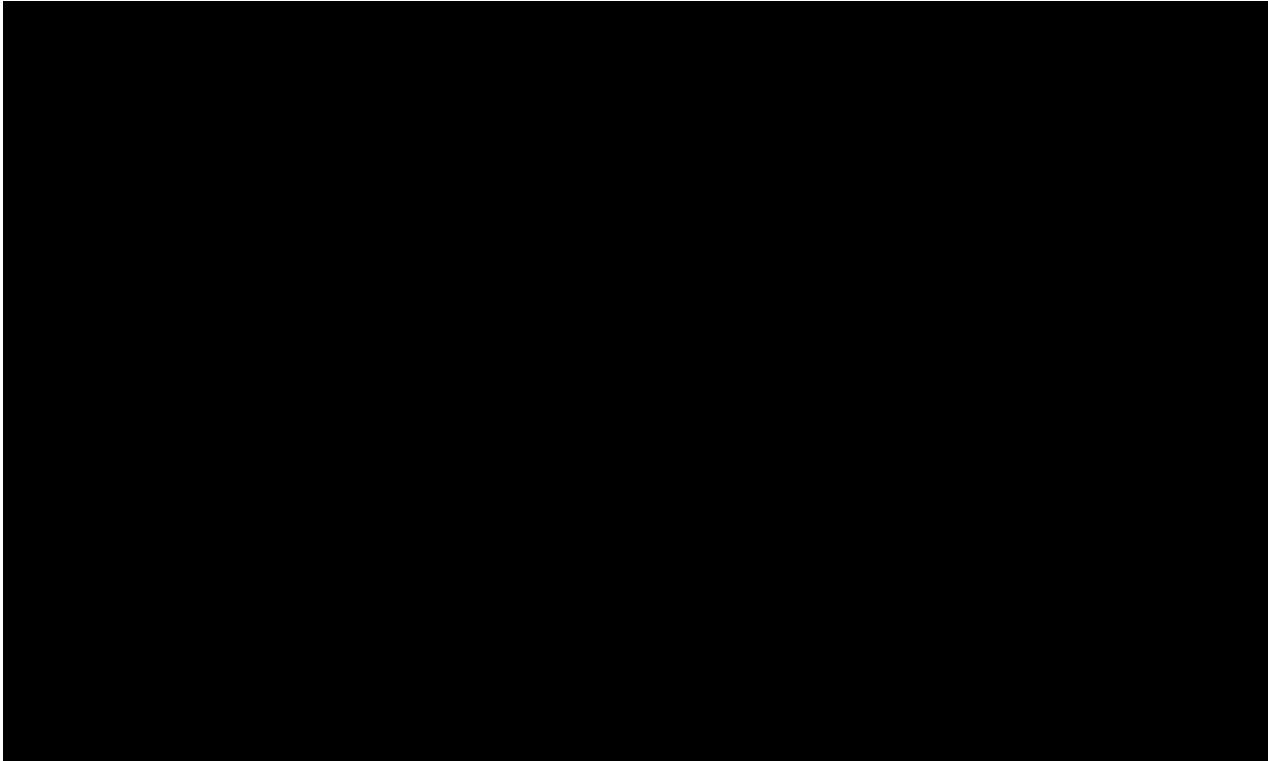
38.1 **Cost of MQD Works**

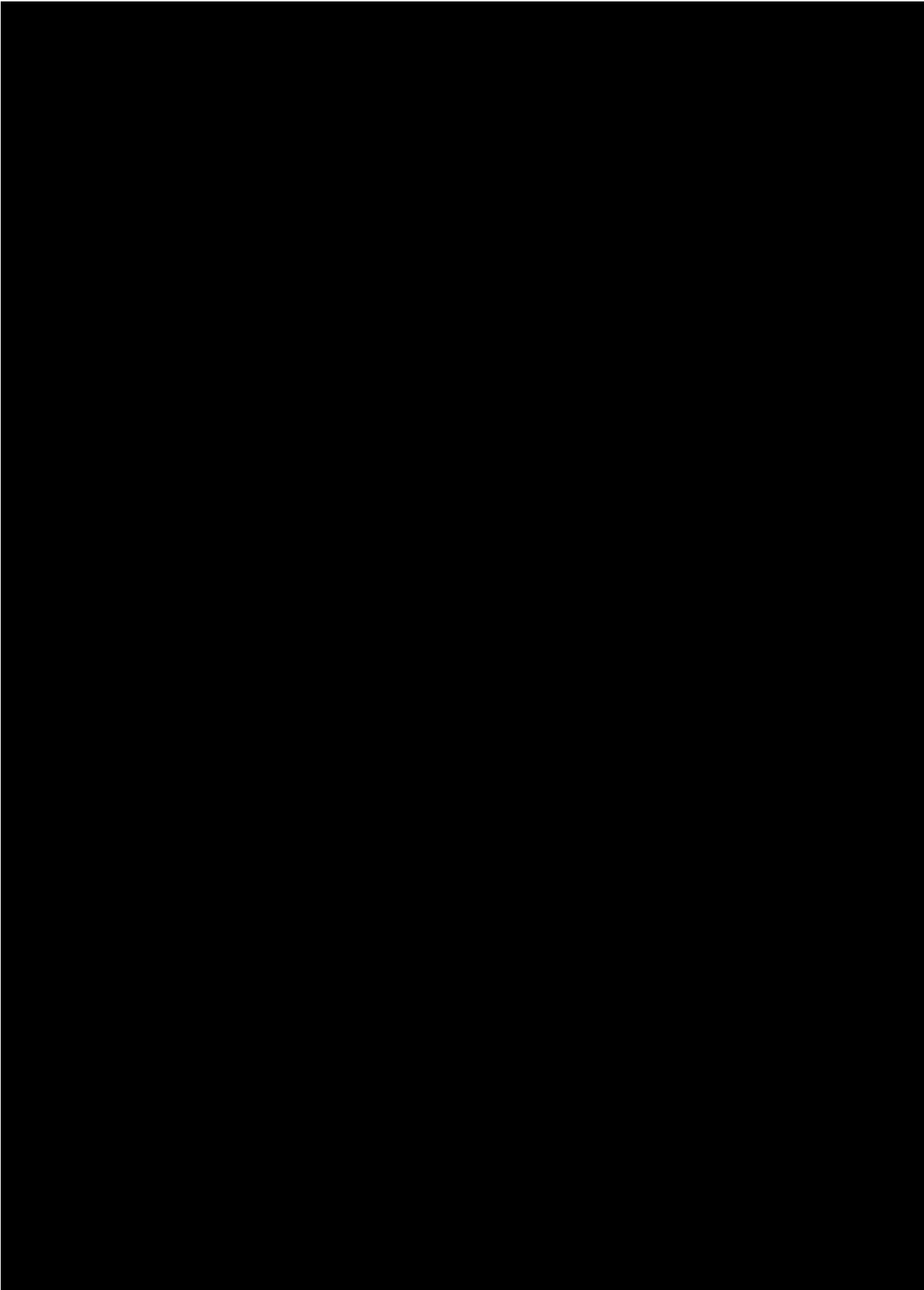
Despite any other provision of this deed, in relation to the Cost of the carrying out or procuring the carrying out of the MQD Works:

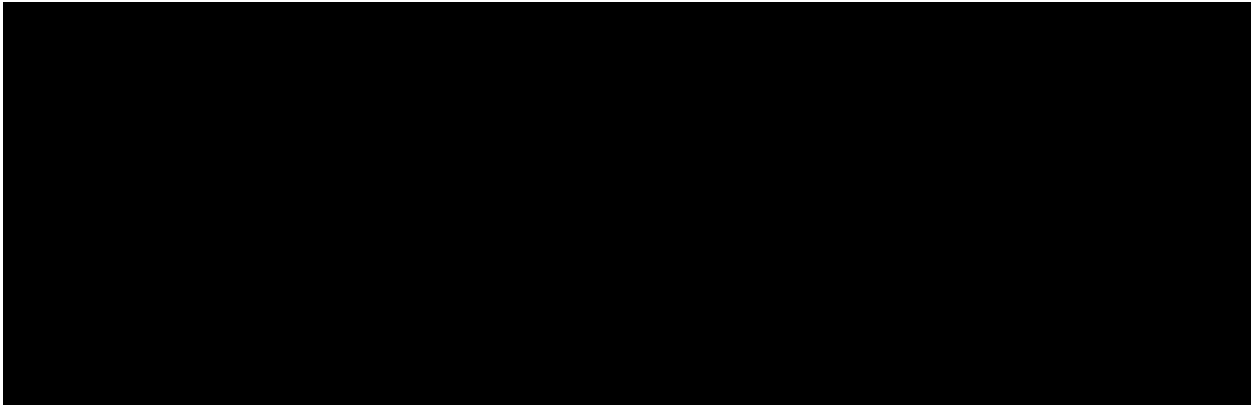


- (b) **(WL Developer's Costs)** subject to clause 38.1(a), the WL Developer must bear all other Costs incurred in respect of carrying out or procuring the carrying out of the MQD Works and complying with its obligations under this deed; and
- (c) **(No double counting)** any Modification Costs and Delay Costs must be calculated without any double counting between them.

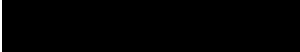
**38.2 WL Developer claims**

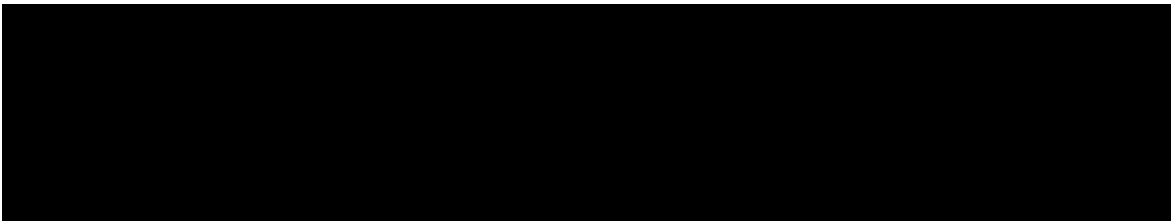
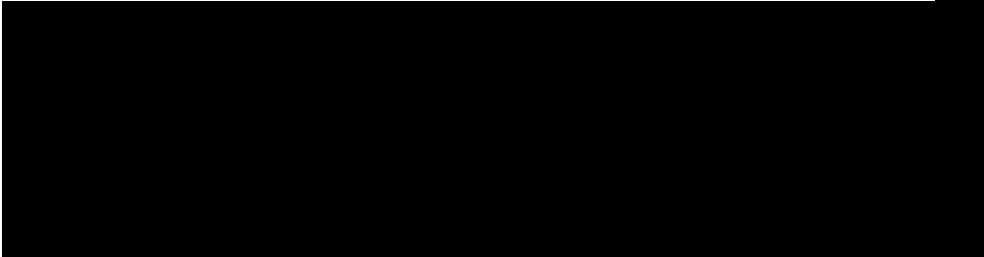
- (a) **(Progress claim)** The WL Developer may give the Principal's Representative a progress claim with respect to a cost referred to in clause 38.1(a)(i) or 38.1(a)(ii)  (Cost of MQD Works) applicable to a Separable Portion:
- (i) on the twentieth day of each month; and
  - (ii) 30 Business Days after the issue of a Certificate of Completion for that Separable Portion.
- (b) **(Format of claim)** For each progress claim made by the WL Developer under clause 38.2(a), the WL Developer must give the Principal's Representative a claim in a format required by the Principal's Representative (including electronic format), together with a tax invoice, showing the amount claimed by the WL Developer and identifying the work, services, Construction Materials and Construction Plant to which the claim relates.
- (c) **(Supporting information)** Each claim made by the WL Developer under any WL MQD Contract Document must set out or be accompanied by:
- (i) all details, calculations, supporting documentation and other information required to substantiate the amounts claimed; and
  - (ii) such other documentation or information as the Principal's Representative may require from time to time.
- (d) **(Principal's payment)** The Principal must, within 15 Business Days after receipt of a claim made by the WL Developer in accordance with clause 38.2(a), pay the amount due to the WL Developer, unless the amount is disputed by the Principal in accordance with the Dispute Procedure.
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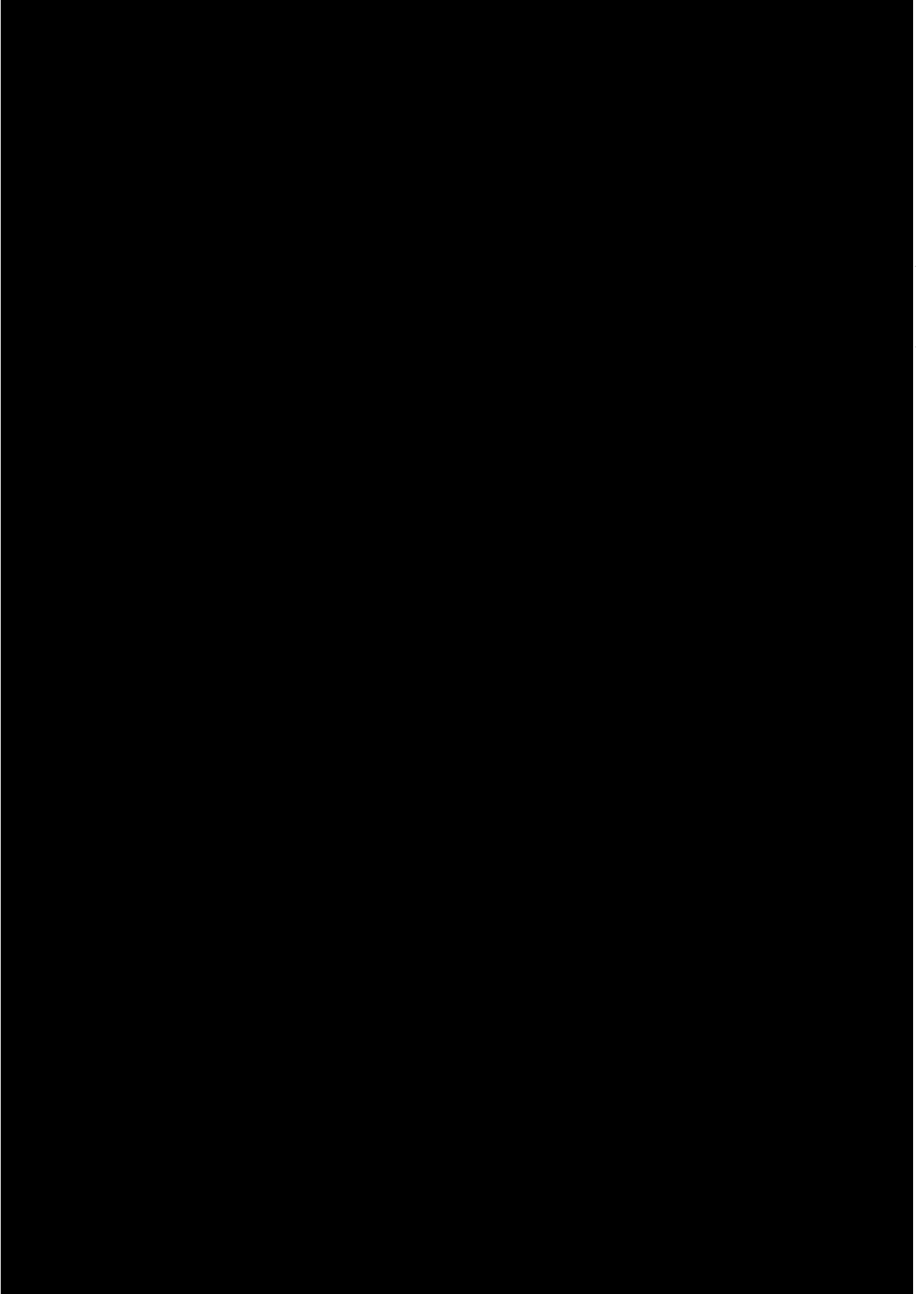


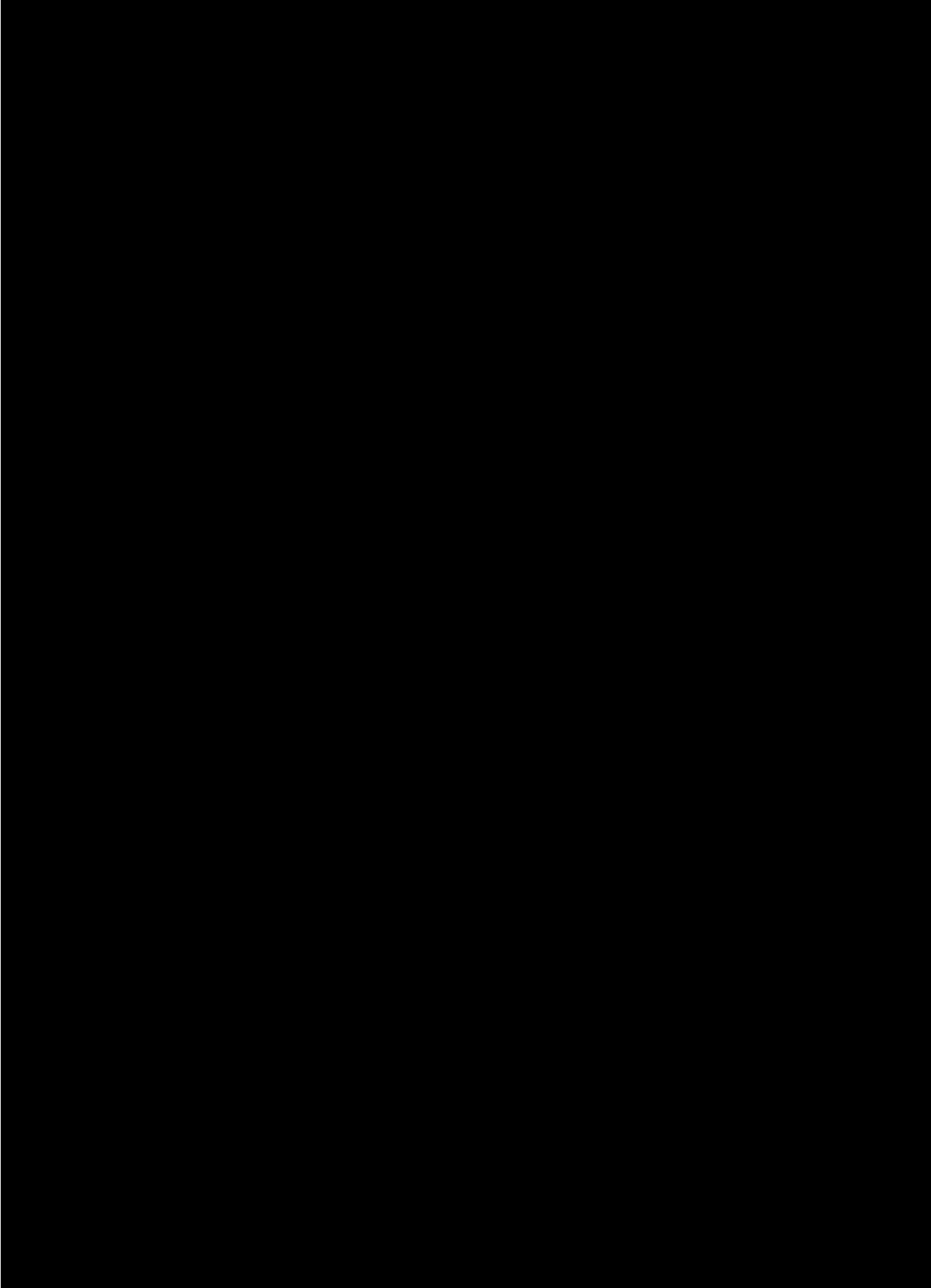


**38.3 Taxes, Outgoings and other fees and levies**

- (a) **(WL Developer to pay)** Subject to clause 38.3(b) and  the WL Developer must pay:
- (i) all Taxes and Outgoings of whatever description in cash or in kind as lawfully imposed by any Authority in respect of each part of the Construction Site on and from the applicable Construction Licence Commencement Date until, in respect of the relevant part of the Construction Site, the Applicable Transfer Date; and
  - (ii) all Taxes and fees (including registration fees) and fines and penalties in respect of fees, which may be payable or determined to be payable in connection with any WL MQD Contract Document (including any discharge of a WL MQD Contract Document) or a payment or receipt or any other transaction excluding any fine or penalty incurred due to the default of the Principal.
- (b) **(Principal to pay)** The Principal must pay all council rates, water rates and land taxes imposed by any Authority in respect of the Construction Site until the relevant Applicable Transfer Date in respect of that part of the Construction Site.
- (c) **(Employment and Similar Taxes)** The WL Developer indemnifies the Principal against, and must pay on demand the amount of, all losses, liabilities and Taxes incurred as a result of the Principal becoming liable to pay any Taxes or withhold any amount in respect of employees, contractors or personnel of the WL Developer or any Associate (including by being treated as the employer of any such persons).









**38.5 Each party to pay its costs**

Unless otherwise expressly provided for in this deed, each party agrees to pay its own costs of and incidental to the negotiation and execution of this deed.

**38.6 Right of set-off**

(a) (**Amounts set-off**) The Principal may withhold, set-off or deduct from the money which would otherwise be payable to the WL Developer or which would otherwise be due to the WL Developer under this deed, including:

- (i) any debt or other moneys due from the WL Developer to the Principal;
- (ii) any bona fide claim to money which the Principal may have against the WL Developer, whether for damages (including liquidated damages) or otherwise; or
- (iii) any other amount the Principal is entitled to withhold, set-off or deduct under this deed,

under or arising out of or in connection with this deed or the carrying out or procuring the carrying out of the MQD Works and the Principal may make such withholding, set-off or deduction whether or not such amounts were included in a payment schedule issued by the Principal's Representative.

(b) (**Survival**) This clause 38.6 will survive the termination of this deed.

### 38.7 General payment requirements

- (a) **(Method of payment)** A party must make payments under this deed to the other party (or a person nominated by the other party in a notice to the first party) by the method the other party reasonably requires without deduction, unless prohibited by Law or otherwise provided in this deed.
- (b) **(When to make payments)** A party must make payments to the other party under this deed on the due date in immediately available funds.
- (c) **(No demand)** A party need not make demand for any amount required to be paid by the other party under this deed, unless this deed expressly specifies that demand must be made.
- (d) **(Incorrect amount paid)** If a party pays an amount and it is found later that the amount payable should have been:
  - (i) higher, then the other party may demand payment of the difference; or
  - (ii) lower, then the other party must repay the difference,
 even though the other party has given the first party a receipt for payment of the incorrect amount.
- (e) **(Currency)** The parties waive any right which they have in any jurisdiction to pay an amount in a currency other than the currency payable under this deed.
- (f) **(Interest on overdue money)** A party must pay simple interest at the rate of [REDACTED] above the Bank Bill Rate on any amount under this deed which is not paid on the due date for payment. That interest:
  - (i) accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days; and
  - (ii) is payable on demand from the other party or, if no such demand is made, on the last day of each calendar month.
- (g) **(Compounding)** Interest payable under clause 38.7(f) which is not paid when due for payment may (at any time before payment) be added to the overdue amount payable by a party monthly or the last day of each calendar month. Interest is payable on the increased overdue amount at the rate of [REDACTED] above the Bank Bill Rate in the manner set out in clause 38.7(f).
- (h) **(Interest on Liability merged in judgment or order)** If a Liability under this deed becomes merged in a judgment or order, then a party agrees to pay interest to the other party on the amount of that liability as an independent obligation. The interest accrues both before and after that judgment or order from the date the Liability was due for payment until it is paid, at a rate that is the higher of [REDACTED] above the Bank Bill Rate and the rate payable under the judgment or order.
- (i) **(Tender on termination)** Money tendered by a party after the termination of this deed and accepted by the other party may be applied in the manner the other party decides.

### 38.8 Principal's right to reimbursement

Any moneys paid by the Principal in respect of any Liability expressly imposed on the WL Developer under this deed, notwithstanding that any Law imposes that Liability on the

Principal, becomes a debt due and payable by the WL Developer to the Principal under this deed.

### 39. NOTICES

- (a) **(Meaning of Notice)** Wherever referred to in this clause 39, **Notice** means each communication (including each notice, consent, approval, request and demand) under or in connection with this deed.
- (b) **(PDCS)** At any time and from time to time, the Principal's Representative may notify the WL Developer that a PDCS will be used for giving Notices under or in connection with this deed. The Principal's Representative's notice will set out:
- (i) the name of the relevant PDCS;
  - (ii) the commencement date for use of the PDCS;
  - (iii) any password, login details or similar information required for the parties to use the PDCS;
  - (iv) any requirement for specific notices (eg notice of Claims);
  - (v) the name and contact details of any additional person which the Principal nominates for receipt of Notices under this deed; and
  - (vi) any other information reasonably necessary for the use and service of Notices via the PDCS.
- (c) **(No PDCS)** At any time and from time to time, the Principal's Representative may notify the WL Developer that a PDCS will not be used for giving certain Notices under or in connection with this deed. The Principal's Representative's notice will state that such Notices will be given in accordance with clause 39(d)(i) and must be given 10 Business Days prior to the implementation of any such change to the notice arrangements.
- (d) **(Content of Notice)** Each Notice must:
- (i) before the date referred to in clause 39(b)(ii) or where clause 39(c) applies:
    - (A) be in writing;
    - (B) be addressed:
      - (aa) in the case of a Notice from the WL Developer, to the Principal's Representative; or
      - (bb) in the case of a Notice from the Principal, to the WL Developer's Representative;
  - (C) comply with any requirements for specific notices (eg notices of Claims) specified by the Principal's Representative in writing;
  - (D) be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
  - (E) be delivered or posted to the address or sent to the email address shown in item 10 or item 11 (as relevant) of the Reference Schedule

(or to any new address or email address notified by the intended recipient); and

- (ii) on and from the commencement date for use of the PDCS referred to in clause 39(b)(ii) (other than where clause 39(c) or clause 39(d)(i) applies):
  - (A) be sent through the PDCS in accordance with the requirements set out in clause 39(f):
    - (aa) in the case of a Notice to the Principal, be addressed to the Principal's Representative; and
    - (bb) in the case of a Notice to the WL Developer, be addressed to the WL Developer's Representative; or
  - (B) in circumstances where the PDCS is temporarily disabled or not operating for a period in excess of 2 hours, be issued in accordance with clause 39(d)(i).
- (e) **(Communication received)** A communication is taken to be received by the addressee:
  - (i) (in the case of a Notice sent through the PDCS) at the time recorded on the PDCS as being the time at which the Notice was sent;
  - (ii) (in the case of prepaid post sent to an address in the same country) 2 Business Days after the date of posting;
  - (iii) (in the case of international post) 7 Business Days after the date of posting;
  - (iv) (in the case of delivery by hand) on delivery; and
  - (v) (in the case of email):
    - (A) if it is transmitted by 5:00pm (Sydney time) on a Business Day – on that Business Day; or
    - (B) if it is transmitted after 5:00pm (Sydney time) on a Business Day, or on a day that is not a Business Day - on the next Business Day.
- (f) **(PDCS Notices)** With respect to Notices sent through the PDCS:
  - (i) all Notices must be submitted by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
  - (ii) only the text in any Notice, or subject to clause 39(f)(iii), any attachments to such Notice which are referred to in the Notice, will form part of the Notice. Any text in the subject line will not form part of the Notice; and
  - (iii) an attachment to a Notice will only form part of a Notice if it is uploaded to the PDCS in:
    - (A) .pdf format;
    - (B) a format compatible with Microsoft Office; or
    - (C) such other format as may be agreed between the parties in writing from time to time.

- (g) **(WL Developer warranties)** The WL Developer warrants that it will:
- (i) ensure that relevant trained personnel log on and use the PDCS and check whether Notices have been received on each Business Day;
  - (ii) comply with any user guide and protocol with respect to the PDCS provided by the Principal's Representative to the WL Developer from time to time and all necessary training required by the Principal's Representative;
  - (iii) advise the Principal's Representatives of which personnel require access to the PDCS; and
  - (iv) as soon as practicable, at the first available opportunity following any period of time during which the PDCS is temporarily disabled or not operating, send all communications which have been issued pursuant to clause 39(d)(ii)(B) to the Principal's Representative through the PDCS.
- (h) **(No Liability)** The Principal has no Liability for any Losses the WL Developer may suffer or incur arising out of or in connection with its access to or use of the PDCS or any failure of the PDCS.
- (i) **(Interface Contractor)** If this deed requires the WL Developer to provide any documents, notices or other communications to an Interface Contractor, the WL Developer must address those communications to the relevant Interface Contractor:
- (i) at the address notified by the Principal's Representative to the WL Developer; or
  - (ii) if required by the Principal's Representative, by way of the PDCS.

#### 40. **GENERAL**

##### 40.1 **Governing Law and jurisdiction**

- (a) This deed is governed by and must be constructed according to the Law in force in New South Wales.
- (b) Each party irrevocably and unconditionally 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 that may be brought at any time relating to this deed.

##### 40.2 **Amendments**

This deed may only be amended, varied or replaced by written agreement executed by or on behalf of each party.

##### 40.3 **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 by the Principal of:
- (i) a breach of a term of this deed; or
  - (ii) any other failure by the WL Developer to comply with a requirement of this deed, including any requirement to give any notice which it is required to give in order to preserve its entitlement to make any Claim against the Principal,
- operates as a waiver of another breach of that term or of a breach of any other term of this deed or failure to comply with any other requirement of this deed.

#### 40.4 **Survival of certain provisions; no merger**

- (a) **(Surviving clauses)** Without limiting clause 40.11(a) (*Indemnities*) or the schedules to this deed:
- (i) clause 1 (*Definitions and Interpretation*), clause 3 (*Security*), clause 5.7 (*Home Building Act*), clause 10.2 (*Information Documents*), [REDACTED] clause 23 (*Intellectual Property Rights*), clause 28 (*GST*), clause 29 (*Care of the MQD Works, Risks and Insurance*), clause 30 (*Indemnity and Liability Exclusions*), clause 31.8 (*Principal's rights after termination*), clause 31.9 (*Termination Payments*), clause 31.10 (*Preservation of rights*), [REDACTED] clause 33 (*Confidentiality and Permitted Disclosure*), clause 36 (*Dispute Resolution*), clause 38 (*Costs and other amounts*), clause 39 (*Notices*), clause 40 (*General*), the representations, warranties and indemnities given by the WL Developer under this deed and any other provisions which are expressed to survive termination or by implication from their nature are intended to survive termination (together, the **Surviving Clauses**) and any rights arising on termination will survive rescission, termination or expiration of this deed; and
  - (ii) if this deed is rescinded or terminated, no party will be liable to any other party except:
    - (A) under the Surviving Clauses; or
    - (B) in respect of any breach of this deed occurring before such rescission or termination.
- (b) **(No merger)** No right or obligation of any party will merge on completion of any transaction under this deed. All rights and obligations under this deed survive the execution and delivery of any transfer or other document which implements any transaction under this deed.

#### 40.5 **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.

#### 40.6 **Consents**

A consent required under this deed from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this deed expressly provides otherwise.

**40.7 No representation or reliance**

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this deed.

**40.8 Exercise of remedies**

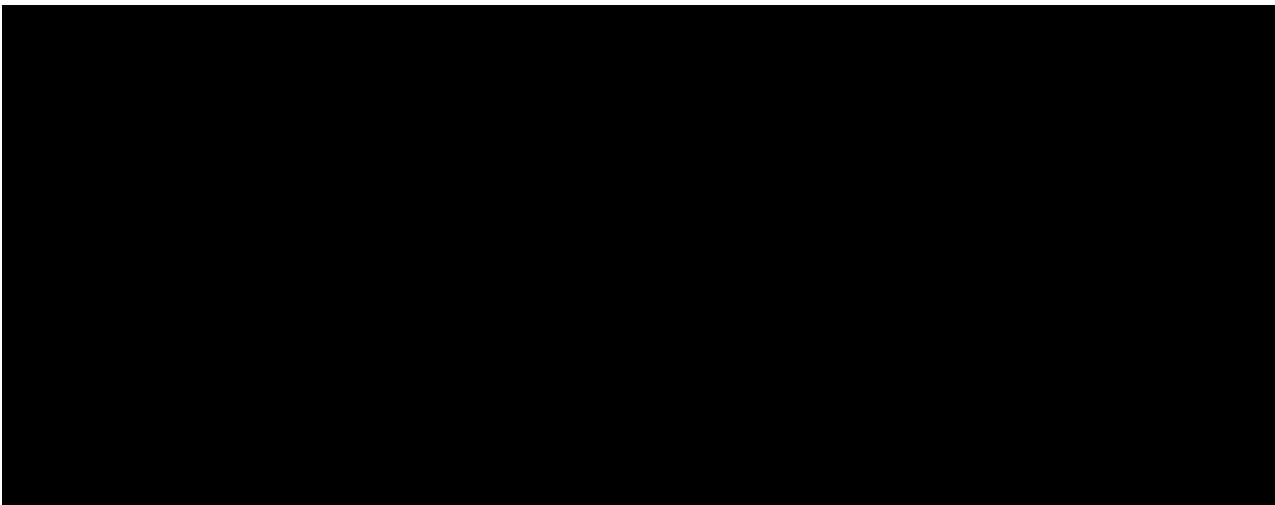
- (a) If the WL Developer breaches any of its obligations under this deed or any other WL MQD Contract Document, the Principal may exercise any or all of the rights and powers and pursue any or all of the remedies available to the Principal under the WL MQD Contract Documents and/or enforce any other legal or equitable remedy available under applicable Law.
- (b) Each and every right, power and remedy of the Principal will be cumulative and in addition to any other right, power and remedy, whether under a WL MQD Contract Document or applicable Law, which may be exercised by the Principal and the exercise of a right, power or remedy will not be construed to be a waiver of the right to exercise any other right, power or remedy.
- (c) No delay or omission by the Principal in the exercise of any right, power or remedy will impair such right, power or remedy or constitute a waiver of the relevant breach.

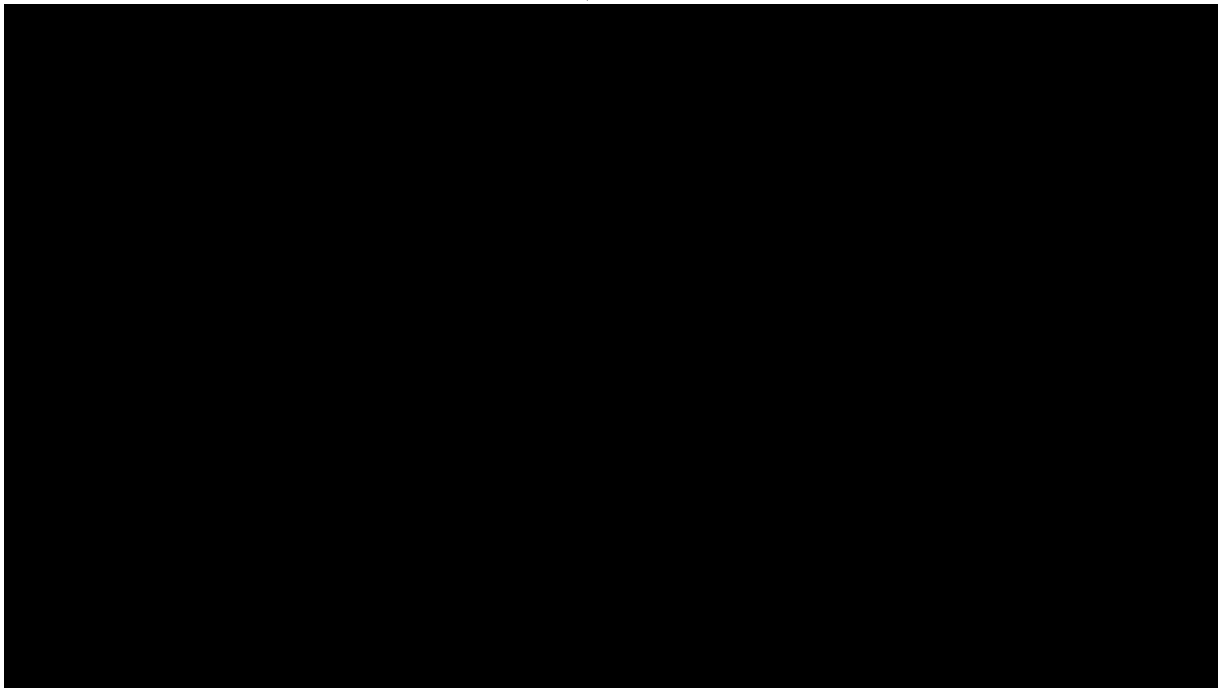
**40.9 Entire agreement**

To the extent permitted by Law, in relation to its subject matter, this deed embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties and supersedes any prior written or other agreement of the parties.

**40.10 Joint and several liability**

- (a) The rights and obligations of a party, if that party is made up of more than one person, are joint and several.
- (b) Each person constituting the WL Developer 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.





**40.12 Excluding liability**

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

**40.13 Severability**

If, at any time, any provision of this deed is or becomes void, illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, then:

- (a) that will not affect or impair:
  - (i) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or
  - (ii) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this deed; and
- (b) the provision will be construed in a manner which:
  - (i) avoids the provision being void, illegal, invalid or unenforceable; and
  - (ii) subject to clause 40.13(b)(i), preserves to the maximum possible extent:
    - (A) the enforceability of the provision and the provisions of this deed; and
    - (B) the original effect and intent of this deed.

**40.14 Relationship between the Principal and WL Developer**

Nothing in, or contemplated by, this deed or any other WL MQD Contract Document will be construed or interpreted as:

- (a) constituting a relationship between the Principal and the WL Developer, or any other person, of partners, joint venturers, fiduciaries, employer and employee or principal and agent;



- (b) imposing any general duty of good faith on the Principal or its Associates to the WL Developer or the WL Developer's Associates in relation to or arising out of this deed, other than to comply with the obligations (if any) expressly stated to be assumed by the Principal under this deed or any other WL MQD Contract Document on a good faith basis; or
- (c) imposing any general duty of good faith on the WL Developer to the Principal or the Principal's Associates in relation to or arising out of this deed, other than to comply with the obligations (if any) expressly stated to be assumed by the WL Developer under this deed or any other WL MQD Contract Document on a good faith basis.

#### 40.15 **Transfer of functions or Public Transport Agency assets**

- (a) The parties acknowledge that:
  - (i) a Public Transport Agency may be reconstituted, renamed, dissolved, replaced or restructured and that some or all of the powers, functions, assets, rights, liabilities or responsibilities of a Public Transport Agency may be transferred to or vested in another entity;
  - (ii) if a Public Transport Agency is reconstituted, renamed, dissolved, replaced or restructured and/or some or all of that Public Transport Agency's powers, functions, rights or responsibilities are transferred to or vested in another entity, then unless otherwise notified by the Public Transport Agency, references in this deed to that Public Transport Agency must, subject to any facilitative legislation, be deemed to refer, as applicable, to the reconstituted, renamed, restructured or new entity or entity replacing that Public Transport Agency to the extent that such entity has assumed or has had transferred to it or vested in it those powers, functions, rights or responsibilities; and
  - (iii) a Public Transport Agency may be required to or may, at its absolute discretion, elect to (including as a result of changes to New South Wales government policy or directions) acquire, or dispose of, any property or assets.
- (b) The WL Developer acknowledges and agrees that it must, to the extent required by a Public Transport Agency and without limiting any facilitative legislation, negotiate in good faith any variations required to any WL MQD Contract Document, or any replacement agreement or agreements for any WL MQD Contract Document to give effect to a Public Transport Agency being reconstituted, renamed, dissolved, replaced or restructured.
- (c) The WL Developer will be taken for all purposes to have consented to, and will not have, and no Public Transport Agency will be liable for, any claim as a result of any action, matter or circumstance referred to in, or contemplated by this clause 40.15.
- (d) For the purposes of this clause 40.15, "**another entity**" means a government or semi-government entity including any agency, statutory corporation, statutory authority, department or state owned corporation.

#### 40.16 **Principal not Liable**

Except to the extent expressly provided for in this deed, the Principal has no Liability for any Loss caused by or Claim in relation to the exercise or attempted exercise of, failure to exercise, or delay in exercising a right, power or remedy.

#### 40.17 **Supervening legislation**

Any present or future legislation which operates to vary the obligations of the WL Developer in connection with this deed with the result that the Principal's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded, except to the extent that its exclusion is prohibited or rendered ineffective by Law.

#### 40.18 **Set off of unliquidated amounts**

Except to the extent expressly provided for in this deed a party cannot set off any unliquidated amount owing by it to the other party under this deed arising from a breach of this deed by that party, against any liquidated amount owing by that other party.

#### 40.19 **Continuing breaches**

The expiry or termination of this deed does not affect the rights of the parties to this deed for a breach of this deed by the other party or parties before the expiry or termination.

#### 40.20 **Step-in**

- (a) **(Principal may act)** If a Step-in Event occurs, the Principal may, either itself or by a third party, perform an obligation under this deed that the WL Developer was obliged to perform but which it failed to perform.
- (b) **(Notice)** Except in an emergency, the Principal's Representative must provide the WL Developer with 5 Business Days' prior written notice of an intention to take action under clause 40.20(a).
- (c) **(Costs)** Any Loss suffered or incurred by the Principal in so performing such an obligation will be a debt due and payable by the WL Developer to the Principal.
- (d) **(No obligation)** Where the Principal or the Principal's Representative is entitled under this deed to exercise any right or power to:
  - (i) direct or instruct the WL Developer; or
  - (ii) itself step-in to,
 take any action, or omit to take any action, it is not obliged to exercise that right or power, and may do so in their absolute discretion.
- (e) **(WL Developer remains responsible)** Where the Principal or the Principal's Representative does exercise any such right or power, the WL Developer remains responsible for, controls and assumes the risk of all environmental, health and safety issues relating to the MQD Works.

#### 40.21 **Personal Property Securities Act**

- (a) **(Security Interest)** By signing this deed, the WL Developer acknowledges and agrees that if this deed and the transactions contemplated by it, operate as, or give rise to, a Security Interest, the WL Developer must do anything (including amending this deed or any other document, executing any new terms or any other document, obtaining consents, getting documents completed and signed and supplying information) that the Principal's Representative considers necessary under or as a result of the PPS Act for the purposes of:
  - (i) ensuring that the Security Interest is enforceable, perfected or otherwise effective and has the highest priority possible under the PPS Act;

- (ii) enabling the Principal to apply for any registration, or give any notification, in connection with the Security Interest, including the registration of a financing statement or financing change statement; or
  - (iii) enabling the Principal to exercise rights in connection with the Security Interest and this deed.
- (b) **(Provisions not applying)** If Chapter 4 of the PPS Act applies to the enforcement of the Security Interest, the WL Developer 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 Security Interest.
- (c) **(WL Developer agreements)** The WL Developer:
- (i) acknowledges that the Security Interests created under or pursuant to this deed relate to collateral and all proceeds in respect of that collateral (until the Principal is paid in full for the collateral);
  - (ii) acknowledges that to the maximum extent permitted by Law, it waives any right to receive a verification statement under the PPS Act in respect of the Security Interest;
  - (iii) not used; and
  - (iv) 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.
- (d) **(No disclosure)** 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 Act.

#### 40.22 **Vienna Convention**

The United Nations Convention on Contracts for the *International Sale of Goods and the Sale of Goods (Vienna Convention) Act 1986* (NSW) do not apply to this deed.

#### 40.23 **Attorneys**

Each person who executes this deed on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

#### 40.24 **Counterparts**

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

**EXECUTED** as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED** for **SYDNEY METRO**  
ABN 12 354 063 515 by its duly  
authorised delegate, in the presence of:

\_\_\_\_\_  
Signature of delegate

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**Signed, sealed and delivered** for and on behalf of **WL DEVELOPER PTY LTD** ACN 637 792 888 as trustee for the WL Developer Trust under power of attorney

dated .....

in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

\_\_\_\_\_  
Address of witness

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Full name of witness

\_\_\_\_\_  
Full name of attorney

\_\_\_\_\_  
Address of witness