

Schedules

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Schedule 1

Special Conditions

Note to Proponents: This Schedule 1 will set out any special conditions to apply to a particular proposal. The special conditions will be developed on a case by case basis and will include any specific requirements of the relevant Receiving Agency.

To the extent that there is any inconsistency between the special conditions and the general conditions under a particular agreement, the special conditions will prevail to the extent of that inconsistency.

Part A of this Schedule 1 sets out examples of special conditions that are likely to be included if a WIK agreement involves the provision of public transport works and the Department of Transport is the Receiving Agency.

Part B of this Schedule 1 sets out the general principles that may apply to other types of WIK arrangements. If applicable to a particular proposal, these principles will be developed into legally drafted special conditions.

Part C of this Schedule 1 sets out the Victorian Government's model clauses in respect of compliance with the Victorian Code of Practice for the Building and Construction Industry (**Code**) and the Implementation Guidelines to the Victorian Code of Practice for the Building and Construction Industry (**Guidelines**). The particular model clauses to apply to a proposal will depend on the value of the contract works.

The example clauses and principles set out in this Schedule 1 are not exhaustive of the types of special conditions that may be required for a particular proposal.

model WIK Agreement

PART A

1 Definitions

1.1 Definitions

Terms used in this schedule have the meaning given in clause 1.1 of this agreement, unless defined below.

Term	Meaning
Disruption Damages	damages for Unplanned Disruptions calculated in accordance with clause 2 (<i>Payment of Receiving Agency's costs for Unplanned Disruptions</i>) of this schedule.
Rail Operations	the: <ol style="list-style-type: none"> 1 provision, maintenance, movement, shunting, storage, fuelling, loading and unloading of rolling stock for Rail Services; 2 provision of rail infrastructure to enable Rail Services; 3 maintenance, storage, building, rebuilding, servicing, replacing and repairing of rail infrastructure and rolling stock; and 4 the conduct of the business of providing Rail Services.
Rail Services	the handling, storing or transport of freight or passengers by rail.
Unplanned Disruptions	any disruption to Rail Operations arising out of or in connection with the acts or omissions of the GLE (including its employees, agents and subcontractors) other than disruption to Rail Operations to the extent expressly authorised by the Receiving Agency.

2 Payment of Receiving Agency's costs for Unplanned Disruptions

Note to Proponents: the concepts of Unplanned Disruptions and Disruption Damages will apply throughout the life of the Works and not just during any period of delay. This is the usual DOT position when contracting for design and construction services. It is anticipated that the Disruption Damages would be calculated as a genuine pre-estimate of the costs which the Receiving Agency may incur as a result of the delayed completion.

- (a) If the Receiving Agency suffers Unplanned Disruptions as a result of the GLE's failure to complete the Works by the Works Due Date, the GLE must pay to the Receiving Agency liquidated damages calculated at [**\$insert**] per day, up to and including the time when the Unplanned Disruption ceases.
- (b) If the actual Loss suffered by the Receiving Agency as a result of Unplanned Disruptions (including where the Receiving Agency pays or reimburses a person for alternative transportation costs such as bussing) and any other incidental costs (including communication of alternative timetables incurred by rail operators) exceeds the Disruption Damages, the GLE must indemnify and hold harmless the Receiving Agency in respect of all Loss suffered by the Receiving Agency arising out of or in connection with the Unplanned Disruption, in excess of the Disruption Damages.
- (c) The Receiving Agency may recover the amounts referred to in paragraphs (a) and (b) on demand from the GLE at any time.
- (d) The liability of the GLE under paragraphs (a) and (b) on is deemed to be a civil penalty provision under section 68 of the *Rail Corporations Act 1996* (Vic).
- (e) Without limiting paragraph (d):
 - (1) the GLE acknowledges and agrees that the Disruption Damages are a genuine pre-estimate of the loss that will be suffered by the Receiving Agency arising out of or in connection with Rail Disruption; and
 - (2) if it is determined by a court of competent jurisdiction that the GLE's liability for Disruption Damages under this clause 2 (*Payment of Receiving Agency's costs for Unplanned Disruptions*) is deemed to be or becomes void, voidable or unenforceable in any way so as to disentitle the Receiving Agency from claiming those Disruption Damages, then the Receiving Agency is entitled to claim against the GLE damages at law as an alternative to those Disruption Damages.

3 Subcontracting by the GLE

3.1 Power to subcontract

- (a) Notwithstanding anything in clause 5 of this agreement, the GLE may only subcontract the Works:
 - (1) to a subcontractor approved by the Receiving Agency in writing; and
 - (2) in accordance with clause 3.2 in this Schedule 1.
- (b) The GLE must provide to the Receiving Agency any information the Receiving Agency requests verifying the capacity of the proposed Subcontractor to meet health and safety obligations of the kind imposed on the GLE under this agreement or by law.
- (c) For the purpose of paragraph (a)(1) the Subcontractors listed in Schedule 7 are deemed to be approved by the Receiving Agency for the types of works specified for that Subcontractor.

3.2 Subcontract provisions

- (a) The GLE must, in each of its contracts with Subcontractors, require each Subcontractor to ensure that all persons engaged by that Subcontractor in the performance of the Works comply with all workplace health and safety laws and all relevant workplace health and safety requirements with which the GLE is required to comply under this agreement.
- (b) The GLE must:
 - (1) obtain warranties on commercially available terms for all materials and equipment from the manufacturers and subcontractors who manufacture or supply the materials and equipment (as the case may be) in accordance with the requirements of the Plans and Specifications or as otherwise required by the Receiving Agency;
 - (2) ensure that the benefit of those warranties is assignable to the Receiving Agency or its nominee; and
 - (3) in the event of termination of this agreement, assign the benefit of those warranties to the Receiving Agency (or its nominee) where requested by the Receiving Agency.
- (c) For the purpose of this clause only, the GLE appoints the Receiving Agency as its attorney with authority to execute the assignment of the warranties referred to in paragraph (b), but for no other purpose.

3.3 GLE's responsibility

- (a) Any Subcontract entered into by the GLE does not relieve the GLE from any obligation under this agreement and does not create or impose any obligation or liability on the Receiving Agency.
- (b) The GLE is liable to the Receiving Agency for acts or omissions of Subcontractors and employees, agents of Subcontractors and Subcontractors of Subcontractors as if they were acts or omissions of the GLE.

PART B - Principles

1 Land access

Where the Works are to be carried out on land not owned by the GLE, or where temporary access to land not owned by the GLE is required to carry out the Works:

- (a) the parties will, prior to entering into this agreement, agree a Property Schedule which will identify:
 - (1) the land required for the Works;
 - (2) the purposes for which each parcel of land is required (e.g. temporary access);
 - (3) the times at which those parcels of land will be made available; and
 - (4) the conditions placed on the GLE in accessing the land;
- (b) the Minister or the Receiving Agency (as applicable) will, including through assisting in the negotiation of access to land with all relevant Authorities, make available to the GLE each parcel of land specified in the Property Schedule by the dates specified in the Property Schedule;
- (c) neither the Minister nor the Receiving Agency will be under any obligation to provide the GLE with any other rights to land;
- (d) failure by the Minister or the Receiving Agency (as applicable) to comply with its obligation to make land available in accordance with these principles may be an Extension Event; and
- (e) a construction licence may need to be granted in favour of the GLE; and
- (f) the GLE must not use, or permit the use of, the land for any purpose other than a purpose permitted under the agreement or (where required) the construction licence.

2 Land condition

Subject to paragraph (c) and section 3.2 below, where the Works are to be carried out on land not owned by the GLE, the GLE may be required to:

- (a) acknowledge that neither the Minister, the Receiving Agency nor anyone on behalf of either of them has made any representation or given any warranty to the GLE in connection with:
 - (1) the land;
 - (2) any structure or other thing on, above, adjacent to, or under the surface of, the land;
 - (3) the existence, location, condition or availability of any utility infrastructure;
 - (4) the existence or otherwise of any native title or aboriginal title in respect of the land; or
 - (5) the presence of artefacts on the land;

- (b) accept all risk in connection with:
- (1) the land;
 - (2) any structure or other thing on, above, adjacent to, or under the surface of, the land; and
 - (3) the existence, location, condition or availability of any utility infrastructure;
 - (4) the condition and state of repair of the land, including defects and latent conditions, contamination and easements;
 - (5) the existence or otherwise of any native title or aboriginal title in respect of the land; or
 - (6) the presence of artefacts on the land,
- except as otherwise expressly set out in the agreement.
- (c) Where the Works are to be carried out on land owned by the State, the GLE will not be required to bear the risk of:
- (1) any land conditions which could not have been reasonably foreseen by a skilled and competent contractor acting in accordance with good construction industry practice (including, for example, by reviewing geotechnical reports or investigations);
 - (2) the existence or otherwise of any native title or aboriginal title in respect of the land; or
 - (3) the presence of artefacts on the land.

3 Environment

3.1 Environmental management strategy

The GLE may be required to develop and implement an environmental management strategy, including the preparation of, and compliance with, an environmental management plan, as a means of preventing and minimising adverse impacts of the Works on the environment.

3.2 Contamination

- (a) Depending on the proposal involved and the ownership of the Works land, there may be scope for site investigations to be carried out to determine the extent of any contamination or other adverse site conditions. In some circumstances, the GLE may be required to accept the risk of known site conditions (ie those identified in the site conditions report) but may be provided relief in respect of unknown site conditions.
- (b) Where the Works are to be carried out on land owned by the State, the GLE will not be required to bear the risk of any contamination which:
- (1) could not have been reasonably foreseen by a skilled and competent contractor acting in accordance with good construction industry practice (including, for example, by reviewing geotechnical reports or investigations); or

(2) has not been caused or contributed to by the GLE.

3.3 Environmental ratings

The GLE may be required to obtain environmental ratings in respect of any buildings that the GLE may be constructing as part of the Works.

4 Traffic management

The GLE may be required to manage traffic in and around the construction site during the carrying out of the Works, including by providing traffic management plans for the Receiving Agency's approval prior to the commencement of the Works.

5 Proximate State Work

Depending on the location of the Works and the nature of them, the GLE may be required to acknowledge the State's rights to deliver new infrastructure in the vicinity of the Works, and agree a regime with the State whereby, subject to certain relief being granted to the GLE, the State's rights take priority over the GLE's rights to carry out the Works.

6 Quality Assurance

Depending on the nature and scale of the Works, the GLE may be required to develop and maintain a quality assurance program for the Works.

7 Interface

Depending on the location of the Works, the GLE may be required to enter into an interface and coordination agreement, or agree an interface protocol, with other contractors carrying out works in the vicinity of the Works.

Similarly, if the Works connect with infrastructure owned by other stakeholders, the GLE may be required to consult with those stakeholders to ensure that the Works properly interface with that other infrastructure, and to allocate the risk of damage caused by the GLE to that other infrastructure.

8 VIPP Plan

The GLE may be required to comply with the Government's Victorian Industry Participation Policy, including by implementing a VIPP Plan.

9 Security

The Minister may require security in addition to the Performance Bonds to secure the performance of the GLE's obligations under this agreement. For example, the Minister may require a parent company guarantee and/or where the GLE is a special purpose vehicle, a fixed and floating charge over the assets of the GLE.

10 Insurance

Depending on the nature of the Works and their location, the Minister may require the GLE to effect and maintain insurances that are additional to those specified in Schedule 6 (Insurance requirements). In addition, the Minister may wish to set maximum deductible amounts in respect of the insurances referred to in Schedule 6 (Insurance requirements).

11 Reporting

The GLE may be required to report to the Minister and/or the Receiving Agency on specific matters relating to the Works and its progress in addition to that provided for in the Construction Program.

12 Multiple GLEs

The general principles that will apply where there are multiple GLEs involved in the delivery of a particular proposal are as follows:

- (a) each GLE will bear the risks allocated to that GLE under the agreement in respect of the works it is responsible for delivering and the land it is responsible for transferring;
- (b) the GLEs will be responsible for coordinating and interfacing their works so that each GLE is able to complete its works by the due date for those works, and transfer its land by the due date for that land;
- (c) neither the Minister nor the Receiving Agency will be exposed to any interface risk in respect of the GLEs. In other words, no GLE will be able to bring any claim against the Minister or the Receiving Agency in respect of the acts or omissions of any other GLE; and
- (d) any disputes between multiple GLEs and the Minister or the Receiving Agency which involve common facts and circumstances will be joined and will be dealt with as a single dispute.

13 VicRoads designs

Where the design of the Works is based on a preliminary or concept design prepared by VicRoads, the GLE will be required to acknowledge that no representations or warranties

have been made by VicRoads in relation to the design. Additional clauses will also be required to protect VicRoads' intellectual property rights in relation to the design.

The GLE may also be required to warrant that the design documentation complies with applicable "Safety in Design" regulations, and that the required audits and proof engineering will be undertaken in accordance with VicRoads requirements.

14 Transfer of Works and Works Land to multiple Authorities

- (a) It is possible in respect of particular proposals that due to the existing allocation of ownership of infrastructure and land between Authorities, GLE's may be required to handover Works and transfer Works Land to more than one Authority.
- (b) If this is the case, the agreement will need to be structured to provide for this. This may involve:
 - (1) multiple Receiving Agencies being party to the agreement, with rights and obligations in respect of each item of Works or Works Land being referable to the Receiving Agency to whom the Works or Works Land will be transferred; or
 - (2) one Receiving Agency being party to the agreement, with that Receiving Agency being responsible for coordinating and enforcing the demands of each relevant Authority in respect of the item of Works or Works Land to which it receive transfer, for example in relation to:
 - (A) proposing and consenting to Receiving Agency Variations;
 - (B) inspections of Works and Works Land;
 - (C) the determination of Completion and Transfer Condition;
 - (D) disputes relevant to Works or Works Land;
 - (E) rectification of Defects; and
 - (F) granting of Intellectual Property Rights.

15 Road or rail work subcontracting

Agreements to be entered into that relate to Works involving road or rail infrastructure may necessitate additional obligations being placed on the GLE in respect of the subcontracting of those Works. Satisfaction of such additional obligations may be a condition of the Receiving Agency's approval under clause 5.1(a) of the agreement. Conditions may include:

- (a) that subcontracting of a significant part of any road or road/rail Works is to a VicRoads prequalified contractor;
- (b) the proposed subcontractor must ensure that certain obligations are passed down through its own subcontracts; and
- (c) **[insert any additional requirements of VicRoads]**

16 Works Infrastructure

Agreements to be entered into may involve the use by the GLE of, or interface with, Works Infrastructure which are owned or managed by the State or any Authorities.

In these circumstances, the GLE will be required to give certain undertakings to the Minister and the Receiving Agency concerning the GLE's use of, and interface with, the Works Infrastructure.

Such undertakings may include:

- (a) a warranty that the GLE has satisfied itself as to:
 - (1) what Works Infrastructure is available or will be provided and by whom
 - (2) the nature, extent, location and quality of that Works Infrastructure; and
 - (3) the suitability of the Works Infrastructure for the purposes of the Works;
- (b) a release and indemnity given to the Minister and the Receiving Agency in relation to any loss or damage relating to the Works Infrastructure or any other infrastructure or services to the extent caused or contributed to by the GLE or any person acting through or under the GLE; and
- (c) that it will be responsible for negotiating with any Authority, and for carrying out any necessary works, to integrate the Works with any Works Infrastructure.

The Minister and the Receiving Agency will make no warranty or representation and bear no responsibility to the GLE in relation to:

- (a) the integration, coordination or compatibility of the Works Infrastructure with the Works;
- (b) the quality or standard of workmanship of the Works Infrastructure;
- (c) the availability, adequacy, location or completeness of the Works Infrastructure,

and will not be responsible for any costs incurred or loss suffered by the GLE or any other person relating to any or all of these, notwithstanding that the Minister or the Receiving Agency, or any person acting on their behalf, has accepted the GLE's plan for the use of the Works Infrastructure, or recommended or accepted the Works Infrastructure.

17 Rectification of Defects where VicRoads is the Receiving Agency

VicRoads may require as Receiving Agency that:

- (a) the Defects Liability Period applicable to the agreement will be:
 - (1) the period commencing on the Works and Works Land Transfer Date and ending 24 months after the Works and Works Land Transfer Date; and
 - (2) in respect of a Stage, the period commencing on the Works and Works Land Transfer Date for that Stage and ending 24 months after the Works and Works Land Transfer Date for that Stage; and

- (b) the period referred to in clause 17(c) of the agreement will be 24 months.

18 PPSA

The following are template PPSA clauses that, depending on the nature of the proposal, may be inserted into an agreement to protect the security interests of the Minister or the Receiving Agency.

The parties will need to review the applicability of the clauses and the drafting contained therein prior to inclusion in an agreement.

“1.1 “Definitions

In this clause [1]:

Amendment Demand has the meaning given to it under section 178 of the PPS Act.

Extinguishable Security Interest has the meaning given in clause [1.4(a)(3)(B)].

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

PPS Law means:

- (a) the PPS Act and any regulations made at any time under the PPS Act, as amended from time to time;
- (b) any relevant amendment made at any time to any other legislation as a consequence of paragraph (a);
- (c) any provision of the PPS Act or regulations referred to in paragraph (a);
- (d) any amendment to any of the above, made at any time; or
- (e) any amendment made at any time to the Corporations Act 2001 (Cth) or any other legislation in connection with the implementation or as a consequence of the PPS Act.

PPS Register the register established under Section 147 of the PPS Act.

Relevant Item means any of the Works, Works Infrastructure or materials and equipment to which a GAIC Liability relates.

Security Interest has the meaning given to it in the PPS Law.

Transaction Document means:

- (a) this agreement;
- (b) any guarantee by which any person guarantees the GLE’s compliance with its obligations under any of the Transaction Documents;
- (c) agreements between the GLE and its Subcontractors;
- (d) any agreement which the Minister, the Receiving Agency and the GLE agree is a Transaction Document for the purposes of this agreement;
- (e) any agreement or instrument created under any of the above documents; and
- (f) each document entered into for the purpose of amending, novating, restating or replacing any of the above documents.

1.2 Enforcement under PPS Act

The parties agree that paragraphs (a) to (r) inclusive of Section 115 of the PPS Act do not apply to this agreement or the transactions contemplated under this agreement.

1.3 Application of PPS Law

- (a) If:
- (1) the Minister or the Receiving Agency determine that a PPS Law applies, or will at a future date apply, to any of the Transaction Documents or any of the transactions contemplated by them; and
 - (2) in the reasonable opinion of the Minister or the Receiving Agency, the PPS Law:
 - (A) adversely affects or would or may adversely affect the Minister's or the Receiving Agency's security position or the rights or obligations of the Minister or the Receiving Agency under or in connection with the Transaction Documents or any of the transactions contemplated by them; or
 - (B) enables or would enable the Minister's or the Receiving Agency's security position to be improved without adversely affecting the GLE in a material respect,
- (b) the Minister or the Receiving Agency may give notice to the GLE requiring the GLE to do anything (including amending any Transaction Document or executing any new Transaction Document) that in the Minister's or the Receiving Agency's reasonable opinion is necessary to ensure that, to the maximum possible extent, the Minister's and the Receiving Agency's security position, and rights and obligations, are not adversely affected as contemplated by clause [1.3(a)(2)(A)] (or that any such adverse effect is overcome), or that the Minister's and the Receiving Agency's security position is improved as contemplated by clause [1.3(a)(2)(B)].
- (c) The GLE must comply with the requirements of a notice given by the Minister or the Receiving Agency under clause [1.3(a)] within the time stipulated in the notice.
- (d) If:
- (1) the GLE determines that a PPS Law applies, or will at a future date apply, to any of the Transaction Documents or any of the transactions contemplated by them; and
 - (2) in the reasonable opinion of the GLE, the PPS Law:
 - (A) adversely affects or would or may adversely affect the GLE's security position or the rights or obligations of the GLE under or in connection with the Transaction Documents or any of the transactions contemplated by them; or
 - (B) enables or would enable the GLE's security position to be improved without adversely affecting the Minister or the Receiving Agency in a material respect,
- (e) the GLE may give notice to the Minister and the Receiving Agency requiring the Minister and the Receiving Agency to do anything (including amending any Transaction Document or executing any new Transaction Document) that in the GLE's reasonable opinion is necessary to ensure that, to the maximum possible extent, the GLE's security position, and rights and obligations, are not adversely affected as contemplated by clause [1.3(c)(2)(A)] (or that any such adverse

effect is overcome), or that the GLE's security position is improved as contemplated by clause [1.3(a)(2)(B)].

- (f) The Minister and the Receiving Agency must comply with the requirements of a notice given by the GLE under clause [1.3(c)] within the time stipulated in the notice.
- (g) For the avoidance of doubt, the Minister's and the Receiving Agency's rights in relation to clause [1.3(a)] take precedence in the event of any conflict or inconsistency between the Minister's or the Receiving Agency's and GLE's rights in this clause [1.3].

1.4 GLE's obligations

- (a) The GLE must:
 - (1) identify, protect and perfect with the highest priority available any Security Interest with a value in excess of \$[insert] which the GLE acquires under or in respect of the Transaction Documents or any of the transactions contemplated by them;
 - (2) register any Security Interest the GLE acquires in any Works, Works Infrastructure or materials and equipment immediately upon title in that Works, Works Infrastructure or materials and equipment passing to the GLE; and
 - (3) prior to the Works and Works Land Transfer Date, ensure that:
 - (A) no Subcontractor, or any other person engaged by the GLE arising out of or in connection with the agreement has a registered Security Interest in respect of any Relevant Item; and
 - (B) other than a Security Interest which will be extinguished upon the Works and Works Land Transfer Date (**Extinguishable Security Interest**) the GLE does not have a registered Security Interest in respect of any Relevant Item.
- (b) The Minister and the Receiving Agency acknowledge that the GLE may comply with clause [1.4(a)(3)] by demonstrating that:
 - (1) a search of the PPS Register reveals there is no Security Interest registered (other than an Extinguishable Security Interest) in relation to the Relevant Item or if there is a Security Interest registered (other than an Extinguishable Security Interest) in relation to the Relevant Item, an Amendment Demand has been given to the Subcontractor in respect of that Relevant Item in accordance with the PPS Law; or
 - (2) where there is a Security Interest in respect of the Relevant Item which is registered on the PPS Register in relation to a master supply agreement or any other similar contract which relates to a supply of goods or items to the GLE pursuant to which the Relevant Item has been procured, the GLE has paid for the Relevant Item and title and possession has passed to the Contractor.

1.5 Specific obligations

For the avoidance of doubt:

- (a) the Receiving Agency intends to register any Security Interest the Receiving Agency acquires in any Works, Works Infrastructure or materials and equipment

immediately upon title in that Works, Works Infrastructure or materials and equipment passing to the Receiving Agency in accordance with clause [16.7(a)] and the Security Interest arising; and

- (b) *the GLE must assist the Receiving Agency to register and / or improve that Security Interest by:*
 - (1) *removing any Security Interest the GLE has in the relevant Works, Works Infrastructure or materials and equipment; and*
 - (2) *ensuring that all Subcontractors remove any Security Interest the Subcontractors have in the relevant Works, Works Infrastructure or materials and equipment.*

1.6 General

The parties acknowledge that nothing in this clause [1]:

- (a) *affects (or will require either party to amend any Transaction Document so as to affect) the time at which title in any of the Works, Works Infrastructure or materials and equipment passes in accordance with clause [16.7(a)]; or*
- (b) *relieves either party of any obligation under this agreement.”*

model WIK Agreement (Land and Works)

PART C – Victorian Code of Practice for the Building and Construction Industry – Model Clauses

Note to Proponents: These model clauses apply to the GLE (or its nominated builder if the GLE is not the builder).

1 Model clause for works valued \$25,000 or less [Delete if not relevant]

The Victorian Government's Code of Practice for the Building and Construction Industry (Victorian Code) and the Victorian Government's Implementation Guidelines to the Victorian Code of Practice for the Building and Construction Industry (Victorian Guidelines) apply to the Works. By entering into this agreement to perform the Works, the GLE agrees that it will be deemed to have read and understood, and that it will comply with, the Victorian Code and Victorian Guidelines as amended from time to time.

2 Model clauses for works valued over \$25,000 [Delete if not relevant]

X **Victorian Code and Victorian Guidelines**

X.1 In addition to terms defined in this agreement, terms used in this section X (under the heading Victorian Code and Victorian Guidelines), have the same meaning as is attributed to them in the Victorian Government's Implementation Guidelines to the Victorian Code of Practice for the Building and Construction Industry (Victorian Guidelines) (as published by the Department of Treasury and Finance, June 2013 and as amended from time to time). The Victorian Code and Victorian Guidelines are available at www.dtf.vic.gov.au.

Primary Obligation

X.2 The GLE must comply with, and meet any obligations imposed by, the Victorian Government's Code of Practice for the Building and Construction Industry (Victorian Code) and Victorian Guidelines.

X.3 The GLE must notify the CCCU (or nominee) and the Receiving Agency of any alleged breaches of the Victorian Code and Victorian Guidelines and of voluntary remedial action taken, within 24 hours of becoming aware of the alleged breach.

X.4 Where the GLE is authorised to engage a subcontractor or consultant, and it does so, the GLE must ensure that any secondary contract imposes on the subcontractor or consultant equivalent obligations to those in this section X (under the heading Victorian Code and Victorian Guidelines), including that the subcontractor or consultant must comply with, and meet any obligations imposed by, the Victorian Code and the Victorian Guidelines.

X.5 The GLE must not appoint or engage another party in relation to the Works where that appointment or engagement would breach a sanction imposed on the other party in relation to the Victorian Code or Victorian Guidelines.

Access and information

- X.6 The GLE must maintain adequate records of compliance with the Victorian Code and Victorian Guidelines by it, its subcontractors, consultants and related entities.
- X.7 The GLE must allow, and take reasonable steps to facilitate, Victorian Government authorised personnel (including personnel of the CCCU) to:
- (a) enter and have access to sites and premises controlled by the GLE, including the Works Land;
 - (b) inspect any work, material, machinery, appliance, article or facility;
 - (c) access information and documents;
 - (d) inspect and copy any record relevant to the Works;
 - (e) have access to personnel; and
 - (f) interview any person;

as is necessary for the authorised personnel to monitor and investigate compliance with the Victorian Code and Victorian Guidelines, by the GLE, its subcontractors, consultants and related entities.

- X.7 The GLE, and its related entities, must agree to, and comply with, a request from Victorian Government authorised personnel (including personnel of the CCCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.

Sanctions

- X.8 The GLE warrants that at the time of entering into this agreement, neither it, nor any of its related entities, are subject to a sanction in connection with the Victorian Code or Victorian Guidelines that would have precluded it from tendering for work to which the Victorian Code and Victorian Guidelines apply.
- X.9 If the GLE does not comply with, or fails to meet any obligation imposed by, the Victorian Code or Victorian Guidelines, a sanction may be imposed against it in connection with the Victorian Code or Victorian Guidelines.
- X.10 Where a sanction is imposed:
- (a) it is without prejudice to any rights that would otherwise accrue to the parties; and
 - (b) the State of Victoria (through its agencies, Ministers and the CCCU) is entitled to:
 - (i) record and disclose details of non-compliance with the Victorian Code or Victorian Guidelines and the sanction; and
 - (ii) take them into account in the evaluation of future expressions of interest or tender responses that may be lodged by the GLE, or its related entities, in respect of work to which the Victorian Code and Victorian Guidelines apply.

Compliance

- X.11 The GLE bears the cost of ensuring its compliance with the Victorian Code and Victorian Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the Victorian Guidelines. The GLE is not entitled to make a claim for reimbursement or an extension of time from the Government Entities or the State of Victoria for such costs.

- X.12 Compliance with the Victorian Code and Victorian Guidelines does not relieve the GLE from responsibility to perform the Works and any other obligation under the agreement, or from liability for any Defect in the Works or from any other legal liability, whether or not arising from its compliance with the Victorian Code and Victorian Guidelines.
- X.13 Where a change in the agreement or Works is proposed, whether or not by way of a Variation, and that change would, or would be likely to, affect compliance with the Victorian Code and Victorian Guidelines, the GLE must immediately notify the Receiving Agency (or nominee) of the change, or likely change and specify:
- (a) the circumstances of the proposed change;
 - (a) the extent to which compliance with the Victorian Code and Victorian Guidelines will, or is likely to be, affected by the change; and
 - (b) what steps the GLE proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a Workplace Relations Management Plan or Health and Safety Management Plan);

and the Receiving Agency will direct the GLE as to the course it must adopt within 5 Business Days of receiving notice.

model WIK Agreement (Land and Works)

Schedule 2

Deferral Certificate

(Recitals; Clause 1.1 'Deferral Certificate')

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Schedule 3

Description of the Works

(Clause 1.1 'Works')

Note to Proponents: This Schedule will include a description of the Works, summarising the key requirements from the Plans and Specifications.

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Staging Plan

(Clause 1.1 'Staging Plan')

Note to Proponents:

Purpose of Staging Plan

This Staging Plan sets out the information that will be required in relation to proposals involving staged delivery of Works, Works Land and/or Transfer Land. The structure of the Staging Plan may require amendment to reflect the details of a particular proposal. Specifically, it will require amendment to reflect the delivery of discrete stages of Works.

The overriding principle of the Staging Plan is that the value of each Stage reflected in the Staging Plan must be no less than the corresponding GAIC Liability in respect of that Stage, as approved by the Minister under section 201SR of the Act.

Further approvals may be required

Any change to the Works Due Date of any Stage specified in an approval given by the Minister under section 201SR of the Act will require the further approval of the Minister in accordance with section 201SR(7) of the Act. For example, the further approval of the Minister will be required where any Works Due Date is extended as a result of an Extension Event in accordance with clause 15 of this agreement.

Other considerations

If there is a failure to complete a Stage by its Works Due Date and no Substitute Cash Payment has been approved and made in accordance with clause 20, the whole amount of the GAIC for which the GLE is liable will become payable in accordance with section 201SR5(f) of the Act. The GLE will still be liable to perform its remaining obligations under the WIK Agreement.

In accordance with section 201SR(5)(g) of the Act, the Staging Plan may be subject to any other condition that is agreed between the Minister and the GLE.

Form of notice of Minister's approval

In accordance with section 201SU(1) of the Act, if the Staging Plan is approved, the Minister will give the GLE a notice which:

- (a) states that the Minister has given the person the approval;
- (b) describes the whole of the land in respect of which the contribution is imposed;
- (c) describes the GAIC event in respect of which the contribution is imposed;
- (d) in the case of an approval relating to a plan of subdivision, describes the land relating to each Stage that is the subject of the approval;
- (e) states the Works Due Date and amount of the payment for any Stage specified in the approval;
- (f) states the final Works Due Date for the Works to be completed;
- (g) contains the name and contact details of the person; and
- (h) contains any other information that the Minister thinks appropriate.

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Staging Plan Summary Information

Ministerial approval of Staging Plan under section 201SR of the Act Yes/No

Description of GAIC Land: [insert]

Description of GAIC trigger event: [insert]

Name and contact details of GLE: [insert]

Staging Plan Details**Works**

Stage	Description of the Works (section 201SR(5)(a))	Part of subdivided land to which Stage relates (section 201SR(5)(b))	GAIC Credit available when Stage fully performed by the Works Due Date (section 201SR(5)(c)), being:		Works Due Date (section 201SR(5)(d))	Other relevant dates	Other conditions
1	<p>Works:</p> <p>[insert description of the Works to be Completed for Stage 1. In the simplified example for non-discrete Stages set out in the note to clause 16, this would be the works to lower the train line]</p>	<p>[If approval relates to a plan of subdivision, insert the part of land to which stage 1 applies]</p>	<p>Value of Works for Stage 1</p>	<p>[\$[insert pre-agreed value of the Works for Stage 1], as reduced, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)]</p>		<p>Note to Proponents: <i>This column may include due dates for other key matters in the construction program (eg obtaining approvals, gaining access to other land required to construct the Works etc).</i></p>	<p>Note to Proponents: <i>This column will include any other conditions agreed between the Minister and the GLE pursuant to section 201SR(5)(g).</i></p>

Stage	Description of the Works (section 201SR(5)(a))	Part of subdivided land to which Stage relates (section 201SR(5)(b))	GAIC Credit available when Stage fully performed by the Works Due Date (section 201SR(5)(c)), being:		Works Due Date (section 201SR(5)(d))	Other relevant dates	Other conditions
2	<p>Works:</p> <p>[insert description of the Works to be Completed for Stage 2. In the simplified example for non-discrete Stages set out in the note to clause 16, this would be the construction of the new train platform]</p>		Value of Works for Stage 2	<p>[\$[insert pre-agreed value of the Works for Stage 2], as reduced, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)</p>			
3	<p>Works:</p> <p>[insert description of the Works to be Completed for Stage 3. In the simplified example for no-discrete Stages set out in the note to clause 16, this would be the construction of the new road]</p>		Value of Works for Stage 3	<p>[\$[insert pre-agreed value of the Works for Stage 3], as reduced, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)</p>			

Stage	Description of the Works (section 201SR(5)(a))	Part of subdivided land to which Stage relates (section 201SR(5)(b))	GAIC Credit available when Stage fully performed by the Works Due Date (section 201SR(5)(c)), being:		Works Due Date (section 201SR(5)(d))	Other relevant dates	Other conditions
4	<p>Works:</p> <p>[insert description of the Works to be Completed for Stage 4. In the simplified example for non-discrete Stages set out in the note to clause 16, this would be the traffic signalling works and any other actions or steps required to achieve Completion of the entire package of Works]</p>		Value of Works for Stage 4	<p>[\$[insert pre-agreed value of the Works for Stage 4], as reduced, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)]</p>			
<p>SUBTOTAL OF GAIC CREDIT POTENTIALLY AVAILABLE FOR WORKS (subject to any reduction in the Value of Works in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B))</p>					<p>[\$[insert]]</p>		
<p>FINAL WORKS DUE DATE (Condition of Ministerial Approval for Staged Payment under section 201SR(5)(e))</p>					<p>[insert date]</p>		

Works Land

Stage	Description of the Works Land (section 201SR(5)(a))	Part of subdivided land to which Stage relates (section 201SR(5)(b))	GAIC Credit available when Stage fully performed by the Works Transfer Due Date (section 201SR(5)(c)), being:		Works Transfer Due Date (section 201SR(5)(d))	Other relevant dates	Receiving Agency
5	Works Land to be in the Transfer Condition and the GLE to have performed its obligations under clause 16.7(a).		Value of Works Land including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	\$[insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4		Note to Proponents: <i>This column may include due dates for other key matters in the construction program (eg obtaining approvals, gaining access to other land required to construct the Works etc).</i>	
SUBTOTAL OF GAIC CREDIT POTENTIALLY AVAILABLE FOR WORKS LAND (subject to any adjustment in the Value of Works Land in accordance with clause 21.3 or clause 21.4).					\$[insert]		
FINAL WORKS LAND DUE DATE (Condition of Ministerial Approval for Staged Payment under section 201SR(5)(e))							

Transfer Land

Stage	Description of the Transfer Land (section 201SR(5)(a))	GAIC Credit available when Stage fully performed by the Land Transfer Due Date (section 201SR(5)(c)), being:		Land Transfer Due Date (section 201SR(5)(d))	Receiving Agency
1	<p>Transfer Land for Stage 1, being:</p> <p>[insert whichever of A or B applies]</p> <p>[A: land wholly contained in one or more certificates of title] certificate(s) of title volume [insert volume] folio [insert folio and add additional volumes and folios if applicable] or</p> <p>[B: lot(s) on proposed plan of subdivision] lots [insert no.] to [insert no.] (both inclusive) [or] lot [insert no.] on the plan attached to Annexure A of this agreement being [amend the following if appropriate] part of the land in certificate(s) of title volume [insert volume] folio [insert folio and additional volumes and folios if applicable representing the parent titles to the lot(s)],</p> <p>to be in the Transfer Condition and the GLE to have performed its obligations under clause 18.3(a).</p>	Value of Transfer Land for Stage 1 including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	<p>[\$insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4</p>		

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Stage	Description of the Transfer Land (section 201SR(5)(a))	GAIC Credit available when Stage fully performed by the Land Transfer Due Date (section 201SR(5)(c)), being:		Land Transfer Due Date (section 201SR(5)(d))	Receiving Agency
2	<p>Transfer Land for Stage 2 being: [insert whichever of A or B applies]</p> <p>[A: land wholly contained in one or more certificates of title] certificate(s) of title volume [insert volume] folio [insert folio and add additional volumes and folios if applicable] or</p> <p>[B: lot(s) on proposed plan of subdivision] lots [insert no.] to [insert no.] (both inclusive) [or] lot [insert no.] on the plan attached to Annexure A of this agreement being [amend the following if appropriate] part of the land in certificate(s) of title volume [insert volume] folio [insert folio and additional volumes and folios if applicable representing the parent titles to the lot(s)],</p> <p>to be in the Transfer Condition and the GLE to have performed its obligations under clause 18.3(a).</p>	Value of Transfer Land for Stage 2 including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	<p>[\$insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4</p>		

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Stage	Description of the Transfer Land (section 201SR(5)(a))	GAIC Credit available when Stage fully performed by the Land Transfer Due Date (section 201SR(5)(c)), being:	Land Transfer Due Date (section 201SR(5)(d))	Receiving Agency
3	Transfer Land for Stage 3 being: [insert whichever of A or B applies] [A: land wholly contained in one or more certificates of title] certificate(s) of title volume [insert volume] folio [insert folio and add additional volumes and folios if applicable] or [B: lot(s) on proposed plan of subdivision] lots [insert no.] to [insert no.] (both inclusive) [or] lot [insert no.] on the plan attached to Annexure A of this agreement being [amend the following if appropriate] part of the land in certificate(s) of title volume [insert volume] folio [insert folio and add additional volumes and folios if applicable] representing the parent titles to the lot(s)], to be in the Transfer Condition and the GLE to have performed its obligations under clause 18.3(a).	Value of Transfer Land for Stage 3 including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	\$[insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4	
SUBTOTAL OF GAIC CREDIT POTENTIALLY AVAILABLE FOR TRANSFER LAND (subject to any adjustment in the Value of Works Land in accordance with clause 21.3 or clause 21.4).			\$[insert]	
FINAL TRANSFER LAND DUE DATE (Condition of Ministerial Approval for Staged Payment under section 201SR(5)(e))				

Total GAIC Credit potentially available when all Stages fully performed by their respective due dates for performance

Stages involving:	Amount:
Works - subtotal of GAIC Credit potentially available for Works (subject to any reduction in the Value of Works in	\$[insert]

accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B))	
Works Land - subtotal of GAIC Credit potentially available for Works Land (subject to any adjustment in the Value of Works Land in accordance with clause 21.3 or clause 21.4).	[\$insert]
Transfer Land - subtotal of GAIC Credit potentially available for Transfer Land (subject to any adjustment in the Value of Works Land in accordance with clause 21.3 or clause 21.4).	[\$insert]
TOTAL GAIC CREDIT POTENTIALLY AVAILABLE (subject to adjustment, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B), clause 13.7(g)(4)(B)), clause 21.3 or clause 21.4)	[\$insert]

model WIK Agreement (Land and Works)

Schedule 6

Insurance requirements

(Clause 24)

Type of insurance	Amount to be insured	Period insurance to be maintained	Insured parties
Contract works insurance	A sum equivalent to the full value of the whole of the Works plus a provision of [15%] for escalation in the cost of the Works from the date of the agreement until the Works Completion Date, for any one occurrence, plus an additional amount sufficient to cover the cost of demolition and clearing of debris, fees for project managers and consultants, design costs and goods and materials on site	Risk Period	[insert]
Motor vehicle liability: a motor vehicle liability policy covering liability for personal injury to, or the death or, any person, and for loss or damage to property, caused by the GLE's ownership and/or use of any motor vehicle in connection with the Works and compulsory third party insurance covering death or injury to persons as required by Law	with respect to third party property damage [\$insert] for any one claim and unlimited in the aggregate]	Risk Period	[insert]
Public liability: a public liability policy against legal liability for death of or bodily injury to any person or Loss or destruction of property arising out of or in connection with the execution of the Works	[\$insert] with respect to each occurrence and unlimited in the aggregate as to the number of occurrences for any one period of insurance <i>[Insert maximum claim amount. Depending on the nature of the Works and the risks involved, this could be between</i>	Risk Period	[insert]

Pre-approved Subcontractors

(Clause 5.1)

[Insert details of any pre-approved subcontractors who may be retained by the GLE without requiring consent.]

Name of Subcontractor

Type of work for which Subcontractor is approved

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Pro forma Direct Deed

(Clause 1.1 'Direct Deed'; Clause 5.1)

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Calculation of Variation Cost

(Clauses 13 and 14)

1 Definitions

In this Schedule, capitalised terms have the meanings given in clause 1.1 of this agreement unless defined below:

- (a) **Costs** means the incremental costs (of design, construction and commissioning) attributable to a Variation, which may include (as applicable):
- (1) the cost of all Subcontractors engaged in respect of the Variation and, where applicable, scaffolding and craneage costs incurred in respect of the Variation;
 - (2) design fees including architects, engineers and other design consultants fees; and
 - (3) in the case of a Receiving Agency Variation only, reasonable, additional costs of the GLE arising as a result of a delay to Completion caused by the Receiving Agency Variation,
- but in each case, excluding any Margins or Preliminaries;
- (b) **Margin** means an amount charged by the GLE on account of all off-site overheads, design management, project management and administrative and corporate and other like costs and profit of the GLE, but only to the extent that the amount charged is attributable to the Variation and excluding any Preliminaries;
- (c) **Net Incremental Costs** means the lower of:
- (1) Costs, plus Margin and Preliminaries; and
 - (2) where applicable, an amount determined in accordance with section 3 of this Schedule 9 where the GLE is required to carry out a tender process;
- (d) **Preliminaries** means an amount charged by the GLE to cover all on-site overheads and other like costs but only to the extent that the amount charged is attributable to the Variation and excluding scaffolding, craneage and Margins;
- (e) **Savings** means the amount of any costs avoided or otherwise reduced by the GLE or any Subcontractor, and any Margins and Preliminaries saved by the GLE or any Subcontractor, arising out of or in connection with a Variation; and
- (f) **Variation Cost** means the amount calculated in accordance with section 4 of this Schedule 9, which amount must be calculated in a manner consistent with the principles set out in this Schedule 9.

2 Principles

In calculating the Variation Cost, the GLE must have regard to the following overriding principles:

- (a) the Receiving Agency must receive value for money;
- (b) the Variation Cost must be reasonable and be calculated in a manner that is transparent;
- (c) no amounts will be double counted;
- (d) the GLE must have appropriate regard to the time value of money – for example, where applicable:
 - (1) all cashflows must be discounted or inflated to reflect when they occur;
 - (2) regard must be had to the appropriate discount rate to be applied to a cashflow; and
 - (3) regard must be given to anticipated rates of inflation.

The GLE must provide all information referred to in this Schedule 9 on an open book basis, which will include the GLE providing a full breakdown of the calculation of all relevant preliminaries, labour, equipment, materials, subcontract, finance and other costs in a clear and transparent manner, including all working papers, calculations, source documents records and other relevant documents and information.

If required by the Receiving Agency, the GLE must make available the appropriate personnel to explain the basis on which a particular calculation has been made and allow the Receiving Agency full review and audit rights to enable it to verify compliance with these principles in respect of the information provided.

Where the obligations of the GLE are reduced under this agreement and a Saving is to be passed on to the Receiving Agency, that Saving must include the full amount of any Margin that the GLE and any Subcontractor expected to make in relation to performing that obligation.

The GLE is only entitled to payment of the Margin on goods or services which it provides itself in respect of a Variation and the GLE must not make any additional Margin on any good or service which is ultimately provided by a third party (including any Subcontractor).

The GLE will not be entitled to compensation for any costs or losses to the extent that they could have been avoided or mitigated if it, or any Subcontractor, had used its reasonable endeavours to mitigate those costs and losses.

3 Tender process

- (a) To avoid doubt, this section 3 applies only to Receiving Agency Variations.
- (b) If the GLE is required to carry out a tender process under clause 13.3 of the agreement, the GLE must obtain three separate quotes (or such other number of quotes as directed by the Receiving Agency) from experienced, independent and capable contractors which are acceptable to the Receiving Agency (acting reasonably) to carry out the work in respect of the Variation.
- (c) The GLE will be responsible for selecting a subcontractor from this process in full consultation with (and subject to the prior agreement of) the Receiving Agency.

- (d) The GLE must permit the Receiving Agency to review all materials that are submitted in the tender process and provide any other information that the Receiving Agency reasonably requires.
- (e) The GLE must demonstrate, to the reasonable satisfaction of the Receiving Agency, that the subcontractor it intends to select is the best choice having regard to the:
- (1) price quoted in the prevailing market conditions;
 - (2) experience and capability of that subcontractor in the context of the Variation; and
 - (3) ability of the subcontractor to carry out the work in respect of the Variation in the manner required by this agreement.
- The subcontractor must meet the requirements in respect of subcontractors set out in this agreement.
- (f) Subject to paragraph (g) below, the GLE must, within 10 Business Days of the outcome of the tender process, amend its Variation Notice to take full account of the outcome of the tender process and submit an amended Variation Notice to the Receiving Agency.
- (g) If, following the conduct of the tender process, the Receiving Agency is not reasonably satisfied as to the matters described in paragraph (d), or otherwise as to the conduct of the tender process, it may:
- (1) direct the GLE not to accept any tender;
 - (2) withdraw a proposed Variation;
 - (3) otherwise instruct the GLE not to proceed with the work in respect of the Variation;
 - (4) proceed to implement the work that would otherwise have been performed in respect of the relevant Variation itself, through subcontractors selected by it; or
 - (5) instruct the GLE to proceed with the work in respect of the Variation, on a basis to be agreed between the GLE and the Receiving Agency.

4 Calculation of Variation Cost

The Variation Cost (**VC**) is calculated as:

$$\mathbf{VC = N - S}$$

where:

N = Net Incremental Costs; and

S = Savings.

Schedule 10

Schedule of Inspections

(Clause 1.1 'Works Inspection Timetable'; Clause 9.3)

Description of [Stage of] Works to be inspected

Date of Inspection

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Schedule 11

Completion pre-conditions

(Clause 1.1 'Completion'; Clause 16)

Note to Proponents: This schedule will set out any specific Completion requirements of the Receiving Agency not otherwise captured in the definition of Completion or the other provisions of the agreement. Examples might include:

- training of the Receiving Agency's personnel on the use and ongoing maintenance and repair of the Works;
- commissioning of the Works to demonstrate full functionality of the Works and that they are in operational order; and
- provision of particular manuals or plans required by the Receiving Agency for the ongoing maintenance and repair of the Works.

model WIK Agreement (Land

Schedule 12

Permitted Encumbrances

(Clause 1.1, 'Encumbrance' & 'Permitted Encumbrance')

Note to Proponents: This schedule will set out details of any encumbrances that attach to the land being transferred under the agreement (for example, existing easements and restrictive covenants).

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Determination of GAIC Credit

(Clause 19)

The amount of the GAIC Credit will be determined as follows:

Deliverable	Outcome	Amount of GAIC Credit		Clause reference for the MPA's s201SLL determination	Penalties
Works: Completion to have been achieved by the Works Due Date	Completion has been achieved by the Works Due Date	Value of Works including, to avoid doubt, any reduction in the Value of Works in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)	\$[insert], as reduced, if applicable, in accordance with clause 13.6(f)(2), clause 13.7(c)(4)(B) or clause 13.7(g)(4)(B)	Clause 16.3(b)	None
	Completion has not been achieved by the Works Due Date	Value of Partially Completed Works	To be determined by the MPA	Clause 16.4(c)(2)	GAIC Default Event and clause 27 applies Legislative penalties
Works Land: Works Land to be in the Transfer Condition and GLE to have complied with its obligations under clause 16.7(a) by the Works	Works Land is in the Transfer Condition and GLE has complied with its obligations under clause 16.7(a) by the Works Transfer Due Date	Value of Works Land including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	\$[insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4	Clause 16.7(c)(1)	None

Deliverable	Outcome	Amount of GAIC Credit		Clause reference for the MPA's s201SLL determination	Penalties
Transfer Due Date	Works Land is not in the Transfer Condition and/or GLE has not complied with its obligations under clause 16.7(a) by the Works Transfer Due Date	No GAIC Credit unless and until Works Land is in the Transfer Condition and GLE has complied with its obligations under clause 16.7(a), at which time the GAIC Credit will be Value of Works Land including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	No GAIC Credit unless and until Works Land is in the Transfer Condition and GLE has complied with its obligations under clause 16.7(a), at which time the GAIC Credit will be [\$insert] , as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4	Clause 16.7(e)(1)	GAIC Default Event and clause 27 (other than clause 27.1) applies. Clause 16.6(f) continues to apply Legislative penalties
Transfer Land: Transfer Land to be in the Transfer Condition and GLE to have complied with its obligations under clause 18.3(a) by the Land Transfer Due Date	Transfer Land is in the Transfer Condition and GLE has complied with its obligations under clause 18.3(a) by the Land Transfer Due Date	Value of Transfer Land including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	[\$insert] , as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4	Clause 18.3(c)(1))	None
	Transfer Land is not in the Transfer Condition and/or GLE has not complied with its obligations under clause 18.3(a) by the Land Transfer Due Date	No GAIC Credit unless and until Transfer Land is in the Transfer Condition and GLE has complied with its obligations under clause 18.3(a), at which time	No GAIC Credit unless and until Transfer Land is in the Transfer Condition and GLE has complied with its obligations under	Clause 18.3(e)(1)	GAIC Default Event and clause 27 (other than clause 27.1) applies. Clause 18.3(f) continues to apply

Deliverable	Outcome	Amount of GAIC Credit		Clause reference for the MPA's s201SLL determination	Penalties
		the GAIC Credit will be Value of Transfer Land including, to avoid doubt, any adjustment in accordance with clause 21.3 or clause 21.4	clause 18.3(a), at which time the GAIC Credit will be [\$insert], as adjusted, if applicable, in accordance with clause 21.3 or clause 21.4		Legislative penalties

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Schedule 14

Experts

(Clause 35.5)

Type of dispute	Name of Independent Expert
Dispute as to the Variation Cost for a Receiving Agency Variation (clause 13.7(d)).	Independent Quantity Surveyor <i>[Note to Proponents: This will be the same Quantity Surveyor as was engaged to assist the MPA to determine the Value of Works prior to entry into the agreement.]</i>

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Schedule 15

Notice Details

(Clause 36)

Minister

Address **[Insert Minister's postal address for service].**

Attention **[insert name and title of Minister's representative].**

Fax **[Insert Minister's facsimile number for service].**

Email **[Insert Minister's email address for service, but delete this section if clause 36.3 applies].**

Receiving Agency

Address **[Insert Receiving Agency's postal address for service].**

Attention **[insert name and title of Receiving Agency's representative].**

Fax **[Insert Receiving Agency's facsimile number for service].**

Email **[Insert Receiving Agency's email address for service].**

MPA

Address **[Insert MPA's postal address for service].**

Attention **[insert name and title of MPA's representative].**

Fax **[Insert MPA's facsimile number for service].**

Email **[Insert MPA's email address for service].**

GLE

Address **[Insert GLE's Australian Business Number] of [Insert GLE's postal address for service].**

Attention **[insert name and position of GLE representative].**

Fax **[Insert GLE's facsimile number for service].**

Email **[Insert GLE's email address for service].**

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Signing page

Executed as an agreement

model WIK Agreement (Land and Works)