

Schedule 5 – Pre-Agreed Options

(clause 36.1)

1A. Pre-Agreed Option 1A – Design, construction, operation and maintenance of the OSD Enabling Works at Aerotropolis Station

| Item | Details |
|---|---|
| Description | The design, construction, operation and maintenance of the OSD Enabling Works at Aerotropolis Station as set out in Particular Specification 18 (Aerotropolis OSD Enabling Works). |
| Election Date | |
| Effective Date | |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | <p>The Principal must pay OpCo the Pre-Agreed Option Construction Payment each month in the amount (if any) specified in the column headed – "Pre-Agreed Option 1A – Design, Construction, operation and maintenance of the OSD Enabling Works at Aerotropolis Station" for that month in the "Pre-Agreed Option Construction Payment" schedule in the Model Outputs Schedule.</p> <p>The Pre-Agreed Option Construction Payment will be paid in accordance with clause 28 of the Operative Provisions.</p> |
| Adjustment to Schedule 2 (Service Payment calculation) | No adjustment. |
| Adjustment to Date for Completion | No adjustment. |
| Amendments to Operative Provisions | No amendments. |
| Amendments to Exhibit 1, SSTOM Specification | No amendments. |
| Amendments to other Exhibits | No amendments. |

1. Pre-Agreed Option 1 – Design, construction, operation and maintenance of the OSD Above Ground Enabling Works at Aerotropolis Station

| Item | Details |
|---|--|
| Description | The design, construction, operation and maintenance of the OSD Above Ground Enabling Works at Aerotropolis Station. |
| Election Date | |
| Effective Date | The date set out in the notice issued by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 1. |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | Upon issue of the notice by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 1, the Principal must pay OpCo the Pre-Agreed Option Construction Payment each month in the amount (if any) specified in the column headed – "Pre-Agreed Option 1 – Design, Construction, operation and maintenance of the OSD Above Ground |

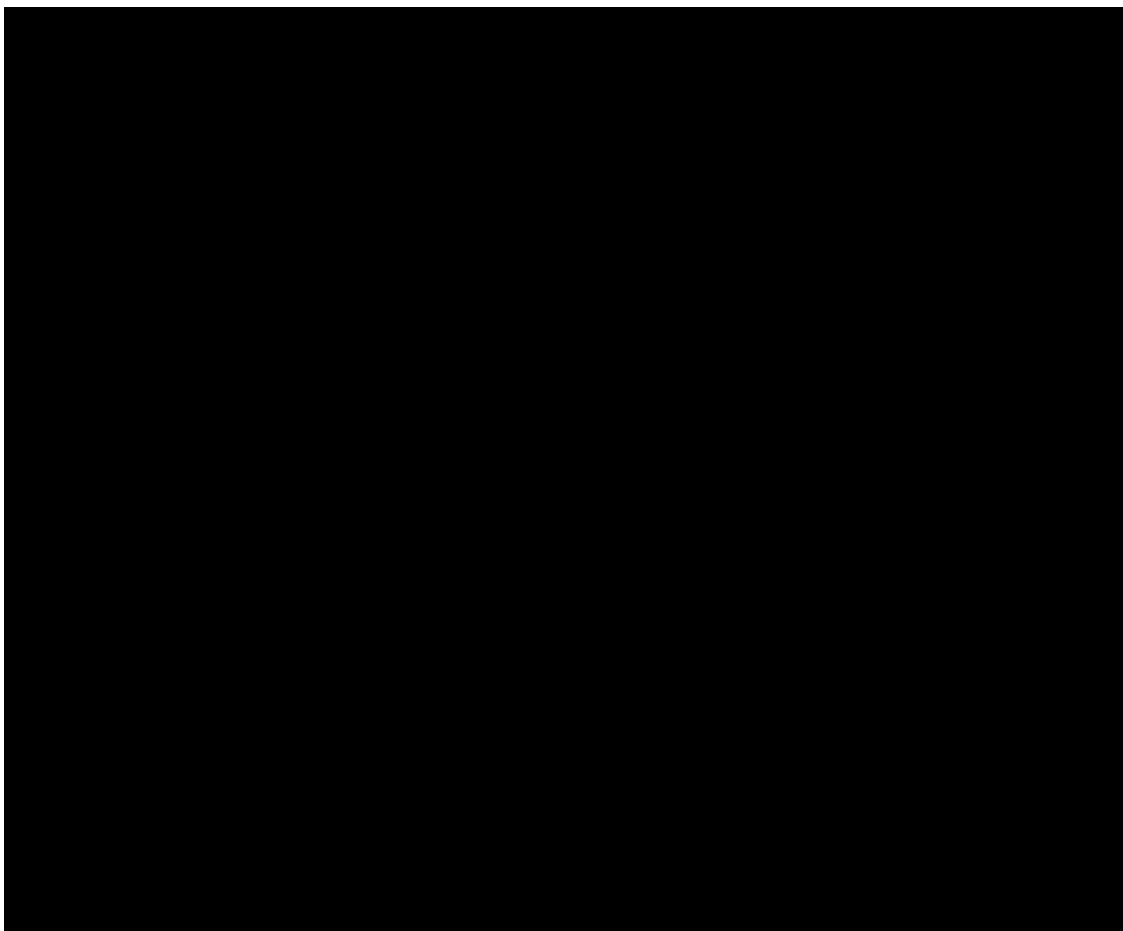
| Item | Details |
|---|--|
| | <p>Enabling Works at Aerotropolis Station" for that month in the "Pre-Agreed Option Construction Payment" schedule in the Model Outputs Schedule.</p> <p>The Pre-Agreed Option Construction Payment will be paid in accordance with clause 28 of the Operative Provisions.</p> |
| Adjustment to Schedule 2 (Service Payment calculation) | No adjustment. |
| Adjustment to Date for Completion | No adjustment. |
| Amendments to Operative Provisions | No amendments. |
| Amendments to Exhibit 1, SSTOM Specification | The SSTOM Specification is amended as set out in section 16.2 of Particular Specification 16 (<i>Pre-Agreed Options</i>). |
| Amendments to other Exhibits | No amendments. |

2. Pre-Agreed Option 2 – Increases to Service Change Limitations

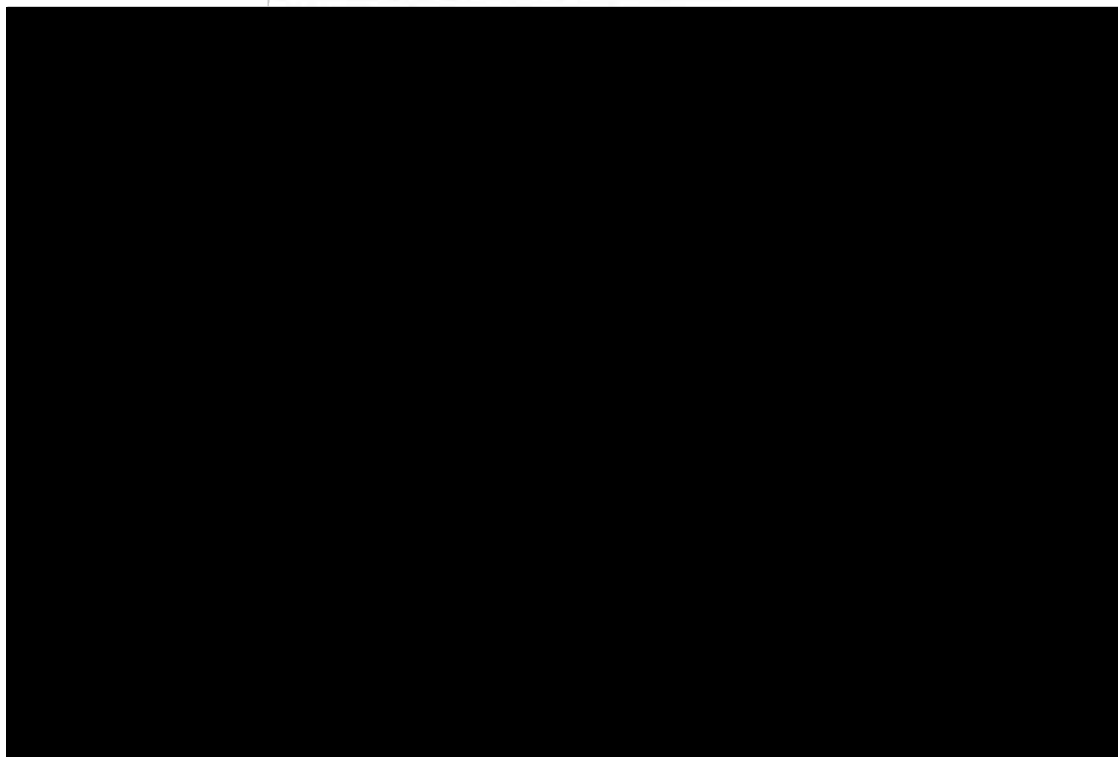
| Item | Details |
|---|---|
| Description | <p>Varying the Service Change Limitations, involving the delivery, operations and maintenance of an additional 6 Trains (Additional Trains) for the operation of 20 Trains per hour during Peak Periods (3:00 minute Maximum Headways; 12,900 passengers per hour per direction) and associated changes to the Stabling and Maintenance Facility, including the construction of 2 additional stabling roads, namely roads No. 4 and No. 5 at Stabling 1.</p> <p>The Additional Trains must be delivered to the same specifications as the original Trains required by this deed, including the SSTOM Specification.</p> |
| Election Date | ██████████ |
| Effective Date | The date set out in the notice issued by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 2. |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | Not applicable |
| Adjustment to Schedule 2 (Service Payment calculation) | <p>The amounts referred to in items 1, 2, 8, 9, 10, 11 and 15 below shall be determined by the Principal and OpCo prior to the Election Date, in accordance with the following principles:</p> <ul style="list-style-type: none"> • increases or decreases in costs must be fair and reasonable; • increases or decreases in costs must reflect commercial arm's length arrangements; • costs are determined on an incremental basis, <ul style="list-style-type: none"> ○ in the case of an increase in costs, only costs that would not be incurred but for the Pre-Agreed Option 2 are taken into account; and ○ in the case of a reduction in costs, only savings that would not have accrued but for the Pre-Agreed Option 2 are taken into account; and |

| Item | Details |
|------|---|
| | <ul style="list-style-type: none"> costs reflect economies of scale or synergies that a competent rail operator and maintainer would be expected to achieve. <p>Schedule 2 (<i>Service payment calculation</i>) is amended on the Date of Additional Trains Completion as follows:</p> <ol style="list-style-type: none"> The amounts specified in the Base Availability Fee section in the Model Outputs Schedule are increased by the amounts specified in the "Pre-Agreed Option 2 - Increases to Service Change Limitations" Base Availability Fee section in the Model Outputs Schedule. The amounts specified in the Base Lifecycle Component section in the Model Outputs Schedule are increased by the amounts specified in the "Pre-Agreed Option 2 - Increases to Service Change Limitations" Base Lifecycle Component section in the Model Outputs Schedule. The definition of "Base Number of Train Services" in clause 1 of Schedule 2 is amended by deleting the number [REDACTED] and replacing it with the number [REDACTED] The definition of "Base Service Kilometres" in clause 1 of Schedule 2 is amended by deleting the number [REDACTED] and replacing it with the number [REDACTED] The definition of "CDM Amount 1" in Schedule 2 is amended by inserting "or if OpCo is directed by the Principal pursuant to clause 36.1(a) (<i>Pre-Agreed Options</i>) of the Operative Provisions in respect of Pre-Agreed Option 2" at the end of the definition. The definition of "CDM Amount 2" in Schedule 2 is amended by inserting "or if OpCo is directed by the Principal" after the reference to clause 33.15(b)(ii) (<i>Changes to Contract Service Level Requirements</i>) and before "pursuant to clause 36.1(a) of the Operative Provisions". The definition of "Train Service Deduction" in Schedule 2 is amended by inserting "or if OpCo is directed by the Principal pursuant to clause 36.1(a) (<i>Pre-Agreed Options</i>) of the Operative Provisions in respect of Pre-Agreed Option 2" at the end of the definition. Clause 1.3(a) of Annexure A to Schedule 2 is amended by deleting the words "As per Service Change Limitations Base Marginal Prices (Base) section in the Model Outputs Schedule" and replacing them with "As per Service Change Limitations Base Marginal Prices (Pre-Agreed Option 2) section in the Model Outputs Schedule". Clause 1.3(b) of Annexure A to Schedule 2 is amended by deleting the words "As per Service Change Limitations Base Marginal Prices (Base) section in the Model Outputs Schedule" and replacing them with "As per Service Change Limitations Base Marginal Prices (Pre-Agreed Option 2) section in the Model Outputs Schedule". Clause 1.3(c) of Annexure A to Schedule 2 is amended by deleting the words "As per Service Change Limitations Base Marginal Prices (Base) section in the Model Outputs Schedule" and replacing them with "As per Service Change Limitations Base Marginal Prices (Pre-Agreed Option 2) section in the Model Outputs Schedule". Clause 1.3(d) of Annexure A to Schedule 2 is amended by deleting the words "As per Service Change Limitations Base Marginal Prices (Base) section in the Model Outputs Schedule" and replacing them with "As per Service Change Limitations Base Marginal Prices (Pre-Agreed Option 2) section in the Model Outputs Schedule". Clause 13.3 of Schedule 2 is amended by deleting the tables in clause 13.3 of Schedule 2 and replacing them with the following tables: |

| Item | Details |
|------|---|
| | |
| | 13. The table in clause 2.2 of Annexure A to Schedule 2 is deleted and replaced with the following table. |



14. The Service Period tables in clause 5 of Annexure A to Schedule 2 are deleted and replaced with the following tables.



| Item | Details |
|--|--|
| | |
| | <p>15. The values in the definitions of "Base Service Level Adjustment Threshold Payment (BSLATP)" and "Service Level Adjustment Threshold Payment Trigger" will be replaced to reflect the km-based lifecycle activities required by the Asset Management Plan, based on average mileage per train resulting from Pre-Agreed Option 2.</p> |
| <p>Adjustment to Date for Completion</p> | <p>Not applicable (refer to new clause 22A.1 below)</p> |
| <p>Amendments to Operative Provisions</p> | <p>Clause 1.1 is amended as follows:</p> <p>1.1 Definitions</p> <p><u>Additional Trains has the meaning given in clause 3 of Schedule 5 (Pre-Agreed Options).</u></p> <p><u>Additional Trains Completion has the meaning given in clause 22A.2.</u></p> <p><u>Additional Trains Final Completion has the meaning given in clause 22A.5(b).</u></p> <p><u>Certificate of Additional Trains Completion means a certificate referred to in clause 22A.4(a)(i) substantially in the form of Part S of Schedule 34 (Certificates).</u></p> <p><u>Certificate of Additional Trains Final Completion means a certificate referred to in clause 22A.5(d)(i) substantially in the form of Part T of Schedule 34 (Certificates).</u></p> <p><u>Date for Additional Trains Completion means [REDACTED] as extended in accordance with this deed.</u></p> <p><u>Date of Additional Trains Completion means the date on which Additional Trains Completion is achieved being the date stated by the Independent Certifier in the Certificate of Additional Trains Completion.</u></p> <p><u>Date of Additional Trains Final Completion means the date on which Additional Trains Final Completion is achieved being the date stated by</u></p> |

| Item | Details |
|------|---|
| | <p><u>the Independent Certifier in the Certificate of Additional Trains Final Completion.</u></p> <p>Delivery Phase means the period commencing on the date of Financial Close and ending on the Date of <u>Additional Trains Final Completion.</u></p> <p>Milestone Payment has the meaning given in clause 28.2A(a)(iii).</p> <p>Clause 20.2 is amended as follows:</p> <p>20.2 Dates for Completion</p> <p>(a) OpCo must:</p> <p>(i) without limiting clauses 20.16 and 20.17, achieve Completion by the Date for Completion;</p> <p>(ia) <u>use its best endeavours to achieve Additional Trains Completion by the Date for Additional Trains Completion; and</u></p> <p>(ii) use its best endeavours to achieve:</p> <p>(A) <u>Final Completion as soon as practicable after the Date of Completion; and</u></p> <p>(B) <u>Additional Trains Final Completion as soon as practicable after the Date of Additional Trains Completion.</u></p> <p>...</p> <p>Insert a new clause 20.20 after clause 20.19:</p> <p><u>20.20 Extension to the Date for Additional Trains Completion</u></p> <p><u>The parties acknowledge and agree that to the extent:</u></p> <p>(a) <u>OpCo is granted an extension of time to the Date for Completion in accordance with clause 20.10; or</u></p> <p>(b) <u>the Principal's Representative unilaterally extends the Date for Completion in accordance with clause 20.13,</u></p> <p><u>the Date for Additional Trains Completion will automatically be extended for the corresponding period.</u></p> <p>Insert a new clause 22A after clause 22:</p> <p><u>22A. Additional Trains Completion</u></p> <p><u>22A.1 Relationship with First Passenger Service, Completion and Final Completion</u></p> <p><u>Notwithstanding clause 20 or 22 or any other clause of the deed (including the SSTOM Specification), the parties acknowledge and agree that (unless agreed otherwise by the parties in writing) the Additional Trains do not form part of the SSTOM Works which OpCo must complete in order to achieve First Passenger Service, Completion or Final Completion in accordance with clause 22.</u></p> <p><u>22A.2 Requirements for Additional Trains Completion</u></p> <p><u>Additional Trains Completion will be achieved when:</u></p> |

| Item | Details |
|------|---|
| | <p>(a) <u>(Works are complete): the Additional Trains are complete and comply with the requirements of this deed, except for Minor Defects;</u></p> <p>(b) <u>(Certifications): OpCo has provided the Independent Certifier and the Principal's Representative with a certificate in the form of Part R of Schedule 34 (Certificates):</u></p> <p>(i) <u>from each Designer certifying that the Additional Trains have been constructed in accordance with the AFC Design Documentation, except for Minor Defects;</u></p> <p>(ii) <u>from OpCo certifying that the Additional Trains:</u></p> <p>(A) <u>comply with all the requirements of this deed (including the SSTOM Specification); and</u></p> <p>(B) <u>have been constructed in accordance with the AFC Design Documentation,</u></p> <p><u>except for Minor Defects; and</u></p> <p>(iii) <u>from the O&M Contractor certifying that the Additional Trains are acceptable; and</u></p> <p>(c) <u>(Tests): the Independent Certifier has certified that all of the Additional Trains:</u></p> <p>(i) <u>have passed the Tests referred to in section 5.4 of Particular Specification 5 (Rolling Stock);</u></p> <p>(ii) <u>have passed a Factory Acceptance Test in accordance with section 12.4.3 of Particular Specification 12 (Testing and Commissioning);</u></p> <p>(iii) <u>have passed the static routine Tests (i.e. not Type Tests) in accordance with section 12.4.8 of Particular Specification 12 (Testing and Commissioning);</u></p> <p>(iv) <u>have passed the relevant Test Running Tests in accordance with section 12.5.6.2(a) of Particular Specification 12 (Testing and Commissioning); and</u></p> <p>(v) <u>have passed the fault free running requirements in accordance with section 12.5.6.2(b) of Particular Specification 12 (Testing and Commissioning).</u></p> |
| | <p><u>22A.3 Notice of Additional Trains Completion</u></p> <p><u>OpCo must give the Independent Certifier:</u></p> <p>(a) <u>at least 5 Business Days' notice of the date on which it expects to achieve Additional Trains Completion; and</u></p> <p>(b) <u>a written request for a Certificate of Additional Trains Completion when it believes Additional Trains Completion has been achieved (which request must not be given earlier than 5 Business Days after the date on which OpCo gives notice under clause 22A.3(a).</u></p> |
| | <p><u>22A.4 Certification of Additional Trains Completion</u></p> <p>(a) <u>Within 5 Business Day of receipt of the request under clause 22A.3, the Independent Certifier must determine whether Additional Trains Completion has been achieved and either:</u></p> <p>(i) <u>if Additional Trains Completion has been achieved, issue a Certificate of Additional Trains Completion to OpCo and the Principal;</u></p> |

| Item | Details |
|------|--|
| | <p>(A) <u>stating as the Date of Additional Trains Completion, the date on which Additional Trains Completion was achieved;</u></p> <p>(B) <u>specifying any Minor Defects; and</u></p> <p>(C) <u>specifying any Minor Non-Compliances; or</u></p> <p>(ii) <u>if Additional Trains Completion has not been achieved, issue a notice to OpCo and the Principal which:</u></p> <p>(A) <u>lists the items which remain to be completed before Additional Trains Completion can be achieved; or</u></p> <p>(B) <u>states that the Additional Trains are so far from achieving Additional Trains Completion that it is not practicable to provide the list referred to in clause 22A.4(a)(iii)(A).</u></p> <p>(b) <u>If the Independent Certifier issues a notice under clause 22A.4(a)(ii), OpCo must continue with the Delivery Activities to achieve Additional Trains Completion and clause 22A.3 and this clause 22A.4 will reapply.</u></p> <p><u>22A.5 Additional Trains Final Completion</u></p> <p>(a) <u>(OpCo to achieve Additional Trains Final Completion):</u> <u>Immediately after the Date of Additional Trains Completion, OpCo must expeditiously and diligently progress the Delivery Activities required to achieve Additional Trains Final Completion.</u></p> <p>(b) <u>(Requirements for Additional Trains Final Completion):</u> <u>Additional Trains Final Completion will be achieved when:</u></p> <p>(i) <u>(Minor Defects):</u> <u>the Minor Defects specified in the Certificate of Additional Trains Completion have been corrected;</u></p> <p>(ii) <u>(Documentation):</u> <u>OpCo has provided the Principal with all documentation required by the SSTOM Specification;</u></p> <p>(iii) <u>(Intellectual Property report):</u> <u>OpCo has either</u></p> <p>(A) <u>listing all separate items of Intellectual Property that have been developed or licensed by OpCo in carrying out OpCo's Activities in relation to the Additional Trains up to Additional Trains Completion or in preparation for OpCo's Activities in relation to the Additional Trains to be carried out after Additional Trains Completion;</u></p> <p>(B) <u>for each item, specifying whether it is Developed Intellectual Property or Licensed Intellectual Property and:</u></p> <p>(I) <u>if it is Developed Intellectual Property, by whom it has been developed and the steps taken by OpCo to procure that the intellectual property is assigned to, and vests in, the Principal; and</u></p> |

| Item | Details |
|------|--|
| | <p>(II) <u>if it is Licensed Intellectual Property:</u></p> <p>(1) <u>from whom it has been licensed;</u></p> <p>(2) <u>the basis upon which the licensor has licensed it (i.e. as owner or as a sub-licensor);</u></p> <p>(3) <u>if applicable, the ultimate owner of the Intellectual Property;</u></p> <p>(4) <u>the steps taken to procure a sub-licence for the Principal; and</u></p> <p>(5) <u>whether a Deed of Assurance is in place with the ultimate owner of the intellectual property; and</u></p> <p>(iv) <u>(Minor Non-Compliances): all Minor Non-Compliances specified in the Certificate of Additional Trains Completion have been corrected.</u></p> <p>(c) <u>(Request for Additional Trains Final Completion): When OpCo considers that Additional Trains Final Completion has been achieved, OpCo must:</u></p> <p>(i) <u>notify the Independent Certifier of its opinion; and</u></p> <p>(ii) <u>request the Independent Certifier to issue a Certificate of Additional Trains Final Completion.</u></p> <p>(d) <u>(Certificate of Final Completion): Within 15 Business Days of OpCo's request under clause 22A.5(c), the Independent Certifier must determine whether Additional Trains Final Completion has been achieved and either:</u></p> <p>(i) <u>if Additional Trains Final Completion has been achieved, issue to the Principal and OpCo a Certificate of Additional Trains Final Completion stating as the Date of Final Completion the date on which Additional Trains Final Completion was achieved; or</u></p> <p>(ii) <u>if Additional Trains Final Completion has not been achieved, issue a notice to the Principal and OpCo listing the work remaining to be performed to achieve Additional Trains Final Completion.</u></p> <p>(e) <u>(If Final Completion not achieved): If the Independent Certifier issues a notice under clause 22A.5(d)(ii) OpCo must continue with the Delivery Activities to achieve Additional Trains Final Completion and clauses 22A.5(c) and 22A.5(d) will reapply.</u></p> <p>(f) <u>(No restriction): The Independent Certifier, in making a determination as to whether Additional Trains Final Completion has been achieved:</u></p> <p>(i) <u>will not be restricted by any:</u></p> <p>(A) <u>certification, notice, list or opinion already provided under this deed; or</u></p> |

| Item | Details |
|------|---|
| | <p>(B) <u>obligation of OpCo under this deed to correct any Defects which may be discovered after Additional Trains Final Completion; and</u></p> <p>(ii) <u>will be entitled to raise any items of work as a ground for determining that Additional Trains Final Completion has not been achieved.</u></p> <p><u>22A.6 Operation of Additional Trains on Sydney Metro – Western Sydney Airport</u></p> <p><u>OpCo must not use any Additional Train to provide a Train Service with Customers on Sydney Metro – Western Sydney Airport until the Additional Trains achieve Additional Trains Completion.</u></p> <p>Clause 28.1(c) is amended as follows:</p> <p><u>28.1 Principal's payment obligation</u></p> <p>The Principal must pay OpCo:</p> <p>...</p> <p>(c) <u>the Service Payments, the Final Completion Payment, any Pre-Agreed Option Construction Payment, the Early Handover Payment, the Delivery Phase Performance Incentive Payment, the Milestone Payments and the CRS Principal Share Amount in accordance with clauses 28.5, 28.6 and 28.7; and</u></p> <p>Insert new clause 28.2A after clause 28.2:</p> <p><u>28.2A Payment for Pre-Agreed Option 2</u></p> <p>(a) <u>In this clause 28.2A:</u></p> <p>(i) <u>Aggregate Train Price means, the amount in the Model Outputs Schedule, being the sum of the Train Price and the Train Final T&C Price;</u></p> <p>(ii) <u>Milestone Date means each date specified in the table in clause 28.2A(c);</u></p> <p>(iii) <u>Milestone Payment means, in respect of a Milestone Date, the amount calculated in accordance with the table in clause 28.2A(c);</u></p> <p>(iv) <u>One-Off Implementation Price means, the amounts in cells G510 and H510 for D&C Contractor rail systems component, G511 for D&C Contractor civil component, and G512 for O&M Contractor component of the Model Outputs Schedule for all other delivery costs not included in the Aggregate Train Price, including to provide for infrastructure and system to the Stabling and Maintenance Facility;</u></p> <p>(v) <u>Train Final T&C Price means the amount in cells G508 and H508 of the Model Outputs Schedule for the final testing and commissioning of all the Additional Trains. This being the portion of testing and commissioning that requires access to the Sydney Metro – Western Sydney Airport mainline, including any required Test Running Tests and the 1,000 km continuous fault free running distance for each Additional Train from Particular Specification 12 (Testing and Commissioning); and</u></p> |

| Item | Details | | | | | | | | | | | | | | | | | | | | | |
|------------|--|--|----------------|-------------------|-----------|--|------------|-----------|--|------------|-----------|---|---|------------|--------------------------------------|--|------------|---|--|-----------|---|--|
| | <p>(vi) <u>Train Price means the amount in cells G507 and H507 of the Model Outputs Schedule for the manufacture, supply and delivery of all the Additional Trains, including all required testing and commissioning activities that can be performed at the manufacturing facility, off-site test track or Stabling and Maintenance Facility maintenance depot and test track).</u></p> <p>(b) <u>Subject to this clause 28, the Principal will pay OpCo each Milestone Payment.</u></p> <p>(c) <u>The Milestone Payments and Milestone Dates are as follows:</u></p> <table><tr><th>No</th><th>Milestone Date</th><th>Milestone Payment</th></tr><tr><td><u>1.</u></td><td><u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 2.</u></td><td>[REDACTED]</td></tr><tr><td><u>2.</u></td><td><u>The date on which the Independent Certifier certifies that the Factory Acceptance Test for the last Additional Train has been passed.</u></td><td>[REDACTED]</td></tr><tr><td><u>3.</u></td><td><u>The date on which all of the Additional Trains have been delivered to the Sydney Metro Site for on-site testing.</u></td><td>[REDACTED] [REDACTED] [REDACTED]; and [REDACTED] [REDACTED]</td></tr><tr><td><u>4a.</u></td><td><u>Beginning of Trial Operation.</u></td><td>[REDACTED] [REDACTED] [REDACTED]</td></tr><tr><td><u>4b.</u></td><td><u>The Date of Additional Trains Completion</u></td><td>[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</td></tr><tr><td><u>5.</u></td><td><u>The Date of Additional Trains Final Completion</u></td><td>[REDACTED] [REDACTED] [REDACTED] [REDACTED]</td></tr></table> | No | Milestone Date | Milestone Payment | <u>1.</u> | <u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 2.</u> | [REDACTED] | <u>2.</u> | <u>The date on which the Independent Certifier certifies that the Factory Acceptance Test for the last Additional Train has been passed.</u> | [REDACTED] | <u>3.</u> | <u>The date on which all of the Additional Trains have been delivered to the Sydney Metro Site for on-site testing.</u> | [REDACTED] [REDACTED] [REDACTED]; and [REDACTED] [REDACTED] | <u>4a.</u> | <u>Beginning of Trial Operation.</u> | [REDACTED] [REDACTED] [REDACTED] | <u>4b.</u> | <u>The Date of Additional Trains Completion</u> | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] | <u>5.</u> | <u>The Date of Additional Trains Final Completion</u> | [REDACTED] [REDACTED] [REDACTED] [REDACTED] |
| No | Milestone Date | Milestone Payment | | | | | | | | | | | | | | | | | | | | |
| <u>1.</u> | <u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 2.</u> | [REDACTED] | | | | | | | | | | | | | | | | | | | | |
| <u>2.</u> | <u>The date on which the Independent Certifier certifies that the Factory Acceptance Test for the last Additional Train has been passed.</u> | [REDACTED] | | | | | | | | | | | | | | | | | | | | |
| <u>3.</u> | <u>The date on which all of the Additional Trains have been delivered to the Sydney Metro Site for on-site testing.</u> | [REDACTED] [REDACTED] [REDACTED]; and [REDACTED] [REDACTED] | | | | | | | | | | | | | | | | | | | | |
| <u>4a.</u> | <u>Beginning of Trial Operation.</u> | [REDACTED] [REDACTED] [REDACTED] | | | | | | | | | | | | | | | | | | | | |
| <u>4b.</u> | <u>The Date of Additional Trains Completion</u> | [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] | | | | | | | | | | | | | | | | | | | | |
| <u>5.</u> | <u>The Date of Additional Trains Final Completion</u> | [REDACTED] [REDACTED] [REDACTED] [REDACTED] | | | | | | | | | | | | | | | | | | | | |

| Item | Details |
|------|---|
| | <p>(d) <u>All amounts in foreign currency will be converted to AUD at the Effective Date via a process consistent to that set out for converting foreign exchange in the Financial Close Adjustment Protocol, with the Effective Date being the date that forward exchange rates are set. Following this conversion process, the Model Outputs Schedule will be updated to include amounts in AUD only.</u></p> <p>(e) <u>OpCo acknowledges and agrees that, for the purposes of the Milestone Dates in clause 28.2A(c), the Additional Trains will be taken to be the last of the Trains that OpCo is required to deliver under this deed.</u></p> <p>Clause 28.5 is amended as follows:</p> <p>28.5 Payment claims for Service Payments and other amounts</p> <p>(a) OpCo must give the Principal's Representative claims for payment of the Final Completion Payment, the Service Payments, any Pre-Agreed Option Construction Payment, the Early Handover Payment, any CRS Principal Share Amount, any CRS Principal Completion Amount, the Delivery Phase Performance Incentive Payment, <u>the Milestone Payments</u> and any other amounts payable by the Principal to OpCo (other than the Capital Contribution or the CDPD Amount):</p> <p>(i) in the case of a claim for payment of:</p> <p>(A) the Final Completion Payment or any CRS Principal Completion Amount, on or after the Date of Final Completion;</p> <p>(B) a Service Payment, within 5 Business Days after the end of each month;</p> <p>(C) any Pre-Agreed Option Construction Payment, any Early Handover Payment, any CRS Principal Share Amount or any other amounts payable by the Principal, within 5 Business Days after the end of each month; and</p> <p>(D) the Delivery Phase Performance Incentive Payment, after the determination of the Final DPPI Assessment in accordance with Schedule 9 (Delivery Phase Performance Incentive); <u>and</u></p> <p>(E) <u>a Milestone Payment, on or after the relevant Milestone Date.</u></p> <p>(ii) in the case of a claim for a Service Payment, in the format set out in Annexure C of Schedule 2 (Service Payment calculation) or such other format as the Principal's Representative reasonably requires;</p> <p>(iii) which are valid Tax Invoices for any Taxable Supplies to which the payment relates;</p> <p>(iv) which include:</p> <p>(A) in the case of a claim for payment of a Service Payment, the Monthly Service Payment Report required under clause 28.15(a)(iv); and</p> |


| Item | Details |
|-------------------------------------|---|
| | <p>(B) any other evidence of the amounts claimed reasonably required by the Principal's Representative; and</p> <p>(v) which are based on the Schedule of Rates, to the extent relevant.</p> <p>(b) OpCo cannot include in any payment claim under this clause 28.5, a Claim which is barred by clause 64.8.</p> <p>(c) Despite any other provisions of this deed to the contrary, the amount of any progress claim to which OpCo is entitled in relation to the Pre-Agreed Option Construction Payment, CRS Principal Share Amount, <u>Milestone Payments</u> or any other amounts payable by the Principal and the amount to be allowed by the Principal's Representative in any payment schedule issued under clause 28.6 as the amount payable to OpCo arising out of or in any way in connection with a payment claim made under this clause 28.5 will not include the following amounts:</p> <p>(i) any amount which this deed provides cannot be claimed or is not payable because of the failure by OpCo to take any action (including to give any notice to the Principal or the Principal's Representative);</p> <p>(ii) any amount which this deed provides is not payable until certain events have occurred or conditions have been satisfied, to the extent those events have not occurred or those conditions have not been satisfied;</p> <p>(iii) any amount in respect of which the obligation of the Principal to make payment has been suspended under this deed;</p> <p>(iv) any amount in respect of which OpCo has failed to provide supporting information as required by this clause 28; or</p> <p>(v) any amount which has already been paid or which is otherwise not claimed in accordance with this deed.</p> <p>Insert a new Part R, Part S and Part T in Schedule 34 (<i>Certificates</i>) as set out in Annexure A of this Schedule 5 (<i>Pre-Agreed Options</i>).</p> <p>It is acknowledged that this Pre-Agreed Option is offered by OpCo on the basis of the Pricing Assumptions listed below. If the Principal exercises this Pre-Agreed Option, the parties will in good faith agree the amendments to this deed (including the SSTOM Specification) necessary to reflect the Pricing Assumptions.</p> |
| Amendments to other Exhibits | No Amendments. |
| Pricing Assumptions | <p>The following are the base assumptions for the pricing provided for the Additional Trains and related sequencing assumptions for this Pre-Agreed Option:</p> <ul style="list-style-type: none"> Changes to the Stabling and Maintenance Facility that have been priced, include only for the 2 additional stabling roads, namely roads No. 4 and No. 5 at Stabling 1. Incremental incidental costs have not been considered in this Pre-Agreed Option pricing such as any extension to the duration of the Delivery Phase, additional OpCo SPV resourcing, the cost of the |

| Item | Details |
|------|--|
| | <p>Independent Certifier or Sub Independent Certifier or other implications for sustainability, for carbon offsets, energy modelling and reporting or the relevant Climate Active outcomes and the timing implications for these matters.</p> <ul style="list-style-type: none"> Pricing includes the cost of extending OpCo's Delivery Phase Insurances (including marine cargo and marine advance consequential loss insurances) to cover the Additional Trains. The Principal will be required to extend any of the Principal's Insurances applicable to the Additional Trains. Type Testing will not be required as the Additional Trains are being built to the same Specifications as the SSTOM Trains. Additional Trains will not be required to perform the tests required of Train 1 as outlined in Particular Specification 12, (only the testing regime for Trains 2 to 12 will apply). The Testing and Commissioning team shall have unhindered full access to the depot, test track and access to the mainline. The O&M Contractor will have Additional Train operational staff (CSA's and OCC staff) available for Testing and Commissioning. The O&M Contractor's pricing for Pre-Agreed Option 2 has been provided on the basis that the main SSTOM Works Trial Operations activities of the O&M Contractor are not hindered by the testing, commissioning and the 1,000km fault free running tests of the Additional Trains, and that the O&M Contractor shall be provided full and unhindered access to the depot, test track and the mainline. Independent Certifier approvals and Accreditation Approval for the Additional Trains will follow the same methodology as per the SSTOM Works. The base marginal prices for marginal kilometers submitted under section 2.05 (Base marginal prices relevant to the Service Level Adjustments) of the Model Output Schedule refer to the Base Availability Fee and are applicable for preventative and corrective maintenance only. In case of substantially increased mileages above the Base Service Kilometres of [REDACTED] additional overhauls may be required and consequently the Lifecycle Component has to be adjusted. These pricing assumptions for respective unhindered access for commissioning of Additional Trains and unhindered access for the O&M Contractor's SSTOM Works Trial Operations activities, as at Financial Close contains an inherent conflict that has not been resolved within the current pricing of the Pre-Agreed Option, which is forecast between [REDACTED] and [REDACTED] where Additional Trains 4, 5, and 6 will not be able to be provided unhindered access for testing and commissioning in isolation of the SSTOM Works Trial Operations activities. OpCo and Sydney Metro shall develop a plan of action to adjust the approach to these activities prior to the Election Date of the Pre-Agreed Option to ensure this is resolved and pricing of the Final T&C Price and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price is amended to reflect an agreed final testing and commissioning strategy for the Additional Trains without impacting the SSTOM Works. The Train Final T&C Price and the One-off Implementation Price has been priced assuming: |

| Item | Details |
|------|--|
| | <p>(a) that a Date of Additional Trains Completion of [REDACTED] can be achieved; and</p> <p>(b) the depot, test track and mainline for testing the Additional Trains can be accessed without impacting OpCo's execution of Trial Operations for the SSTOM Works.</p> <p>The Trial Operations for the SSTOM Works (other than the Additional Trains) are considered a priority to the testing and commissioning of the Additional Trains. If the above cannot be achieved, the Principal agrees to review the pricing of the Train Final T&C Price, and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price to ensure it is aligned to circumstances forecast at that time. The Train Final T&C Price, and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price shall be adjusted (by mutual agreement) to accommodate any changes to these assumptions to an agreed final delivery approach.</p> |

3. Pre-Agreed Option 3 – Additional Trains – Future Flexibility

| Item | Details |
|---|---|
| Description | <p>The introduction of 7 additional Trains (Additional Trains) and changes to the Stabling and Maintenance Facility, including the construction of 3 additional stabling roads, namely roads No. 4, No. 5 and No. 6 at Stabling 1.</p> <p>The Additional Trains must be delivered to the same specifications as the original Trains required by this deed, including the SSTOM Specification.</p> |
| Election Date | [REDACTED] |
| Effective Date | The date set out in the notice issued by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 3. |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | Not applicable |
| Adjustment to Schedule 2 (Service Payment calculation) | <p>The amounts referred to in items 1, 2 and 3 below shall be determined by the Principal and OpCo prior to the Election Date, in accordance with the following principles:</p> <ul style="list-style-type: none"> • increases or decreases in costs must be fair and reasonable; • increases or decreases in costs must reflect commercial arm's length arrangements; • costs are determined on an incremental basis, <ul style="list-style-type: none"> ◦ in the case of an increase in costs, only costs that would not be incurred but for the Pre-Agreed Option 3 are taken into account; and ◦ in the case of a reduction in costs, only savings that would not have accrued but for the Pre-Agreed Option 3 are taken into account; and • costs reflect economies of scale or synergies that a competent rail operator and maintainer would be expected to achieve. <p>Schedule 2 (<i>Service payment calculation</i>) is amended on the Date of Additional Trains Completion as follows:</p> |

| Item | Details |
|---|---|
| | <p>1. The amounts specified in the Base Availability Fee section in the Model Outputs Schedule are increased by the amounts specified in the "Pre-Agreed Option 3 - Additional Trains – Future Flexibility" Base Availability Fee section in the Model Outputs Schedule.</p> <p>2. The amounts specified in the Base Lifecycle Component section in the Model Outputs Schedule are increased by the amounts specified in the "Pre-Agreed Option 3 - Additional Trains – Future Flexibility" Base Lifecycle Component section in the Model Outputs Schedule.</p> <p>3. The values in the definitions of "Base Service Level Adjustment Threshold Payment (BSLATP)" and "Service Level Adjustment Threshold Payment Trigger" will be replaced to reflect the km-based lifecycle activities required by the Asset Management Plan, based on average mileage per train resulting from Pre-Agreed Option 3.</p> |
| Adjustment to Date for Completion | Not applicable (refer to new clause 22B.1 below) |
| Amendments to Operative Provisions | <p>Clause 1.1 is amended as follows:</p> <p>1.1 Definitions</p> <p><u>Additional Trains has the meaning given in clause 3 of Schedule 5 (Pre-Agreed Options).</u></p> <p><u>Additional Trains Completion has the meaning given in clause 22B.2.</u></p> <p><u>Additional Trains Final Completion has the meaning given in clause 22B.5(b).</u></p> <p><u>Certificate of Additional Trains Completion means a certificate referred to in clause 22B.4(a)(i) substantially in the form of Part V of Schedule 34 (Certificates).</u></p> <p><u>Certificate of Additional Trains Final Completion means a certificate referred to in clause 22B.5(d)(i) substantially in the form of Part W of Schedule 34 (Certificates).</u></p> <p></p> <p><u>Date of Additional Trains Completion means the date on which Additional Trains Completion is achieved being the date stated by the Independent Certifier in the Certificate of Additional Trains Completion.</u></p> <p><u>Date of Additional Trains Final Completion means the date on which Additional Trains Final Completion is achieved being the date stated by the Independent Certifier in the Certificate of Additional Trains Final Completion.</u></p> <p><u>Delivery Phase means the period commencing on the date of Financial Close and ending on the Date of Additional Trains Final Completion.</u></p> <p><u>Milestone Payment has the meaning given in clause 28.2B(a)(iii).</u></p> <p>Clause 20.2 is amended as follows:</p> <p>20.2 Dates for Completion</p> <p>(a) OpCo must:</p> <p>(i) without limiting clauses 20.16 and 20.17, achieve Completion by the Date for Completion;</p> |

| Item | Details |
|------|--|
| | <p>(ia) <u>use its best endeavours to achieve Additional Trains Completion by the Date for Additional Trains Completion; and</u></p> <p>(ii) <u>use its best endeavours to achieve:</u></p> <p>(A) <u>Final Completion as soon as practicable after the Date of Completion; and</u></p> <p>(B) <u>Additional Trains Final Completion as soon as practicable after the Date of Additional Trains Completion.</u></p> <p>...</p> <p>Insert a new clause 20.20 after clause 20.19:</p> <p><u>20.20 Extension to the Date for Additional Trains Completion</u></p> <p><u>The parties acknowledge and agree that to the extent:</u></p> <p>(a) <u>OpCo is granted an extension of time to the Date for Completion in accordance with clause 20.10; or</u></p> <p>(b) <u>the Principal's Representative unilaterally extends the Date for Completion in accordance with clause 20.13,</u></p> <p><u>the Date for Additional Trains Completion will automatically be extended for the corresponding period.</u></p> <p>Insert a new clause 22B after clause 22:</p> <p><u>22B. Additional Trains Completion</u></p> <p><u>22B.1 Relationship with First Passenger Service, Completion and Final Completion</u></p> <p><u>Notwithstanding clause 20 or 22 or any other clause of the deed (including the SSTOM Specification), the parties acknowledge and agree that (unless agreed otherwise by the parties in writing) the Additional Trains do not form part of the SSTOM Works which OpCo must complete in order to achieve First Passenger Service, Completion or Final Completion in accordance with clause 22.</u></p> <p><u>22B.2 Requirements for Additional Trains Completion</u></p> <p><u>Additional Trains Completion will be achieved when:</u></p> <p>(a) <u>(Works are complete): the Additional Trains are complete and comply with the requirements of this deed, except for Minor Defects;</u></p> <p>(b) <u>(Certifications): OpCo has provided the Independent Certifier and the Principal's Representative with a certificate in the form of Part U of Schedule 34 (Certificates):</u></p> <p>(i) <u>from each Designer certifying that the Additional Trains have been constructed in accordance with the AFC Design Documentation, except for Minor Defects;</u></p> <p>(ii) <u>from OpCo certifying that the Additional Trains:</u></p> <p>(A) <u>comply with all the requirements of this deed (including the SSTOM Specification); and</u></p> |

| Item | Details |
|------|---|
| | <p>(B) <u>have been constructed in accordance with the AFC Design Documentation,</u></p> <p><u>except for Minor Defects; and</u></p> <p>(iii) <u>from the O&M Contractor certifying that the Additional Trains are acceptable; and</u></p> <p>(c) <u>(Tests): the Independent Certifier has certified that all of the Additional Trains:</u></p> <p>(i) <u>have passed the Tests referred to in section 5.4 of Particular Specification 5 (Rolling Stock);</u></p> <p>(ii) <u>have passed a Factory Acceptance Test in accordance with section 12.4.3 of Particular Specification 12 (Testing and Commissioning);</u></p> <p>(iii) <u>have passed the static routine Tests (i.e. not Type Tests) in accordance with section 12.4.8 of Particular Specification 12 (Testing and Commissioning);</u></p> <p>(iv) <u>have passed the relevant Test Running Tests in accordance with section 12.5.6.2(a) of Particular Specification 12 (Testing and Commissioning); and</u></p> <p>(v) <u>have passed the fault free running requirements in accordance with section 12.5.6.2(b) of Particular Specification 12 (Testing and Commissioning).</u></p> <p><u>22B.3 Notice of Additional Trains Completion</u></p> <p><u>OpCo must give the Independent Certifier:</u></p> <p>(a) <u>at least 5 Business Days' notice of the date on which it expects to achieve Additional Trains Completion; and</u></p> <p>(b) <u>a written request for a Certificate of Additional Trains Completion when it believes Additional Trains Completion has been achieved (which request must not be given earlier than 5 Business Days after the date on which OpCo gives notice under clause 22B.3(a).</u></p> <p><u>22B.4 Certification of Additional Trains Completion</u></p> <p>(a) <u>Within 5 Business Day of receipt of the request under clause 22B.3, the Independent Certifier must determine whether Additional Trains Completion has been achieved and either:</u></p> <p>(i) <u>if Additional Trains Completion has been achieved, issue a Certificate of Additional Trains Completion to OpCo and the Principal:</u></p> <p>(A) <u>stating as the Date of Additional Trains Completion, the date on which Additional Trains Completion was achieved;</u></p> <p>(B) <u>specifying any Minor Defects; and</u></p> <p>(C) <u>specifying any Minor Non-Compliances; or</u></p> <p>(ii) <u>if Additional Trains Completion has not been achieved, issue a notice to OpCo and the Principal which:</u></p> <p>(A) <u>lists the items which remain to be completed before Additional Trains Completion can be achieved; or</u></p> <p>(B) <u>states that the Additional Trains are so far from achieving Additional Trains Completion that it is</u></p> |

| Item | Details |
|-------|--|
| | <u>not practicable to provide the list referred to in clause 22B.4(a)(ii)(A).</u> |
| (b) | <u>If the Independent Certifier issues a notice under clause 22B.4(a)(ii), OpCo must continue with the Delivery Activities to achieve Additional Trains Completion and clause 22B.3 and this clause 22B.4 will reapply.</u> |
| | <u>22B.5 Additional Trains Final Completion</u> |
| (a) | <u>(OpCo to achieve Additional Trains Final Completion):</u> <u>Immediately after the Date of Additional Trains Completion, OpCo must expeditiously and diligently progress the Delivery Activities required to achieve Additional Trains Final Completion.</u> |
| (b) | <u>(Requirements for Additional Trains Final Completion):</u> <u>Additional Trains Final Completion will be achieved when:</u> |
| (i) | <u>(Minor Defects):</u> <u>the Minor Defects specified in the Certificate of Additional Trains Completion have been corrected;</u> |
| (ii) | <u>(Documentation):</u> <u>OpCo has provided the Principal with all documentation required by the SSTOM Specification;</u> |
| (iii) | <u>(Intellectual Property report):</u> <u>OpCo has either</u> |
| (A) | <u>listing all separate items of Intellectual Property that have been developed or licensed by OpCo in carrying out OpCo's Activities in relation to the Additional Trains up to Additional Trains Completion or in preparation for OpCo's Activities in relation to the Additional Trains to be carried out after Additional Trains Completion;</u> |
| (B) | <u>for each item, specifying whether it is Developed Intellectual Property or Licensed Intellectual Property and:</u> |
| (I) | <u>if it is Developed Intellectual Property, by whom it has been developed and the steps taken by OpCo to procure that the intellectual property is assigned to, and vests in, the Principal; and</u> |
| (II) | <u>if it is Licensed Intellectual Property:</u> |
| (1) | <u>from whom it has been licensed;</u> |
| (2) | <u>the basis upon which the licensor has licensed it (i.e. as owner or as a sub-licensor);</u> |
| (3) | <u>if applicable, the ultimate owner of the Intellectual Property;</u> |
| (4) | <u>the steps taken to procure a sub-licence for the Principal; and</u> |
| (1) | <u>whether a Deed of Assurance is in place with the ultimate</u> |

| Item | Details |
|------|---|
| | <p><u>owner of the intellectual property; and</u></p> <p>(iv) <u>(Minor Non-Compliances): all Minor Non-Compliances specified in the Certificate of Additional Trains Completion have been corrected.</u></p> <p>(c) <u>(Request for Additional Trains Final Completion): When OpCo considers that Additional Trains Final Completion has been achieved, OpCo must:</u></p> <p>(i) <u>notify the Independent Certifier of its opinion; and</u></p> <p>(ii) <u>request the Independent Certifier to issue a Certificate of Additional Trains Final Completion.</u></p> <p>(d) <u>(Certificate of Final Completion): Within 15 Business Days of OpCo's request under clause 22B.5(c), the Independent Certifier must determine whether Additional Trains Final Completion has been achieved and either:</u></p> <p>(i) <u>if Additional Trains Final Completion has been achieved, issue to the Principal and OpCo a Certificate of Additional Trains Final Completion stating as the Date of Final Completion the date on which Additional Trains Final Completion was achieved; or</u></p> <p>(ii) <u>if Additional Trains Final Completion has not been achieved, issue a notice to the Principal and OpCo listing the work remaining to be performed to achieve Additional Trains Final Completion.</u></p> <p>(e) <u>(If Final Completion not achieved): If the Independent Certifier issues a notice under clause 22B.5(d)(ii) OpCo must continue with the Delivery Activities to achieve Additional Trains Final Completion and clauses 22B.5(c) and 22B.5(d) will reapply.</u></p> <p>(f) <u>(No restriction): The Independent Certifier, in making a determination as to whether Additional Trains Final Completion has been achieved:</u></p> <p>(i) <u>will not be restricted by any:</u></p> <p>(A) <u>certification, notice, list or opinion already provided under this deed; or</u></p> <p>(B) <u>obligation of OpCo under this deed to correct any Defects which may be discovered after Additional Trains Final Completion; and</u></p> <p>(ii) <u>will be entitled to raise any items of work as a ground for determining that Additional Trains Final Completion has not been achieved.</u></p> <p><u>22B.6 Operation of Additional Trains on Sydney Metro – Western Sydney Airport</u></p> <p><u>OpCo must not use any Additional Train to provide a Train Service with Customers on Sydney Metro – Western Sydney Airport until the Additional Trains achieve Additional Trains Completion.</u></p> <p>Clause 28.1(c) is amended as follows:</p> <p><u>28.1 Principal's payment obligation</u></p> <p><u>The Principal must pay OpCo:</u></p> <p>...</p> |

| Item | Details | | | | | | | | | |
|-----------|--|--------------------------|-----------------------|--------------------------|-----------|--|--|-----------|---|--|
| | <p>(c) the Service Payments, the Final Completion Payment, any Pre-Agreed Option Construction Payment, the Early Handover Payment, the Delivery Phase Performance Incentive Payment, the Milestone Payments and the CRS Principal Share Amount in accordance with clauses 28.5, 28.6 and 28.7; and</p> <p>Insert new clause 28.2B after clause 28.2:</p> <p><u>28.2B Payment for Pre-Agreed Option 3</u></p> <p>(a) <u>In this clause 28.2B:</u></p> <p>(i) <u>Aggregate Train Price means, the amount in the Model Outputs Schedule, being the sum of the Train Price and the Train Final T&C Price;</u></p> <p>(ii) <u>Milestone Date means each date specified in the table in clause 28.2A(c);</u></p> <p>(iii) <u>Milestone Payment means, in respect of a Milestone Date, the amount calculated in accordance with the table in clause 28.2B(c);</u></p> <p>(iv) <u>One-Off Implementation Price means, the amount in cell I510 and J510 for D&C Contractor rail systems component, I511 for D&C Contractor civil component, and I512 for O&M Contractor component of the Model Outputs Schedule for all other delivery costs not included in the Aggregate Train Price, including to provide for infrastructure and system to the Stabling and Maintenance Facility;</u></p> <p>(v) <u>Train Final T&C Price means the amount in cells I508 and J508 of the Model Outputs Schedule for the final testing and commissioning of all the Additional Trains. This being the portion of testing and commissioning that requires access to the Sydney Metro – Western Sydney Airport Mainline, including any required Test Running Tests and the 1,000 km continuous fault free running distance for each Additional Train from Particular Specification 12 (Testing and Commissioning); and</u></p> <p>(vi) <u>Train Price means the amount in cells I507 and J507 of the Model Outputs Schedule for the manufacture, supply and delivery of all the Additional Trains, including all required testing and commissioning activities that can be performed at the manufacturing facility, off-site test track or the Stabling and Maintenance Facility maintenance depot and test track).</u></p> <p>(b) <u>Subject to this clause 28, the Principal will pay OpCo each Milestone Payment.</u></p> <p>(c) <u>The Milestone Payments and Milestone Dates are as follows:</u></p> <table><tr><th><u>No</u></th><th><u>Milestone Date</u></th><th><u>Milestone Payment</u></th></tr><tr><td><u>1.</u></td><td><u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 3.</u></td><td></td></tr><tr><td><u>2.</u></td><td><u>The date on which the Independent Certifier certifies that the Factory</u></td><td></td></tr></table> | <u>No</u> | <u>Milestone Date</u> | <u>Milestone Payment</u> | <u>1.</u> | <u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 3.</u> | | <u>2.</u> | <u>The date on which the Independent Certifier certifies that the Factory</u> | |
| <u>No</u> | <u>Milestone Date</u> | <u>Milestone Payment</u> | | | | | | | | |
| <u>1.</u> | <u>The date on which notice is given pursuant to clause 36.1(a) in respect of Pre-Agreed Option 3.</u> | | | | | | | | | |
| <u>2.</u> | <u>The date on which the Independent Certifier certifies that the Factory</u> | | | | | | | | | |

| Item | Details |
|------|--|
| | <p><u>Acceptance Test for the last Additional Train has been passed.</u></p> |
| 3. | <p><u>The date on which all of the Additional Trains have been delivered to the Sydney Metro Site for on-site testing.</u></p> |
| 4a. | <p><u>Beginning of Trial Operation</u></p> |
| 4b. | <p><u>The Date of Additional Trains Completion</u></p> |
| 5. | <p><u>The Date of Additional Trains Final Completion</u></p> |

(d) All amounts in foreign currency will be converted to AUD at the Effective Date via a process consistent to that set out for converting foreign exchange in the Financial Close Adjustment Protocol, with the Effective Date being the date that forward exchange rates are set. Following this conversion process, the Model Outputs Schedule will be updated to include amounts in AUD only.

(e) OpCo acknowledges and agrees that, for the purposes of the Milestone Dates in clause 28.2B(c), the Additional Trains will be taken to be the last of the Trains that OpCo is required to deliver under this deed.

Clause 28.5 is amended as follows:

28.5 Payment claims for Service Payments and other amounts

| Item | Details |
|------|---|
| | <p>(a) OpCo must give the Principal's Representative claims for payment of the Final Completion Payment, the Service Payments, any Pre-Agreed Option Construction Payment, the Early Handover Payment, any CRS Principal Share Amount, any CRS Principal Completion Amount, the Delivery Phase Performance Incentive Payment, <u>the Milestone Payments</u> and any other amounts payable by the Principal to OpCo (other than the Capital Contribution or the CDPD Amount):</p> <p>(i) in the case of a claim for payment of:</p> <p>(A) the Final Completion Payment or any CRS Principal Completion Amount, on or after the Date of Final Completion;</p> <p>(B) a Service Payment, within 5 Business Days after the end of each month;</p> <p>(C) any Pre-Agreed Option Construction Payment, any Early Handover Payment, any CRS Principal Share Amount or any other amounts payable by the Principal, within 5 Business Days after the end of each month; and</p> <p>(D) the Delivery Phase Performance Incentive Payment, after the determination of the Final DPPI Assessment in accordance with Schedule 9 (Delivery Phase Performance Incentive); <u>and</u></p> <p>(E) <u>a Milestone Payment, on or after the relevant Milestone Date.</u></p> <p>(ii) in the case of a claim for a Service Payment, in the format set out in Annexure C of Schedule 2 (Service Payment calculation) or such other format as the Principal's Representative reasonably requires;</p> <p>(iii) which are valid Tax Invoices for any Taxable Supplies to which the payment relates;</p> <p>(iv) which include:</p> <p>(A) in the case of a claim for payment of a Service Payment, the Monthly Service Payment Report required under clause 28.15(a)(iv); and</p> <p>(B) any other evidence of the amounts claimed reasonably required by the Principal's Representative; and</p> <p>(v) which are based on the Schedule of Rates, to the extent relevant.</p> <p>(b) OpCo cannot include in any payment claim under this clause 28.5, a Claim which is barred by clause 64.8.</p> <p>(c) Despite any other provisions of this deed to the contrary, the amount of any progress claim to which OpCo is entitled in relation to the Pre-Agreed Option Construction Payment, CRS Principal Share Amount, <u>Milestone Payments</u> or any other amounts payable by the Principal and the amount to be allowed by the Principal's Representative in any payment schedule issued under clause 28.6 as the amount payable to OpCo arising out of or in any way in connection with a payment claim made under this clause 28.5 will not include the following amounts:</p> |

| Item | Details |
|---------------------|---|
| | <p>(i) any amount which this deed provides cannot be claimed or is not payable because of the failure by OpCo to take any action (including to give any notice to the Principal or the Principal's Representative);</p> <p>(ii) any amount which this deed provides is not payable until certain events have occurred or conditions have been satisfied, to the extent those events have not occurred or those conditions have not been satisfied;</p> <p>(iii) any amount in respect of which the obligation of the Principal to make payment has been suspended under this deed;</p> <p>(iv) any amount in respect of which OpCo has failed to provide supporting information as required by this clause 28; or</p> <p>(v) any amount which has already been paid or which is otherwise not claimed in accordance with this deed.</p> <p>Insert a new Part U, Part V and Part W in Schedule 34 (Certificates) as set out in Annexure B of this Schedule 5 (Pre-Agreed Options).</p> <p>It is acknowledged that this Pre-Agreed Option is offered by OpCo on the basis of the Pricing Assumptions listed below. If the Principal exercises this Pre-Agreed Option, the parties will in good faith agree the amendments to this deed (including the SSTOM Specification) necessary to reflect the Pricing Assumptions.</p> |
| Pricing Assumptions | <p>The following are the base assumptions for the pricing provided for the Additional Trains and related sequencing assumptions for this Pre-Agreed Option:</p> <ul style="list-style-type: none"> Changes to the Stabling and Maintenance Facility that have been priced, include only for the 3 additional stabling roads, namely roads No. 4, No. 5 and No. 6 at Stabling 1. Incremental incidental costs have not been considered in this Pre-Agreed Option pricing such as any extension to the duration of the Delivery Phase, additional OpCo SPV resourcing, the cost of the Independent Certifier or Sub Independent Certifier or other implications for sustainability, for carbon offsets, energy modelling and reporting or the relevant Climate Active outcomes and the timing implications for these matters. Pricing includes the cost of extending OpCo's Delivery Phase Insurances (including marine cargo and marine advance consequential loss insurances) to cover the Additional Trains. The Principal will be required to extend any of the Principal's Insurances applicable to the Additional Trains. Type Testing will not be required as the Additional Trains are being built to the same Specifications as the SSTOM Trains. Additional Trains will not be required to perform the tests required of Train 1 as outlined in Particular Specification 12, (only the testing regime for Trains 2 to 12 will apply). The Testing and Commissioning team shall have unhindered full access to the depot, test track and access to the mainline. The O&M Contractor will have Additional Train operational staff (CSA's and OCC staff) available for Testing and Commissioning. The O&M Contractor's pricing for Pre-Agreed Option 3 has been provided on the basis that the main SSTOM Works Trial Operations activities of the O&M Contractor are not hindered by the testing, commissioning and the 1,000km fault free running tests of the Additional |

| Item | Details |
|-------------------------------------|--|
| | <p>Trains, and that the O&M Contractor shall be provided full and unhindered access to the depot, test track and the mainline.</p> <ul style="list-style-type: none"> • Independent Certifier approvals and Accreditation Approval for the Additional Trains will follow the same methodology as per the SSTOM Works. • The base marginal prices for marginal kilometers submitted under section 2.05 (Base marginal prices relevant to the Service Level Adjustments) of the Model Output Schedule refer to the Base Availability Fee and are applicable for preventative and corrective maintenance only. In case of substantially increased mileages above the Base Service Kilometers of [REDACTED] additional overhauls may be required and consequently the Lifecycle Component has to be adjusted. • These pricing assumptions for respective unhindered access for commissioning of Additional Trains and unhindered access for the O&M Contractor's SSTOM Works Trial Operations activities, as at Financial Close contains an inherent conflict that has not been resolved within the current pricing of the Pre-Agreed Option, which is forecast between [REDACTED] and [REDACTED] where Additional Trains 4, 5, 6 and 7 will not be able to be provided unhindered access for testing and commissioning in isolation of the SSTOM Works Trial Operations activities. OpCo and Sydney Metro shall develop a plan of action to adjust the approach to these activities prior to the Election Date of the Pre-Agreed Option to ensure this is resolved and pricing of the Final T&C Price and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price is amended to reflect an agreed final testing and commissioning strategy for the Additional Trains without impacting the SSTOM Works. • The Train Final T&C Price and the One-off Implementation Price has been priced assuming: <ul style="list-style-type: none"> (a) that a Date of Additional Trains Completion of [REDACTED] can be achieved; and (b) the depot, test track and mainline for testing the Additional Trains can be accessed without impacting OpCo's execution of Trial Operations for the SSTOM Works. <p>As the Trial Operations for the SSTOM Works (other than the Additional Trains) are considered a priority to the testing and commissioning of the Additional Trains. If the above cannot be achieved, the Principal agrees to review the pricing of the Train Final T&C Price, and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price to ensure it is aligned to circumstances forecast at that time. The Train Final T&C Price, and the O&M Contractor's component and the D&C Contractor's rail systems component of the One-Off Implementation Price shall be adjusted (by mutual agreement) to accommodate any changes to these assumptions to an agreed final delivery approach.</p> |
| Amendments to other Exhibits | No Amendments. |

4. Pre-Agreed Option 4 – Tunnel squeeze-way

| Item | Details |
|---|---|
| Description | Inclusion of a side access squeeze-way so Emergency Services and OpCo's operations and maintenance personnel can by-pass a stationary train between stations. |
| Election Date | ████████ |
| Effective Date | The date set out in the notice issued by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 4. |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | <p>Upon issue of the notice by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 4, the Principal must pay OpCo the Pre-Agreed Option Construction Payment each month in the amount (if any) specified in the column headed – "Pre-Agreed Option 4 – Tunnel squeeze-way" for that month in the "Pre-Agreed Option Construction Payment" schedule in the Model Outputs Schedule.</p> <p>The Pre-Agreed Option Construction Payment will be paid in accordance with clause 28 of the Operative Provisions.</p> |
| Adjustment to Schedule 2 (Service Payment calculation) | No adjustment. |
| Adjustment to Date for Completion | No adjustment. |
| Amendments to Operative Provisions | No amendments. |
| Amendments to Exhibit 1, SSTOM Specification | The SSTOM Specification is amended as set out in section 16.3 of Particular Specification 16 (<i>Pre-Agreed Options</i>). |
| Amendments to other Exhibits | No amendments. |

5. Pre-Agreed Option 5 – GRC wall and ceiling panels

| Item | Details |
|---|--|
| Description | Substitution of OpCo's proposed compressed fibre cement sheet material with glass reinforced concrete (GRC) as the wall cladding and ceiling and soffit material for FOH areas in the underground stations. |
| Election Date | ████████ |
| Effective Date | The date set out in the notice issued by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 5. |
| Adjustment to Capital Contribution and/or Pre-Agreed Option Construction Payment | <p>Upon issue of the notice by the Principal to OpCo pursuant to clause 36.1(a) of the Operative Provisions in respect of Pre-Agreed Option 5, the Principal must pay OpCo the Pre-Agreed Option Construction Payment each month in the amount (if any) specified in the column headed – "Pre-Agreed Option 5 – GRC wall and ceiling panels" for that month in the "Pre-Agreed Option Construction Payment" schedule in the Model Outputs Schedule.</p> <p>The Pre-Agreed Option Construction Payment will be paid in accordance with clause 28 of the Operative Provisions.</p> |
| Adjustment to Schedule 2 (Service | No adjustment. |

| Item | Details |
|---|---|
| Payment calculation) | |
| Adjustment to Date for Completion | No adjustment. |
| Amendments to Operative Provisions | No amendments. |
| Amendments to Exhibit 1, SSTOM Specification | The SSTOM Specification is amended as set out in section 16.4 of Particular Specification 16 (<i>Pre-Agreed Options</i>). |
| Amendments to other Exhibits | No amendments. |

Annexure A – Additional Pre-Agreed Option 2 certificates

Part R – OpCo, Designer and O&M Contractor's Additional Trains Completion Certification – Pre-Agreed Option 2

(clause 22A.4)

To: Sydney Metro (**Principal**) and [insert name of Independent Certifier] (**Independent Certifier**)

From: [insert] (ABN [insert]) (**OpCo**)

[insert] (ABN [insert]) (**Designer**)

[insert] (ABN [insert]) (**O&M Contractor**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

This section is to be completed by the Designer. When there is more than one relevant Designer, this section will be replicated and signed by each relevant Designer:

In accordance with the terms of clause 22A.2(b)(i) of the SSTOM Project Deed, the Designer certifies that the Additional Trains have been constructed in accordance with the AFC Design Documentation, except for the Minor Defects identified in the attached list.

Signed for and on behalf of the Designer by:

| | |
|--|--|
| Signature: | |
| Name: | |
| TAO number (required for on-airport design) | |
| Engineers Australia member number (required for on-airport design) | |
| Position: (Design Director) | |
| Date: | |

This section is to be completed by OpCo

In accordance with clause 22A.2(b)(ii) of the SSTOM Project Deed, OpCo certifies that the Additional Trains:

- (a) comply with all the requirements of the SSTOM Project Deed (including the SSTOM Specification; and
 - (b) have been constructed in accordance with the AFC Design Documentation,
- except for the Minor Defects identified in the attached list.

Signed for and on behalf of OpCo by:

| | |
|--|--|
| Signature: | |
| Name: | |
| TAO number (required for on-airport design) | |

| | |
|--|--|
| Engineers Australia member number (required for on-airport design) | |
| Position: (OpCo Director) | |
| Date: | |

This section is to be completed by the O&M Contractor:

In accordance with the terms of clause 22A.2(b)(iii) of the SSTOM Project Deed, the O&M Contractor certifies that the Additional Trains are acceptable.

Nothing in this certificate:

(a) imposes any liability on the O&M Contractor for the design of the Additional Trains; or

(b) is a certification of the fitness for purpose of the Additional Trains.

Signed for and on behalf of the O&M Contractor by:

| | |
|---|--|
| Signature: | |
| Name: | |
| Position: (O&M Contractor Director) | |
| Date: | |

Annexure A – List of Minor Defects

| No. | Minor Defect |
|-----|--------------|
| | |
| | |
| | |

Part S - Independent Certifier's Certificate of Additional Trains – Pre-Agreed Option 2

(clause 22A.4)

To: Sydney Metro (**Principal**) and [insert name of OpCo] (**OpCo**)

From: [insert] (ABN [insert]) (**Independent Certifier**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

In accordance with clause 22A.4(a)(i) of the SSTOM Project Deed, the Independent Certifier certifies that, having performed all relevant Services (as defined in the SSTOM Independent Certifier Deed) in accordance with the requirements of the SSTOM Independent Certifier Deed, Additional Trains Completion has been achieved.

The Date of Additional Trains Completion is [insert].

A list of Minor Defects and Minor Non-Compliances is attached.

Signed for and on behalf of the Independent Certifier by:

| | |
|--|--|
| Signature: | |
| Name: | |
| Position: (Independent Certifier's Representative) | |
| Date: | |

**Attachment – List of Minor Defects and Minor Non-Compliances – Pre-Agreed
Option 2**

| No. | Minor Defect / Minor Non-Compliance |
|-----|-------------------------------------|
| | |
| | |

Part T - Independent Certifier's Certificate of Additional Trains Final Completion

(clause 22A.5(d)(i))

To: Sydney Metro (**Principal**) and [insert name of OpCo] (**OpCo**)

From: [insert] (ABN [insert]) (**Independent Certifier**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

In accordance with clause 22A.5(d)(i) of the SSTOM Project Deed, the Independent Certifier hereby certifies that, having performed all relevant Services (as defined in the SSTOM Independent Certifier Deed) in accordance with the requirements of the SSTOM Independent Certifier Deed, Additional Trains Final Completion has been achieved.

The Date of Additional Trains Final Completion is [insert].

Signed for and on behalf of the Independent Certifier by:

| | |
|--|--|
| Signature: | |
| Name: | |
| Position: (Independent Certifier's Representative) | |
| Date: | |

Annexure B – Additional Pre-Agreed Option 3 Certificates

Part U – OpCo, Designer and O&M Contractor's Additional Trains Completion Certification – Pre-Agreed Option 3

(clause 22A.4)

To: Sydney Metro (**Principal**) and [insert name of Independent Certifier] (**Independent Certifier**)

From: [insert] (ABN [insert]) (**OpCo**)

[insert] (ABN [insert]) (**Designer**)

[insert] (ABN [insert]) (**O&M Contractor**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

This section is to be completed by the Designer. When there is more than one relevant Designer, this section will be replicated and signed by each relevant Designer:

In accordance with the terms of clause 22B.2(b)(i) of the SSTOM Project Deed, the Designer certifies that the Additional Trains have been constructed in accordance with the AFC Design Documentation, except for the Minor Defects identified in the attached list.

Signed for and on behalf of the Designer by:

| | |
|--|--|
| Signature: | |
| Name: | |
| TAO number (required for on-airport design) | |
| Engineers Australia member number (required for on-airport design) | |
| Position: (Design Director) | |
| Date: | |

This section is to be completed by OpCo

In accordance with clause 22B.2(b)(ii) of the SSTOM Project Deed, OpCo certifies that the Additional Trains:

- (a) comply with all the requirements of the SSTOM Project Deed (including the SSTOM Specification; and
- (b) have been constructed in accordance with the AFC Design Documentation, except for the Minor Defects identified in the attached list.

Signed for and on behalf of OpCo by:

| | |
|--|--|
| Signature: | |
| Name: | |
| TAO number (required for on-airport design) | |

| | |
|--|--|
| Engineers Australia member number (required for on-airport design) | |
| Position: (OpCo Director) | |
| Date: | |

This section is to be completed by the O&M Contractor:

In accordance with the terms of clause 22B.2(b)(iii) of the SSTOM Project Deed, the O&M Contractor certifies that the Additional Trains are acceptable.

Nothing in this certificate:

(a) imposes any liability on the O&M Contractor for the design of the Additional Trains; or

(b) is a certification of the fitness for purpose of the Additional Trains.

Signed for and on behalf of the O&M Contractor by:

| | |
|---|--|
| Signature: | |
| Name: | |
| Position: (O&M Contractor Director) | |
| Date: | |

Annexure A – List of Minor Defects

| No. | Minor Defect |
|-----|--------------|
| | |
| | |
| | |

Part V - Independent Certifier's Certificate of Additional Trains Completion – Pre-Agreed Option 3

(clause 22A.4)

To: Sydney Metro (**Principal**) and [insert name of OpCo] (**OpCo**)

From: [insert] (ABN [insert]) (**Independent Certifier**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

In accordance with clause 22B.4(a)(i) of the SSTOM Project Deed, the Independent Certifier certifies that, having performed all relevant Services (as defined in the SSTOM Independent Certifier Deed) in accordance with the requirements of the SSTOM Independent Certifier Deed, Additional Trains Completion has been achieved.

The Date of Additional Trains Completion is [insert].

A list of Minor Defects and Minor Non-Compliances is attached.

Signed for and on behalf of the Independent Certifier by:

| | |
|---|--|
| Signature: | |
| Name: | |
| Position: (Independent Certifier's Representative) | |
| Date: | |

Attachment – List of Minor Defects and Minor Non-Compliances

| No. | Minor Defect / Minor Non-Compliance |
|-----|-------------------------------------|
| | |
| | |

Part W - Independent Certifier's Certificate of Additional Trains Final Completion – Pre-Agreed Option 3

(clause 22B.5(d)(i))

To: Sydney Metro (**Principal**) and [insert name of OpCo] (**OpCo**)From: [insert] (ABN [insert]) (**Independent Certifier**)

This certificate is given in accordance with the SSTOM Project Deed for Sydney Metro – Western Sydney Airport between the Principal and OpCo dated [insert] (**SSTOM Project Deed**). Words defined in the SSTOM Project Deed have the same meaning in this certificate.

In accordance with clause 22B.5(d)(i) of the SSTOM Project Deed, the Independent Certifier hereby certifies that, having performed all relevant Services (as defined in the SSTOM Independent Certifier Deed) in accordance with the requirements of the SSTOM Independent Certifier Deed, Additional Trains Final Completion has been achieved.

The Date of Additional Trains Final Completion is [insert].

Signed for and on behalf of the Independent Certifier by:

| | |
|--|--|
| Signature: | |
| Name: | |
| Position: (Independent Certifier's Representative) | |
| Date: | |